ABSTRACT: This Chapter presents three pieces of evidence considering the Spanish Government’s control of the legislative decision-making. First, we pay attention to the rules advantaging the Executive on its agenda-setting power. Second, we examine the rules curtailing the power capabilities of the legislature. Finally, we analyze empirical data of lawmaking for the period 1989-2004 where we find two relevant patterns: (1) While governmental dominance of the agenda is a clear pattern regarding the output side of the decision-making process, we find a high legitimacy of the policy process derived from sustained cooperation between the Executive and legislative branches. (2) The relevant transactional exchange of support to the Executive agenda occurs along the lines of regional distributive policies. Overall, the Spanish legislature is compliant and a systematic confrontational behavior of opposition does not occur since these parties suffer coordination failures.
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SPAIN: Majoritarian choices, disciplined party government and compliant legislature

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I. INTRODUCTION

Spain is a typical parliamentary system characterized by the Executive dominance of the legislative agenda. It is however unique on that single-party cabinets enjoy all types of advantages, i.e. positional, partisan and institutional – so their range of choice is not only wide but this also ensures effective approval of the agenda of the winning party in elections.

We examine the general pattern of executive dominance of the legislative agenda over two decades, which holds irrespective of the share of seats of the majority party in the legislature. Our data gather information of four legislative terms (1989-2004), where we find variation on both the size of the legislative support to the Executive (absolute majority for PSOE in IV term [1989-1993] and PP in VII term [2000-04]; and relative majority for PSOE in V term [1993-96] and PP in VI term [1996-2000]) and the ideological location of government (left, PSOE governments, and right, PP governments).

In particular, we argue that due to the biasing effect of the electoral rules, systematically favoring the two large parties disputing office, Executives in Spain have typically enjoyed partisan and positional advantages. In addition, the governing parties find institutional rules – particularly those regulating the capacity to propose legislation (or exclusive jurisdictional authority and decree power) – which provide significant advantages to these, furthermore given disciplined parties. The procedural rules operating in the legislature contribute to this strengthened position of the Executive, since these withdraw the possible influence of individual MPs in the decision-making process without the close supervision and acceptance.

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1 We are grateful to the excellent job of data collection made by Diego Santiago. We are also indebted to the Library of the Senate and the Ministry of the Presidency for having provided original material. The usual disclaimer applies.

2 See the acronyms of parties after the references.
by the(ir) party. In addition, the opposition parties, indeed theoretically capable of exerting a large influence in the policy-making from a sustained low fragmentation in the House, actually fail to do so due to the requirements of coordination among parties. The non-governing parties in Spain actually face different electoral connections, since most of them have concentrated constituencies in different regions of the country, plus far apart ideological locations, which involves a further incentive for these parties to coordinate with the governing party, instead of exerting confrontational opposition. The overall picture we draw is that of single-cabinet governments, who enjoy a combination of partisan (internal discipline and sustained electoral support), positional (large size and center-seeking ideological location) and institutional (both de jure and de facto) advantages.

The chapter offers in Section 2 an overview of the Spanish political system, where we explain the sources of the positional, partisan and institutional advantages of the Executive in Spain. In Section 3 we assess the procedures governing the decision-making process in the legislature, including the rules regulating the resolution of potential inter-branch conflict – both between the executive and the legislature and between the two Chambers (Congress and Senate) of the bicameral legislative system. Section 4 follows with empirical analysis of lawmaking (1989-2004). The final Section 5 wraps the results and offers a concluding overview of the major findings of this chapter.

II. THE ADVANTAGES OF THE EXECUTIVE

The Spanish political system is a product of the necessity for consensus at the transitional period, which is yet perceived as the ideal path for adopting key political decisions – particularly those regarding the structure of the State – and a moderate electorate producing center-seeking political parties³.

---

³ The average electoral volatility for the period 1982-2000 is 9.9% (range: 42.7% for the elections in 1982 and 5.5 for the 1996 elections). Similarly, the concentration of votes for the two most voted parties is 71.2% – while this translates into a 84.2% of seats in the Lower House, also on average for the period 1982-2000 (Anduiiza and Mendez, 2001: 363 and 366).
The governing parties have enjoyed positional, partisan and institutional advantages. The positional advantages derive from the incentives and effects generated by the electoral system – affecting both the systemic survival of medium and large parties and the importance of intra-party hierarchy and discipline – while the institutional advantages are more neatly related to the type of procedural rules governing the decision-making process in the legislature. We examine each of these sets of rules before turning the attention to how these advantages are combined in practice in the lawmaking process in Spain for the period 1989-2004.

II.1. Positional Advantages of the Governing Parties

Positional advantages are relevant to explain the stability in policy outcomes (see Tsebelis, 2002) and particularly in a bipartisan centripetal context where the governing parties are large and stable, as in the Spanish case. The positional advantages have allowed Spanish parties to form single-party cabinets even when the number of seats of the large parties would, in principle, have made us predict the formation of coalitions. But cabinets have been able to place their electoral programs, their legislative proposals and thus their ideological locations as to neutralize all potential claims of both medium and small parties for exchange of support in the investiture for portfolios.

Our main argument in this section is that the positional advantages of the governing parties in Spain derive from three interrelated factors: (1) the electoral bias in favor of large parties, those who will occupy the Executive; (2) the ballot system inducing strong intra-party discipline, particularly hierarchically enforced in the large parties; (3) the relatively low rate of political personnel’ renewal, which favors the settlement of informal, rather than formal, agreements among political actors. The logic and relation among these explanatory factors follow.

The few and very stable political parties competing in the electoral arena in Spain systematically translate into coherent and disciplined parliamentary blocs after each election. The balance between, on the one hand the majoritarian effects of the electoral system
(nevertheless a PR formula\footnote{The electoral law establishes a PR system for Congress, D’Hondt formula for an average districts’ magnitude of 6.7, with no compensatory mechanism and large allocation of remainders. For the Senate, a variant of FPTP is adopted: regardless of the population size of each district, 208 senators are elected, where each district elects four senators according to a FPTP allocation, although the voter may only cast three votes. Additionally, each region appoints one senator, plus one more for every million inhabitants, resulting in around 48-52 additional regional representatives in the Senate.}) and, on the other hand, the stability of the same set of medium and large parties in the national Parliament, contribute to explain the positional advantage of the governing parties (PP and PSOE). The electoral system has both systemic and intra-party effects by boosting the success and stability of large and medium parties and by forcing strong internal mechanisms of party discipline. Given this combination, small and/or extreme parties in the ideological spectrum have very limited chances to survive in the legislature if these opt for non-cooperative behavior with the large governing parties. Similarly, the medium parties neighbor either the center-right (occupied by the PP) or the center-left (occupied by the PSOE) thus facing an empty set of shared programmatic positions among each other, consequently unable to coalesce without counting on the large parties.

The interesting fact is that, with simple majority rule for the adoption of decisions for an absolute majority quorum rule, the opposition could block or delay the government legislative agenda, given the low legislative fragmentation. The figures for the terms we are considering are:

Table 1. Voting rules and government majorities, 1989-2004

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of seats of major party</td>
<td>175</td>
<td>159</td>
<td>156</td>
<td>183</td>
</tr>
<tr>
<td>Quorum</td>
<td></td>
<td></td>
<td>176</td>
<td></td>
</tr>
<tr>
<td>Simple majority</td>
<td>If all MPs are present: 176 (absolute majority)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>If only quorum is met: 89</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Number of seats of main opposition party</td>
<td>107</td>
<td>141</td>
<td>141</td>
<td>125</td>
</tr>
<tr>
<td>Fragmentation in the House</td>
<td>0.65</td>
<td>0.63</td>
<td>0.64</td>
<td>0.60</td>
</tr>
</tbody>
</table>

Source: own construction, but last row from Delgado (2001: 384).
In fact, opposition parties behave in two distinctive ways given these rules: first, the main opposition party is proactive in the legislature on its own. When the PP was in government for the period under analysis (1996-2004), the PSOE proposed 36% of bills in Parliament, with a rate of approval of 4%. Similarly, when PSOE was in government (1989-1996), the PP introduced 42% of the bills in the legislature, with a rate of approval of 6%.

Second, the medium regionalist parties coalesce with the governing party most often than with the main opposition party, indicating that cooperation on legislative proposal occurs – similarly to amendment and final voting patterns (see Section AQUI). In fact, there is no multi-party enactment occurring without including at least one of the large parties (PP or PSOE), and often with both: actually in 12 out of 23 multi-party bills in the period 1989-2004. The only overarching party, willing to coalesce for the introduction of bills, with a strong regional-base in Catalonia, is CiU (present in 21 out of the 23 multi-party bills), actually the supporting party of the votes of investiture in the two relative majority governments of this period (PSOE, 1993-96 and PP, 1996-99). As a matter of fact, the few cases of multi-party enactment suggest, examining closely their procedural treatment, that coalitional politics in Spain do not follow the logic of ideological distance. In almost all cases oversized coalitions were formed. The same relatively surprising result empirically holds for whether the national and the regional-based parties coalesce in subgroups. This fact reflects that parties prefer to sponsor bills as individual parliamentary blocs instead of building agreements, nearing policy preferences and sponsoring bills together, which would increase their success potential, particularly under simple majority voting rule. Clearly, there are neither institutional incentives to do so nor a grounded political culture based on bargaining along ideological lines. The result is somehow surprising since coordination appears to be the only available tool potentially enabling opposition parties to effectively affect lawmaking.

But the positional advantages of the governing parties are then both a consequence of this endogenous behavioral fact plus of the exogenous effect of the electoral system. In particular, the electoral system affects the minimum size of a given party to gain a seat in the legislature. While this is true elsewhere, the Spanish case illustrates a very rapid institutionalization of the party system after a transition to democracy since (1) no new significant party has made it as parliamentary bloc after 1982 and, moreover, (2) there is on
average a reduction of one party as regards the difference between the parliamentary and the electoral effective number of parties, that is, directly due to the effect of the electoral system (also see Crespo and Garcia, 2001). As a consequence, the renewal rate of MPs is relatively low, which ensures a majority of senior MPs in every term. This political capital may allow the crafting of informal agreements, such as the exchange of support in the lawmaking. To be sure, these informal agreements may be as costly as forming a coalition, but precisely by going informal the political actors involved escape public scrutiny. Thus, both large parties in the need of support in the legislature and medium parties in the need of policies rewarding their territorially concentrated electorates find pay-offs from locating the bargaining away of the cabinet formation. The composition of the Lower House and the supporting parties to the Executive for the period we study was as follows:

Table 2. Composition of the Lower House in Spain, 1989-2004

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>PSOE</td>
<td>175 (50%)</td>
<td>159 (45.4%)</td>
<td>141 (40.3%)</td>
<td>125 (35.7%)</td>
</tr>
<tr>
<td>PP</td>
<td>107 (30.6%)</td>
<td>141 (40.3%)</td>
<td>156 (44.6%)</td>
<td>183 (52.3%)</td>
</tr>
<tr>
<td>CiU</td>
<td>18 (5.1%)</td>
<td>17 (4.9%)</td>
<td>16 (4.6%)</td>
<td>15 (4.3%)</td>
</tr>
<tr>
<td>IU</td>
<td>17 (4.9%)</td>
<td>18 (5.1%)</td>
<td>21 (6%)</td>
<td>9 (2.6%)</td>
</tr>
<tr>
<td>CDS</td>
<td>14 (4%)</td>
<td>†</td>
<td>†</td>
<td>†</td>
</tr>
<tr>
<td>PNV</td>
<td>5 (1.4%)</td>
<td>5 (1.4%)</td>
<td>5 (1.4%)</td>
<td>7 (2%)</td>
</tr>
<tr>
<td>CC</td>
<td>1 (0.3%)</td>
<td>4 (1.1%)</td>
<td>4 (1.1%)</td>
<td>4 (1.1%)</td>
</tr>
<tr>
<td>Others</td>
<td>13 (3.7%)</td>
<td>6 (1.7%)</td>
<td>7 (2%)</td>
<td>7 (2%)</td>
</tr>
<tr>
<td>% of seats for those parties that support the Executive in each term (shadowed cells)</td>
<td>50%</td>
<td>50.3%</td>
<td>50.3%</td>
<td>52.3%</td>
</tr>
</tbody>
</table>

Source: Own construction. In bold the party in government for each term.

Finally, the closed and blocked ballot system produces a highly hierarchical internal organization of parties, with a stark leader-dependence of the rank-and-file party members.

---

6 The rate of renewal of MPs was indeed high in the early period of democratic rule (term 1977-1979) and systematically decreasing henceforth, reaching a stable average of 55% senior and 45% freshmen MPs for the period 1979-1996 (own calculation from Gangas, 2000: 275 ff).
If true that internal hierarchy is more felt in the large parties, this is a common characteristic of all political parties. As a consequence, parties behave as cohesive parliamentary blocs, which is in fact furthermore enforced by the procedural rules of the legislature (see Sections II. 3 and III.1).

The overall picture is that the large parties possess a strong positional advantage, derived from their size and from their ability to transact policy preferences with each medium or small party without needing to include these in the cabinet. The positional advantages are combined with both partisan and institutional advantages, which will become clear in the empirical analysis (Section IV). We turn to examine each of these below.

II.2. PARTISAN ADVANTAGES

Partisan advantages capture whether the governing parties enjoy particular rewards due to the type of majority on their support, provided party cohesion. In Spain, the two large parties (PSOE, PP) have systematically formed single-party cabinets whether supported by relative or absolute majority in the legislature. While the votes of investiture have implied bargaining between the large parties seeking office and the medium regional-based parties, this fact has never involved a formal distribution of ministerial portfolios. In fact, the Spanish Prime Minister is characterized by a central single head, where parliamentary confidence is deposited. The withdrawal of confidence works alike, thus only affecting the support to the head of government and under the condition that an alternative candidate is proposed\(^7\). Moreover, the Prime Minister is able to decide on both the size and the jurisdictional structure of the cabinet, and names the ministries to hold the posts. Also, the power of dismissal of Ministers is exclusively at hand of the Prime Minister, who may call anticipated elections as well (dissolve Parliament). Interestingly, the five Spanish Prime Ministers since 1978 have simultaneously been the leaders of their parties (Heywood and Molina, 2000). On the whole, single-party governments with high internal cohesion and discipline are combined with stable majorities granted by loyal and moderate electorates of the two large parties.

\(^7\) So called ‘constructive vote of no confidence’, which may only be proposed once a term by at least 35 MPs (10%) and the alternative candidate to occupy the Executive must receive absolute majority support.
Finally, the ideological location of the remaining parties in the legislature also advantages the governing parties; not only is their size smaller but also their ideological locations respond to different constituencies. In particular, the two medium-sized parties (CiU and PNV) only gain votes in Catalonia and the Basque country, respectively, and among the small parties, only one competes nationwide (IU) while the remaining also have regional basis of electoral competition (CC in the Canary Islands).

II.3. INSTITUTIONAL ADVANTAGES

Institutional advantages may be of different types as these are granted by multiple sources. We consider here three types of rules institutionally advantaging the Executive in Spain, namely: (1) exclusive policy jurisdictions, (2) the introduction of emergency legislation, and generally time-related advantages, (3) amendment advantages and expansive rules.

II.3.1. EXCLUSIVE POLICY JURISDICTIONS GRANTED TO THE EXECUTIVE

The Spanish Government has extensive positive agenda powers. It is responsible of the direction of foreign policy, defense and the elaboration of the budget\(^8\). But it may additionally enact law-by-decree and through ‘projects of law’ in any policy jurisdiction. Thirdly, the Executive in Spain possesses statutory powers, through decrees and ministerial orders – which are however only temporarily valid unless further enactment into ordinary law is made.

Decree power in Spain may adopt two ways: (1) as a consequence of legislative delegation (art. 85, Const.), through which detailed and mostly technical legislation may be passed without extensive parliamentary discussion; and (2) as pure Decree-Laws (art. 86, Const.), in cases of urgency as considered by the Government. Over the former (decreto legislativo), there is no parliamentary oversight, given that the preceding parliamentary authorization (through the so-called ley de bases) includes an explicit regulation of the

\(^8\) Moreover, European Union (EU) membership helps Spanish Executives expanding their already large set of exclusive policy jurisdictions. The national governments are in fact the gatekeeper representatives at the Council of the EU, where European Law is ultimately passed (see Cienfuegos, 2001).
delegation regarding the specific matter, purpose, range and temporal length of the decree power granted to the Executive\textsuperscript{9}. Over the latter (decreto-ley), there is Congressional oversight within a month’s time of the Executive decree. During this month, Congress may, or may not\textsuperscript{10}, process the decree as a ‘project of law’ under urgency procedures.

Government bills are referred to as projects of law, which may regulate any policy area, while proposals sourcing from any other actor (i.e. Congress, Senate, regional Parliaments or popular initiative) are labeled as propositions of law. This different status of the legislative proposals already hints the imbalance towards the Executive dominance of the agenda, which is further reinforced by the negative agenda powers of the Executive. It may withdraw a legislative proposal at any time (thus avoid undesired changes to her proposals), has immediate priority in the agenda when submits a proposal to the legislature (gatekeeping power) and may delay other proposals since it always controls the majority of the Directive Board, who is responsible of settling the order of the day. These resources are explained in detail in the following section on time-related advantages.

II.3.2. TIME-GRAANTED ADVANTAGES

The Executive in Spain possesses four important tools which may allow modifying the sequencing of a bill on its advantage: call of an extraordinary session, control of the Directive Board, emergency legislation and priority of its bills.

First, the call of an extraordinary session may be directly and at any time made by the Prime Minister, while an absolute majority vote support in Congress is needed in case MPs wish to present an urgent matter to legislative review.

Second, the organizational structure of Congress also favors the time granted to the Executive, offering hence an overlapped advantage to government. Because the Directive Board decides on the time granted to each debate and to each bill with a high discretion, it

\textsuperscript{9} This type of legislative authorization applies for the typical conditions of of siege or alarm and other exceptional circumstances.

\textsuperscript{10} The constitutional article is actually rather imprecise here. While explicitly promoting the possibility for coordination between the governing party and its party in Congress to take the decree-law as the basis for an ordinary law, it does not make it compulsory.
SPAIN: Majoritarian choices, disciplined party government and compliant legislature

has been always presided by a member of the majority party\textsuperscript{11}. Importantly, the Directive Board fixes the calendar of activities of the Plenary and the committees, hence settling the order of the day of both institutional bodies. Empirically, under either governing party in the period 1989-2004, having control of the Directive Board seats slightly benefited the governing party’s bills – but without outstanding significance\textsuperscript{12}.

Third, the Executive may introduce emergency legislation, as by employing law-by-decree or by labeling a bill urgent (art.90.3 Const.). Urgent proposals are expected to take half the ordinary review time in Congress. The Senate knows a similar emergency procedure that leaves room to shorten its review term to veto or amend a bill from 2 months to 20 days. Government may introduce urgent legislation on its own, while parliamentary blocs need to coordinate to do so: either two parliamentary blocs or 70 MPs must request the urgent status of a proposal – even if the final decision to grant the urgency lies on the Directive Board.

Looking at both ordinary and organic legislation, the major volume of approved bills, urgent procedures are infrequently used; when these are employed, however, it is most likely that it is a government bill (85\% of the times urgency procedures are used it is\textsuperscript{13}). It seems that urgency procedures are not highly valued by government since these do not really half the time of legislative treatment: the variation of the legislative span of the bills in our sample under urgent or ordinary treatment is indeed largely similar\textsuperscript{14}. Actually, the incentives to use urgency procedures are explicitly small; it represents a plain advantage for the Executive, for the coordination disadvantage it implies for individual MPs, but not particularly because

\textsuperscript{11} The Directive Board is composed by a President, four Vice-Presidents and four Secretaries. While the presidency has always been in the hands of the majority party, the Vice-Presidencies have been distributed among the two large parties plus CiU, the supporting party to any minority government. The secretaries in turn are distributed among all remaining parties (IV term: 2 PSOE, 1 PP, 1 IU; V term: 1 PSOE, 2 PP, 1 PNV; VI term: 1 PSOE, 1 PP, 1 IU, 1 PNV; VII term: 1 PSOE, 2 PP, 1 CiU).

\textsuperscript{12} Considered the ‘administrative time’, this is the number of days a bill stays with the Directive Board while it gets to first reading in the Plenary, the average days for a PP bill under PP governments was 4.9 (std. dv. 6.6), while a PSOE bill took 12 (std. dv.37); similarly, PSOE bills in PSOE governments took on average 7.3 (std. dv.23), while PP bills took under these terms 7.7 days on average (std. dv.6.5).

\textsuperscript{13} For the period 1989-2004, we only had data available on whether ordinary or urgent procedures were employed for the legislative treatment of the bill in 867 cases (out of the total 1757 sample size).

\textsuperscript{14} The range of days for the total time of approval of a bill is [0, 995] for ordinary bills while it is [20, 1034] for bills treated under urgency procedure. Actually, the key time of this span is the time any bill spends in committee, whether under ordinary or urgency procedures; the range of days bills spend in committee is [0, 685] under ordinary procedure, while this turns into [0, 986] for urgently treated bills.
urgent procedures grant more efficient treatment of the bills. In fact, only 23% of all bills proposed were processed following the two months’ time limit assigned to committee consideration, so the time-varying figures do not differ specifically depending on whether urgent procedures are employed, but rather on other political and contextual variables (see Section IV).

Finally, the Executive has two more time-related procedures ensuring (1) her proposals of ‘projects of law’ have absolute priority over any other issue on the agenda, specifically the budget bill, and (2) has an assured participation in the debates on the floor, including the time length at its disposal\(^15\).

### II.3.3. Amendment Rules and Expansive Rules

In Spain there is closed amendment rule for organic laws\(^16\), for bills where a single vote takes place (if such is proposed by the Directive Board and accepted by the Plenary) and for the ‘projects of law’ (government bills) on both the first and the final debates on the floor.

Regarding the *timing* of the amendments, the closed amendment rule for the Executive ‘projects of law’ taking place on the first debate on the floor protects the bill from further package amendments, so that – even if new amendments may appear at the committee stage – these shall only be on the articles (restrictive rule). Additionally, once the amendments are gathered by the committee, the President of Congress, in agreement with the Directive Board and the Speakers’ Committee, may pack several amendments to vote over (art.118.2.1), thereby affecting the size of the ‘packages’ of amendments on which votes on the floor will be cast.

\(^15\) According to art.73.2 Procedural rules of Parliament, the President of Congress, in consultation with the ‘Speakers’ Committee’, may either increase or reduce the time available for each participation on the floor. The usual time granted to participation in a debate is ten minutes for ordinary bills (whose debates may be on each article of the bill) and fifteen minutes when closed amendment rule is adopted (the bill is voted as a package for approval or rejection). Overall, the time granted to individual MPs is largely restrictive of filibustering practices.

\(^16\) Organic laws are defined in the Constitution as those affecting fundamental and political rights (Statutes of Autonomy of the regions, the electoral law and all regulations affecting the functioning of the main institutions such as the Parliament, the Judiciary and the Constitutional Court). These require absolute majority for approval, while ordinary legislation is voted on simple majority rule.
A third important aspect rewarding the institutional advantages of the governing party is that whenever a Minister requests the word in a debate, it is immediately granted to her, while individual MPs of other parties need to register their petition through the Directive Board to participate in a debate (art. 70.5 procedural rules of Congress). Additionally, amendments to government proposals may only be put forward if the Speaker of the Parliamentary Bloc endorses such.

Finally, legislative proposals by MPs must be first assessed by the government, who considers within a month’s time whether the proposal involves an increase to the Budget bill (art.126.2, procedural rules of Congress) [expansive rule]. During this time, the legislative proposal is not even included in the legislative agenda, and after this deadline, the government is the first allowed to express dissent in the first reading on the floor. At this point, when government consents, no package amendments on the bill will be possible.

As a summary,
Table 3. Agenda setting powers of the Spanish Executive gathers the agenda setting powers of the Spanish Executive:
Table 3. Agenda setting powers of the Spanish Executive

<table>
<thead>
<tr>
<th>Type of advantage</th>
<th>Specific mechanism</th>
</tr>
</thead>
<tbody>
<tr>
<td>Exclusive Policy Jurisdiction</td>
<td>(1) Law-by-decree:</td>
</tr>
<tr>
<td></td>
<td>- <strong>Decree-law</strong>, issued in cases or urgent need as considered by the Government (art.86, Const; art. 151, SoC)</td>
</tr>
<tr>
<td></td>
<td>- <strong>Delegated law</strong>, issued for technical and detailed matters or for consolidating several existing legal texts into one (arts. 82-85, Const; arts. 152, 153, SOC)</td>
</tr>
<tr>
<td></td>
<td>- Decree powers related to the <strong>states of alarm, emergency and siege</strong> (martial law) (art.116, Const.; arts. 162-165 SOC).</td>
</tr>
<tr>
<td></td>
<td>(2) Elaboration of the <strong>Budget</strong> (art.134.1, Const).</td>
</tr>
<tr>
<td></td>
<td>(3) <strong>International Treaty-making powers</strong> (art.93-96, Const, art. 155, SoC).</td>
</tr>
<tr>
<td></td>
<td>(4) Direction of Spanish policy making and coordination regarding <strong>EU</strong> (EU Law)</td>
</tr>
<tr>
<td></td>
<td>(5) Proposal of <strong>referendum</strong> (art. 92, Const).</td>
</tr>
<tr>
<td>Time Advantages</td>
<td>(6) <strong>Indirect control of the Directive Board</strong></td>
</tr>
<tr>
<td></td>
<td>The Directive Board fixes the calendar of activities of the Plenary and the committees, hence settling the order of the day and decides on the time granted to each debate and to each bill (arts. 31, 39, 67, 68, 70, 73, 74, 76, 91 SoC)</td>
</tr>
<tr>
<td></td>
<td>(b) <strong>Sequencing advantages</strong> (Permitting the government to make amendments at times when other amendments are not permitted)</td>
</tr>
<tr>
<td></td>
<td>(5) <strong>Ministers may always use the word</strong> in a Plenary debate, while MPs need to register with the Directive Board to participate (art.70.5, SoC)</td>
</tr>
<tr>
<td></td>
<td>(6) <strong>Government may withdraw any legislative proposal of its own at any time</strong> of legislative consideration while MPs need to submit to Plenary vote the equivalent request (arts. 128-129, SoC)</td>
</tr>
<tr>
<td>Amendment Rules</td>
<td></td>
</tr>
<tr>
<td>----------------</td>
<td></td>
</tr>
<tr>
<td>(a) Expansive rule: Permitting the government to make amendments that are prohibited to other parties.</td>
<td></td>
</tr>
<tr>
<td>(1) Propositions of law must be considered by government on the basis of <strong>budgetary inadmissibility</strong> (restriction to any amendment that increases spending or reduce revenues); Government may dissent of the proposal within 30 days (art. 134.6, Const; arts. 111, 126, 133.3, 133.4, SoC).</td>
<td></td>
</tr>
<tr>
<td>(b) Closed / restrictive rules (No or few amendments to government proposals are accepted)</td>
<td></td>
</tr>
<tr>
<td>(2) There is <strong>closed amendment rule for all bills</strong> –including governmental bills- on a first debate (and also on the final debate if organic law). The closed amendment rule taking place on the first debate on the floor protects the bill from further package amendments (restrictive rule). (arts. 110, 112, 126.4, 131, SoC)</td>
<td></td>
</tr>
<tr>
<td>(2 bis) This closed rule includes Decree-laws and international treaties.</td>
<td></td>
</tr>
<tr>
<td>(3) Package amendments may <strong>only be submitted by parliamentary blocs</strong> (art. 110, SoC)</td>
<td></td>
</tr>
<tr>
<td>(4) Indirect <strong>control of the Directive Board</strong></td>
<td></td>
</tr>
<tr>
<td>Once the amendments are gathered by the committee, the President of Congress, in agreement with the Directive Board and the Speakers’ Committee, may pack several amendments to vote over (art.118.2.1). This includes the prohibition of digression to a question that has already been debated (art.102, SoC).</td>
<td></td>
</tr>
</tbody>
</table>

Own construction. NB: Const. stands for Constitution and SoC stands for Standing Orders of Congress.
III. THE DRAWBACKS OF THE LEGISLATURE

We examine in this Section the characteristics of the legislative decision-making process with a view to how the legislature faces restrictions on its own functioning. To a large extent, these reinforce the subordinate position of the legislature when compared to the government’s resources for legislative agenda setting. We pay particular attention to two factors: (1) the restriction to propose legislation and (2) the mechanisms for inter-branch conflict resolution.

III.1. THE RESTRICTION TO LEGISLATIVE PROPOSALS

The Parliament may introduce both organic and ordinary legislation, so the important restriction to legislative activity does not lie on the number of policy jurisdictions it may affect but on the way it can actually do it. In fact, no MP is able to submit a proposal, present an amendment or cast a vote on the floor on individual basis. In turn, individual MPs must channel her activities through the parliamentary bloc. In a context where party switching is an exceptional practice\textsuperscript{17}, this fact reinforces that partisan stability and dependence on the party cohesion is a characteristic of the whole political system. The dependence rests with the importance of the parliamentary bloc, which articulates all activities within Parliament – even the most minor ones – permeating the whole organizational structure of the legislature. In addition to the importance of the parliamentary blocs, the relevant powerful body is the committee composed by each bloc’s speaker: the ‘Speaker’s Committee’, which constitutes a sort of supra-bloc decisional body in interaction with the Directive Board.

The party speakers emit the vote on behalf of the whole parliamentary bloc, submit the legislative proposals of the bloc\textsuperscript{18} and supervise the possible petitions of data or reports from individual MPs to governmental agencies. The lack of relevance of the individual MP is clear also when the procedural rules offer the possibility that any bloc may substitute any deputy

\textsuperscript{17} The rate of party switching is outrageously low and constitutes a truly exceptional practice severely punished within the parties, especially in the national legislature. The Standing Orders of Congress dictates that “party switching may only occur within the five first days of each period of sessions” (art. 27.1), clearly restricting the time available for this event.

\textsuperscript{18} The procedural alternative to this ordinary one is the coordination of 15 MPs, eventually from the same or different parties, who may submit a common legislative proposal.
who asked for participation in a debate on the floor by any other member of the bloc, just with oral or written communication to the President of Parliament (art.70.4, Standing Orders of Congress).

The incentives are designed so that coordination is a valued good while individual action is not. For instance, at least one fifth of MPs must coordinate in order to enact a petition to create an ad hoc committee or for requesting a meeting of the Speakers’ Committee. Reaching this minimum of MPs, would require under any of the actual legislative scenarios in Spain the inclusion of at least one of the large parties in such coalition.

Finally, the regional legislatures may submit ordinary legislation on their own (through the Directive Board of Parliament), but need in turn the government’s appropriation of the proposal when it is either a ‘project of law’ or organic legislation. Interestingly, this asymmetry has not discouraged the regional legislatures from proposing ‘organic laws’ to an equal rate than ‘ordinary laws’ (51%-49% respectively for the period 1989-2004). Further, not only the rate of proposals is balanced, but also the rate of approval is also higher for the organic laws than for ordinary laws (31 of 73 organic bills against 8 of 69 ordinary bills introduced by the regional legislatures). Actually, the higher rate of approval of the organic bills proposed by the regional legislatures occurs in the two governments with relative majority (PSOE, 1993-96, V term; PP, 1996-2000, VI term). Both governments counted on the support of the regionalist parties for the investiture, so there is indication that this rate of relevant legislation approved in the national legislature was the transactional exchange rewarding these parties. Most of these legislative proposals were in fact referred to the rights of the several languages (such as Catalan, Basque or Galician) spoken in those regions with important regionalist parties represented in the national legislature.

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19 The correlation between the rate of approval/rejection and government majority (relative/absolute) is significant for the sub-sample of bills introduced by the regional legislatures (n=143; significant at the .000 level of confidence and with a positive 38% association). This means that under relative majority, the rate of approval is significantly higher than otherwise. Specifically, 30 bills were approved out of 66 proposed in the V and VI terms, while only 9 out of 77 bills sponsored by the regional legislatures were approved in the IV and VII terms.

20 These reforms (on the Statutes of Autonomy) were nevertheless part of an overarching political agreement between the two large parties (PP and PSOE) during the mid 1990s.
III.2. INTER-BRANCH CONFLICT RESOLUTION

The Spanish Constitution establishes few mechanisms to tap conflict resolution, and these are weakly articulated when referred to potential inter-branch conflicts. Largely due to the very strong power prerogatives of the Executive and partly due to the importance of parties, conflict resolution is informally managed beyond the institutional context. Given the importance of internal discipline within parties, conflict resolution partly takes place in their internal context, making largely unusual public dissent, which is punished when it happens\textsuperscript{21}.

Further to this general dynamic, the Constitution settles two principles to solve conflicts: (1) pre-eminence of government interests over the legislature, when conflict is located between these two actors; and (2) pre-eminence of Congress over the Senate when conflict is located between the two branches.

In the first case, the pre-eminence of government’s preferences over dissent expressed in the legislature derives from two types of advantages: first, the Executive may withdraw any bill at any point of the legislative process of approval, while MPs need to submit to plenary vote the equivalent request. Second, as we mentioned above, the Executive systematically has the word granted on the floor.

In the second case, the pre-eminence of Congress over the Senate is clearly ensured in the Constitution by assigning supreme legitimacy to the former when disagreement occurs. When the Senate either employs package veto or amends a bill which has been already approved in Congress, the latter may ratify the original decision of approval under absolute majority rule, which may however be relaxed into simple majority if absolute majority is not met within two months’ time. In addition, when dissent is reiteratively in place, twice at most, the dictum is dismissed on the whole and the bill may be either re-introduced in Congress or packaged with another proposal. A third possibility occurs for exceptional legislation (i.e. affecting International Treaties and regional rights) where, if dissent occurs, a Mixed Committee with members of both Chambers equally represented is formed. The task...

\textsuperscript{21} The variety of punishments ranges from a financial penalty when a deputy or senator dissents from the party line on a plenary vote to the discharge of the party in cases of occasional party switching. Overall, the most effective way to avoid, and eventually punish, backbencher’s dissent is the control of the nomination system in a blocked and closed ballot system by the parties.
of this Mixed Committee is to elaborate a new text on which a vote shall take place; in case this vote implies rejection of the bill in the Senate, Congress may yet insist and get the bill approved under absolute majority rule. Clearly, all possibilities assign unambiguous decisional superiority of Congress for having the last say on the bill in any case.

We turn in the next section to examine in more detail the specific patterns of legislative proposals, approval and rejection for the period 1989-2004.


Our empirical analysis of lawmaking in Spain is original and allows tracking the procedural treatment of bills in the Lower House with detailed information of proposal, approval and rejection for the period 1989-2004. Our empirical data displays two main findings and provides some further minor observations to these general patterns. The first general pattern is that Executive dominance occurs irrespective of the size of its majority in Congress. Because governments have typically enjoyed close to absolute majority, neither bargaining nor confrontational opposition behavior is characteristic of the Spanish legislative performance. The Executive does not indeed monopolize the volume of legislative introduction, but she is absolutely successful with regard to both approval and to avoiding rejection to her own bills. In fact, opposition parties contribute more to the input of the legislative process to the extent that these propose more bills, particularly when the government held absolute majority on its own. Their rate of approval is however better for them [opposition parties] under minority governments. In particular, the rate of approval for the bills introduced by opposition parties is 7.4% for the terms when the governing party held relative majority (27 bills approved, out of 365 proposed by the opposition) and 3% when the governing party held absolute majority (14 bills approved out of 450 introduced). The overall picture of lawmaking in Spain for the period of study is:
Table 4. Lawmaking in Spain, 1989-2004

<table>
<thead>
<tr>
<th>Descriptors</th>
<th>Proposals (total sample)</th>
<th>Approval (sub sample)</th>
<th>Rejection (sub sample)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sample size</td>
<td>1757</td>
<td>694</td>
<td>1063</td>
</tr>
<tr>
<td>Rate per legislative term:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>IV legislature (1989-93)</td>
<td>n=344, 20%</td>
<td>n=135, 19%</td>
<td>n=209, 20%</td>
</tr>
<tr>
<td>V legislature (1993-96)</td>
<td>n=314, 18%</td>
<td>n=147, 21%</td>
<td>n=167, 16%</td>
</tr>
<tr>
<td>VI legislature (1996-99)</td>
<td>n=542, 31%</td>
<td>n=220, 32%</td>
<td>n=322, 30%</td>
</tr>
<tr>
<td>VII legislature (2000-2004)</td>
<td>n=557, 32%</td>
<td>n=192, 28%</td>
<td>n=365, 34%</td>
</tr>
<tr>
<td>Executive/MPs volume</td>
<td>36% / 63% respectively</td>
<td>81% / 11% respectively</td>
<td>6% / 80% respectively</td>
</tr>
<tr>
<td>Government party (both Executive bills and party in Congress) / Opposition parties</td>
<td>79% / 30.5% respectively</td>
<td>91.5% / 8.5% respectively</td>
<td>11% / 89% respectively</td>
</tr>
<tr>
<td>Electoral cycle (first half / last half of term) at time of proposal(^22)</td>
<td>61% / 39% respectively</td>
<td>68% / 32% respectively</td>
<td>56% / 44% respectively</td>
</tr>
<tr>
<td>Under relative majority / absolute majority government</td>
<td>49% / 51% respectively</td>
<td>53% / 47% respectively</td>
<td>46% / 54% respectively</td>
</tr>
<tr>
<td>Under PSOE / PP governments</td>
<td>37.5% / 62.5% respectively</td>
<td>57% / 62% respectively</td>
<td>43% / 37% respectively</td>
</tr>
</tbody>
</table>

Own construction. Percentages are calculated relative to the total of their respective categories (for instance, 81% in row three, column three, means: 81% of the approved legislation were Executive sponsored bills).

The Executive and its party in Parliament\(^23\) actually proposed more bills when it held relative majority (46% of the total) than otherwise (41%). But it is more successful when the opposite occurs: 92% rate of approval for the terms when government held absolute majority against 88% under relative majority. The Executive advantages appear, therefore, explanatory of legislative approval and not of legislative introduction.


\(^{23}\) We assume a behavioral link between the Executive and its party in Congress due to the disciplined nature of parliamentary blocs in Spain, as argued above, and to the logic of parliamentary systems.
But also concerning legislative approval we find indication that no bargaining is institutionalized, since even if the figures of failed government bills are large (57% for PSOE and 62% for PP governments), these do not reflect dissent. Rather, these figures reflect the uncertainty of when the term may end in a parliamentary system since those bills remained pending when the term ended. A significant 99% of the government bills which appear as rejected in a given term are of this type, indicating that rejection is not a consequence of negative support on the floor but rather of scarce time to resolve the volume of legislative proposals. Only one government bill in the fifteen years under analysis was actually rejected on the floor.

The opposition bills share the same pattern: their delay in the legislative process explains their final dis-approval, hence no particular rejection on the floor exists on almost any bill. This result may indicate that the gate-keeping decisional structure of Parliament performs well this function, since proposals are filtered \textit{ex ante}, before these reach the floor. In fact, from the data available, less than half of those bills that never reach a final voting on the floor go beyond the first consideration, thus are not even sent to a committee (112 out of 383 are), and of these bit, only 16 receive a committee dictum (14%). In addition to this, a large part of these bills were indeed proposed one year before the term ended\textsuperscript{24}, so there is interaction between a truly uncertainty in parliamentary systems of when elections will be called and a gate-keeping system which is located towards the early steps of the procedural treatment of a bill (first consideration and then committee).

Considering the reasons of legislative failure, we obtain the following picture:

\begin{table}[h]
\centering
\begin{tabular}{|l|c|c|c|c|}
\hline
Rejection due to & Expired* & Rejected & Packaged with another proposal** & Withdrawn \\
\hline
Total & 448 (42\%) & 484 (45\%) & 44 (4\%) & 85 (8\%) \\
\hline
PSOE terms, government bills & 45 & 3 & 4 & 0 \\
\hline
PP terms, government bills & 37 & 1 & 7 & 6 \\
\hline
Total Bills & Rate of bills which die at the first step: 1 out of 1757 \\
\hline
\end{tabular}
\caption{Reasons of legislative failure per government terms}
\end{table}

\textsuperscript{24}In particular, there were 55 bills proposed in 1992-3 (1993 anticipated elections), 47 in 1995 (1996 anticipated elections), 115 in 1998-99 (2000 electoral year) and 37 in 2003 (2004 electoral year).
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<table>
<thead>
<tr>
<th>Rate of bills which die at the committee stage:</th>
</tr>
</thead>
<tbody>
<tr>
<td>- committee received: 768 out of 1756</td>
</tr>
<tr>
<td>- committee emits dictum: 618 out of 768 received</td>
</tr>
<tr>
<td>Rate of bills which get to final vote on Plenary session: 623 out of 1757</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Total bills</th>
<th>Rate of bills approved in a single vote: 107 out of 694 total approved bills</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Rate of bills approved through urgency: 192 out of 867 bills that get to this step</td>
</tr>
<tr>
<td></td>
<td>Rate of bills approved through full legislative authority of committee(25): 296 out of 770</td>
</tr>
</tbody>
</table>

Source: own construction from own data.

Government bills are both the bills proposed by the Executive and its party in Parliament, keeping the behavioral assumption of party unity.

* Expired may be due to the dissolution of the Chamber (anticipated elections, 27% of the figure above) or to other reasons (such as expiration of the time for presenting the signatures of the proposing MPs, 15% of the figure above).

** Bills packaged with another initiative are then treated as omnibus bills.

In fact, when opposition seats were beyond absolute majority as a whole, there was no single Executive bill rejected on the floor. This result indicates two clear dynamics of the Spanish Parliament: on the one hand, opposition parties are not systematically conflictive on their voting behavior not even when they would be able to coordinate for their control of the absolute majority of seats. On the other hand, the fact that no Executive bill is plainly rejected on the floor indicates that governments tend to be transactional on their policymaking, meaning that no rejection occurs since the bill has previously reached a satisfactory agreement with those parties with the potential ability to veto the bill.

Seemingly, what determines the rejection of a bill (excluding the expired, withdrawn or packaged bills) is the size of the opposition as a block. Particularly when the opposition concentrates the absolute majority of the seats in Parliament, the probability of approval of a bill increases 2.9 (sig. at the .010 level of confidence). This result implies that more compliant decision-making exists when the government is not formally strong, given that

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\(25\) The standing or permanent committees in the Spanish Congress have the prerogative of legislative approval on their own for most policy areas, but for Constitutional reform, international legislation, organic laws and budget. For the period under analysis, only 16% of bills were delegated for full approval in committee.

\(26\) The model is logit with Dependent variable approval/rejection (excluding withdrawn, expired or packaged bills), additional independent variables electoral cycle at time of proposal (exp(B)=.334), national vs. regional party proposing (exp(B)=.793) [constant, exp(B)=.115], for sample size 479, model significance .001 for a 90% of cases properly classified (better prediction, though, for value zero of the dependent variable, i.e. rejection of bill on the floor).
government settles the agenda in any case (under either relative or absolute majority). Interestingly, while this variable had not previously contributed to the explanation of neither legislative introduction nor approval, it does however explain rejection.

The second general pattern is that Executive dominance occurs without employing strategic tools (such as emergency procedures, extraordinary sessions or decree power, for instance). In turn, the Executive employs ordinary procedures such as time advantages and support to his own bills in committee due to the系统 of weighed votes in the ponencias, which pertain to the ordinary treatment of every bill, plus the coordination failures of opposition. Considering only the approved bills, the Executive bills are significantly more efficiently treated in committee (OLS coefficient = 35.3 days less in committee when government introduces the bill, significant at the .10% level of confidence; n=615, given a constant of 152 days), and considering the total time of approval, government bills are 226 days less delayed (significant at the .00 level of confidence, n=615, given a constant of 414 days). In fact, no other contextual variable (such as number of blocs in Parliament, relative vs. absolute majority of government or national vs. regional-based party proposing) is significant but the pressure of the electoral cycle and, to a lesser extent, the size of the opposition. When dropping the political variables and keeping the exogenous factors, such as the electoral cycle, the total time of approval decreases in 37 days (significant at the .001 level of confidence, n=693, for a 2% of variance explained).

Finally, government enactment is positively correlated with the pressure of the electoral cycle and negatively with whether the size of opposition is beyond absolute majority. Overall, Spain ranks together with several European countries (such as France, Germany, Ireland, Portugal and the U.K.) in terms of compliant legislatures (Zennaro, 2005: 53; Mujica and Sanchez-Cuenca, 2006).

27 The ponencias is a sort of subcommittee system, that is, an organizational solution to increase the decisional efficiency of the large committees in the Spanish Congress. While the size of the committee system is small (17 ordinary committees, generally paralleling the jurisdictional specialization of the cabinet), these are internally large (ranging between 36 and 41 seats for the period 1977-2000, [Oñate, 2000: 88]). But, given this average size, the committees usually work adopting ephemeral subgroups of MPs integrating a ‘Ponencia’ with an average size of ten members.

28 Logit model for dependent variable government/opposition enactment, n=694, exp(B) for electoral cycle is 2.3 (p-value=.046) and for size of opposition dummy is 0.51 (p-value=.005), overall significance of the model is .002, Nagelkerke R sq. is .5.
V. OVERVIEW AND CONCLUDING REMARKS

We have underscored the strong tools and abundant resources available to the Spanish Executive to settle and control the legislative agenda. These have decisively contributed to the high policy stability for a relatively new democracy as Spain. Having a small winset of preferences located in majority parties, and ensured by both explicit institutional rules and silent agreements among parties, draws a comfortable alley for governments.

The Executive employs ordinary procedures with the outcome of agenda dominance without eroding popular credibility and legitimacy. In fact, voters have systematically deposited support onto the single leaders of the governing parties and similarly made them responsible of the policy choices. In this context, both voters and governments behavior is rational by ensuring that simple majority rules keep at work and that the policy offer most supported in elections is effectively implemented by a disciplined party government.

On the other hand, Parliament’s limited involvement in Spanish legislation does not mean that the Spanish Chambers (in particular the Congress) have played a minor political role (Maurer, 2000; Guerrero, 2000). To be sure, the Spanish Parliament substantively contributes to the inflow of the legislative activity in terms of policy proposals, however with a low rate of success. This behavior may be seen as a functional participatory and deliberative role. Thus, opposition and minor parties do not seem to be excluded ex ante from the legislative functioning. Finally, an atypical informal coalitional pattern has been identified, where we have not found ideological explanations (taking ideology as a proxy for distance of policy preferences) but rather on the basis of compromise and mutual exchange of benefits, along the lines of distributive policies with stark regional interests’ content. This latter finding is in fact the core of our ongoing research on the Spanish legislature.

A final important concluding remark is that, disregarding the size of the governing party in Parliament, the governments have behaved as holding absolute majority (Capo, 2003).

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29 For instance, decree power, emergency procedures, the call of extraordinary sessions, the closure of amendment rule or the set of functions assigned to the Directive Board on the government’s benefit are neither quantitatively nor qualitatively employed to a significant extent, at least in the period 1989-2004.
Thus, no significant difference exists on the volume of proposed bills for the different legislative terms (1989-2004). Nor a significant difference in the rate of government bills which were enacted under the different majorities. This stable pattern of behavior reveals as well that, even without absolute majority, governments are able to settle and control the agenda with the use of its high internal discipline and the several procedural rules on its advantage. If “institutional analysis focuses on showing how preferences and decisions are artifacts of institutions” (Immergut, 1996: 329), our findings have remarked that lawmaking in Spain is better explained by the institutional shape and location of the governing parties (positional advantage of the large parties) in addition to the coordination failures within opposition parties (partisan advantages), than strictly by the procedural rules settling the relative power resources granted to each branch of power.

VI. REFERENCES

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ACRONYMS OF PARTIES

- PSOE: Partido Socialista Obrero Español (social democratic, nationwide party)
- PP: Partido Popular (conservative, nationwide party)
- CIU: Convergencia i Unió (Catalan, regionalist party)
- CDS: Centro Democrático y Social (centrist, nationwide party, †)
- IU: Izquierda Unida (left wing, nationwide party)
- CC: Coalición Canaria (Canary Islands, regionalist party)
- PNV: Partido Nacionalista Vasco (Basque, regionalist party)