

Voting beyond Constitutional borders. Catalan Unofficial Referendums of Independence in 2014 and 2017

Juan Rodríguez Teruel & Astrid Barrio

Juan Rodríguez Teruel : Professor, University of Valencia

Astrid Barrio : Professor, University of Valencia

Abstract :

The Catalan regional institutions have promoted two unofficial ballots on independence in the last decade. In both cases, the authorities disregarded the Spanish legal framework on referendums and questioned the legitimacy of the Spanish rule of law. In 2017, the explicit goal of constitutional disobedience ended up in the unilateral declaration of independence approved by the tight majority of the parliament. This paper analyses the political context of this institutional clash, and its political consequences. Our main argument is that party politics was a key factor to understand this process. Contrary to traditional assumptions of the literature on this topic, the internal division of the group promoting the referendum limited the power of the regional government to control its organization, for the benefit of other political actors. This also produced a great distance between the reasons offered to justify the vote (which was initially instrumental to force the central government to negotiate a self-government reform, and later changed to the adoption of a unilateral plan for secession) and the actual consequences afterwards. The main result is that the Catalan nationalist movement get weakened in terms of political organization and influence.

1. Introduction

The non-binding vote held in Catalonia the 1st October 2017 attracted unprecedented world attention towards the political conflict issued from recent claims for secession in that region. The images of the clash between citizens willing to cast their vote in public schools and the police trying to seize the ballot boxes in the polling stations were seen as unacceptable in the context of European democracies. They were the result of the ‘train crash’ that many observers of Spanish politics have warned during the previous years, since the Catalan nationalist movement adopted a new political agenda based on a referendum for independence. Between 2012 and 2017, the Catalan regional government attempted to organize two referendums on this issue, but the Spanish government and the Constitutional Court opposed them. While the first attempt in November 2014 was tolerated -even if declared unconstitutional-, the Spanish institutions were more active in confronting the 2017 vote. In the end, both attempts were successfully held although their results were more the reflex of a massive public performance than a genuine expression of direct democracy.

The goal of the article is to give a broad perspective of the context and the role of political actors along the process, paying special attention to identify the elites’ motivations, and the arguments sustained to justify the claim of a national self-determination plebiscite. In this perspective, the strategies deployed by these elites will reflect the politics of the Catalan unofficial referendums that ended up with the political crisis of October 2017 and its consequences. The rest of the article

is organized as follows. The next section will introduce the political and institutional background of the Catalan case. The third section examines the process leading to the 2014 poll, while the fourth section focuses on the 2017 vote. The last section will discuss the main consequences and will conclude.

2. Theoretical framework

A major concern when analyzing these two experiences deals with the definition of the conceptual categories where they must be embedded. Treating these two ballots as proper referendums actually may become a political controversy in itself, because political actors have differed in this point. Certainly, the vote was neither accepted as legitimate by the Spanish institutions nor by international actors, due to its unconstitutional nature and total lack of guarantees. Yet it was an episode full of political significance in participatory terms, with an unofficial but formal vote, with a political campaign (involving at least those supporting the process), and the citizens that voted (less than fifty per cent of the population) considered it as such to some extent. For some of the promoters, these votes should even carry on a mandate with political consequences. For the purposes of our analysis, we will consider these votes as unofficial referendums and will use some of the theoretical tools employed by the literature to understand the factors surrounding its organization and the consequences they produce, in spite of the peculiarities of the Catalan case (unofficial status, lack of guarantees and lack of international recognition by other countries), in contrast to those studied by the scientific literature and included in this issue¹.

The bulk of empirical studies on referendums have focused on two main questions or dimensions: who (which actors are entitled or decide to call for a referendum) and why (which formal and informal reasons are behind such decision). The combination of these two criteria has provided different typologies of plebiscites. The starting point is the main distinction between mandatory votes (constitutional or statutory) and consultative or facultative votes, mostly issued by popular initiatives or by governments². In the last decades, non-mandatory government-initiated referendums have attracted the attention of scholars, as they reflect an increasing trend among governments to employ direct vote to make decisions that were usually adopted through executive or legislative decisions in the past³. In this respect, the 2014 and 2017 votes in Catalonia can be considered as partially unsuccessful attempts to launch government-initiated referendums, as the initiator of these electoral processes was the regional government, with the support of the political parties representing the parliamentary majority, and other political and social actors.

In this type of non-compulsory referendums, elites' strategic goals play a fundamental role that shapes the outcomes of the process⁴. Hence, Gideon Rahat has distinguished three different types of motivations⁵: avoidance (referring to the need to make a decision that may split a social unit), addition (to legitimize a decision or to empower the initiator of the referendum), and contradiction (blocking a majority decision, or promoting a policy or a reform against the majority). According to this classification, the Catalan unofficial referendums may be considered as a poll held for 'additional' motivations, as it was framed in a wider strategy of forcing the Spanish central state to improve self-government beyond the constitutional lines.

Moreover, it is one of those 'rare' polls whose aim is to claim for national self-determination, questioning the sovereignty of the current state⁶. Referendums on ethnic, linguistic or religious cases usually are highly controverted and result in social tensions and possibly discrimination against minorities, unless they are held after prior agreement among political elites⁷. However, they

are becoming more frequent in those countries with ethnic conflicts⁸. Matt QVortrup has classified ethnonational referendums according to the degree of internal ethnic diversity acknowledged by political elites, and the internal/external consequences of the poll⁹. Following these criteria, the Catalan 2014 and 2017 polls can be labelled as international homogenizing referendums, as they seek to create a new ethnically homogeneous state, since identity would be one of the distinct features of the Catalan people that would underlie the differentiation from the rest of the Spanish people¹⁰.

In these referendums on ethnic disputes, however, who decides what, when and how becomes the central struggle. As other cases, like Scotland or Quebec, who has the power to launch a referendum on secession is far from being evident, and the political controversy was structured around this issue¹¹. While most of non-mandatory non-popular plebiscites may be seen as a bargaining process between executives and legislatures¹², secessions votes are likely to produce a competition between central and regional executives around the details (electoral register, timing, question). But when the regional actors promoting the referendum on ethnic issues are internally divided, the competition regarding the organization of the vote may quickly turn into an internal dispute between regional factions and groups, aiming to capitalize the expected benefits of this initiative. This situation might be particularly likely to happen when the central government rejects to enter the zero-sum game with the regional executive, and refuse any kind of agreement to let the referendum be held. Although a government-initiated referendum is also a tool to strengthen internal cohesion within parties and factions¹³, a regional government in minority or supported by a fragmented parliamentary base may also paved the way for internal disputes to determine the characteristics of the vote. When the regional promoters of a referendum on secession compete internally among themselves, we may expect two potential outcomes:

An erosion of the position of the regional executive regarding other regional actors of the political coalitions promoting the vote;

An increasing difference between the formal reasons claimed to justify the referendum and the immediate consequences achieved at the end of the process.

3. Constitutional and political background

This section introduces some aspects to frame the context that lead to the controverted celebration of these unofficial referendums, and the constitutional debate behind them. Hence, we will start with the constitutional framework regulating plebiscites in Spain. Then we will show the political changes held in the party system and the public opinion. Finally, we will shortly refer to the unofficial local plebiscites held in Catalonia between 2009 and 2011, which became the precedents of the votes held later on.

3.1 Constitutional framework

Mechanisms of direct democracy are included in the Spanish Constitution under the form of referendums and popular consultations for “political decisions of special transcendence” (article 92). Their use and implementation have been regulated through the Organic Law 02/1980. Referendums are consultative and non-binding, except when they are held to ratify constitutional amendments and regional statutes reforms. According to the law, the prime minister proposes a referendum, after the previous authorisation of the parliament, and the King calls for it. Local

and regional governments can propose as well to call for a non-binding popular consultation to make decisions on those issues where these subnational governments are responsible. In the case of Catalonia, the 2006 reformed statute of autonomy gave the Catalan parliament the faculty to regulate consultations. In all these cases, local and regional consultations require the final authorization of the central government to be held.

Since the 1978 referendum ratifying the Spanish Constitution, there have been two national non-binding referendums (on the NATO agreement in 1986, and on the European Constitution in 2005), and more than 35 local consultations proposed by local governments. Besides, the Basque Country (1979), Catalonia (1979), Andalusia (1980), and Galicia (1980) held referendums to pass their regional self-government statutes, while there were two referendums to approve the reform of the those statutes in Catalonia (2006) and Andalusia (2007). This does not mean these tools of direct democracy have been undisputed, since the central government refused or blocked almost 100 local proposals as they were considered not fulfilling the requirements set by the law¹⁴. However, the most controverted case preceding the Catalan crisis was the attempt by the Basque government to held a referendum on sovereignty the 25th October 2008, declared out of law by the Constitutional Court some weeks earlier, because it did not request previously the authorization of the Spanish government.

This illegal foundation of the regional referendum, in formal and material terms, has always been the main argument against the celebration of both self-determination referendums in Catalonia, as we will mention in the next sections. Conversely, the Catalan regional government, as it happened in the Basque country, argued that a more flexible interpretation of the law could allow to authorize such plebiscites within the constitutional frame. In this sense, while some constitutional law scholars consider this clash of legitimacies as a constitutional crisis¹⁵, others interpret that the deliberate break-up of the norms may be understood as a constitutional *coup d'état*¹⁶.

3.2 Political background

The two unofficial referendums held in Catalonia were preceded by a decade of deep transformations in Catalan nationalism, which had longtime been considered moderate and pragmatic¹⁷. Despite there have always been groups in favor of secession in the history of the Catalan nationalist movement, born in the late XIXth Century, since the return of democracy in 1977 Catalan nationalism adopted a strategy of enhancing self-government through negotiation with the central government. Hence, the nationalist conservative coalition *Convergència i Unió* had dominated Catalan politics for two decades, and had always defended a pragmatic approach to gain influence over the Spanish central government through multilevel agreements¹⁸. However, at the beginning of the XXIth century, social and economic changes had transformed the position of Catalonia in Spain, reducing the distance with some other rich regions, and had made evident some pitfalls and limitations in Spanish devolution, a multilevel system combining federal and unitarian arrangements.

In parallel, the Catalan party system had come under pressure, fostering changes in the balance of power among political parties, but also within them¹⁹. The electoral struggle between the two main nationalist forces, *CiU* and the secessionist *Catalan Republic Left (ERC)* -the oldest Catalan party, created in 1931, but severely weakened during the authoritarian period-, for the dominance of the nationalist electorate was particularly intense, and took a pattern of outbidding competition by which both political actors increased progressively their regional demands in parallel²⁰. This

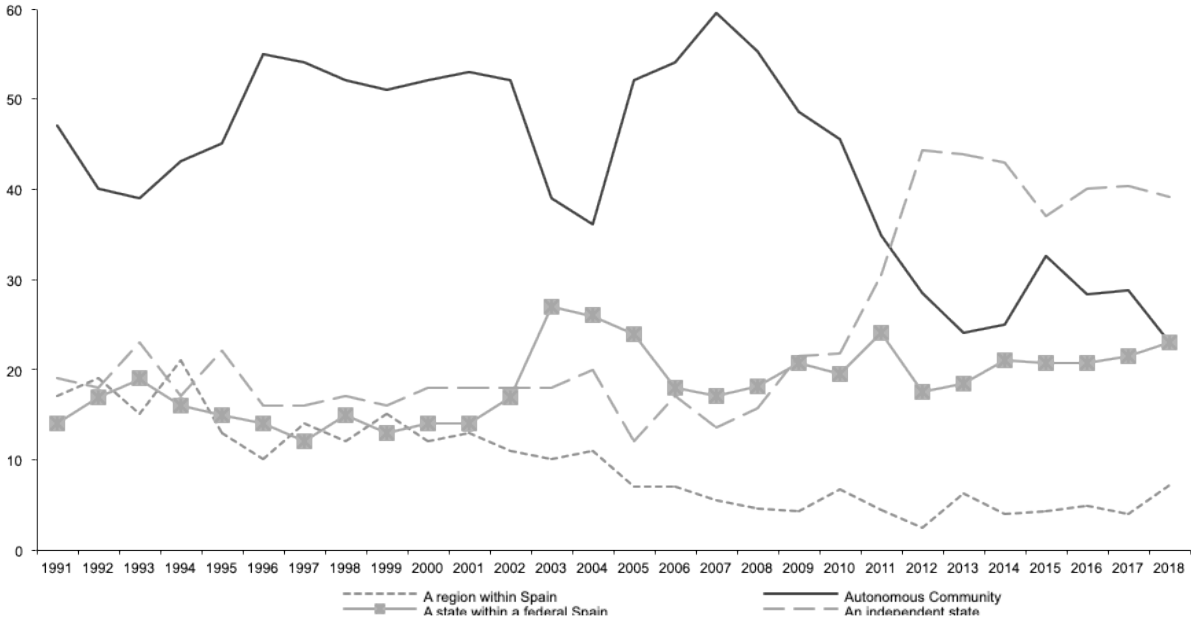
pattern was particularly conspicuous during the reform of the Statute of Autonomy (2004-2006), a long, contested bargain among Catalan parties, and between both the central and the regional institutions²¹. After its approval through a popular referendum in June 2006, the PP and other institutional actors impugned the new Statute before the Constitutional Court, which finally declared unconstitutional some articles of the new text. The outcome of this reform was quite disappointing for the Catalan nationalism, which became more electorally fragmented by 2010, with new actors pushing for a more radical agenda in territorial demands.

In this context, the financial crisis and the economic constraints faced by regional government added new incentives to move towards a more ambitious plan to force the central government to accept a new reform of the Catalan self-government. Hence, in the wave of the big demonstration of 2012 September 11th claiming for independence, CiU's Catalan regional prime minister, Artur Mas, adopted a new agenda, based in the claim of a referendum of self-determination. The lack of response from the Spanish government fueled support for those actors within the nationalist movement that defended unilateralism and rejected pragmatism. Moreover, the increasing uncertainty about the sustainability of the Spanish finances provided an exceptional window of opportunity for attempting the break-up of the political system. Following an outbidding pattern, the rhetoric of the party competition between CiU and ERC quickly brought the terms of the debate into a scenario where secession seemed upcoming and the referendum was undeniable. In this context, the Catalan nationalist discourse adopted incidentally a populist drift, whereby the referendum became a device to preserve the voice of the people against the elites and their austerity policies²².

3.3 The evolution of public opinion

The traditional pragmatism of Catalan nationalism is the reflect of the political pluralism featuring the Catalan society in terms of identity and preferences, defined by the predominance of mixed identities (Spanish and Catalan) and the support for decentralization (around 60 %) in opposition to independence (around 20 per cent) or centralization (below 10%) . However, in parallel to the rise of polarization of the Catalan party system presented in the previous section, citizens' attitudes on constitutional arrangements for Catalonia changed in a short period of time towards support for independentism (see Figure 1). Hence, between 2010 and 2012 (the years of the return of CiU to the regional government), support for independence raised more than double up to around 45 %, and it has remained in that level since then. This support is sustained by identity reasons²³, as well as political and economic motivations²⁴. This would seem an unprecedented transformation of territorial preferences in an ethnic divided society.

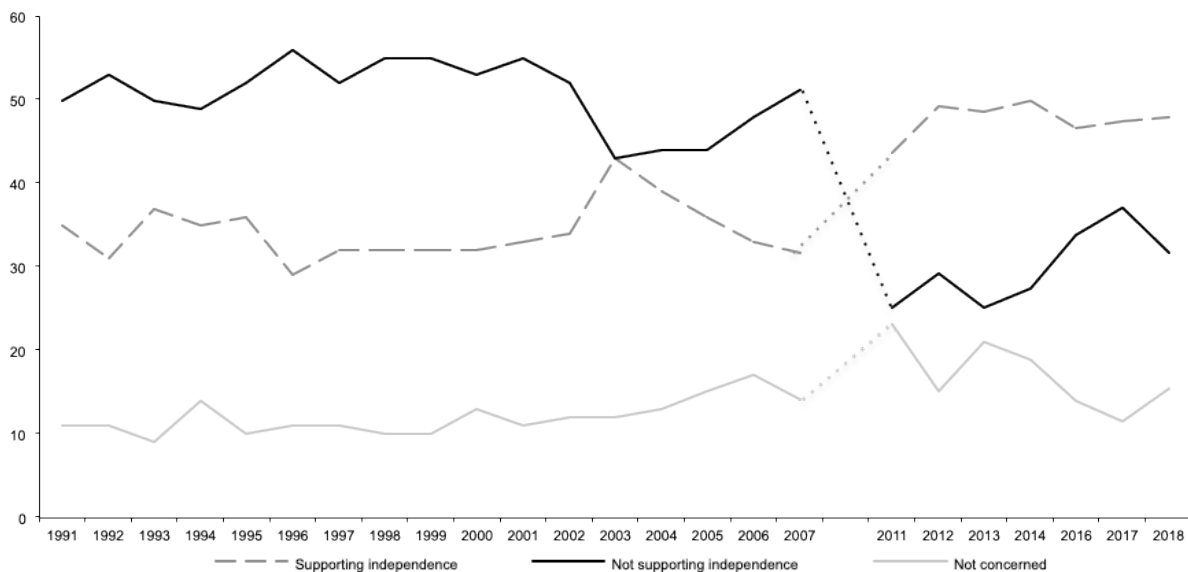
Figure 1. Preferred constitutional arrangement in Catalonia (1991-2018)



Source: Institut de Ciències Polítiques i Socials (<https://www.icps.cat/>).

However, the idea of independence had always had greater support than these numbers suggests. In this respect, the proportion in the support for independence fluctuates also depending on how surveys put the question to the interviewed. As seen in Figure 225, when questioned directly and exclusively about independence, almost one out of three individuals have usually agreed with the issue. This suggests the existence in the past of a stable amount of pragmatic pro-independence supporters that, actually, were likely to accept an inclusive constitutional arrangement for Catalonia in Spain. Therefore, the sudden rise of support for secession seems to look like a general ‘coming out of the closet’ for many nationalist voters rather than a deep transformation of their preferences and beliefs.

Figure 2. Support for independence in Catalonia (1991-2018)

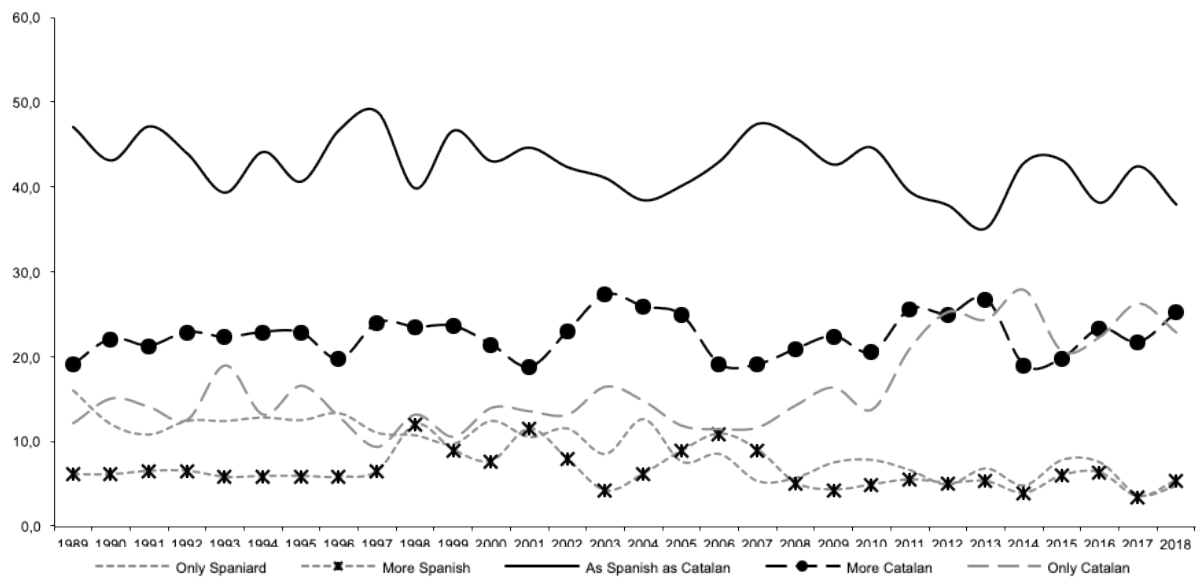


Source: Institut de Ciències Polítiques i Socials (<https://www.icps.cat/>). Until 2007, the wording of the question was “Do you support the idea of independence for Catalonia”. After 2011, the question was “What would you vote in a referendum of independence for Catalonia?”.

Interestingly, the move towards a more explicit support to secession was preceded by an increasing claim from nationalist intellectuals and activists for a referendum on independence since 2006. While this demand had traditionally been excluded from the political debate in Catalonia, the victory of the Scottish National Party in Scotland in 2007, with a platform proposing a referendum, encourage the Catalan nationalism to adopt it as a central idea. Indeed, the idea of a plebiscite on secessionism was issued through the campaign ‘We have the right to decide’ and then assumed progressively by CiU. Actually, the first peak of the support for independence in Catalonia came with the first time the Catalan regional government introduced the question in the public polls conducted by the official Centre of Opinion Studies (CEO) in June 2011²⁶. Since then, the idea of a referendum has usually generated broad support among voters across parties, although there has been some controversy about how to interpret this support²⁷.

The peculiarity of this evolution of the public opinion during the last two decades lies in its relationship with the outbidding pattern of party competition mentioned in the previous section. Traditionally, the theory of the outbidding competition in divided societies stated that changes in citizens’ identity preferences towards more radical position fosters polarization among political parties²⁸. Yet in Catalonia evidence shows identity’ polarization among political elites preceded citizen’s changes, which suggest an elite-driven process of identity polarization as an outcome of party competition²⁹. As shown in Figure 3, the exclusive Catalan identity (feeling only as Catalan) increased from 11.4 in 2006 up to 27.8 in 2014 in parallel to the campaign for the referendum. Overall, the claim for a referendum has been instrumental to mobilize support for independence among many pragmatic nationalist voters that were disappointed with the reform of the Statute of Autonomy.

Figure 3. National identity in Catalonia (Linz-Moreno question) (1991-2018)



Source: Institut de Ciències Polítiques i Socials (<https://www.icps.cat/>).

4. A first step: the 2009-2011 unofficial local referendums on secession

In the wake of dissatisfaction produced by the reform of the Statute of Autonomy, several civic groups and associations aroused to promote a vote on secession. These new actors, with the help of local public governments, organized unofficial local polls in 517 Catalan municipalities between September 2009 and April 2011. These unofficial votes gathered an important turnout, with almost 900,000 people participating overall (around 18% of the population enfranchised), involving mostly those in favor of independence (91,7% of the votes)³⁰. Although these consultations were carried out outside the law, they were endorsed by all the secessionist parties, but also, to a lesser extent, by some local representatives of federalist parties like PSC or ICV, that were internally divided in this issue.

This precedent paved the way for a larger mobilization in favor of a plebiscite at the regional level. On the one hand, the issue entered the political agenda, becoming the new central issue of party competition between CiU and ERC. On the other hand, the main outcome of this initiative was the creation, in 2011, of two collective actors focused on promoting independence, which will have a key role in the future two unofficial referendums: the *Association of Municipalities for Independence* (AMI), a network reassembling local public entities (municipalities, county councils and provincial councils) ruled by secessionist parties; and the Catalan National Assembly (ANC), a civic association seeking to launch actions and performances to force political parties to engage with short-term plans for independence³¹. These associations, together with the old cultural association *Omnium Cultural* -an entity promoting the Catalan language and culture founded in 1960- promoted the massive demonstration under the slogan "Catalonia, the new State of Europe" on the 11th. September 2012. This rally set the starting point for a permanent process of mobilization seeking independence, which will be widely known simply as "the process".

5. The 2014 unofficial vote

5.1 Context and campaign

The first vote on secession in Catalonia was held on November 9, 2014, only two years after the 2012 snap regional election, where the nationalist parties competed around the promise of a referendum of independence. However, that snap election did not deliver the expected result for the prime minister's party³². With its innovative campaign based in the claim for a referendum, CiU aimed to achieve a majority, as the opinion polls predicted, in order to strengthen its minority status obtained in the prior 2010 election. Conversely, CiU finally lost 12 seats, which increased the representation of its opponents within the nationalist side, ERC and the extreme-left Popular Unity Candidacy (CUP). In sum, its bid on the referendum issue failed and fed the more radical forces. Nevertheless, CiU chose to form a minority cabinet supported by ERC, with the commitment to hold a consultation on the political future of Catalonia along the parliamentary term. As a consequence, in the first plenary session of the new term passed a "Declaration of Sovereignty" with the support of CiU, ERC and CUP³³, as well as the federalist ICV (and five parliamentarians from the PSC). In parallel, the new majority urged the central government to facilitate it for democratic reasons, without positive reaction from Spanish political leaders. To some extent, the opponents to the referendum did not give credibility to this challenge, as they simply believed the threat mostly aimed to cover the consequences of the Recession. Therefore, the central government in Madrid expected that the contradictions among the secessionist parties and the vast difficulties for the organization of the vote would finally conduct to a cul-de-sac that will obstruct the vote.

One of the main starting controversies dealt with who had the power to call for the referendum: only the central government -as stated by the Constitution- or also the regional government -assuming a certain constitutional flexibility. While the former rejected any agreed referendum, the regional government adopted the commitment to held such a vote. In order to give credibility to its commitment, the Catalan executive launched several initiatives to pave the way for the referendum. It created the Advisory Council for the National Transition (CATN), conceived as a body of advice and support for the sovereignty process in the perspective of holding the consultation, and composed of academics and intellectuals. This body prepared 19 reports that were included in the white paper *The national transition of Catalonia*³⁴ in which they analyzed the different scenarios to carry out the consultation and the institutional aspects to be taken into account in the transition to an independent state.

Another initiative promoted by the government was the *National pact for the right to decide*, initially formed by 40 public and private entities (political parties, unions, institutions and civil society) giving support to the consultation. Its goal was to involve other groups and associations across Catalonia to mobilize the people in favor of the self-determination. It was intended to convey the idea that the demand had a massive support and generated a high consensus across different social sectors. In December 2013, six months after the agreement, almost 800 new actors had adhered to the agreement. Actually, the structure of the initiative shows quite well the party-oriented clustered network formed by the promoters of the movement claiming for the referendum: beside some cultural and non-partisan associations, many of the actors involved in such initiatives were, in the end, directly or indirectly linked or representing the political parties of the parliamentary majority.

Overall, the need of the parties in the majority to join forces predominated over other concerns. At

the end of 2013, these political parties made an agreement to set the date (November 9, 2014) and the ballot question for the referendum. This had a controverted form, as it was composed by two questions (see Figure 4): *Do you want Catalonia to become a State? If so: Do you want this State to become independent?* The second question could only be fulfilled in case of an affirmative answer to the first question. This formula sought to mobilize those non-secessionist groups supporting an enhance of the self-government by giving them a third option (voting no to the second question). Following this agreement, the Catalan chamber requested the Spanish national parliament the delegation of the powers to organize the consultation according to article 150.2 of the Spanish Constitution. The majority of the national parliament, including the two main parties -PP and PSOE-, rejected the petition, arguing that the proposal was unconstitutional. The Spanish government reaffirmed its intention to block the referendum as it considered it illegal.

Figure 4. Ballot of the 2014 vote on secession

CONSULTA SOBRE EL FUTUR POLÍTIC DE CATALUNYA 2014
CONSULTA SOBRE EL FUTURO POLÍTICO DE CATALUÑA 2014

Vol que Catalunya esdevingui un Estat?
¿Quiere que Cataluña sea un Estado?

SÍ NO

En cas afirmatiu
En caso afirmativo

Vol que aquest Estat sigui independent?
¿Quiere que este Estado sea independiente?

SÍ NO

In view of the parliamentary refusal, the Catalan government opted to approve its own legislation to provide the legal basis to hold a non-binding self-determination referendum. In parallel, the secessionist movement, headed by ANC, AMI and Omnium Cultural, increased the pressure on the government in order to speed the process, calling the political leaders to disobey the Spanish institutions should the law be suspended by the Constitutional Court. Hence, on September 2014 the Parliament approved the *Consultation and other forms of citizen participation Law*, with the support of CiU, ERC, CUP, ICV and PSC, although this last party did not support the possibility that the law could enable to hold the consultation. Some days later, prime minister Mas signed the *Non-binding independence referendum decree*, calling for the consultation. This legal framework entitled to vote all citizens older than 16 that were registered in any Catalan municipality or, alternatively, in the Register of Population of Catalonia, a new tool created by this law. This also included those European and non-European citizens having had legal residence in Catalonia for some time (1 and 3 years, respectively). On the contrary, it excluded all those other Catalan citizens living in the rest of Spain that had not explicitly asked to get included in the register list.

As expected, both the law and the decree were appealed to the TC by the central government, which led to its precautionary suspension. In these circumstances, the Catalan government chose to transform the referendum into a participatory process, aiming to prevent Constitution disobedience. Even so, this decision was also appealed and invalidated by the Constitutional Court. Hence, the consultation could only be formally carried out without the involvement of the administration, only with the support of volunteers. However, ERC and the secessionist movement criticized the government's decision as they considered it downgraded the goal of a referendum, and insisted in the claim to disobey the Spanish institutions.

The campaign was not a confrontation between the 'yes' and 'no' arguments, since the later (represented by PSC, PP and Ciudadanos) rejected the legitimacy of the consultation (except the small federalist radical leftwing ICV) and promoted the abstention. Hence, while the pro-independence side reiterate the main slogans in favor of independence (based on the democratic, civic and historical legitimacy of the Catalan people), the main issue during the campaign dealt with the political consequences the vote should entail. On the one hand, the Catalan government was divided, as the two parties of the ruling coalition CiU (the liberal Democratic Convergence of Catalonia, CDC, and the cristian-democrat Democratic Union of Catalonia, UDC) disagree in how to react after the referendum, because the later were more prone to search a pragmatic exit and rejected to keep the collaboration with ERC and the other more radical actors. On the other hand, the other political parties and the civic associations fear that the government would use the legitimacy of the result in the referendum to negotiate an agreement with the central government that put an end to the process of secession.

5.2 Results and immediate consequences

The consultation obtained an important level of participation, with more than 2.3 million people casting their vote on the ballot box, around 36 % of the equivalent population in Catalonia (not including the foreigners) by that time (Table 1). This total number was close to the sum of voters gathered in the 2012 regional election by the political parties supporting the referendum. Those supporting explicitly independence were 1.9 million votes, a bit higher than the 1.74 million voters achieved by the secessionist parties -CiU, ERC and CUP- in the previous election. Overall, the referendum attracted only the electorate represented by the parties that promoted it, reflecting the deep divide that political process had produced until then in the society.

That same night prime minister Mas offered a massive press conference congratulating on the results of the consultation and presenting himself before the international community as the architect of it. This circumstance together with the unofficial support of the Generalitat (with the cession of polling stations and the provision of material means for the organization of the vote), led to a complaint against the regional prime minister, its deputy prime minister, the speaker of the cabinet and the regional minister of Education. In 2017, all of them were tried and condemned for the crime of disobedience, fined and disqualified for the exercise of public office but absolved of the crime of prevarication.

Table 1. Results of the 2014 consultation

	1st question		2nd question	
	Do you want Catalonia to become a State?		Do you want this State to become independent?	
	Votes	%	Votes	%
Total votes	2,344,828*		2,152,877	
Invalid votes, other	72,023	3.0		
Yes	2,152,877	91.9	1,897,274	88.9
No	105,245	4.5	232,848	10.0
Blank votes	13,201	0.6	22,755	0.9

Source: Catalan government. (*) This is the total number of participants given by the government, but the sum of the different votes only makes 2,343,346. Source: <https://www.vilaweb.cat/noticia/4222108/20141201/resultat-definitiu-9-n-2344828-vots.html>

Nevertheless, the immediate political consequences went in a opposite direction. The 9N consultation was interpreted as a victory for its promoters and particularly for prime minister Mas. Aiming to capitalize on this success (and reverse his party electoral decline), Mas proposed to call for an early election and transform it into a plebiscite for independence. In January 2015, parties and entities reached an agreement by which Mas engaged to hold a plebiscitarian election on September 27. In this respect, he proposed to merge all parties and associations supporting secession into a common electoral candidacy to strengthen this plebiscitarian mode. The proposal was initially rejected by ERC and CUP, while the sovereigntist associations, ANC, Omnium and AMI welcomed it very favorably. Moreover, these association placed ERC and CUP facing the strategic dilemma of cooperating or being treated as traitors to the cause before the secessionist supporters. After some months of political tension within the secessionist movement, ERC finally accepted to join a common list, while CUP decided to run alone. This unitarian candidature was labelled Together For Yes (*Junts pel Sí*, JxS), and included the leaders of the main secessionist parties as well as other former members from non-secessionist parties -like ICV and PSC- that have split, and the leaders from the main secessionist civic associations. Its platform was be focused exclusively on the commitment to declare independence in the upcoming new parliamentary term, after some months of preparation of the material conditions for this. All other issues were subordinated to this common goal.

6. The October 1st 2017 unofficial vote

6.1 Context and campaign

Despite the electoral victory in the plebiscitarian-style regional election in September 27, 2015, the unitarian candidacy JxS did not reach the expected goals³⁵: it failed to achieve the 50% of the votes that could give it international legitimacy for its plans, and it did not even get the 50% of the seats needed to keep the majority they have had so far³⁶, which compelled them to search for parliamentary support among the other groups. However, as the JxS platform focused essentially on the unilateral independence, and given the degree of political polarization produced by the plebiscitarian campaign, the only option to reach the majority in the chamber was the anti-capitalist CUP as partner of the new majority. Any other option would have entailed the renounce to the unilateral secession goal. Yet CUP set two conditions to accept the parliamentary coalition: reaffirming the commitment with a fast-unilateral secession, and the resignation of Mas as prime minister, as they could not support such a right-wing profile as a head of government. In order to avoid the uncertainty of a new snap election, Mas accepted to leave and chose as his substitute a low-profile CDC member, Carles Puigdemont, with short political experience in local office, but long activism in favor of the independence. Both the coalition with CUP and the profile of the new regional prime minister, in a government with a radical plan for secession, contributed to blur the pragmatic approach employed by the executive in the previous term. This time the regional promoters were more divided than in 2014.

In this context, the JxS executive's agenda sought to implement the different steps of the unilateral secession plan. In November 2015, few weeks after the election, JxS and CUP approved a parliamentary declaration stating the start of the process of independence in Catalonia, rejecting thereafter the obedience to the Spanish institutions, with a particular mention of the refusal to the legitimacy of the Constitutional Court. Some months later, the parliament set up a Commission for the Study of the Constituent Process, in which Ciudadanos, PSC and PP did not participate. The Constitutional Court suspended its conclusions and requested the members of the Bureau of the Parliament to paralyze any initiative that supposed an advance in the independence process, under the threat of incurring in criminal liability.

In this context, CUP forced a change in the plan for secession, reintroducing the requirement of a new referendum before the declaration of independence in order to increase its social legitimacy. Such a meaningful modification came after a crisis within the new majority. Despite the agreement of the parliamentary coalition, CUP rejected to support the budget of the government for ideological reasons. This forced the new prime minister to submit a question of confidence in Autumn 2016. In order to win this vote, Puigdemont accepted to hold a referendum of legal self-determination one year later. As a consequence, the referendum on secession became again the main goal of the executive, as it was in the previous term.

Moreover, the central government and the Constitutional Court were less permissive with the different initiatives adopted by the Catalan executive and the parliament to develop the secessionist agenda. In this context, the only way to carry the plebiscite out entailed high doses of disobedience and defiance to Spain's rule of law. In this respect, the decisions adopted to implement it could involve not only fines and being banned from public offices as had happened with the political leaders of previous referendum in 2014, but also long prison sentences if they were accused of

crimes such as embezzlement, disobedience, or rebellion, as some media began to speculate by that time. In July 2017, this threatening scenario and the disagreements about how decisions were being made led to the resignation of some members of the government that were hesitant with the strategy of unilateralism and disobedience. The regional Minister for Enterprise was sacked after a newspaper interview where he expressed serious doubts about the referendum taking place due to the material difficulties, and also acknowledging that most of the regional cabinet members were not actually participating in the elaboration of critical decisions about the plebiscite, replaced by external actors of the secessionist movement.

At the end of the Summer 2017, the sequence of facts accelerated, aiming to prevent that measures from the Constitutional Court or the judiciary power could block the ballot³⁷. As some insiders have acknowledged afterwards, the Catalan executive seek the institutional crash against the central government to obtain international legitimacy³⁸. Hence, the government launched the initiatives to create a specific framework outside the Spanish constitution to provide a legal basis for the vote. Indeed, on September 6 and 7, in an extremely turbulent session, the Catalan parliament passed both the Referendum bill and the Law of juridical transition and foundation of the Republic, amid warnings and notices of its unconstitutionality from lawyers and the regional advising council. While the first bill established the legal conditions for holding the referendum, the second defined the legal bases of the transition in the event of a victory of secession in the referendum. Both laws were suspended less than a week later by the Constitutional Court after accepting an appeal from the Spanish government. That same day, the decree calling for the referendum was approved, amid internal deep division among the secessionist leaders³⁹. Again, all this was appealed to the TC and therefore provisionally suspended (and later declared unconstitutional), but the parliamentary majority decided to disdain the Court and move forward with the holding of the consultation. In parallel, the executive appointed the Electoral Commission, the body responsible for ensuring the transparency of the electoral process, which was also challenged by the Constitutional Court. However, its members resigned collectively to avoid the fines of the TC. In the absence of an electoral control body, the Catalan government opted to delegate its responsibilities to international observers.

Unlike the 2014 ballot, the Spanish government took overwhelming decisions to prevent the referendum. It intervened the finances of the regional administration to prevent the public funding of the ballot. It also deployed to Catalonia more than 4,000 police officers to avoid the celebration of the consultation. In the judicial front the Supreme Court imputed to the board of the Parliament for having permitted the vote of parliamentary resolutions on the independence. In this context, the judges investigated the leak of some statements by the former judge Santi Vidal, now highly involved in the secessionist campaign, when he claimed and defended that illegalities were being committed to prepare the referendum. During the months of July and September there were arrests of senior officials and records in official agencies and companies related to referendum. One of these operations, in the Department of Economy, produced a crowdy protest in September 20, conducted by the ANC and Omnium. Some of the protesters vandalized three vehicles of the police and their occupants were forced to flee into the Economy Department building. That action ended up provoking in mid-October the imprisonment of Jordi Sánchez and Jordi Cuixart, the leaders of those organizations, accused of the crime of rebellion.

6.2 Results and immediate consequences

According to the Catalan government, the turnout reached the 43% of the electoral census, with 2'2 million citizens voting that day. This number was close to the turnout three years earlier, but this time the census was smaller, as only were entitled to vote those citizens older than 18 and fulfilling the legal requirements, so excluding citizens coming from abroad. Around 92% of the votes supported affirmatively the question "Do you want Catalonia to become an independent state in the form of a republic?" (Table 2). The Catalan government accepted the results as a legitimate vote to implement the secession.

Table 2. Results of the 2017 referendum

	Votes	%
Registered voters	5,313,564	43.03
Total votes	2,286,217	
Valid votes	2,221,585	97.17
Invalid or blank votes	64,632	2.83
Yes	2,044,038	92.01
No	177,547	7.99

Source: Catalan government.

Beside the context of police violence, the consultation was characterized by the absence of the minimum democratic guarantees, since the referendum did not comply with the requirements by the Venice Commission in this type of referendums. Actually, those institutions ruled by the secessionist parties did not preserve any neutral participation. All this explains why not even the international observers hired by the Catalan government itself endorsed the consultation.

The police intervention provoked widespread criticism, internally and internationally. Two days after the controverted ballot, there was a general strike promoted by the Catalan government, in protest for the police actions. These protests encouraged the government to go ahead with the declaration of independence, instead of calling for early elections, as some insiders suggested. Hence, during the following days, an intensive exchange of messages and threats between the central and the regional government ended-up with the unilateral declaration of independence by the Catalan parliament on Friday 27, with the absence of 40% of the MPs that refused to participate in that session.

The same day, prime minister Rajoy called on the Spanish senate to approve direct rule over Catalonia, according to the article 155 of the Constitution. After the vote was accepted by the upper house, he dissolved the Catalan parliament, dismissed the government, and called for an early election two months later. In parallel, the Spanish Supreme Court ordered the Catalan government to remain in custody without bail, although some of them, like Puigdemont, leave the country to Brussels.

7. Conclusions

The article has presented an interesting case of referendum on self-determination held (twice) in Catalonia. It is an example of fast evolution from traditional pragmatic regionalism towards

independence as a response to increasing challenges and uncertainty after long political predominance of nationalism. It also illustrates a case where center-periphery institutional conflict adopts a 'chicken game' pattern around the referendum between the central government and the regionalist main actors. This would have not been possible without the populist drift of the Catalan nationalist movement, where plebiscites have become the only way of popular expressions to the detriment of consociationalism and representation⁴⁰. It also exemplifies the explicit attempt by regionalist actors to bring their case to the international arena, expecting international actors to force national governments to change their positions. Finally, it delivers some lessons about the failure of unilateral strategies to improve self-government in established democracies, and the costs for national governments that fail to accommodate regional claims for more autonomy through pragmatic policies.

Some of the features of this case are similar to other examples, as those studied in this issue or elsewhere. Hence, the main controversy dealt with who has the power to call for such a plebiscite. Our first hypothesis stated that the weak position of the regional government eroded its power to control the process of organizing the referendum. Indeed, the peculiarity of the Catalan case is that the regional actors were deeply divided around this issue, which made it increasingly hard for the regional executive to control the process and finally led it adopt a unilateral strategy, and explicitly disregarded the constitutional and judicial rulings rejecting the decision to hold referendum. As our analysis shows, the unilateral strategy had some relevant consequences.

On the one hand, there were political consequences which did not reflect the initial reasons given by the promoters to justify the plebiscitary option as a consequence of the lost of the government control. over the final results. The most outstanding one led to the judicialization of the political process at different stages of the decision. This is not unusual, as many attempts to hold such plebiscites often result in rejections of the decision to hold referendum by the judiciary power or the constitutional court⁴¹. The imprisonment of the main leaders of the secessionist movement, with charges of rebellion and others, set an extreme outcome of this situation. Moreover, the unilateral decision produced dysfunctional effects on the political system: electoral (Catalonia has held four elections between 2010 and 2017) and government instability (for instance, the Catalan parliament could not pass the budget law in four times during this period of unilateralism). But it also helped to block the political process in the Spanish parliament, where Catalan nationalist parties have always been necessary to sustain minority governments. Indeed, Spain held three elections between 2015 and 2019, a no-confidence vote and the political transformation of its party system. Interestingly, the parliamentary balance of representation has not been altered in the regional parliament, where nationalist parties have always had more than 50% of the seats (despite they never got it in terms of electoral votes). On the other hand, the unilateral strategy also produced social consequences, such as strong polarization, with a deep divided in terms of ethnical identity. This polarization paved the way for some problems of public order after the 2017 plebiscite. It also helped to strengthen Spanish national identity among some of those people opposed to the referendum.

As in other previous example⁴², the Catalan case provided another paradox of the strategic use of referendums on secession in decentralized democracies by weak governments: aiming to advance in the self-government, these instruments rather fuel negative reactions within the central institutions and the electorate, damaging the initial position of the nationalist movements. This suggest that new studies on the topic need to better observe the distance between the goals and the actual consequences, and the implications of this for the democratic theory in multi-ethnic societies.



Notes

1 Other examples of such unofficial poll - held but not accepted as legal plebiscite - are the online vote for the independence of the Veneto in Italy on March 2014, or the Crimean status referendum held on March 16, 2014.

2 SMITH (G.), "The functional properties of referendums", *European Journal of Political Research*, 4(1), 1976, pp. 1-23. BUTLER (D.) and RANNEY (A.), *Referendums : a comparative study of practice and theory*. Washington DC: American Enterprise Institute for Public Policy Research, 1978.

3 MOREL (L.), "The Rise of Government-Initiated Referendums in Consolidated Democracies" in MENDELSON (M.) and PARKIN (A.) (eds.), *Referendum democracy. Citizens, Elites and Deliberation Campaigns* (pp. 47-64). Basingstoke: Palgrave, London, 2001.

4 WALKER, (M.C.) *The Strategic Use of Referendums: Power, Legitimacy, and Democracy*. Basingstoke: Palgrave Macmillan, London, 2003.

5 RAHAT (G.). "Elite motivations for initiating referendums. Avoidance, addition and contradiction", in SETÄLÄ (M.) and SCHILLER (T.) (eds.), *Referendums and Representative Democracy: Responsiveness, Accountability and Deliberation*². Abingdon: Routledge / ECPR, 2009, p. 99.

6 LEDUC (L.), *The Politics of Direct Democracy: Referendums in Global Perspective*. Peterborough: Broadview Press, 2003, p. 101.

7 QVORTRUP (M.), *A comparative study of referendums. Government by the people*. Manchester: Manchester University Press, 2002, p.18.

8 However, the bad experience of some countries like Spain and UK may reduce the political advantages for central governments to tolerate such plebiscites in the future. See CETRA (D.) and HARVEY (M.), "Explaining accommodation and resistance to demands for independence referendums in the UK and Spain". *Nations and Nationalism*, vol.25, n°2, pp. 607-629, 2019.

9 QVORTRUP (M.), *Referendums and Ethnic Conflict*. Philadelphia: University of Pennsylvania Press, 2014, p.11.

10 Among other policies, the leaders of the process of secession considered to deport some specific groups of Spanish civil servants living in Catalonia at the moment of the birth of the new State, and rejecting to give them the Catalan citizenship. *El Periódico* (2014): "El 'arquitecto' del 'procés' contempló "repatriar" a funcionarios "no catalanes", July 9.

11 CASANAS ADAM (E.), "Self-determination and the Use of Referendums: the Case of Scotland", *International Journal of Politics, Culture and Society*, vol.27, n°1, 2014, pp.47-66. ROCHER (F.), "Self-determination and the Use of Referendums: the Case of Quebec", *International Journal of Politics, Culture and Society* 2, vol. 27, n°1, 2014, pp.25-45.

12 WALKER (2003), *op. cit.*, p. 3.

13 MOREL (2009), *op. cit.*, p. 53.

14 El País (2014): "El Gobierno ha autorizado 35 consultas en democracia, casi todas municipales", 25 October.

15 ALBERTÍ (E.), “El conflicto en Cataluña como crisis constitucional”, *Fundamentos: Cuadernos monográficos de teoría del estado, derecho público e historia constitucional*, n°10, 2019, pp. 301-331.

16 MARTÍ (J.L.), *The Catalan Self-Determination Referendum Act: A New Legal Order in Europe*, *VerfBlog*, 2017, 17th September, <https://verfassungsblog.de/the-catalan-self-determination-referendum-act-a-new-legal-order-in-europe/>

17 KEATING (M.), *Nations against the State: The New Politics of Nationalism in Quebec, Catalonia and Scotland*, London: Macmillan, 1996.

18 FIELD (B.N.), *Why Minority Governments Work. Multilevel Territorial Politics in Spain*. London, Palgrave Macmillan, 2016.

19 BARRIO (A.) and RODRÍGUEZ TERUEL (J.), “Pour quelles raisons les partis politiques en Catalogne se sont-ils radicalisés ? Le système des partis et la montée du souverainisme (1999-2012)”, *Pôle Sud*, n°40, 2014, pp. 99-119.

20 BARRIO (A.) and RODRÍGUEZ TERUEL (J.), “Reducing the gap between leaders and voters? Elite polarization, outbidding competition, and the rise of secessionism in Catalonia”. *Ethnic and Racial Studies*, vol. 40, n°10, 2017, pp. 1776-1794.

21 ORTE (A.) and WILSON (A.), “Multi-level coalitions and statute reform in Spain”, *Regional & Federal Studies*, vol. 19, n°3, pp. 415-36.

22 BARRIO (A.), BARBERÀ (O.) and RODRÍGUEZ TERUEL (J.), “‘Spain steals from us!’ The ‘populist drift’ of Catalan regionalism”, *Comparative European Politics*, vol. 16, n°6, 2018, pp. 993-1011.

23 LAGARES (N.) and MÁIZ (R.), “El espacio político del federalismo en Cataluña” in RIVERA OTERO (J.M.), MONTABES (J.) and LAGARES (N.) (dds.), *Cataluña en proceso. Las elecciones autonómicas de 2015*, Valencia: Tirant lo Blanch, 2017, pp. 289-321.

24 SERRANO (I.), “Just a Matter of Identity? Support for Independence in Catalonia”, *Regional & Federal Studies*, vol. 23, n°5, 2013, pp. 523-545.

25 The opinion surveys conducted by the Institut of Political and Social Sciences (ICPS) of Barcelona provide the longest data series on the issue, since the beginning of the 1990s, particularly before the Centre of Opinion Studies (CEO), of the regional government, launched a more detailed series of barometers (each three of four times by year). Other data from public or private sources for specific years shows similar proportions since the 1990s (see https://ca.wikipedia.org/wiki/Estudis_del_suport_social_a_la_independència_de_Catalunya).

26 In this survey, when given several options of constitutional arrangements for Catalonia, 25,5% of the people supported an independent state as a preferred model. However, in the new question asking about “what would you vote if tomorrow a referendum to decide the independence of Catalonia would be held”, 42,9% responded “a vote in favor”, while 28,2% would vote “against”. Source: CEO survey 652, Barometer of Public Opinion, 2nd wave 2011.

27 According to a survey from GAD3, 76,6% of citizens in Catalonia agreed with holding a referendum of independence, but only 37,3% supported the idea of an unilateral plebiscite, while



the rest only accepted a vote after an agreement with the central government. Source: “La mayoría quiere un referéndum pactado y descarta la unilateralidad”, *La Vanguardia*, 9-1-2017. For more data on the support to the holding of a referendum, see Wikipedia article for “2017 Catalan independence referendum” (source: https://en.wikipedia.org/wiki/2017_Catalan_independence_referendum#Police_operation_to_stop_the_referendum).

28 RABUSHKA (A.) and SHEPSLE (K.A), *Politics in Plural Societies: A Theory of Democratic Instability*, Columbus, Merrill, 1972.

29 BARRIO (A.) and RODRÍGUEZ TERUEL (J.), 2017, *op.cit.*

30 MUÑOZ (J.) and GUINJOAN (M.), “Accounting for internal variation in nationalist mobilization: Unofficial referendums for independence in Catalonia (2009-11)”, *Nations and Nationalism*, vol. 19, n°1, 2013, pp. 44-67.

31 BARRIO (A.), “La rivalidad soberanista” in COLL (J.), MOLINA (I.) and ARIAS MALDONADO (M.) (eds.), *Anatomía del procés*, Madrid: Debate, 2018, pp. 139-158.

32 RODÓN (T.) and ORRIOLS (L.) (eds.), *Cataluña en la encrucijada las elecciones catalanas de 2012*, Barcelona, Marcial Pons, 2014.

33 Resolution 5/X by the Parliament of Catalonia, approving a declaration of sovereignty and for the right to decide of the Catalan people. Source: <https://www.parlament.cat/document/intrade/7094>

34 Source: http://economia.gencat.cat/web/.content/70_economia_catalana/Subinici/Llistes/nou-estat/catalonia-new-state-europe/national-transition-catalonia.pdf

35 ORRIOLS (L.) and RODON (T.), “The 2015 Catalan Election: The Independence Bid at the Polls”. *South European Society and Politics*, vol. 21, n°3, 2016, pp. 359-381. MARTÍ (D.) and CETRÀ (D.), “The 2015 Catalan election: a “de facto” referendum on independence?”, *Regional & Federal Studies*, vol. 26, n°1, 2016, pp. 107-119.

36 Actually, CiU and ERC had always achieved arithmetically the parliamentary majority of the Catalan chamber between 1984 and 2015.

37 GARCÍA (L.), *El naufragio: la deconstrucción del sueño independentista*. Barcelona, Península, 2018, p. 4.

38 MARTÍ (J.), *Cómo ganamos el proceso y perdimos la república. Una crónica de la crisis de Estado desde dentro y desde fuera*. Barcelona, Economía Digital Libros, 2018.

39 VILA (S.), *De héroes y traidores : el dilema de Cataluña o los diez errores del procés*. Barcelona, Península, 2018.

40 BARRIO (A.) and RODRÍGUEZ TERUEL (J.), 2017, *op. cit.*

41 QVORTRUP (M.), *op. cit.*, p. 72.

42 ROCHER (F.), *op. cit.*

PDF généré automatiquement le 2020-06-22 11:30:58

Url de l'article : <https://popups.uliege.be:443/1374-3864/index.php?id=1891>