

MANAGING ACROSS LEVELS OF GOVERNMENT

SPAIN

1. Institutions and authority

1.1 Structures

Description of levels

The structures, powers and responsibilities of sub-national governments have experienced a radical transformation in the last 20 years. From a highly centralised system in which there were only two levels of government (central and local) Spain has moved to a three-tier system, with central, regional and local governments. The structure of the levels that can be compared (central and local), while remaining very similar in appearance, have experienced drastic and important change as they have evolved from an authoritarian regime into full fledged democratic bodies.

From a constitutional point of view Spain may be characterised, together with Italy, as a "regional state", in order to differentiate it from centralised systems and federal structures. In the Spanish case the system tends to operate more like a federation than a centralised state. Article 2 of the Constitution proclaims the unity of the Spanish Nation and "recognises and guarantees the right to self-government of the nationalities and regions of which it is composed". In devising the distribution of powers between central and sub-national governments the constitutional drafters had to reach numerous political compromises. This has resulted in a complex system of territorial organisation which has become progressively clearer in recent times.

The total area of Spain is 505 989 square kilometres and the total population in 1994 was 38 143 400.

Spain can be described now as a politically decentralised country in which the distribution of functions and the system of governance in general are very close to those of a federal state. The Spanish State is divided into 17 "self-governing communities" (*Comunidades Autónomas*), or regions, 50 provinces and about 8 000 municipalities.

Regional level: The regional level is made up of 17 "self-governing" (autonomous) communities established between 1978 and 1983. Although the structure of all regions is very similar, the powers that have been devolved to each are not the same. However, this is a temporary situation.

Under the Constitution, the cities of Ceuta and Melilla have their own statutes, giving them similar organisational structure, competences and powers to Autonomous Communities, whilst retaining the status of municipalities.

Local level: The local level of government in Spain is sub-divided into two tiers: provinces and municipalities. Although all territorial units are supposed to be "autonomous" or self-governing, in

practice provinces are often little more than administrative machines for the delivery of certain functions, and many municipalities lack the resources necessary to bring their self-rule to full fruition. In the island territories, the island, as a local entity, plays a role similar to that of the provinces.

Spain is divided into 50 Provinces following an administrative division established in 1833 using both political and objective criteria. Today many people still consider the provincial division as artificial and in some regions there have been attempts to do away with provinces as local government entities. They were created following the example of the French *départements*, as both local units and circumscriptions of central government, and to this day the provincial division serves this dual purpose. Any modification to the boundaries of provinces has to be agreed within the framework of State organic law and approved by the Parliament.

The basic unit is the municipality, of which there are 8 097, ranging in size from a few inhabitants to over three million, as indicated in Table 1. The vast majority of municipalities are very small, 92 per cent having less than 10 000 inhabitants, and 60 per cent less than 1 000.

Table 1. Area and population of sub-national governments (31 December 1995)

	Self-governing Communities (Regions)	Provinces	Municipalities
Number	17	50	8 097
Area (km ²)			
Largest	94 193	21 766.31	1 750.33
Smallest	5 014	1 980.33	0.36
Population			
Largest	7 314 644	5 181 659	3 029 734
Smallest	268 206	94 396	4
Number of municipalities and population distribution			
	Population	Number of municipalities	
	0 - 999	4 885	
	1 000 - 4 999	2 066	
	5 000 - 9 999	524	
	10 000 - 49 999	506	
	50 000 - 99 999	61	
	100 000 and over	55	

Source: Ministry of Public Administration, Directorate-General for Territorial Co-operation, 1996.

Central government at sub-national levels

At the regional level, a government-appointed Delegate General is the permanent representative of central government in the region and has responsibility for directing the State administration in the Autonomous Community and co-ordinating it where necessary with the regional offices of the Community's own administration. At provincial level, the Civil Governor (equivalent to the French Prefect) carries out these duties. A draft Bill submitted to Parliament by the government in June 1996 proposes the abolition of the Civil Governors and their replacement in the provinces by "Deputy-Delegates" who will be professional rather than political.

The State still has a presence sub-nationally, notably in the following areas:-

- labour (unemployment and social security benefits);
- security (police and armed forces);
- infra-structure (national roads, and waterways, ports and coasts);
- fiscal matters;
- health and education (in those Autonomous Communities where these responsibilities have not been transferred).

In order to operate, these services depend upon the respective ministries and, at the regional level their respective Delegate General or, at the provincial level, the Civil Governor (sub-Delegates in the proposed reform).

It is important to recognise that despite the political and administrative transformation resulting from the division of the country into self-governing communities and the transfer of important powers to them, the structure of central government has remained largely unchanged. Some departments have reduced the number of their employees, and there are fewer departments, but there has been no systematic effort to restructure the government according to the new situation. However, the Government presented a Bill to Parliament in 1996 which should become law in early 1997 and which seeks to adapt central and territorial structures to the new situation.

Creation, elimination and restructuring

In accordance with the provisions of their respective statutes, Autonomous Communities may establish on their territory supra-municipal or district authorities (*Comarcas*) or other entities grouping several municipalities having common interests requiring separate management or calling for the provision of services covering an entire area. The legislation of the Autonomous Communities defines the territorial boundaries of the *Comarcas*, the composition and operation of their executive bodies, as well as the powers, authority and economic resources assigned to them.

Competence to modify boundaries of municipalities resides with the Autonomous Communities by right or at the initiative of the municipal councils, after consultation with the municipalities concerned. Incorporation, merger and separation are the responsibility of Autonomous Communities concerned and, in all cases, respect the general principles set by basic State legislation concerning the establishment of local authorities.

Control bodies

Central control is exercised over Autonomous Communities by the Constitutional Court for regulatory matters; by the Court of Audit with regard to financial and budgetary matters; and by the Government in consultation with the Council of State. Most Autonomous Communities have, in turn, provided for the creation of their own Court of Audit exercising authority over their own territories.

1.2 Powers

Nature of sub-national institutions

All regions have a similar institutional structure with separate executive and legislative branches. Regional Parliaments are all unicameral and directly elected by the residents of the region. Parliament elects "from among its members" the head of the regional executive, who then appoints the members of his or her government.

The governing body of the province is the provincial assembly (*Diputación Provincial*) made up of local councillors who are elected by their peers from among the councillors of municipalities. They in turn choose a president from among themselves.

Municipalities are governed by a municipal council (assembly) of directly elected representatives, who elect among themselves a Mayor. Mayors appoint their deputies from among the councillors. On the other hand, in municipalities with the open council system (notably those with fewer than 100 inhabitants), residents elect a mayor directly and function as a council.

There is no such thing as a professional city manager, although in larger cities the different departments of the municipal administration are generally headed by a professional without prejudice to the decision-making functions reserved for the elected members of the local authority.

In municipalities with over 5 000 inhabitants there should be a governing board (composed of the mayor and the councillors he appoints). There may also be information committees which report on the responsibilities of the full committee, and which, in fact, exist in all the largest municipalities. Decisions are adopted by the full committee and by the mayor, according to their respective responsibilities, although many of them may be adopted by delegation by the governing board or delegated councillors.

Type and degree of autonomy

Regional level: The system is based on two separate sets of functions: one, contained in article 148 of the Constitution, enumerates the powers that *may* be adopted by the Regions, the other, in article 149, lists the powers which are the *exclusive* competence of the State. In matters not enumerated in these two articles the residual power is left with the central level as long as the regions have not claimed the competence in their regional basic law, known as "Statute of Autonomy" (*Estatuto*). According to article 149, in case of conflict central legislation will prevail over regional norms unless the region has claimed the matter as of its "exclusive" competence. This distribution of powers has been interpreted and clarified by the case law of the Constitutional Court.

The Constitution also establishes a system under which regional powers can have several degrees of intensity, depending on whether the region assumes full legislative and executive powers, limited legislative powers or only executive functions. The Constitution also provides that Central Government functions can be passed on to the regions by Act of Parliament, and that central authorities can delegate their functions to the regions. One group of regions (the Basque country, Catalonia, Galicia, Andalucía, and to some extent, Valencia, the Canaries and Navarra) has been able to claim from the outset the fullest degree of self-government possible under the Constitution. The remaining regions have been obliged to wait before being able to demand the same level of autonomy. This process began in 1992 and in 1996 is now almost completed.

This means that the number and intensity of functions performed by the regions is not always the same and is subject to variations that are often difficult to explain. The trend is towards gradual homogenisation of the powers for all regions, and some legislation was adopted to that effect in 1993-94.

Regional Parliaments have the power to pass legislation in matters not reserved to the State. In many cases regional legislation is bound by national mandates or by directives of the European Union, but there are other instances in which only the Constitution determines the limit on the ability to legislate. As a result there is an increasing number of topics that are subject to different legislation in different parts of the country. While this provides opportunities for diversity and competition, it may create some confusion and complicate the operations of firms active in more than one region.

The Constitution recognises the financial autonomy of the Autonomous Communities in order to guarantee them an appropriate degree of autonomy in exercising their functions. The law on the financing of the Autonomous Communities defines the framework of the financial system, using the principles established in the Constitution. It gives the Fiscal and Financial Policy Council (a body composed of representatives of the State administrations in the Autonomous Communities) the role of co-ordinating and deciding on how the model should be put into practice. According to the system operating until 1996, the Autonomous Communities had the right to set their own tax rates, within strict legal limits, or to put a surcharge on existing taxes. The new system approved for the period 1997-2001 gives the Autonomous Communities a degree of decision-making autonomy over the taxes transferred by the State as well as over part of the personal income tax. Municipalities also have a certain amount of autonomy to set (within the legally defined limits) the rate to be applied to their main tax bases and to establish taxes of a local nature.

With regard to borrowing, the Autonomous Communities and the municipalities are subject to restrictions: for example, all borrowing must be used for capital investment and, in addition, co-ordination and control systems have been introduced.

1.3 Responsibilities

Distribution of competences

The introduction of the regional level in 1978 completely altered the Spanish panorama and forced existing governments, and most notably central government, to reconsider their purpose and scope. The process of devolution is not over yet, and may never be, but the trend is clear enough to describe in general terms. The competences listed in the 1978 Constitution can be found in the annex.

The system that emerged from the new constitution tends towards a division of powers in which central government retains policy making and implementation in a few areas, such as foreign policy, defence, fiscal and monetary policy (under European Union guidance) and criminal law.

In many other areas central government remains as a general policy-maker, setting the basis for the action of other administrations and ensuring that certain minimum standards are met and some degree of co-ordination is attained. Implementation is then left to the regions and, as the case may be, to municipalities. In a large number of matters central institutions issue basic legislation which is then developed by the regions into their own set of laws and regulations, going far beyond mere implementation of national mandates. This is the case in areas such as environmental policy, land use and physical planning, forestry, transportation, cultural heritage and economic development.

Provinces bring together all the municipalities within their boundaries, but their action concentrates on smaller municipalities, since their role is basically to assist and complement local communities. In addition to providing general assistance to municipalities in their area (especially the smaller ones) by integrating activities into provincial plans, the provincial administration concentrates on a limited number of services such as hospitals and provincial roads.

Local level: The powers of municipalities were broadly defined in the Local Government Act of 1985, but are subject to further specification by legislation both from central and regional governments. On paper local governments have many powers, but in practice their activities are limited to a few sectors such as local police, fire-fighting, refuse collection, street cleaning, land use control, urban transportation, etc. Only the larger municipalities participate in the delivery of services such as education or health, although all of them may provide the land for the establishment of service facilities. Local governments may not impose a surcharge on State taxes.

Mandatory, optional and shared responsibilities

Municipalities have only limited implementation capabilities, being subject to national and regional legislation. While central and regional governments are subject to legal obligations in a general sense, local governments are bound by law to provide certain minimum services, according to the size of their population. The number of mandates and their intensity can be modified by law, and although in theory new mandates should be accompanied by new resources, this has not always been the case.

There are very few instances of competencies that are exclusive to one level, and there are many cases of "grey areas". For instance, it seems constitutionally very clear that foreign relations are the exclusive competence of central government. However, some self-governing communities have decided that it is in their best interest to have their own offices in Brussels and maintain direct contacts with the European Union. Such initiatives have been contested by central government, but the Constitutional Court has ruled that this can not be considered as "foreign relations" and, therefore, the regions are entitled to having their own representative offices in Brussels for information services and relations with European institutions which do not affect those international relations reserved for the State.

It is difficult to describe in detail the activities shared by different levels of government in Spain as that would almost require an examination at the level of each sector.

2. Management functions

2.1 Policy-making and co-ordination

Coherence, consultation and conflict resolution

Policy-making authority is vested in a minority of cases in central government but in most instances is shared between central and regional levels. In practice this means that central institutions set the broad policy and regional ones make it more specific and adapt it at the regional level. It is also customary for major State bills to be presented to the Autonomous Communities before being submitted to the legislature, even in cases where these bills are clearly within the State's jurisdiction. Obviously, it falls to central government to decide whether this consultation is necessary or advisable.

The legalistic approach which has until now guided inter-governmental relations without considering functional or other objective parameters has proved detrimental to the smooth operation of the

system. One result has been that the Constitutional Court is over-worked and cases may take between 3 and 5 years to be tried. Despite the volume of cases submitted to the Constitutional Court, their number has decreased apace with consolidation of the State's attitude to autonomy.

In domains such as housing and agriculture, in which central government contributes important financial resources but lacks specific implementation powers, there has been considerable success in establishing co-operative agreements, with some 330 being signed every year. Whilst agreements of this type are extremely diverse, they may, however, be divided into two kinds:

- 1) agreements whereby different administrations agree to finance certain activities jointly, that is, to pool their financial resources for greater viability;
- 2) agreements whereby the signatory administrations undertake to co-operate in other ways, for example:
 - management of a service which is within the competence of one administration is entrusted to another;
 - different administrations co-operate in providing a service;
 - a system of procedural co-operation is set up, so that more than one administration participates in a given procedure;
 - real estate or other property which is no longer needed by one administration after reorganisation is transferred to another administration, or the two carry out an exchange.

Formal and informal mechanisms

There are some formal mechanisms aimed at preventing conflicts, mainly through resort to intergovernment boards or "sectoral conferences". There are 27 sectoral conferences, which are co-operative bodies in which central government and the governments of 17 Autonomous Communities participate under the chairmanship of the minister concerned. The meetings cover the main subjects of interest to both parties. As far as local government is concerned, there is a National Commission for Co-operation with Local Authorities, which is the highest level consultative body for co-operation between the State and local governments. There is no uniform pattern of co-operation between local authorities and the Autonomous Communities, since it is for each Autonomous Community to establish these relationships as and when required.

2.2 Financial management

Sources of revenue

The sources of revenue for self-governing communities are threefold:

- revenues obtained through regional taxation.
- income transferred by the State.
- resources from the Inter-territorial Compensation Fund.

The main sources of income for municipalities are taxation on businesses and property; charges for the costs of individual services; State grants (mostly of a general nature) and loans. Municipalities are now demanding greater resources and more autonomy. The main sources of income for the Provinces are

similar to those of the municipalities: internal taxation on private goods and services; a tax on property; state grants (general and specific); and loans.

Table 2 shows that the State provides a very substantial proportion of revenue, accounting for 68.5 per cent of the Autonomous Communities' total financial resources in 1986 before dropping to around 56.5 per cent in 1990 and then rising again to 65.3 per cent in 1994. As far as the municipalities are concerned, the revenue contributed by the State is falling gradually but continuously (31.5 per cent in 1986; 29.5 per cent in 1990; 29 per cent in 1994).

Table 2. Main income of territorial administrations (1986, 1990, 1994)

	(millions of pesetas)					
	1986		1990		1994	
	Regions ⁽¹⁾	Local government ⁽²⁾	Regions ⁽¹⁾	Local government ⁽²⁾	Regions ⁽¹⁾	Local government ⁽²⁾
Income from the State,	1 408 782	543 461	2 770 620	1 007 079	4 303 595	1 135 904
namely:						
-- share of State revenues & individual income tax ⁽³⁾	524 018	496 112	1 177 109	864 225 ⁽⁵⁾	1 842 473	1 035 820 ⁽⁵⁾
-- health care and social security transfers	394 578	207	1 018 298	54 702	1 717 421	39 269
-- Inter-territorial Compensation Fund	194 842	--	120 044	--	128 844	--
-- Other specific transfers	295 344	47 142	455 169	88 152	614 857	60 815
Regional taxation, namely:	419 068	858 771	1 501 044	1 489 224	1 513 730	2 317 440
-- transferred taxation ⁽⁴⁾	378 547	--	1 407 934	--	1 369 413	--
-- own taxation, surcharges and levies	40 521	858 771 ⁽⁵⁾	93 110	1 489 224 ⁽⁵⁾	144 317	2 317 440
Other income,	230 726	306 923	629 156	919 504	772 038	443 554
-- borrowing and financial assets	230 726	306 923 ⁽⁵⁾	629 156	919 504	772 038	443 554
TOTAL	2 058 576	1 709 155	4 900 820	3 415 807	6 589 363	3 896 898

1. Autonomous Communities.

2. Provinces and Municipalities.

3. For 1994, each territory's share of individual income tax has been taken into account.

4. Including taxation aligned on regional tax regimes.

5. Figures produced on the basis of budgets out-turns, consolidated with those of autonomous bodies and social security management agencies.

Source : Ministry of Public Administration.

Expenditure responsibilities

As shown in Table 3, the State's share of expenditure has fallen (71.6 per cent in 1985, 60.5 per cent in 1994). The Autonomous Communities have gained most from this trend (15.2 per cent of expenditure in 1985, 25.3 per cent in 1994).

Both the State and the Autonomous Communities are convinced that it is essential to go ahead with reforms to the financing system which balances the expenditure discretion of the Autonomous Communities with that which they enjoy for fixing revenues. This process of "fiscal balance" started with the agreements between the State and the Autonomous Communities on 23rd September 1996.

Table 3. Trend of consolidated public expenditure by level of administration (1985, 1990, 1994)

	(millions of pesetas)					
	1985	%	1990	%	1994	%
State ⁽¹⁾	7 416 923	71.6	11 507 174	61.1	16 780 694	60.5
Autonomous Communities (Regions)	1 571 899	15.2	4 263 583	22.6	6 998 210	25.3
Local Government	1 375 375	13.3	3 077 677	16.3	3 944 580	14.2
TOTAL	10 364 197	100.0	18 848 434	100.0	27 723 484	100.0

1. Excluding social security and other pensions.

Source: Ministry of Economic and Financial Affairs, Directorate-General for the Co-ordination of Territorial Finances

Balance between discretion and control

In spite of the growing importance of regional taxation, the bulk of regional finances originate from resources appropriated by central government. Only about 20 per cent of the regional income comes from sources administered by most self-governing communities. Of the remaining about 80 per cent, half is in the form of unconditional appropriations or grants, the remainder is linked to specific programmes or agreements.

From a financial perspective, the Autonomous Communities divide into two categories. First, those known as "*foral*" -- the Basque country and Navarra -- are characterised by the fact that they themselves collect and manage their own taxes and those levied in their area by the State; and then transfer part of those revenues to the State as a contribution to general charges. Second, in the other Autonomous Communities, for which the State's contribution, as noted above, accounted for about 80 per cent of their total revenues up to 1996. Within this second group a special fiscal regime applies to the Canary Islands and the cities of Ceuta and Melilla.

Although local governments have a much lower participation in total public expenditures than regional authorities, they have better control over their income, since between 50 per cent and 60 per cent comes out of their own sources and 30 per cent originates in a block grant that is distributed according to objective criteria. This means that although municipalities have a much lower level of financing than regions, they enjoy comparatively greater autonomy.

2.3 *Performance management*

Mechanisms

There has been little activity in the domain of performance management. Audit and accountability mechanisms are still basically of a strict accounting nature, and the budget process is still largely unchanged although it is now presented as a "Programme Budget".

Control over public expenditure takes place first within each administration by specialised bodies of civil servants. There may also be outside control by the "Court of Accounts", which has national jurisdiction; and by the Court of Accounts of the Autonomous Communities within their respective areas. The controls performed are of a legalistic and formal nature, and there is little control over the effectiveness or efficiency of government units. This is in part because there are no data collected for this purpose, and budgets are not organised in a way conducive to performance analysis.

Quality standards

The office in charge of government accounting has been experimenting in recent years with approaches more geared towards "operative auditing", but these are yet to be widely used. The exception is in the field of health care, where, efforts are under way to introduce real performance measures and new accounting and auditing systems.

2.4 *Human resource management*

Total public sector personnel in Spain (2 121 100) in 1995 is still at moderate levels compared with other OECD countries, around 56 per cent belong to central government (if social security and public corporations are included), 25 per cent to the self-governing communities and 19 per cent to local governments. The total number of employees in the payroll of Autonomous Communities has, however, been rising steadily since they were established. This growth is to be expected since these are totally new institutions. Personnel numbers are likely to grow considerably as most of the regions still have to receive effective powers concerning two of the most labour intensive functions: health care and education.

The establishment of these new administrations has, in most cases, resulted in a reproduction of the bureaucratic institutions already found at the central level.

Statutory distinctions: The majority of public employees have civil servant status and are not subject to ordinary labour legislation but to their own special statute. The principles applying to civil service in general are set at the central level, although the regions can adopt their own legislation for the implementation of such principles, and have done so.

There is no central control over the personnel policies of the self-governing communities, and they are free to decide the level of staffing and salaries they can afford. In the past few years the number of regional employees has been rising steadily as the communities have organised their administrations and received their functions. Regional personnel policies are closely patterned after the central government model and suffer from rigidities that make it difficult to vary the number of employees over a short period of time.

Municipalities, due to their very low level of resources, have traditionally been understaffed, except in the largest cities. Local authorities are also entirely free in deciding the levels of staffing and

retribution within their administrations although they are bound by the general principles set forth by national legislation as to the statute of civil servants. One peculiarity is that the city clerk and controller must be appointed from persons belonging to two national bodies of specialised civil servants.

Recruitment at all levels of government is regulated by the basic statute established at national level and is based on public competition. Promotion is also regulated by national statute although regional and local authorities have more leeway in establishing their own detailed rules.

Table 4. Public sector salaried employees by type of administration (1987-1995)

(at fourth quarter of each year, except for 1995 [second quarter])

Year	Central administration	Autonomous Communities (Regions)	Local administration	Social security	Public enterprises and institutions	Other (non classified)	Total public sector
1987	550 800	363 900	309 700	232 900	353 900	4 000	1 815 100
1988	529 000	383 200	359 700	257 100	375 500	6 000	1 910 700
1989	576 400	416 400	372 000	290 800	410 100	3 600	2 069 300
1990	555 200	448 500	389 200	307 200	417 400	4 200	2 121 700
1991	562 700	480 700	416 700	313 300	394 300	9 100	2 176 900
1992	571 700	464 300	401 200	321 000	382 500	2 100	2 142 700
1993	552 900	503 100	395 600	311 600	338 600	5 900	2 107 800
1994	537 400	510 900	393 500	291 600	310 500	4 600	2 048 500
1995	576 400	521 900	396 800	295 000	327 300	3 700	2 121 100

Sources: For 1987 to 1993: *Survey of the labour force*. National Institute of Statistics.

For 1994 and 1995: Ministry of Public Administration.

Mobility: There is not, however a single body of civil servants, but rather three different ones, as central government, regional governments and local authorities have each a different statute. In practice it is possible to move between the three groups, however, the transfer of civil servants from the Autonomous administrations to that of the State can only be considered as an exception and requires a special authorisation.

2.5 *Regulatory management and reform*

Unfortunately there have been no efforts to modify the regulatory responsibility of each level of government, other than the changes derived from the transfer of powers to the regions.

The fact that detailed regulations are now passed and implemented at regional level does not mean that there has been a simplification or a better accommodation to local peculiarities. In many cases it has meant a multiplication of regulation and a superposition of norms that makes it difficult at times to decide what regulation is to apply in a given case.

3. Trends in redistributing authority across levels of government

3.1 *Evolving tendencies*

Creation of Autonomous Communities: In spite of the reduced role of local government, Spain can be considered to be a rather decentralised country. This has not, however, always been the situation as it has emerged very late in the twentieth century. There have nevertheless been recurrent attempts to establish some sort of federal or regional system for the past two hundred years.

The last bid for decentralisation took place under the Spanish Republic (1931-1939) with the approval of the Catalan, Galician and Basque Statutes of 1932 and 1936. These efforts were short-lived and completely suppressed by the regime of General Franco.

The transformation of Spain into a democratic nation after 1975 brought with it renewed claims for self-government in some parts of the country, notably the Basque Country and Catalonia. By 1977 it was clear that these two regions would have to enjoy some form of self-rule if Spain was to see the peacefully installation of a democratic regime. By the time the Spanish Constitution was adopted in 1978 these two regions had already a limited degree of self-government patterned after the system of 1932-1936.

The 1978 Constitution integrated the demands of the regions with historic claims to self-rule and devised a system which allowed for a generalisation of political decentralisation to the entire country. The wording of the Constitution allowed different interpretations and modes of implementation, and it was not until 1981 that it was decided that autonomy would be extended to all regions in Spain and not only to those claiming their historic national rights.

By 1983 the entire country had been divided into 17 "Autonomous Communities" enjoying a considerable degree of self-government (the cities of Ceuta and Melilla have had autonomous status since 1995). The process is still evolving, since a new "package" of functions was devolved in 1992-93.

Thus, decentralisation in Spain is clearly and firmly rooted in political origins, as opposed to other systems in which the redistribution of powers stems largely from administrative considerations. At the time when the Constitution was drafted "decentralisation" was to many people synonymous with "democratisation". It was clear to many that if Spain was to exist as a democratic country it would be a decentralised one. Decentralisation in Spain was not brought about by a quest for greater efficiency, but by the need for greater democracy. Everything else took a secondary role.

Financial management is also evolving but has yet to achieve a stable configuration. The evolution of the system can be divided into three clearly defined periods. In the initial period (up to 1987) the emerging regions were receiving their devolved powers. During the years 1987-91 there was a set method of transferring to the regions the resources necessary to continue the functions that they were being allocated. Since 1992 funds have been complemented by resources from a "Territorial Compensation Fund", aimed at reducing inter-regional disparities.

Evolution at the municipal level: Municipalities have traditionally been greatly underfunded, and in recent years there has been a move towards obtaining more resources and more effective autonomy. There is a view that in the decentralisation process that came with the advent of democracy, municipalities were left out in favour of the newly created self-governing communities. A comparison of the functions performed by municipalities 20-30 years ago and today shows little difference. What has changed is the *form* of government -- the content of local governance has remained fairly stable over time. The larger

municipalities have now united in a concerted campaign to reform this situation and continue the decentralisation drive by extending effective self-government down to the lowest level.

3.2 *The current debate*

In spite of its flaws, the Spanish decentralisation effort has to be considered as largely successful. In fact it can be rated as a clear success in achieving its major goal: transforming an autocratic state into a democracy while maintaining national unity. At the same time it must be said that democracy has been brought closer to the citizen by the establishment of democratically elected governments at the regional and local levels, and responsiveness to the citizen has been favoured by the increased proximity to the people.

Of course this has not come without costs, and the most apparent has been the increased size of the Spanish Administration. In the second quarter of 1995, central government employed 576 400 civil servants, regional bodies 521 900, and local governments 396 800. This means that the number of people employed in the civil service rose from 1 115 366 in 1982 to 1 589 053 in 1993, a 42.5 per cent increase in 10 years. (The total number of public employees is much higher, since in 1992 the total figure was 2 134 500, of which 1 195 900 were in central government.) This rise in the number of public servants cannot be considered, nevertheless as an entirely negative matter, since it would have to be compared to the variation in the level and quality of public services that has taken place during this period.

This has indeed been one of the main criticisms that has been directed at the decentralisation process in Spain. To most analysts the nation has lost a historic opportunity to restructure central government and its bureaucracy, and instead has chosen to replicate, and sometimes duplicate, central structures at the regional level.

On the positive side is the considerable accomplishment of a political nature, making democracy possible and establishing a system which has been able to maintain Spain's unity while providing room for diversity.

On the negative side a series of shortcomings should be noted by those tempted to adopt a similar course:

- lack of clarity in the distribution of functions;
- lack of uniformity of regional functions; however, between 1992 and 1995, a programme to standardise the powers of the Autonomous Communities was implemented and is now virtually completed;
- imitation when establishing regional governments, leading to a continuation of the same bureaucratic and centralist habits, reproduction and duplication of bureaucratic machineries;
- local government was left aside, which makes the deepening of democracy much more difficult and prevents a more rational distribution of delivery functions;
- maintaining the structure and model of central government as it was before the democratisation and decentralisation process began;
- relations between tiers of government first appeared to lead to confrontation rather than co-operation; however, conflicts have become less frequent over the years;

- lack of sufficient financial resources for regional and local governments, and establishment of financial mechanisms that tend to perpetuate certain forms of administration.

In the final analysis the performance of public functions in general and service delivery in particular have not been greatly affected by the decentralisation process.

Reform of the Senate is now planned in order to make the Autonomous Communities into constituencies for the election of senators (instead of the provinces as is the case at present). The Senate's function of territorial representation should not change. A number of measures have already been implemented to facilitate this reform, including the establishment in the Senate of a General Commission of the Autonomous Communities.

3.3 *Driving forces*

In federal systems there is often a clear division of functions which puts policy-making in the hands of the central level and leaves implementation to sub-national levels, even if it implies further legislation. In the Spanish case some functions are divided along these lines and some are attributed exclusively to the regions, but there are few set rules as to how far both levels of government can go.

This constitutional division of powers has been complemented by the different Regional "Statutes" in a way that has given rise to numerous conflicts. Due to the fact that the Constitution was the subject of political consensus among several parties, some of them representing regional interests, the wording of many articles was left deliberately ambiguous on some points, one of them being the distribution of powers among the central and regional levels of government. The lack of constitutional definition of terms like "exclusive powers", or "basic legislation", have led to numerous conflicts and will give rise to more.

If the division of powers between central and regional authorities is less than clear in the Constitution, the role of the other sub-national levels is still less well defined. Regarding the functions of provinces and municipalities the Constitution has remained entirely silent, leaving the matter fully in the hands of ordinary legislation.

As a result it could be said that local governments received less attention than they deserved in the design of the new decentralised system as all efforts focused on the regions. This serious flaw is now having an impact on the way functions are being performed and services are delivered to the citizen, and is putting serious strain in the relations between municipal governments on the one hand and central and regional authorities on the other.

ANNEX:

CONSTITUTIONAL DIVISION OF POWERS

The lists of powers contained in the 1978 Constitution are as follows.

Article 148: functions that can be assumed by the Regions.

1. Organisation of their institutions of self-government.
2. Changes in municipal boundaries.
3. Regional/spatial planning; land use planning and; housing.
4. Public works of regional interest.
5. Railways and roads running entirely within the region, and associated transportation activities.
6. Ports of refuge; recreational ports and airports; and, in general, ports and airports not performing commercial activities.
7. Agriculture and livestock raising in accordance with general economic policy.
8. Woodlands and forestry.
9. Implementation of environmental protection in matters.
10. Building and operating hydraulic infrastructures and resources of regional interest (e.g. channels, and irrigation projects).
11. Fishing in inland waters and rivers; and hunting.
12. Domestic trade fairs.
13. Promotion of regional development within the framework of national economic policy.
14. Handicrafts.
15. Museums, libraries and music conservatories of regional interest.
16. Historical heritage of regional interest.
17. The promotion of culture and research, and, when appropriate, the teaching of the regional language.
18. Promotion and planning of tourism within their boundaries.
19. The promotion of sports and of the use of leisure time.
20. Social assistance.
21. Health and hygiene.
22. Surveillance of their own buildings. Co-ordination and other powers regarding local police under the terms of an organic law.

As a counterpart to this, **Article 149** lists the functions that are considered to be of the exclusive competence of Central Government:

1. Regulation of the basic conditions that guarantee the equality of all Spaniards in the exercise of their constitutional rights and duties.
2. Nationality, immigration, emigration, alienage and right of asylum.
3. International relations.
4. Defence and Armed Forces.
5. Administration of justice.
6. Commercial, penal and penitentiary legislation; procedural legislation.
7. Labour legislation.
8. Civil law, except in those matters regulated by traditional regional legislation; contract law.
9. Industrial and intellectual property law.
10. Customs and import duties; foreign trade.
11. Monetary system; foreign exchange; basic regulation of credit, banking and insurance activities.
12. Legislation on weights and measures, determination of the official time.
13. Setting the basis for and co-ordinating the general planning of economic activity.
14. General Treasury and State debt.
15. Promotion and co-ordination of scientific and technical research.
16. Basic regulation and co-ordination of health care; legislation on pharmaceutical products.
17. Basic legislation on social security, to be implemented by the regions.
18. Basic legislation on public administration, as well as the regulation of administrative procedure and expropriation.
19. Sea fishing.
20. Merchant shipping; ... ports and airports of general interest; air traffic control; air transportation.....
21. Railways and inland transportation when it takes place over the territory of more than one region.
22. Legislation and regulation of water resources when they flow over more than one region; ... electrical power when it affects more than one region.
23. Basic legislation on environmental protection; and on woodlands and forestry.
24. Public works of general interest or involving more than one region.
25. Basic legislation on mining and energy.
26. Production, sale, possession and use of arms and explosives.
27. Basic legislation regulating the press, radio and television
28. Preservation of the Spanish cultural, artistic and monumental heritage.
29. Public safety, without prejudice to the possibility of establishing a regional police force
30. Academic degrees and professional qualifications
31. Statistics for State purposes.
32. Authorisation to consult public opinion by means of a referendum.