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# National State Foreign Policy and Regional External Action: An Uneasy Relationship

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**Euborders**

SOVEREIGNTY & SELF-DETERMINATION



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## **Abstract**

The sovereign nation-state has traditionally been conceived as the main actor in the international system, with the ability to pursue independent foreign policy considered an integral part of state sovereignty. While international relations have always been more than the sum of inter-state relations, in recent years the rescaling of social, political, economic and cultural systems has produced a plethora of actors and networks both public and private, and at different territorial scales that question central states' monopoly in international relations and, potentially, the very nature of sovereignty. This paper deals with the external action of sub-state regions, which has grown exponentially in last decades, and asks under what conditions is this external action perceived as a challenge to nation-state foreign policy and, by extension, to the sovereignty of the nation-state. We center our analysis on the development of SSE external action in Spain since the reestablishment of democracy in 1978, and specifically that of Catalonia. The analysis of this case is understood as a plausibility test for checking the factors and the conditions under what paradiplomacy turns to protodiplomacy.

**Keywords:** State, regions, foreign policy, paradiplomacy, protodiplomacy, sovereignty, Catalonia

# National State Foreign Policy and Regional External Action: An Uneasy Relationship

## Introduction

Over recent decades, the interrelated processes of territorial rescaling, globalisation and regional integration have changed the way we experience and think about the organisation of political, economic, cultural and social life. Traditionally, the sovereign nation-state, enclosed by “hard” borders, has been conceived as the main actor in the international system, with the ability to pursue independent foreign policy considered an integral part of its sovereignty. However, in recent decades an exponential increase in substate entity (SSE) external activity has occurred, as the product of increasing global interdependence, supra-state regional integration, and devolution processes within states. This external activity made it necessary for SSEs to engage meaningfully with transnational networks and actors as a requisite for fulfilling their basic political and policy responsibilities.

Consequently, one of the keys to understanding contemporary political rescaling—how political institutions at different territorial levels interact to produce spaces of governance—is to identify how the rise of SSE external activity has affected their relations with the nation-state to which they belong. Do we see an increasingly complex international system in which cooperation is the norm, or is it marked by conflict, as nation-states jealously guard their preeminent position and sovereign status?

In order to contribute to these debates, our paper focuses on one case, namely the conflict over external action between the Spanish and Catalan governments, and specifically asks: Under what conditions, or constellation of conditions, do SSE external actions come into conflict with central state’s claims to exclusive control over foreign policy? We try to identify the factors that contribute to the exceptional situations in which paradiplomacy turns to protodiplomacy and, for that, we use the case of current conflict between Catalan paradiplomacy and Spanish foreign policy. As will become clear in our analysis, the current pro-independence process that began in 2010 in Catalonia has been an important focus of tensions between the two governments as the Catalan government has taken a series of measures to internationalise the process. However, we argue that it would be wrong to reduce the tensions between the two levels of government to the current Catalan secessionist movement only; by analysing the development of SSE—central state relations over time in the field of international relations, we see

that central government restrictions on the regions' external activity have a long history in Spain, dating back to the beginning of the post-Franco, democratic era in 1978.

After outlining the major contributions to the field of SSE external action and its conceptualisation (part 2), in part 3 our paper outlines the development over time of the external action by the Catalan government and the reaction of the Spanish government to that action and that of other regional governments. In part 4, taking advantage of the case study design, we test a series of hypotheses to shed light on the underlying reasons for conflict between the two levels of government. In the final part, we discuss how the lessons learned in the Spanish case might be developed into a wider theory and tested in a larger number of cases.

### **Conceptualising and Explaining SSE External Action**

External activity by SSEs can be traced back to the middle of the twentieth century in advanced capitalist democracies with federal territorial arrangements, such as Canada, the United States, Belgium, Australia, Austria, Germany, Switzerland (Michelman and Soldatos 1990; Keating 1998; Aldecoa and Keating 1999). By the end of that century, these practices could also be seen in non-federal states in the western world (for example, France, Spain, the United Kingdom, and Italy), while since then it has become a worldwide phenomenon, seen across countries with diverse political systems and regimes (Argentina, Brazil, Bolivia, Chile, China, India, Japan, Malaysia, Mexico, Nigeria, Russia, and South Africa) (Hrbek 2003; Michelman 2009; Vigevani 2004), which still continues to grow.

As SSE external action has grown, so have attempts to understand and conceptualise it. Beginning in the 1970s, studies have moved from description towards more analytic studies in recent years as the subdiscipline has been consolidated (Kuznetsov 2014, 34 et ss; McConnell et al. 2012, 806 quoted by Dickson 2014, 698). More specifically, the literature on the subject has focused on several questions:

- 1) Conceptualisation (Duchacek 1986; Soldatos 1990; Hocking 1993a; 1993b);
- 2) Description of the nature of SSE external activities, including comparative studies (Paquin 2001; Vigevani 2014; Cornago, 2010);
- 3) Causality, that is, why international projection is a "need" for SSEs, and why some regions are more active than others in their external projection (García Segura 1995, 201; Blatter et al. 2008 and 2010);
- 4) Establishment of different typologies in search of a theoretical model (kinds of actions)

- (García Segura 1995) based on criteria such as the level of autonomy or dependence regarding the state foreign policy (Blatter et al. 2008), institutional organisational models (Crikemans 2010a), and causes and goals (Blatter et al. 2008);
- 5) The peculiarities of the North—South divide in this field (Nganje 2004, Jenkins 2003)<sup>1</sup> and of the so called “malfunctioning states” (Marciacq 2015).
  - 6) To a lesser extent, the elements of conflict and cooperation of SSE external activities vis-à-vis state foreign policy<sup>2</sup> (Duchacek 1986; Soldatos 1990; Kincaid 1990; Tatham 2012; Lequesne and Paquin 2017).

Overall, while this field of inquiry has been consolidated, there is a broad consensus that paradiplomacy “still does not get deserved comprehensive scientific coverage” (Kuznetsov 2014, 4; Cornago 2010, 12).

We will focus here on that we consider a central theoretical debate of the paradiplomacy literature and on one of its gaps: the conceptualisation and the debate on the nature of SSE’s external activities in relation to state foreign policy.

Within the literature on the subject, we find a large range of terms used, which in turn reflect the lack of consensus on the nature of SSE external action. The first and most frequently used term is “paradiplomacy,” which is generally understood to consist of a range of SSE external activities that take place parallel to central state foreign policy and diplomacy, and whose objectives are related to the functional needs of SSE policy making in an interdependent world.<sup>3</sup> Few authors refer to the cooperative or controversial nature of this activity. Those who do, point out that paradiplomacy can be either cooperative or parallel in relation with state’s foreign policy. In the case of the former, it can either be coordinated (by the central or federal government) or made jointly (federal state-SSE); in the case of the latter, it may be in harmony (with the central government) or in disharmony (Soldatos 1990). “Paradiplomacy” is contrasted with “protodiplomacy” that, in Soldatos’s terms, can be any substate parallel external action in disharmony (conflicting) with state foreign policy, regardless of whether it is aimed at secession (1990). Duchacek offers a more parsimonious definition when he says that

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<sup>1</sup> In general, the developing and emerging states are more reluctant to SSE’s external activities although they are federations (Nganje 2014; Sridharan 2007).

<sup>2</sup> In that sense, Tatham (2012, 1) affirms that although recent studies on paradiplomacy have helped to better understand the determinants of cooperative paradiplomacy, “[...] those underpinning conflict have remained rather obscure.” An exception to that are the works focusing on the disruptive potential of SSE representing nationalities others than the nation of their state, the paradigmatic case studies being those of Catalonia, Scotland, Flanders, the Basque Country, and Quebec (Duran 2016, 20).

<sup>3</sup> Others used terms are: regional diplomacy, substate diplomacy, microdiplomacy, multilayered diplomacy, multilevel diplomacy, catalytic diplomacy, post-diplomacy, or constituent diplomacy.

protodiplomacy is the “diplomatic preparatory work for a future secession and for the international diplomatic recognition of such an occurrence” (1986).

This dichotomy between proto- and paradiplomacy has been challenged by Hocking (1993b), who proposes the concept of “multilevel diplomacy” (or multi-layered diplomacy, Hocking 1993a), as useful for understanding SSE participation in EU policy-making where actors at different territorial scales—both governmental and non-governmental—do participate in networks throughout the policy process. He understands SSE external activities as a “localization of foreign policy,” meaning its expansion rather than its rejection (1993b).

Another approach to characterising SSE external action has been to remove the “proto” and “para” prefix altogether from “diplomacy.” Cornago (2013) argues that we live in a world of plural diplomacies, substate diplomacy being one of them.<sup>4</sup> With his proposal, he meets the arguments of those authors that considered that the prefixes imply that SSE external action is somehow “below” state foreign policy (Hocking 1993a) and those who defend that differences between state diplomacy and substate paradiplomacy are narrowing (Criekemans and Duran 2010).<sup>5</sup>

SSE’s external relations could be understood either as a different activity from traditional diplomacy or as one of the many forms that it takes in the current international system. In general, the question of conflict has not figured prominently in the literature, precisely because in most cases SSE external action does not create any conflict with state foreign policy, as it does not challenge “the dominant role of the nation-state and its executive branch in political decision-making”<sup>6</sup> (Blatter et al. 2008, 485). However, since conflict does exist, we focus our paper on the question of conflict, and try to identify the constellation of conditions that makes SSE external actions problematic for central states and leads the latter to reaffirm their claims to exclusive control over foreign policy. In addition, we also try to explore the factors that contribute to the excep-

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<sup>4</sup> Cornago asserts that paradiplomacy remains an “elusive” concept, the validity of which is frequently contested despite its wide diffusion (2016, 176).

<sup>5</sup> Blatter et al. (2010, 20) point out that other authors take issue with this statement because it mainly applies to a limited number of regions with legislative powers.

<sup>6</sup> One of the broader comparative studies (based on 81 regions) demonstrates that although huge differences exist most regions “[...] invest in foreign activities as a reaction to economic and cultural transformations.” Regional external activities serve economic purposes and look for partnerships with regions or states with whom share a cultural foundation and often are dominated by cultural contents (Blatter et al. 2008, 484). In the context of the EU, the political strategy is also important as the generalisation of regional representational offices in Brussels shows.

tional situations in which paradiplomacy turns to protodiplomacy and, for that, we use the case of current conflict between Catalan paradiplomacy and Spanish foreign policy.

### **Case study: Catalan external action and the reaction of the Spanish state**

In this section, we shall first trace the development of Catalan external action over time, and relate that development with the (re)actions of successive central governments. We detect a recurring cycle of conflict and cooperation lasting from the beginnings of the democratic period in the early 1980s until the present day.

#### Catalan external action

Contemporary external action by the Catalan government has its origins in the the 1978 Spanish constitution that formally put an end to the Franco dictatorship and recognised Catalonia, the Basque Country and Galicia (Andalusia would soon follow) as “historic nationalities,” with the right to self-government within the “unity of the Spanish nation” (Art. 2). These communities were essentially given a fast-track to self-government (Art. 151), while further provision was made for the full regionalisation of the Spanish state through a slower process (Art. 143). By mid-1983, Spain had been divided up into 17 Autonomous Communities, some with differentiated linguistic, cultural and historic identities alongside others created *ex novo*.

Perhaps unsurprisingly—particularly in the early years when they enjoyed greater policy powers—it has been the historic nationalities that have been most active in terms of external action. In the case of Catalonia, most of its external activity can be considered paradiplomacy, in that it has been aimed at functional objectives related to the fulfilment of policy commitments, particularly economic ones. Yet there have also been political and symbolic actions aimed at achieving international recognition for Catalonia’s differentiated national identity, although for much of the period under review, this kind of activity can hardly be understood as protodiplomacy, since it took place within the accepted political limits of the Spanish state<sup>7</sup>. More recently, however, there has been an explicit turn in Catalan external action towards explicit protodiplomacy, as external action has been used as a key tool in the struggle for national self-determination and independence.

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<sup>7</sup> Having said this, as we shall later explain, the central state initially challenged all SSE external action, since it felt its pre-eminence in foreign affairs was illegally challenged.



From the beginning then, of all the scenarios for Catalan external action, Europe in general and the EU in particular have been a priority. In many ways building on a long-standing pro-European tradition, since Spain's entry into the then European Community in 1986, Catalan political institutions have made concerted efforts to play an active role on the European stage. Four years before Spain became a formal member, the Catalan government led the way in founding the Patronat Català Pro Europa (PCPE) as a means of preparing Catalan society for EC membership (García Segura 2006). On Spain's joining, the PCPE opened a delegation in Brussels—one of the first offices opened by the Spanish regions in Brussels—despite the opposition of the central government<sup>8</sup>.

The main role of the Brussels delegation was to defend the interests of Catalan actors—both public and private—within the framework of European programmes and policies. This role became increasingly important over time as the integration process accelerated from the beginning of the 1990s, and by 2006, the PCPE was transformed into the official delegation of the Generalitat de Catalunya (the Catalan government) before the EU.

Together with this “vertical mobilisation” within the EU, the Catalan government has been active with regards to “horizontal mobilisation,” that is, establishing relationships of cooperation with similar institutions both within and outside the EU. In this respect, the Catalan government has taken advantage of the opportunities that have arisen from integration processes to establish contacts with other European regions and participate in numerous European regional associations: Four Motors for Europe, Conference of Regions with Legislative Power, Euroregion, Working Community of the Pyrenees and the Association of European Border Regions (Gutiérrez Espada 1994)<sup>9</sup>. In addition, Catalonia has also been active in the Committee of the Regions, created in 1994, and which has a consultative role in some EU policy areas. Overall, as Noferini (2016, 159) points out, despite a series of constitutional, political and even economic obstacles (see below), Catalonia has maintained a dense network of formal and informal contacts with the actors that influence the EU decision making process.

Beyond the institutional setting of the EU, and in the strictly economic sphere, trade delegations and investment offices have been set up around the world in order to promote Catalan industries and attract investment into Catalonia, while successive governments have sought to facilitate the internationalisation of Catalan-based businesses by

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<sup>8</sup> To overcome this opposition to the external action of the regions (see below), the PCPE was established as a public consortium outside of the official Catalan administrative structure (Pérez Tremps 1998, 316).

<sup>9</sup> See <http://www.4motors.eu/>; <http://regleg.eu/>; <https://www.ctp.org/>

organising trade missions to important markets around the world. Finally, concerted efforts have been made to promote Catalonia's culture and language abroad, through the setting up of the Ramon Llull institute, and the support for the Catalan Communities Abroad initiative, which are private organisations created by Catalans or Catalanophiles around the world.

However, since 2013, Catalan external action has been increasingly linked to the independence process. In that year, official policy statements formally confirmed that, in addition to the traditionally paradiplomatic external action, efforts would be made to take Catalonia's independence to the European and global stage<sup>10</sup>, which constituted a clear challenge to the Spanish state. Consequently, policy dynamics that had begun life outside of the secessionist process soon became part of that process. For instance, the Catalan parliament passed its own Law of International Action and Relations with the EU to fulfil the articles of its statute which regulate international action, an objective which is also explicitly included in the International Action Plan of the Catalan Government 2010-2015<sup>11</sup>. Although it was a logical development of the Statute of Autonomy approved in a different context, far from claims for independence, the fact that the law was passed in 2014 made it an issue in the ongoing conflict between Catalonia and Spain.

Changes in the content and objectives of Catalan external action are also reflected in the way in which external action is now produced. One of the main developments over the last two mandates of the Catalan government has been the establishment of the Public Diplomacy Council of Catalonia (Diplocat),<sup>12</sup> an institutional instrument to articulate and promote Catalan public diplomacy. Although it is a consortium and as such not officially responsible for the Catalan government's public diplomacy, the high proportion of its funding received from the government means that the de facto separation between the two is not always clear.

More recently, and coinciding with the new political scenario, a specific ministry has been created within the Catalan government: the Ministry of Transparency and Foreign Institutional Relations and Affairs<sup>13</sup>, and oversees, inter alia, the policy areas of

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<sup>10</sup> *Diari de sessions del Parlament de Catalunya*. 22 June 2013, Serie , - nº 47

<sup>11</sup> Llei d'acció exterior i de relacions amb la Unió Europea, Llei 16/2014, 4 December 2014. *DOG*, nº 6768, 11 December 2014. For a detailed analysis, see Pons Ràfols (2015).

<sup>12</sup> Diplocat, the entity which succeeded Patronat Catalunya Món, is a consortium made up of public entities (including the Catalan government) and private organizations (financial, economic, business, social, educational, and sports interests). Over 90% of its budget comes from the Catalan government.

<sup>13</sup> Initially it was called the Ministry of External Affairs, Institutional Relations, and Transparency.

External Relations, Multilateral and European Affairs, and Development Cooperation. In addition, the ministry is responsible for permanent representation in the EU, and government delegations in France and Switzerland, the United Kingdom and Ireland, the United States, Austria, Italy, Morocco, the Holy See, Portugal, and the Catalan Agency for International cooperation<sup>14</sup>.

Overall, there has been a shift from predominantly paradiplomacy to protodiplomacy. Even with those activities that have ostensibly remained the same, they have been framed and aimed towards a different objective: presenting Catalonia's credentials as a potential sovereign state not just to external actors but also for internal consumption.

### The Reaction of the Spanish state: from conflict to normalisation and back again

In this section, we outline the reaction, from the beginning of the democratic period until the present day, of the central Spanish state to the external action of the Spanish regions, particularly the most active ones, such as Catalonia, the Basque Country and Galicia. During this time, we see an almost pendulum-like shift from conflict to cooperation between the central state and the regions.

The first period refers to the decade of the 1980s and beginning of the 1990s, when the initial attempts to pursue external activities by the Spanish regions were met with rejection by successive central governments on the grounds that international relations was an exclusive policy domain of central government as set out in the Constitution of 1978 (Art. 149.1). This position was supported by successive sentences by the Constitutional Court defending this interpretation (Garcia Segura 2009, 293).

Over time, this effective veto by the central state developed into what could be described as a cautious acceptance of regional external activity, in that the central government reviewed such initiatives on a case-by-case basis, thus opening the way for more cooperative relations (ibid., 294). This shift in central government policy was undoubtedly facilitated by changes in the legal interpretations made by the Constitutional Court, and key in this respect was a 1994 sentence (165/1994) that explicitly recognised the participation of the regions in international activities on the condition that they act within the framework of their recognized powers and that their action did not touch or disturb the core of international relations (sovereignty, foreign policy and treaty-making power) (Fernández Casadevante 1996).

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<sup>14</sup> [http://afersexteriors.gencat.cat/en/secretaria\\_d\\_afers\\_exteriors\\_i\\_de\\_la\\_unio\\_europea/organigrama/](http://afersexteriors.gencat.cat/en/secretaria_d_afers_exteriors_i_de_la_unio_europea/organigrama/)

Furthermore, this new era of relations between central and regional governments coincided with a new balance of political power in Spain, specifically within parliament, where after more than a decade of absolute majorities, the Socialist Party had to rely on the votes of the centre-right, Catalan nationalist federation of parties, *Convergència I Unió* (CiU), to form a government from 1993 until 1996, and likewise for the new conservative *Partido Popular* government between 1996 and 2000.

This period of cooperation was reflected, *inter alia*, in initiatives by the Spanish central government to facilitate the participation of the regions in the EU policy-making process. The Maastricht Treaty of 1992 had established the possibility that a regional representative could participate and vote in the Council, substituting the relevant central government minister, in those areas of policy that were the competence of regions. Significantly, it was left to each member state to decide whether or how to articulate this mechanism of participation, and in Spain, building on previous, informal frameworks, in 1994 the Conference for Affairs Related to the EU (*Conferencia para Asuntos Relacionados con la Unión Europea* (CARUE) in Spanish) was established as a means of: a) establishing a common position on a given policy issue among the regions, and b) coordinating that position with that of the central state, even though the former was not binding with the latter. Over time, the regions would have increasing access to the Spanish Permanent Representation and the working groups of the Council, although not to the Council itself.

However, after this period of relative “normalisation” in external affairs came another conflict, again coinciding with the absolute majority of the governing party in Madrid, in the instance of José María Aznar’s *Partido Popular*. Against a backdrop of confrontation with Catalonia over demands for a greater degree of fiscal autonomy, and demands by the Basque government for a looser, confederal constitutional relationship with the Spanish state, the *Partido Popular* made it clear that any progress on the question of greater regional participation in the EU was off the agenda. Even the government of the region of Galicia, a bastion of the *Partido Popular*, complained about the excessive centralism of the Aznar government (García Segura 2009, 295).

The climate of conflict between the central state and the regions, and in particular over external action, dissipated to a large degree in the following period, in which the Socialist Party, led by José Luís Rodríguez Zapatero, won a majority in the parliamentary elections of 2004, although it had to rely on the support of both state-wide and regional left-wing parties. The new government showed its decentralization credentials by encouraging the regions to update their respective constitutions (within the bounds of the Spanish constitution), including the formalization of their external activities, that until that time had been carried out without an explicit legal framework. Over the two terms

of office, a number of reforms and initiatives were undertaken by the Spanish government to promote the external activities and positions of the regions. These included:

- Increasing regional representation in the Spanish Permanent Representation in Brussels;
- Allowing regional participation in the Council of Ministers in those configurations related to regional competences;
- Presenting a memorandum to the EU asking for the official recognition of the co-official languages of the Spanish state other than Castilian (Basque, Catalan and Galician);
- Inviting the four border regions (Andalucía, Castile-León, Extremadura and Galicia) for the first time to the Spanish-Portuguese annual summit; and
- Consulting the regions on the reform of the Spanish ministry of foreign affairs.

This brings us to the current period of protodiplomacy on the part of Catalan government and the political and legal reaction to it by the central government ruled by the PP. The central government has embarked on a diplomatic offensive against the pro-independence process in Catalonia in an effort to counter the arguments of the Catalan government (González2013)<sup>15</sup>, and to seek the support of foreign leaders on the issue of the unity of Spain and on the principle that it is an internal matter to be decided within Spain itself (Ruíz 2015).

At the same time, the Spanish parliament has passed a series of laws, the timing and content of which can be interpreted as a means of ordering and potentially restricting the external action of regional governments such as Catalonia's<sup>16</sup>. Of particular interest here is the Law of International Action and Services of the State (LIASS, Law 2/2014), which, on the one hand, might be considered a means of encouraging, not restricting, SSE external action in Spain, as the preamble recognises the increasing importance of SSE external action as a means of fulfilling their domestic policy responsibilities, and specifically lists the Autonomous Communities as subjects that carry out the international action of the state. However, on the other, the LIASS also stresses the principles of unity and coherence in international action, and the need for institutional loyalty and coordination, thus subjecting external action by the Autonomous Communities to the guidelines, aims and objectives of central government, whose exclusive power over

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<sup>15</sup> The document *Por la convivencia democrática* is 210 pages long and was sent in December 2013. It is considered to be based on the British Government's *Better Together* campaign during the Scottish referendum.

<sup>16</sup> Law 2/2104. *BOE*, nº 74, 26 March 2014, pp. 26.531-26.564, and Law 25/2014, *BOE*, nº 288, 28 November 2014, pp. 96.841 to 96.859. For a deeper analysis, see García Pérez 2014 and Pons Ràfols 2015.

foreign policy is restated. All external action by the Autonomous Communities is now legally subjected to the need to rationalise public spending and avoid the duplication of administrative resources, even though the right of the Autonomous Communities to open foreign delegations has been recognised in constitutional jurisprudence. Thus, it is now necessary to inform, firstly, the Treasury Department in accordance with the principle of efficiency in the management of public resources and, secondly, the Ministry of Economy and Competitiveness in the case that the delegation deals with trade promotion.

In addition to these new laws, in July 2015 the Spanish government legally challenged the Catalan Law of International Action and Relations with the EU before the Constitutional Court that suspended the law with immediate effect.<sup>17</sup> The arguments put forward by the Spanish Government alluded to the exclusive powers of the state according to Art. 149.1. of the Constitution and the right of the state to direct foreign policy, going on to accuse the Catalan law of seeking to carry out public diplomacy, which, it was argued, could only be carried out by states (Noguer 2015). This argument goes against the political and academic consensus on public diplomacy that today is understood as an activity carried out by any actor (regions, NGOs, firms, etc.), and not only by states, that seeks to communicate and build relationships with foreign publics.

The Spanish interim government placed a legal appeal against the decision by the Catalan government to create a specific ministry for foreign affairs with the name Ministry of External Affairs, Institutional Relations and Transparency. The Constitutional Court provisionally suspended the name, forcing the Catalan government to make an immediate change. The Constitutional Court argued that the name Foreign Affairs was to be suspended because it coincided with the name of the state ministry, and thus gave the Catalan ministry the “appearance of an international actor and grant[ed] them policy powers that are exclusive to the central state”. At the same time, it recognizes the right of self-governing regions to carry out international actions to develop their policy powers, but it reminds the regions they have to respect the exclusive state powers in international relations.<sup>18</sup>

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<sup>17</sup> In July 2015, it decided to lift its veto on some of the articles referring to foreign delegations, participation in EU organisms, and the promotion and development of functions of Catalan institutions in exterior action. It maintained its veto on articles referring to the self-governing region as an international actor or to Catalan diplomacy, even where these refer to public, cultural, economic or sports diplomacy. (Batallas 2015).

<sup>18</sup> [http://www.tribunalconstitucional.es/es/salaPrensa/Documents/NP\\_2016\\_065/2016-672ATC.pdf](http://www.tribunalconstitucional.es/es/salaPrensa/Documents/NP_2016_065/2016-672ATC.pdf).



## Identifying factors leading to conflict between regional external relations and state foreign policy

In this section, our focus shifts to identifying patterns of causality that help to explain conflict over external relations between successive central governments and the regions in Spain. In this respect, a case study is a useful methodological tool for “look[ing] at the complex interaction of many factors in few cases” (Thomas 2011, 512). By exploring in a more in-depth and flexible way than other research methods allow, we can construct a causal analysis based on a series of variables—proximal evidence—that are, in the words of Gerring, “present at the scene of the crime” (2004, 350). Our analysis looks at a series of causal propositions in the form of hypotheses, which, having been analysed individually, will be brought together in the conclusions.

### The role of political context

Perhaps the most obvious starting point is to analyse the specific content of SSE external action to try to establish whether its content is fundamental to explaining relations with the central state in this policy area.

### **Hypothesis 1: Protodiplomacy by a SSE (external action aimed at promoting secession will lead to conflict with the central government.**

In our case study, we have already seen how in recent years the Catalan government has dedicated considerable resources to protodiplomacy as a means of bringing international attention to the secessionist process in Catalonia and to put pressure on the Spanish government to allow a referendum on independence. The government in Madrid has taken a series of measures to challenge what is perceived to be the specific threat of Catalan external action (particularly through the courts) and also to reassert its pre-eminent position in foreign affairs over the regions as a whole.

Recent Catalan protodiplomacy has clearly been a factor in producing conflict with the central government, although it would appear that it is neither a sufficient nor a necessary condition for that conflict. If we go back to earlier periods of central state-regional relations, we see that much of the 1980s was marked by conflict: an almost interminable legal battle between the two parties over the right of the regions to pursue any external activity, however limited. Some of this activity, particularly by Catalonia and the Basque Country, might be described as identity paradiplomacy (Paquin 2005), whereby actions are aimed at raising international awareness of the existence of a national identity that is different to the dominant one in the state. However, in neither Catalonia, Galicia, nor

the Basque Country was this identity paradiplomacy been linked to political demands for independence.

### The role of party politics

In the case of Spain, we have seen that party politics, and in particular parliamentary majorities, have played an important role in the development of regional—central government relations in the field of external action. In this respect, two related hypotheses can be proposed:

**Hypothesis 2a): a central government with an absolute majority that does not depend on regional nationalist votes will tend to oppose regional external actions.**

Clearly, for the period between 1982 and 1993, when the Socialist Party won three straight general elections with an absolute majority, conflict abounded between the central government and the regions, with the former exercising an almost total veto on regional external action due to a very restrictive reading of the constitution. It is also true that conflict was the dominant form of relationship between the parties during the other periods of absolute majorities, from 2000 to 2004 and from 2011 to 2015. The converse is also true: the periods of 1933-1996 (PSOE), 1996-2000 (PP), when successive central governments depended on the support of Catalan and Basque nationalist votes in parliament, were characterised, as we have seen, by positive developments in the relations between the central government and the regions in the field of external actions.

**Hypothesis 2b): the same party in government at the central and regional level facilitates cooperative relations in the field of external action.**

A related hypothesis here is that when the same party is in power in both Spain and, in this case, Catalonia, then cooperation and not conflict will predominate relations over external action. This is certainly true of the period between 2004 and 2011, when the central government was in the hands of the PSOE, while the Generalitat was controlled by a coalition led by the Catalan Socialist Party (an affiliate of the PSOE). As we have seen, the central government showed itself to be very receptive to the demands of the regions in general (reform of the regional constitutions) and to the development of the regions' external actions in particular. It is also true that during this period, one of the features of the external action carried out by the Generalitat was the desire to complement rather than compete with Spanish government foreign policy (García Segura 2009, 302).



However, during other periods of cooperation, this condition of the same party in government at both the regional and state level was not fulfilled making it is difficult to talk of a sufficient or necessary condition in this case.

### The role of the institutional framework

The third hypothesis refers to institutional framework, and in the case of Spain we propose the following hypothesis:

**Hypothesis 3: failure to develop rules to jointly implement foreign policy in a highly decentralised nation-state increases the potential for conflict between levels of government.**

Beyond the specific circumstances of a given period of time, our next hypothesis concerns the system of territorial management in Spain. Clearly, this hypothesis is unable to explain the constant swing between cooperation and conflict in the field of external action between central and regional governments, but it could be considered a necessary, although not sufficient, condition for conflict.

With regards to the Spanish model, while it is true that many policy competences (e.g., health, education, local government) are either shared or exclusively in the hands of the regions, the fact remains that Spain is a unitary state in which sovereignty formally and ultimately resides in the centre and is not shared. Spain can be referred to as a unitary devolved state. This form of territorial management appears to have had an important impact on central—regional relations in the field of external action. As noted above, Art. 149.1 of the Spanish constitution grants exclusive power to the central government over foreign policy, although Spain is far from unique in this matter. In Belgium, for example, where the regions are more active in the field of international relations than virtually any other SSEs in the world, the constitution places foreign policy formally in the hands of the federal government. However, the federal nature of the Belgian constitution also establishes two important principles that have, in practice, overcome the constitutional provision of federal monopoly of foreign policy. As Criekemans (2010b) explains, two other constitutional principles are key in this respect: the *in foro interno—in foro externo* principle, whereby that level of government with internal responsibility for a given policy area must also be responsible for that policy area in external fora; and second here is the principle of non-hierarchical relations between the federal and regional level. Taken together, these principles have meant that the Belgian regions enjoy a very high degree of autonomy in the field of external relations to the degree that they can sign international treaties, participate in international organisations relations—especially, but not exclusively, the EU—in addition to being guaranteed access to federal

foreign policy making. The limitation on regional external action is established, then, by the principle that their autonomy in this field does not put at risk federal foreign policy, and to determine this, institutional mechanisms have been established to coordinate action, share information, etc., between the two different levels of government. While some friction might exist over the exact delimitation of policy competence in some cases, in general the federal state “has successfully transformed itself into a coordination centre which guides all external contacts under an atmosphere of federal loyalty [...] and is for the most part a loyal partner vis-à-vis the regions; both work together actively on an institutionalized daily basis” (Criekemans 2010b, 29).

Germany is another federal state in which the Länder also enjoy a relatively high degree of autonomy to conduct external action and have the constitutional right to participate in federal foreign policy making, particularly, but not exclusively with regards to the EU (Blatter et al. 2008). Authors such as Börzel (1999) highlight the idea of cooperative federalism, that is, a model intergovernmental relations that is based not only on a sound formal, legal sharing of powers, but also on a dominant institutional culture of cooperation and loyalty between these two levels of government. This is used to explain the way in which the federal state has made consistent efforts to compensate the Länder for any loss of policy powers due to the European integration process.

By bringing these two “adjacent cases” into our analysis, it seems clear that for cooperation to exist in the field of external relations, not only are formal aspects—legal and constitutional positions—important, but informal aspects like institutional cultures are too. Whether these two variables necessarily go together is open to discussion, but in the case of Spain, it would appear that both are absent, and that this is an underlying cause of conflict between the regions and the central state. On the one hand, the non-federal constitution in Spain generally lacks the kinds of provisions that balance out the articles granting a monopoly in the field of foreign affairs. As such, the increasing demands of some regions for more autonomy have had to depend on the willingness of the central government to accommodate those demands, rather than on any automatic mechanism embedded in the legal framework. If we add to this a distinct lack of cooperative culture on the part of the central state towards the regions—but also in some instances on the part of the regions towards the central state (Börzel 1999; Etherington 2012)—then the pattern of conflictual relations becomes easier to understand: some progress has been made, particularly in the context of the EU, but this has been slow, uneven, and ultimately frustrating for the regions.

## Conclusions

The case of Spain shows that caution must be applied when attributing causality to protodiplomacy with regards conflict between SSEs and the central state. Clearly recent attempts by the Catalan government to internationalise the secessionist process have been met with a political and legal reaction from the central state that has produced conflict. However, conflict predates these developments and goes back to the beginning of the period studied when the Spanish regions, particularly the Basque Country and Catalonia, attempted to engage in external activity. Significantly, the central state sought to exercise an effective veto on that activity, including that of a functional, paradiplomatic nature, such as engaging with the EU by setting up regional representation in Brussels.

A second factor, that of the balance of political power between the regions and the central state, should also be questioned, since while periods of conflict have generally been characterised by the central government having an absolute majority in the Spanish parliament and not relying on regionalist parties for support, this has not always been the case, like the period of Socialist government from 2003 to 2011 shows.

Over time, there has been a certain degree of “normalisation,” whereby the central state has accepted a some regional action, although within the limits of a restrictive reading of the constitution that, like many others—including federal ones—grants exclusive responsibility to the central state for foreign policy. We believe that a combination of two factors explains the underlying conflict over external action between the central state and the regions in Spain. The first refers to lack of formal, constitutional provisions that allow—as in federal system—for the full development of regional policy competences by engaging in external activity. The second related factor concerns the culture of relations between the central state and the regions and between the regions themselves. In Spain, we do not see the kind of “loyal” cooperation present in states such as Belgium and Germany; rather a zero-sum approach has been employed, whereby the central state has consistently frustrated attempts by the regions to develop external action.

Having identified the factors that lead to conflict over the external action of regions in Spain, our discussion now turns to how we might develop a theory of conflict and cooperation that could be tested in a larger number of cases. It must be noted that Spain represents one of the few cases of conflict in Europe, although as SSE external activity increases, so we expect the number of cases to increase, both in Europe and beyond. A sound causal proposition to analyse these cases and their future development would be that we find conflict where we find unitary states that are, at the same time, devolved, and where we find a lack of a culture of cooperation between the state and the regions.

With regards to how exactly this hypothesis could be tested—using which research design—the existing literature in the field of para- and protodiplomacy is unclear. Blatter et al. (2008; 2010), for example, have used large N, quantitative analysis in some of their work on SSE external action, while Kuznetsov (2014, 11) is of the opinion that a lack of reliable data gives such studies limited utility.

But however studies advance in the field, it is clear that how states and SSEs manage their relations vis-à-vis external action is an important dimension of the ongoing debate on how concepts such as sovereignty, territoriality, the nation-state, and borders can be understood in the context of contemporary spatial rescaling of economic, political, cultural, and social life.

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