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"Horizontal Autonomism" as a source of law. The change of the Spanish State territorial organization by subconstitutional rules.

“Horizontal Autonomism” as a source of law. The change of the Spanish State territorial organization by subconstitutional rules.

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I. INTRODUCTION

We are in the midst of a strong revival of interest of the Autonomous Communities within the Autonomous Spanish State. Recent reforms of the Statutes of Autonomy by some autonomous regions in Spain have revealed new mechanisms and ways of interaction and communication between policy-statutory Autonomous Communities, within the scope of the reforms of the Statute of Autonomy. This interaction is the assumption of a phenomenon called "horizontal autonomism". This concrete phenomenon has not only reopened, with still more force the theoretical and practical debate about the nature of the territorial organization of the Spanish state, but also demonstrates that the notion of Autonomy in Spain is permanently evolving, being "polyphasic" in the measure that it continues to unfold without any pause. To this particular feature may been added the fact that the recent statutory reforms have initiated another evolutive stage of the state model without reforming the Constitution and based in subconstitutional rules, such as the Statute of Autonomy.

As we will see this is possible because the Statutes of Autonomy are part of the "constitutional block". This fact of the Spanish’s state territorial organization evolution without amending the Constitution shows that the Spanish case is unique in the world, within the systems of high political decentralization.

This article focuses primarily on two elements of study. First, we will analyze from a constitutional perspective the phenomenon of what we have called "horizontal autonomism" as the basis of the recent reforms of the Statute of Autonomy (subconstitutional rules), mentioning the examples of Catalonia and Andalucía. The second goal is to analyze one of the main consequences and effects of "horizontal autonomism" in relation to the development of the territorial nature of the Spanish state. We will analyze how the autonomous rules are sources of law for other autonomies, and potentially for the state.

II- PARTICULARITIES OF THE SPANISH TERRITORIAL MODEL

Since the formation of the liberal state in the first third of the nineteenth century, Spain was organized in a uniform manner and strongly centralist. This uniformity never ended with the great diversity that always Spain has had. In fact, the desire for self-government by some territorial communities remained equally strong in order to preserve their identity. With the restoration of a democratic regime after the Franco dictatorship (1939-1975), Spain established a model of state to attempt to recognize the pluralism and diversity of its society. The result of this recognition was designed in the Constitution and in the subsequent rules of special constitutional nature (the Statutes of autonomy). This model is based on the indissoluble unity of the Spanish nation and it was built from the autonomy of the various nationalities and regions[1]; also, the *devolved powers or voluntary principle* guides the whole process of autonomy and means that the territories wanting to achieve autonomy regulate all decisive issues concerning the territorial organisation of the power of the State that are not regulated by the Constitution. Because of this principle, the model of Autonomous Communities in Spain shows a notable degree of heterogeneity, at least potentially. The model allows different solutions for very heterogeneous territories.

[1] The SC (article 2) opted for an undefined formula made up of two elements: a) the Spanish State is one and founded on the basis of the principle of the unity of the Spanish nation, with a single Constitution and a single judicial system; and b) the Spanish State is based on political autonomy and the right of autonomy of the *nationalities and regions*. See Molas Isidre : 2005, 176.

Therefore, the Spanish Constitution does not contain a particular model of territorial organisation because it does not expressly define one: it does not say whether the Spanish State is federal, integrated, unitary or regional; the Spanish State is not even defined as a "State of Autonomous Communities". The Constitution designed a *sui generis*, eclectic and ambiguous model[2] which, whichever way it is looked at, is a model of a "compound" or "composite" State that is politically decentralised. From this perspective, we state that the Spanish Autonomous State was indefinitely polyphasic in two specific ways:

A) The territorial shape of the state is constituted by the combination of influences from different patterns of theoretical forms of organization, i.e., holds elements of the unitary, regional, federal and confederal systems.[3]

For this reason, doctrine has frequently stemmed from preconceptions about the decentralization system of the Autonomous Communities, putting it in line with a quasi-federal, federal-regional, unitary-federal, non-institutional federalism[4], imperfect federalism, dualist federal or co-operative model and, for a large majority, as a heterogeneous and eclectic combination of federal-regional[5] and unitarist principles which attempt to establish it as a specific model, where its limits would be found in the content of the statutes of autonomy and in the remaining rules of the so-called "constitutional block". It can be seen that the model of Autonomous Communities corresponds to some very specific characteristics. Indeed, the Spanish political system does not have structures inherent in a concrete system of territorial organisation[6]. Also, the lack of some of the typical institutions of cooperative

[2] J. Erk, J. & A-G. Gagnon: 2000, 92-111; R. Agranoff & J. A. Ramos Gallarín: 1997, 4, 38; A. Brasslof: 1989, 24-50; L Moreno: 1994; M Guibernau: 1995.

[3] Watts R.L: 1999. Burgess, M: 2006

[4] Josep M. Colomer: 1998 & 1999.

[5] L Moreno. 1997.

[6] There is no doubt that this formula (open, flexible) of the model designed by the Spanish Constitution is the result of the political consensus developed around the drafting of the Constitution in order to make possible, essentially, a track for the political and institutional recognition of the historic nationalities. This fact has even given rise to the situation where, according to M.A Aparicio Pérez: 2005, 61, the State of Autonomous Communities finds that it has a hefty dose of constitutional instability.

federalism and the lack of explicit recognition of political system as Spanish federation has generated a huge debate on the state model.

B). The Spanish Constitution does not directly code the features of the organization of the state. That means that the territorial organization of the state can be developed in a flexible manner, within the framework of the general principles established by the Constitution. As Villalón Cross noted, "it has begun a process of state transformation that is well known where it begins but we would not know where it ends".[7] Consequently, in Spain there is an indefinitely open model that continues to evolve by succession or sequence of stages because is not closed constitutionally. Nowadays, with the reform of the autonomous statutes of Catalonia and Andalusia a new evolutionary stage of this model seems to be initiated. Therefore, we would argue that there is not a constitutional consolidation of the Spanish form of territorial organization, and the new reforms demonstrate that. We understand that this feature of the Spanish territorial organization model produces tensions between the different intensities of theoretical influence and, ultimately, the need to achieve a reasonable balance of it.

III. THE STATUTES OF AUTONOMY AND "HORIZONTAL AUTONOMISM"

1. The role of the Statutes of Autonomy within the system of autonomy**.**

The Spanish Constitution (SC) declares that the "Statute of Autonomy" is the basic institutional norm of each Autonomous Community, and the State shall recognize them and protect them as an integral part of its juridical order (Article 147 SC). It is the legal document that specifies the right to autonomy and the powers of the Autonomous Community. Also, the task of the Statute is to regulate the institutions of the Autonomous Community, its powers and competencies assumed within the

[7] Rolla Giancarlo: 2007.

framework of the Constitution and the basis for the transfer of the corresponding services to them, and other issues.

The nature of the Statutes is dual. The Statute is law of the Autonomous Community and also law of the state because the Statutes are Organic laws of the State. This means that the reform of statutes shall be in accordance with the procedure established in them (and sometimes with a referendum of the population of the Autonomous Community) and shall in any case require the approval of the Spanish Parliament by means of an organic law (Article 81 SC)[8].

It should be noted, too, that the Statute has a constitutional function because it completes the constitution (they form part of the "constitutional block") in terms of the Statutes of autonomy are the agreed rules by means of which the right to autonomy of the Autonomous Communities is provided with content; that is, they are the rules allowing the nationalities and the regions (article 2 SC) to create their self-government and to legally constitute themselves as Autonomous Communities, putting into practice the form of State sketched out in the Constitution; therefore, with the extremely important constitutional function, given their position in the system of sources, of specifying the system of institutions and powers of the Autonomous Communities, within the notable degree of openness and flexibility set out by the Constitution, giving rise to a margin in the legal provisions over the content of the autonomy and, at the same time, a potential element of singularity and heterogeneity in the system as a whole.

In addition, the Statutes are subconstitutional norms. The Constitution is a norm hierarchically superior to the Statute, so if the Statute goes against the Constitution, this statutory content must be declared void (and therefore unconstitutional). Also if the Statute goes out against the *constitutional block*, the situation would remain the

[8] INFORME SOBRE LA REFORMA DE L'ESTATUT. 2003: 43-44. In Spain, the "Statutes of Autonomy" have to pass the approval by the state Parliament. This has clear implications regarding the procedure for drawing up, reform and scope of the Statues. In short, the Statutes must be approved by central authorities and, ultimately, this affects the extent of powers that the Statutes may have. The questions that arise at the Spanish system are many, some of them would be: What would happen if the Statute only has to be approved by the Autonomous Community, without intervention from the state? or, Why the Autonomous Communities don't have a more active role in the reform of the Statutes?

same as the previous one (part of the Statute violates the Constitution), and the outcome would also entail the declaration of unconstitutionality of the norm of the Statute. A different case is the relationship between the Statutes and state laws: a state law can't change the Statute. Also, the fact that the Statute has a role to complete materially the Constitution would make that even the Statute is a parameter validity of state laws, to the extent that the Statute predetermines its contents, since to determine whether a subject is the responsibility of the state or of Catalonia we have to see what the Statute and the Constitution provide. Another matter is that the Statute goes against the judgments of the Constitutional Court. This contradiction between the Statute and the previous constitutional rulings should not necessarily be cause of unconstitutionality of the Statute. Indeed, the Constitutional Court has the ability to change criterion of respect for previous legal positions and, in any case, could save the possible unconstitutionality of the Statute.

In short, it is clear that the Statute can not alter the Constitution. However, to the extent that the *constitutional block* is formed by the Constitution and the Statute of Autonomy, reforming one of them alters, also by definition, the *constitutional block*, and not only by the Constitution. It is perfectly possible that the reform of one or more statutes change the functioning of the State of Autonomous Communities in several important elements because the definition of the State of Autonomous Communities is not in the Constitution.

IV. "HORIZONTAL AUTONOMISM" CONCEPTUALIZATION OF THE PHENOMENON

To avoid misunderstandings or ambiguous meanings we will say that with the term "Horizontal Autonomism" we are referring to the mechanisms and ways of interaction and communication between the Autonomous Communities, in a theoretical-normative branch, but also in a governmental and / or practical one.[9] In

[9] In the United States scholars distinguish between "vertical federalism" which pertains to the relations between national and state governments, and "horizontal federalism," which refers to patterns of communication and interaction among the states. See Mary Cornelia Portar & G. Alan Tarr: 1982, xix-xxii; G. Alan Tarr & Mary Cornelia Aldis Porter: 1988, 2-40.

this sense, in the State of the Spanish Autonomous Communities there are not only vertical relationships between the central government and the regional governments ("vertical autonomism"), but also there are relationships and interactions between the Autonomous Communities. These relationships are also important dealings between the different spheres of power within the Spanish Autonomous State. In this same context, the patterns of communication, interaction and influence between the Autonomous Communities reflects the existence of what we have defined as "horizontal autonomism", that affects the form of territorial organization of the Spanish state and probably will establish the beginning of a new evolutionary stage of this form of territorial organization.

Thus, the discovery of patterns of information flow and the emulation between the Autonomous Communities and Regions has shown the leadership of some Autonomous Communities which implemented their capacity for innovation, has succeeded in persuading other autonomous legislators to implement the same material innovations. In particular, the subject of this article, Catalonia, with the approval of its new Statute of Autonomy, has assumed a leading role within the Spanish State in adopting new statutory content.[10]. According to this, for example, Catalonia started to develop a kind of bilateral relationship with the State. This new way in the understanding of the relations within the State has been rapidly incorporated for others Autonomies through their respective Statute reforms.

The theoretical explanation of "Horizontal Autonomism" indicates the existence of a diffusion process of inter-autonomous influences through the emulation of the content of the Statute of Autonomy.[11] That shows at least two things: a) That often the new autonomous legislation is virtually and literally copied between the

[10] One of the major innovations proposed by the Organic Law 6/2006 of the 19th July, on the Reform of the Statute of Autonomy of Catalonia (1979) is the new Declaration of rights within the Statute. In this sense, the citizens of Catalonia have the rights and obligations recognised in the Spanish Constitution. They also have the rights and obligations recognised in the rules referred to in Article 4.1 Statute. Therefore, each individual has the right to live in dignity, safety and autonomy, free from exploitation, from ill-treatment and from all types of discrimination, and has the right to freely develop his or her personality and personal abilities. The rights of the citizens of Catalonia, as established in the *Estatut,* may be extended to other individuals, under the terms established by law.

[11] In relation to the United States federalism see Jack L. Walker: 1969, 880-99; Virginia Gray: 1973, 1174-85, Bradley C and Lawrence Baum: 1981, 975-87 & 1985, 1-132.

Autonomous Communities, and b) that the autonomous bodies, makers are continually observing each other as guides to action in many areas, such as in the legislative area. In the latter case, the process of competition and emulation among regional governments would be a determining factor in the direction of the Autonomous Communities.

Once we have explained the theoretical concept of "horizontal autonomism" in the next section we are going to analyze in which measure this phenomenon linked with the promulgation of new Statutes of Autonomy, may have important consequences within the system of law sources in Spain.

V. STATUTES OF AUTONOMY AS A SOURCE OF LAW

The second purpose of this paper is to analyze one of the main consequences of "horizontal autonomism ". We will study how the recent reforms of the Statutes of Autonomy became a source of law, how they affect the autonomous and constitutional rules. The adoption of the reform of the Statute of Autonomy for Catalonia has meant an enlargement of the competencies assumed by this autonomous community. The assumption of more competencies in areas such as justice has been accomplished without the need to reform the content of the Spanish Constitution.

The competencies extension established by the Statute of Catalonia and its legitimization have had as a factual premise a rereading of the attributions assumed by the Autonomous Community of Catalonia, as well as a novel reading of the Spanish Constitution. It is not an issue of this article to participate in the open debate between Catalonia and some of the Spanish Political Parties and juridical institutions on the constitutionality of the powers assumed by the new Statute of Autonomy. We are going to focus on the possibility of reforming the contents of the constitution with a novel interpretation of the Constitutional Text. As we stated before, we will use as example the third title of the Catalan Statute of Autonomy that regulates the competence of judicial power and establishes the attributions to the Supreme Court of Justice of Catalonia, the superior public prosecutor of Catalonia, the *Conseil of*

Justice of Catalonia, as the competencies assumed by the Catalan Government (*Generalitat de Catalunya)* over the administration of justice. The third title of article 109 establishes a subrogation clause that states that the Catalan Government will exercise all the functions and competencies expressly granted by the statute and all the faculties that the Organic Law recognizes to the State Government in relation to the justice administration.

The establishment of the Conseil of Justice of Catalonia has caused the recourse of unconstitutionality by the Ombudsman who alleges that this new institution (*Consell de justicia)* would act regardless of the Jugdes of the *Consejo General del Poder Judicia)*, creating a sort of " alternative justice " under the exclusive control of the Catalan Government. The Ombudsman upholds in his recourse political arguments and administrative norms instead of fundamental principles as the principle of proximity of the justice to the actionable. We undersatnd that a fundamental principle should prevail to a compentencial norm, and more taught into consideration that the justice of proximity and the approach of the justice to the actionable are fundamental objectives marking Spanish law of Judicial Power. An agile and nearby justice will generate citizens confidence in the judicial system and will be truly sensitive to the special pecularities and singularities of a plural Spain. Likewise, we understand that the decentralization of the judicial system could be a key factor in the necessary improvement of the justice system in the Spanish State. The introduction of more legal institutions with an active participation in the judicial system, would represent a relief in the entrance of judicial matters to the State judicial organs. The application of structural changes and to making feasible an active participation of the Autonomous Communities will suppose an overcoming of the aphorism that states that slow justice is not justice, because the justice will stop being dramatically slow. Consequently, we understand that with the independence of the competencial conflict, it should be predominated as first instance the interests and rights of the citizens, that is to say, that the norm to apply should consist of the one that offers better rights or more rights to the citizenship.

In the understanding of this normative we expect that the Spanish constitutional system as a whole will follow with analogy the American state constitution's new interpretative era. In the United States the late twentieth century state and federal judges, along with legal academics, began to recognize the potential of state constitutions as an important source of Law. As Gardner affirms, when state courts merely "consult" similar decisions from other jurisdictions, they are conventionally understood to be doing something optional, and the consulting court typically considers itself equally free to attend to or to ignore the consulted opinions; consultation, in other words, is not premised on a belief that judicial rulings from other jurisdictions are in any sense binding within the consulting jurisdiction.[12]Gardner affirms that the state courts must do more than merely "consult" federal constitutional law in the hope that such a chance encounter might yield useful ideas or arguments.[13] We demand this kind of effort from the Autonomous governments and institutions to develop this kind of cooperative relations between the Autonomous Communities and the State**.** In a sense of cooperative autonomism that means a system of participation of member States in a federation and the collaboration among all of them.

While in Spain the distribution of powers has had rapid development, the participation by Autonomous Communities in the State through proper collaboration has not progressed according to the parameters of federal state institutions. The lack of institutions of cooperation is possibly the most prominent failure of the State of the Autonomous Communities, although the Constitutional Court has stated that collaboration is a duty of the State and the Autonomous Communities.

The Autonomous Communities are unable to contribute to the formation of national public policies, due to the lack of appropriate institutions. In Spain, the few meetings between the different administrations rarely have the will to create policies of joint

[12] James Gardner: 2005.

[13] James Gardner: 2005, 126.

government. There are bilateral negotiations between the central government and a particular autonomous community, in which each party tries to get support for its own policies. It has sometimes been argued that the multilateral meetings with all the Autonomous Communities go against the principle of autonomy, since it involves giving up the political orientation of each territory. Thus, the cooperation in Spain tends to consist of an exchange of favours, and be confined to the moments in which the two political forces are needed and they can benefit each other.

All federal states have constitutional courts or supreme courts in charge of settling disputes which may arise among the different levels of government. These courts have a monopoly (the constitutional courts, in Spain and other European states) or the last word (in the case of the supreme courts, for instance, U.S.) on the interpretation of the constitution. In federal states, this power includes the interpretation of the separation of powers between the different territorial governments. This feature is one of the tasks of constitutional courts. The federal systems must ensure the neutrality of this kind of courts responsible for resolving jurisdictional conflicts between different levels of government. This, for example, has implications regarding the participation of the parties equally in the appointment of judges and their renewal.

In Spain, the role of the Constitutional Court as a mediator in conflicts between different levels of government is very important for, at least, two reasons. On the one hand, the lack of institutions that facilitate communication and negotiation between the central power and the regions means that conflicts are much higher than in most federal systems. On the other hand, there are not alternative mechanisms to solve these conflicts of competence. The Constitutional Court is the only institution capable of offering solutions[14]. The proposal that we have introduced consists in a broad understanding of the Autonomous right as source of law even at a national level. In this sense, we consider completly necessary the introduction of a culture of

[14] López-Guerra, L: 1995.

consultation of the autonomous legislations as a possible source of law. Consistently, the Catalan legislator should be accustomed to working with the Valencian or Balearic legislations or vice versa. Subsequently we detail how the recent statute reforms have affected to other statutes without the need to introduce a generic clause like the one that establishes the second additional disposition of the Statute of Autonomy of the Valencian Country, a leveling clause, known as the "*Clausula Camps*".

The influences of the statutes of Autonomy among them can be seen in a comparative picture of the statutory reforms of Catalonia, Andalucia and Aragon. Thus, the Reform of the Statute of Autonomia of Catalonia, Organic Law 6/2006, of 19 of July), defines Catalonia as a nationality, the Andalusian reform (Organical law 2/2007 of 19 of March), defines Andalusia like a national reality and the Aragonese reform (Organical law 5/2007, of 20 of April), defines Aragon as historic nationality. In this same sense, we find other coincidences in issues as the singular aspects of the nationality with references to the own identity and to historical rights, catalogue of rights and duties, and a very novel element, governing principles, guarantees, institutions of self-government, electoral systems, competencies of the Higher Courts of justice, competence typology and presence in the European institutions.

With this same logic the reform of the autonomous Statutes of the Valencian Country (constitutional law 1/2006 of 10 of April), and that of the Balearic Islands, (constitutional law 1/2007 of 28 of febrer) have been influenced, besides the issues allready mentioned, by other matters like the Catalan language as the language of the Land, mechanisms of bilateral cooperation, presence in the European Union, celebration of covenants and international treaties, as well as relations with companies and international institutions. The exposition of these issues is a proof of the influences between the reforms of the Autonomous Statutes.

VI- REFORM OF THE SPANISH TERRITORIAL SYSTEM WITHOUT CONSTITUTIONAL REFORM

In connection with the political structure of Spain, it could be argued that Spain is close to the federal state, but it is not a classical federalism or "federalism of manual" such as that of the U.S. However, according to Riker and Duchacek minimalist definition[15], Spain could be considered a federal state. The Spanish constitution and Statutes of Autonomy (although subconstitutional laws) define the responsibilities between the state and each one of the Autonomous Communities. Both also specify the element of unity and the element of autonomy that characterizes the federal government. In addition, with respect to power sharing, the power is not concentrated only in a central sphere, but also resides in some territorial instances (legislative and executive), with the exception of the judiciary, which in the Spanish case is unique throughout the State territory (there are federations such as Austria, Canada or India where the judiciary is not divided vertically).

It could be said that from the point of view of the protection of the autonomy of the Autonomous Communities through judicial controls -articles 153, 161 and 163 of the SC- (not its constitutional guarantee); Spain would be more federal than the U.S., where the protection of the powers of the states is very limited. On the other hand, it could be considered, in relation to the distribution of powers, that in Spain there is not constitutional guarantee of autonomy because the distribution of powers is not in the Constitution, but in the block of constitutionality, which means a lower guarantee of the autonomy of the autonomous community. Also, the lack of participation of Autonomous Communities in the constitutional reform process undermines their

[15] According to a traditional definition, William H. Riker understood that federalism is a national polity with "(1) two levels of government rule the same land and people, (2) each level has at least one area of action in which it is autonomous, and (3) there is some guarantee of the autonomy of each government in its own sphere". Riker, W. H: 1964, 11.

Ivo D. Duchacek (defended by other scholars like Robert A. Dahl and Juan J. Linz), which provides that federal system is "a constitutional division of power between one general government (that is to have authority over the entire national territory) and a series of subnational governments (that individually have their own independent authority over their own territories, whose sum total represents almost the whole national territory)". Duchacek, I.D: 1970, 194.

ability to protect themselves, since theoretically the central state could carry out a unilateral reform to undermine their autonomy (although, for instance, in India the federal government can unilaterally redefine the frontiers of the states).

However, according to the definition of Elazar[16], there is nothing in his definition requiring a Senate as the only acceptable form of cooperation. If we examine comparative law all the federal states have a Senate (U.S., Germany, Austria, Switzerland, and Belgium[17]) but its composition and functions are very heterogeneous, and hence the idea of Senate differs among States. Therefore, this feature would not be totally useful in affirming that Spain is not federal. It may also be argued that presumably the creation of a truly territorial Senate in Spain will not necessarily favour the operation of federalism in Spain taking into account the opposition to a Senate territorial Spain by the strongest Autonomous Communities.

Thus, the lack of a federal Senate in Spain could be counteracted with the existence of alternative mechanisms for bilateral and multilateral cooperation (although currently there are no such alternative mechanisms). As we can see the problem is that there do not are two equal federal states[18].

As Duchacek[19] noted there is no accepted theory of federalism. Nor is there an agreement as to what *federalism* is exactly. The term itself is unclear and controversial. So, it's not possible to say what institutions are necessary to a federal state. Consequently, it could be possible to say that Spain has the structural (and territorial) minimum for federal states but not a functional level to become a stable federalism, given the weaknesses in its model of coordination, collaboration and cooperation between central government and Autonomous Communities.

[16] Elazar, D.J: 1987.

[17] Hesse, J.J & Wright, V: 1996.

[18] Burgess, M: 1988, 11-22.

[19] Duchacek, I: 1970, 189.

According to this, Spain doesn't have institutions of participation of the Autonomous Communities in the state power. In words of Elazar[20], one could say that the Spanish State permits the self-government of Autonomous Communities but it neglects the shared government. What are the implications of reform? Maintains this situation, correct it or aggravate it?

The new institutions of cooperation of Catalonia with the State are not the traditional instruments of federal states. The new Statute reinforces the bilateral negotiations. The Catalan Statute does not attempt to correct the institutional weaknesses of the State of the Autonomies. The Statute of Catalonia leaves further away the consideration of Spain like a federal state.

The Statute seeks the clear independence of power between Catalonia and the State and at the same time it proposes mechanisms for bilateral and multilateral cooperation between the State and the Autonomous Communities that it has a more confederal basis than a federal one. According to the Catalan Statute, all the Autonomous Communities don't have to participate together in the process of state law-making (in a federal senate). The Statute establishes the framework of negotiation in dualistic terms with total capacity of each government to decide unilaterally its agreement or rejection on any matter. It can be said that the intention of the Catalan Statute is not the federalisation of Spain but to establish a framework of powers and relations between Catalonia and Spain.

On the other hand, the Statute will be subject to a review of constitutionality by the Constitutional Court. It is clear that the Statute cannot alter the Constitution. However, to the extent that the *constitutional block* is formed by the Constitution and the Statute of Autonomy (among the other special state laws), reforming one of them alters, also by definition, the *constitutional block*, and not only by the Constitution, it is perfectly possible that the reform of one or more statutes change the functioning of the State of Autonomous Communities in several important elements.

[20] Elazar, D: 1991.

The importance of this issue lies in whether the reform of Spain's territorial model,as established in the Statute requires a constitutional amendment. It is considered perfectly legitimate that a statutory reform changes certain aspects of the autonomic organization, without this necessarily involving a constitutional reform. This capacity (of reforming the federal system, without constitutional reform) is quite unusual. In any other federal state it could be done. The basis of the territorial model is contained in the constitution, and certainly regional constitutions do not have the capacity to alter the competitive model or intergovernmental relations between the federal sphere and state levels.

Ultimately, despite the quite high rates of political and financial decentralization in Spain, the future of the Spanish state of the Autonomies is more uncertain than federalism in states more formally institutionalized.

VII. CONCLUSIONS

The perspective that we have intended to offer from the very beginning of this paper wanted to situate the debate of the last statutory reforms in a different angle from the habitual one. From this perspective, the analysis carried out in the present article permits us to understand how the influences between Autonomous Communities are open and, consequently, their differences as basic notions recognized by the State.

Taking as a starting point the concept of "horizontal autonomism", we have seen how the last reforms of the Statutes of Autonomy have been a source of other constitutional and autonomous norms. As it has been expressed, in our opinion, the Spanish State approaches mechanisms of confederal relation more than a federal cooperative system understood in a traditional sense. Under these circumstances, the main challenge will be to see how these new statutory guidelines are going to be implemented, especially those that are addressed to the general definition of the Autonomous system, and, on the other hand, what is the appraisal of the

Constitutional Court about these new guidelines. Although the future of the of Spanish state form is uncertain, at the moment we can consider a clear thing, the new functional changes and of relation between some Autonomous Communities and the State permits the chance to advance in the idea of a multinational Spanish State.

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