



**International  
Perspectives  
on Fiscal  
Federalism:**

**The Basque  
Tax System**

Basque Politics Series No. 15

International Perspectives  
on Fiscal Federalism:  
**The Basque Tax System**

Edited by Gemma Martínez and Xabier Irujo



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## *Chapter 6*

# **A Fiscal Model for Political Cosovereignty? How the Economic Agreement Has Shaped the Territorial Ambitions of Basque Nationalists**

*Caroline Gray*

Traditionally, it is the Basques who have shown more inclination to seek sovereignty and fundamental constitutional change than the Catalans. Not surprisingly, it was the Basque nationalists who first devised a pro-sovereignty agenda. This took the form of the revised autonomy statute proposal since known as the Ibarretxe Plan (named after the Basque regional president at the time, Juan José Ibarretxe), which was approved (albeit only just) by the Basque parliament in 2004 before being rejected by the Spanish parliament. Although the plan did not propose full independence, it envisaged fundamental changes to Spain's constitutional order by proposing to redefine the Basque relationship with Spain as one of free association, thus opening the door to a self-determination referendum.<sup>1</sup> The traditionally mainstream Catalan nationalist party, then named Democratic Convergence of Catalonia (Convergència Democràtica de Catalunya, CDC), did not explicitly shift toward a pro-sovereignty agenda until several years later, in 2012, following tentative developments in this direction from around 2008. Why is it, then, that the thwarting of Ibarretxe's proposals ultimately resulted in the Basque Nationalist Party (Partido Nacionalista Vasco,

<sup>1</sup> Michael Keating and Zoe Bray, "Renegotiating Sovereignty: Basque Nationalism and the Rise and Fall of the Ibarretxe Plan," *Ethnopolitics* 5, no. 4 (2006): 347–64.

PNV) de-emphasizing its territorial ambitions under the leadership of Iñigo Urkullu, whereas pro-independence politicians in Catalonia decided to defy Madrid and push ahead with their plans regardless?

Several contributing factors to these differences can be identified, not least the fact that there has been much higher civil society mobilization for independence in Catalonia in recent years, whereas the Ibarretxe Plan was a heavily party-led initiative arguably lacking sufficient backing from society, as recognized by many within the PNV itself, both at the time and in hindsight.<sup>2</sup> These different levels of social mobilization can, in turn, be explained by factors including the recent history of terrorism in the Basque Country but not in Catalonia, and also the different levels of fiscal devolution in the two regions. Even if there is relatively limited knowledge and understanding among Basque society about how exactly the Basque Economic Agreement (*Concierto Económico*) works, citizens inevitably feel the benefits of higher public spending, since the model affords the Basque government much higher resources per capita than other regions under the common financing system receive. For many PNV politicians too, the positives of the Economic Agreement reduce the urgency to seek a new fit for the Basque Country within or with Spain. Moreover, the PNV has been concerned first and foremost in recent years with the impact of the global financial crisis of 2008 on the Basque region, which it has been the sole responsibility of the Basque government to address, since the fiscal autonomy model means it cannot shift blame onto the Spanish government for the region's financial woes, in contrast to the situation in Catalonia.

Nevertheless, the de-emphasizing of territorial politics under Iñigo Urkullu, PNV leader from 2009 and Basque regional president from 2012, did not mean the PNV had renounced its territorial objective of seeking a form of sovereignty for the Basque region. The party has remained committed to seeking a new status that would allow for bilateral relations between the Basque and Spanish governments as equal partners, including the right to Basque self-determination and cosovereignty with Spain. Under regional president Urkullu and party leader Andoni

2 The views of different political parties reflected in this chapter are informed primarily by an extensive program of personal interviews with current and former politicians that I conducted throughout a nine-month period of fieldwork in the Basque Country in 2014 as part of my doctoral research, funded by the Economic and Social Research Council (ESRC) of the UK [ES/J500094/1]. This chapter draws on some of the findings of my research, published as *Nationalist Politics and Regional Financing Systems in the Basque Country and Catalonia* (Bilbao: Foral Treasury Doctoral Thesis Collection, 2016).

Ortuzar (in the PNV, the regional president and party leader are two different roles), the PNV's conception of the cosovereignty it seeks has envisaged an extension of the bilateral nature of the Economic Agreement, whereby Spanish and Basque delegations have equal negotiating rights and veto power, to wider political relations. To this end, the PNV has made explicit calls in recent years for an equivalent bilateral Political Agreement, specifically named a "Concierto Político."<sup>3</sup> This chapter aims to analyze the PNV's vision and ambition in this regard, and the obstacles it faces to achieving it, for this is an important issue that has been somewhat overlooked amid heightened political and academic attention to the situation in Catalonia.

Before proceeding to the analysis, some terms in this chapter need to be clarified, particularly the word "sovereignty" as used in both fiscal and political contexts. In brief, fiscal *autonomy* when applied to substate governments usually describes a large degree of freedom in raising and spending taxes but still within the boundaries of some rules set by the wider state, following a process of fiscal decentralization. Fiscal *sovereignty*, meanwhile, is more often applied to states themselves and suggests complete autonomy in setting fiscal policies without any outside interference. In practice, complete fiscal sovereignty has now become almost obsolete in Europe since individual member states are subject to some wider European fiscal legislation, and the concept of sovereignty in general is increasingly problematic at a time of increasing European and global integration in many spheres. Here, however, fiscal sovereignty, when applied to the Basque provinces, describes the aspiration to reach the same level of sovereignty in setting tax structures and policies in most respects as held by Spain itself. Many representatives of the Basque institutions refer to the provinces as fiscally sovereign already in the case of taxes for which they have been granted regulatory autonomy, though this designation is not universally accepted by some statewide parties who consider the system one of fiscal decentralization rather than sovereignty, as discussed later in this chapter.

3 For example, "Ortuzar afirma que el PNV 'peleará mucho' por un Concierto político que suponga cosoberanía," *Europa Press*, March 1, 2018. The standardized translation for the "Concierto Económico" is "Economic Agreement," but the general word "Agreement" inevitably loses the specific connotations of the word "Concierto," which has no direct translation in this context since there is no equivalent model in English. I have chosen to translate "Concierto Político" as "bilateral Political Agreement" in order to emphasize the allusions to bilateralism inherent in the term.

More broadly, when talking of wider political relations, pro-sovereignty politics involves a determined push by Basque and Catalan nationalists for their respective territories to be granted the “right to decide” their own political future and to be invested with sovereign political power, rather than this being the sole preserve of the Spanish state. It refers to their desire either for substantial changes to the Spanish legal and constitutional framework, or to break with it, in order to secure a fundamental reconfiguration of their respective territories’ fit within or with Spain. Pro-sovereignty politics can, but does not have to, imply a push for full independence or secession. It can also imply attempts to reconstruct center-periphery relations on a different basis from the existing state of autonomies, involving a push for some form of confederalism involving bilateral relations and cosovereignty with the Spanish state.<sup>4</sup> Thus, pro-sovereignty politics includes Ibarretxe’s thwarted attempt to upgrade the status of the Basque region to that of a semi-independent associated state of Spain, as well as the PNV’s reconceptualization of this under Urkullu’s leadership to envisage a bilateral Political Agreement.

The question of whether, and if so in what ways, increased fiscal devolution in the Basque Country has interacted with other drivers to reduce regional demands for independence is an important one, at a time when it is often assumed that fiscal devolution will help to accommodate nationalist movements seeking sovereignty. In the Scottish case, for example, much of the debate on strengthening the Scottish parliament within the United Kingdom, both in the lead-up to the 2014 independence referendum and in the wake of the no vote, centered on options for further fiscal devolution beyond the relatively limited fiscal powers afforded under the Scotland Act 2012. Further fiscal devolution subsequently began to be implemented in 2016. In the Catalan case, the Spanish government’s refusal to devolve further fiscal powers under a “fiscal pact” akin to the Basque model undoubtedly contributed to the rise of pro-sovereignty sentiment, including the CDC’s shift away from accommodationism and toward a pro-independence agenda.<sup>5</sup> Ultimately, however, this was overtaken by the broader clash between the Spanish government and Catalan pro-independence forces that is not solely or primarily economic in nature.

4 Richard Gillespie, “Between Accommodation and Contestation: The Political Evolution of Basque and Catalan Nationalism,” *Nationalism and Ethnic Politics* 21, no. 1 (2015), 10.

5 Gray, *Nationalist Politics and Regional Financing Systems*, 201–41.

This chapter suggests that there is a relationship between increased fiscal devolution and reduced secessionism in the Basque case to an extent, but that it is a complex relationship rather than a straightforward one. The level of fiscal authority that the Economic Agreement gives the Basque region, combined with the high level of resources per capita the model affords, reduces the PNV’s urgency to seek a new fit for the Basque region within or with Spain. Nevertheless, the Economic Agreement has not actually lessened the PNV’s ambition ultimately to achieve some degree of political sovereignty. Rather, it has provided a prototype for the kind of political sovereignty they seek.

### THE PNV’S VISION OF FISCAL AND POLITICAL COSOVEREIGNTY

Under the Economic Agreement, the Basque authorities collect and regulate almost all taxes in the Basque region within the parameters of harmonization rules with Spanish tax legislation. They keep most of these proceeds (usually around 90 percent) to pay for devolved policy competences and use the remainder to pay an annual “quota” (*cuota*) to the Spanish government to contribute to the few remaining centralized competences.<sup>6</sup> What interests us about the Economic Agreement here, however, is not just the level of fiscal authority it affords, but its bilateral nature, whereby both Spanish and Basque delegations have equal negotiating rights and veto power. The bilateral nature of the Economic Agreement has helped to mitigate the problem of inter-regional competition for resources that afflicts the common financing system, as well as the perceived dominance of the Spanish government’s interests in wider Spanish-regional government relations. The Law on the Economic Agreement and other legislation deriving from it (fundamentally the five-yearly quota laws governing the Basque contribution to the Spanish state) require mutual agreement between Basque and Spanish government delegations, both of which have equal veto power. The legislation is then always presented to the Spanish parliament as a single act; thus, it can only be accepted or rejected, without being subject to extensive parliamentary debate and potential partial amendment.

Instances when substantial Spanish-Basque differences of opinion over how to develop the Economic Agreement have been resolved using

6 For more details, see Gray, *Nationalist Politics and Regional Financing Systems*, 99–106.



technical arguments first and foremost, without one side simply ceding ground to the other in light of other contextual or political factors, have been rare in the decades since the first Economic Agreement of the democratic period was approved in 1981. There are a select few examples where both sides have held a similar position on key questions from early on in negotiations, as in the case of the decision made by the People's Party (Partido Popular, PP)-led absolute majority Spanish government and the PNV-led Basque government to make the Economic Agreement a permanent rather than time-limited agreement for the first time under the 2002 law. For most major questions, however, strong differences between the Basque and Spanish delegations have made it impossible to find a common middle ground and thus prevented agreements until, if, and when Spanish minority governments have needed the PNV's support in the Spanish parliament on other matters, and have accepted the Basque delegation's proposals for the Economic Agreement in return, as part of a classic "mutual backscratching" arrangement.<sup>7</sup>

A significant recent example of this was in 2017, when the PNV supported the weak Spanish PP government's budget in return for the resolution of disagreements in relation to the Economic Agreement that had beset Spanish-Basque fiscal and financial relations for a decade. The quota is calculated according to five-yearly quota laws, under a complex (and often, disputed) methodology agreed upon bilaterally between the Basque and Spanish authorities, which takes into account factors such as the valuation of devolved competences. Prior to the collaboration over the budget, none of the quotas since 2007 had been settled due to continuing Basque-Spanish government discrepancies over the valuation of the quota, and therefore no agreement had been reached on a new quota law for the period from 2012 onward either (the 2007–2011 one had simply been rolled over). The details of the new quota law for 2017–2021, fleshed out in the draft legislation approved by both the Basque and Spanish sides on July 19, 2017, following the political collaboration over the budget in May, revealed that it was not just the numbers that had now been agreed. Further revenue-raising powers were also to be devolved to the Basques in areas where there was still scope to do so.<sup>8</sup>

7 Gray, *Nationalist Politics and Regional Financing Systems*, 125–43. On "mutual backscratching" in general, see Bonnie N. Field, "Minority Parliamentary Government and Multilevel Politics: Spain's System of Mutual Back Scratching," *Comparative Politics* 46, no. 3 (2014), 293–312.

8 Spanish government press release, "El Estado y el País Vasco acuerdan la nueva Ley de Cupo que aclara y aporta estabilidad a las relaciones financieras entre

The functioning of the bilateral mechanism inherent within the Economic Agreement is thus far from optimal, since agreements are hardly ever reached on technical criteria alone, but rather tend to remain pending until the central government needs the PNV's support on other issues. Nevertheless, the fact that both sides have veto power has prevented the Spanish side from being able to unilaterally impose its view of how to update the Economic Agreement legislation or settle the quota payments. In fiscal and financial matters pertaining to the Economic Agreement, the Spanish government cannot take action such as approving a basic law that supersedes regional competences, in contrast to what can happen in other areas. For the PNV, this bilateralism in fiscal and financial matters, which they conceive of as a relationship between equals, is sacrosanct and contrasts with what they see as a subordination of Basque interests to Madrid in wider politics. This makes the Economic Agreement the best model for the form of "bilateral relationship between equals" that the PNV seeks in wider Spanish-Basque political relations, under the party's latest iteration of its recurring desire to seek a new political relationship with Madrid based on a more confederal model involving self-determination and cosovereignty.

Explicit reference by senior PNV representatives to the notion of a bilateral Political Agreement started to be made publically around 2014.<sup>9</sup> By then, the PNV under Urkullu had been back in power at regional government level for a couple of years, after unexpectedly being pushed into opposition from 2009–2012 due to a highly unusual coalition government between the PP and the Basque Socialist Party (Partido Socialista de Euskadi, PSE, the Basque branch of the Spanish Socialist Party, Partido Socialista Obrero Español, PSOE). Also by then, Urkullu had also restored the PNV's traditional relationship with the Basque Socialists, which had been broken for over a decade when the parties in the Basque Country divided into nationalist and non-nationalist blocs starting with the Lizarra Pact, signed by the PNV, Herri Batasuna, and other separatist groups in 1998. Urkullu returned to collaboration with a statewide party to ensure his minority government would receive support for everyday matters of governance. Not surprisingly, the areas covered by the pact or alliance which Urkullu established with the Basque Socialists in September 2013 to secure their support in regional and provincial

ambas Administraciones," July 19, 2017, at <http://www.lamoncloa.gob.es/serviciosdeprensa/notasprensa/minhap/Paginas/2017/190717-cupo.aspx>.

9 For example, "El PNV pide extender el sistema bilateral del concierto a todo el autogobierno vasco," *Deia*, July 10, 2014.

administrations did not include any issues of Basque sovereignty or the region's relationship with Spain—the focus was instead on fiscal reform during a time of economic crisis.

The PNV had thus put its territorial ambitions for some form of sovereignty on the backburner to prioritize other more pressing matters, but they had not been forgotten. Party members suggest that differences within the party during the Ibarretxe period were more to do with questions of speed and timing (i.e., when it is appropriate to take active steps toward this goal, depending on both Basque and Spanish contextual factors) rather than the fundamental essence of the end goal itself.<sup>10</sup> In reality, the PNV still wants to achieve a form of confederal relationship involving cosovereignty with Spain and the right to Basque self-determination, which is much the same as what the Ibarretxe Plan proposed, but this goal has now been re-conceptualized or “re-branded” as seeking a bilateral Political Agreement. While the PNV sees opportunities in the Economic Agreement to extend its bilateral nature to political relations as a basis for confederalism and cosovereignty, it undoubtedly also faces significant obstacles. The following sections analyze the challenges at statewide, supranational, and substate levels to the PNV's territorial ambition.

## STATE-LEVEL CHALLENGES

The idea of cosovereignty inherent in the PNV's vision of a bilateral Political Agreement comes up against the same road block that the Ibarretxe Plan hit: that any such proposals are likely to be deemed unconstitutional, since the Spanish Constitution only recognizes one nation (Spain) and invests sole sovereignty in the “Spanish people.” Of the four main Spanish parties—the PP, the PSOE, and the two newcomers Ciudadanos (Citizens, C's) and Podemos (“We Can”)—only Podemos has shown any inclination to consider changing the Constitution in this regard, while the other three remain firmly committed to sole Spanish sovereignty. If anything, Ciudadanos is even more zealous about national sovereignty than the PP, and certainly it is the first statewide party actively to oppose the existence of the Basque and Navarrese Economic Agreements and to campaign for their dissolution.

<sup>10</sup> Personal interview with Andoni Ortuzar and Iñaki Goikoetxea (PNV), April 10, 2014.

There has long been a degree of dissatisfaction in wider Spain about the fact that the Basques (and Navarrese) end up receiving far higher resources per capita through their Economic Agreements than equivalent regions under the common system, since as relatively rich regions they benefit from a system based on their own fiscal capacity. The fact that a detailed breakdown of the figures used to calculate the quota is not published has also served to fuel speculation that Spanish-Basque political deals behind-the-scenes have influenced many of the valuations of competences reached over the years, rather than purely technical and economic arguments.<sup>11</sup> Attention to the disparity in outcomes between the different financing systems grew amidst the financial crisis and the Catalan pro-independence bid, and Ciudadanos saw an opportunity to capitalize on the issue. While the PP and the PSOE have always respected and upheld the Economic Agreement—even if their views on the figures and how to develop the model have often differed from those of the PNV—Ciudadanos has sought to differentiate itself by campaigning against the traditional two-party system in Spain and its heavy reliance on bilateral pacts between minority PP or PSOE governments and regionally-based nationalist parties over the decades. The aforementioned deal the PP struck with the PNV in 2017 in relation to the Economic Agreement, in return for the PNV's support for the 2017 Spanish budget, is precisely the kind of deal Ciudadanos criticizes. At the time of writing this in April 2018, the PNV remains in the position of kingmaker, since the weak minority PP government needs its support, as well as that of Ciudadanos, in order to pass most legislation. The future is nevertheless uncertain, not only in light of the recent strong performance of Ciudadanos in the polls, but of the new multiparty context in the Spanish parliament. If such multipartyism becomes a long-term feature of the Spanish parliament, it is not yet clear what the future might be for traditional mutual support arrangements and pacts between Spanish and regionally based parties.

Attacks against the Basque Economic Agreement itself have thus increased in recent years in reaction to other political and economic circumstances in Spain, which inevitably creates an unfavorable environment for the PNV's goal to extend the bilateral essence of the Economic Agreement to wider political relations too. Animosity toward the Economic Agreement from certain sectors within Spain is well known,

<sup>11</sup> For a full account of the ins and outs of this debate, see Gray, *Nationalist Politics and Regional Financing Systems*, 112–24.



but far less attention has been paid to the different conceptions of the Economic Agreement even among those who support the model, which also poses hurdles to the PNV's territorial ambition.<sup>12</sup> The remainder of this section seeks to explain this dimension.

Usually, the Basque PP and PSE share the same or similar views as the PNV regarding the finances and development of the Economic Agreement, and so the clashes over the model tend to be between the Spanish authorities and the Basque parties, rather than among parties within the Basque region itself.<sup>13</sup> Thus, the Basque branches of the PP and the PSOE almost always support measures pertaining to the Economic Agreement in the Basque parliament, yet at times these are then rejected by their colleagues in Madrid due to wider implications for other regions in Spain, which can cause internal party contradictions between the Spanish headquarters and Basque branches of the parties. This occurred, for example, in the case of the Shield Law (*Ley de Blindaje*) designed to upgrade Basque provincial tax regulations to afford them the same legal status as legislation passed by regional or central Spanish governments, a measure supported by the Basque PP but not by the party in Madrid, which voted against the law approved by the PSOE in 2009.<sup>14</sup>

However, clashes over how the Economic Agreement should be developed have also taken place occasionally between the different political parties operating within the Basque region itself, not all of which share exactly the same conceptualization and vision of the Economic Agreement.<sup>15</sup> The PNV and the Basque PP both consider themselves staunch defenders of the Economic Agreement—in the PP's case, due to the historical association between the Spanish right and the historical economic agreements. Yet, they conceive of it differently in some respects. The Basque PP shares the same view as the party's headquarters in Madrid in interpreting the Economic Agreement as a form of fiscal decentralization heavily subject to and subordinate to the Spanish tax system, since the Basque provinces cannot simply create their own taxes and are subject to harmonization rules with Spanish tax

12 Caroline Gray, "A Fiscal Path to Sovereignty? The Basque Economic Agreement and Nationalist Politics," *Nationalism and Ethnic Politics* 21, no. 1 (2015), 63–82.

13 The Basque *abertzale* left (see below), however, has always rejected the Economic Agreement, deeming it an insufficient basis for Basque sovereignty. See Xabier Olano's parliamentary intervention, "Mesa Redonda. Viabilidad del Concierto y Convenio Económico en la Europa del siglo XXI," *Azpilcueta* 18 (2002), 309–12.

14 Gray, *Nationalist Politics and Regional Financing Systems*, 154.

15 *Ibid.*, 131–32.

legislation. In consequence, the Basque PP also considers it appropriate that the Spanish government alone should represent the Basques in fiscal matters at European and international level. In contrast, the PNV has come to envisage the Economic Agreement as an instrument of fiscal sovereignty in its own right, which gives the Basques almost the same fiscal powers as Spain or any other EU member state. Ironically, the Basque *abertzale* left<sup>16</sup> shares to some extent the view of the PP, in the sense that it also considers Basque tax legislation strongly subordinate to Spanish legislation, but precisely for this reason it is vehemently against the Economic Agreement, considering the model—and the PNV's allegiance to it—a hindrance to the fullest development of sovereignty that it seeks for the Basque Country.

The roots of these discrepancies in perspective date back to the origins of the Economic Agreement itself. While the PP generally takes the starting point of the Economic Agreement as the first such agreement of 1878 with the Basque provinces spearheaded by their predecessors among the liberal elites and in Araba in particular (a historical stronghold of the Spanish right), the PNV looks further back, remembering the first Economic Agreement as the last vestige of what had originally been a wider set of legal and political rights based on mutual equality governing the relationship between Spain (or previously Castile) and the Basque provinces, known as the *fueros*. The Basque *fueros* were eliminated in 1876 after the Basque provinces had lost the Third Carlist War, and yet the fiscal dimension of the Basque *fueros* was essentially reinstated again two years later by a new arrangement, soon to be named the Economic-Administrative Agreement (*Concierto Económico-Administrativo*) from 1882 onward, and then simply the Economic Agreement, which would grant the Basque provinces the right to collect taxes again. While the first economic agreement of 1878 did not imply a bilateral pact between equals, the notion of a pact would start to be associated with the Economic Agreement from 1886 onward and would evolve gradually thereafter, echoing the spirit of the original Basque *fueros*.<sup>17</sup> The PP also argues against the PNV's conception of

16 "Abertzale" is the Basque for "patriotic." The Basque *abertzale* left (*izquierda abertzale*) is an umbrella term used to denote the various radical left-wing, separatist parties and organizations in the region that have tended to ally together. Aside from their vision of an independent Euskal Herria, they are also known for their anti-capitalist and anti-system ideology.

17 On the historical origins of the Economic Agreement and the concept of a "pact," see Eduardo Alonso Olea, *El Concierto Económico (1878–1937). Orígenes y formación de un Derecho Histórico* (Oñati: Instituto Vasco de Administración Pública (IVAP), 1995).

the Economic Agreement as an instrument of fiscal sovereignty for the Basque region as a whole since the three Basque provinces have only shared an Economic Agreement involving one joint quota payment since 1981. Even among the parties who consider themselves supporters of the Economic Agreement, conceptions of the model and its ultimate aim and purpose thus differ somewhat. The discrepancies pose obstacles to the extension of the PNV's idea of fiscal cosovereignty to political relations too.

### SUPRANATIONAL-LEVEL CHALLENGES

This clash in conceptions, between those who consider the Economic Agreement a model of near fiscal sovereignty and those who see it instead as a system of fiscal decentralization subordinate to Spanish legislation, also influences the place of the Basque Economic Agreement within EU fiscal fora.<sup>18</sup> From the turn of the century, one of the main debates over the development of the Economic Agreement became whether the Basques should have a role in EU decision-making bodies debating fiscal matters, particularly those debating tax harmonization between EU member states. Where discrepancies in views have occurred is over the extent to which the Basque authorities should simply adhere to Spanish legislation on the implementation of EU directives and guidance for fiscal harmonization, or whether they should have a more direct voice and participation in EU fiscal decision-making bodies, becoming active players and negotiators in EU tax harmonization processes.

Steps taken by the Basque delegation toward securing Basque representation at EU level over fiscal matters date back to the late 1990s. Only when a minority PSOE government needed the support of the PNV in mid-2010 to approve its 2011 budget did it finally agree to Basque participation in certain working groups of the Economic and Financial Affairs Council (Ecofin) relevant to Basque competences, as part of the Spanish delegation.<sup>19</sup> Legal and technical experts in the provincial treasuries ultimately aspire to go further and achieve co-representation

with the Spanish state representative within the Spanish delegation at Ecofin meetings, rather than solely the working groups, though they recognize that the markedly political character of the Council meetings makes it highly unlikely that the Spanish authorities would agree to such a proposal in the foreseeable future.<sup>20</sup>

Certainly, Spanish-Basque discrepancies in political perspectives on the Economic Agreement, especially on the degree of fiscal autonomy or even sovereignty that it affords, limit the ability of the Basque authorities to develop the Economic Agreement as a model of fiscal sovereignty in Europe to the extent that they would wish. At the same time, however, obstacles to such development—even if the Spanish state were to agree to it without reservation—still persist at EU level. The principle of subsidiarity in force encourages state delegations to take into account regional interests where relevant when forming their position, but the Council is not the place for reflecting internal territorial discrepancies within a member state. This would not be possible for practical reasons; thus, individual regional interests ultimately remain subordinate to the position of the state in its entirety. If the PNV seeks to use the bilateral nature of the Economic Agreement to create a partnership of “equals,” and indeed extend this to other areas of Basque-Spanish political relations as part of a new bilateral Political Agreement, this cannot necessarily be easily accommodated in the current EU framework.

The European Union thus offers some opportunities, but also continues to pose a number of obstacles to the development of the kind of “bilateral relationship between equals” within a member state that the PNV seeks. Importantly, however, the fact that the PNV focuses on the Spanish state as the main obstacle to a greater Basque participation at EU level in fiscal and other matters, rather than the EU framework itself, serves to intensify the clash between the PNV's pro-sovereignty territorial agenda and the more centralist vision of most Spanish parties. The clash in political perspectives as to what the prospect of a European fiscal union could mean for the future of the Economic Agreement has been very apparent in the response of PNV representatives to the challenges made by Ciudadanos. PNV spokesperson Josu Erkoreka, for example, has argued that “a fiscal union should be no obstacle to allowing the fiscal and financial powers of the Basques institutions, by virtue of the Economic Agreement, to keep reaching the same level as those afforded by the EU to member states in a new context of increasingly

18 Gray, *Nationalist Politics and Regional Financing Systems*, 145–65.

19 Gemma Martínez Bárbara, “La participación de las instituciones vascas en los grupos de trabajo del ECOFIN,” in *European inklings (EUi) III. Concierto Económico y Derecho de la Unión Europea*, ed. Isaac Merino Jara and Juan Ignacio Ugarte Mendia Eceizabarrena (Oñati: Instituto Vasco de Administración Pública (IVAP), 2014), 219.

20 Ibid., 231.



limited fiscal sovereignty.”<sup>21</sup> This statement is emblematic of the vision of the PNV that the process of increasing fiscal harmonization within the EU should ultimately put the Basque and Spanish treasuries on an equal footing in Europe. In stark contrast, Ciudadanos has argued that fiscal harmonization in Europe will eventually result in specific substate tax systems such as the Basque and Navarrese financing systems becoming “obsolete.”<sup>22</sup> These different perspectives have been the source of much controversy.<sup>23</sup>

At present, the issue of developing the Economic Agreement further within the EU context is not an immediately pressing one for the PNV, and debates over questions such as the Basque participation in Ecofin remain primarily at a technical level. The polarization in perceptions as to what opportunities or obstacles the European Union creates for the development of shared sovereignty within a state in fiscal matters and beyond nevertheless points to the challenges that could lie ahead for Spanish-Basque relations amid a European Union in flux.

### SUBSTATE-LEVEL CHALLENGES

Beyond the hurdles at state- and supranational levels, the PNV also faces significant challenges within the Basque region itself to achieving a bilateral Political Agreement. The fundamental dilemma for the PNV remains how to secure a broader consensus within the Basque Country for such a project so that it is not just a nationalist one, in order to avoid the divisions and pitfalls of the Ibarretxe era. In 2013, the PNV launched a parliamentary committee on self-government to investigate possibilities for a new autonomy statute defining a new political relationship with Madrid involving self-determination and cosovereignty, but the committee’s progress was slow, and it reached the end of 2015 without any definitive conclusions as to the best way forward, precisely due to the difficulties involved. Since the failure

of the Ibarretxe Plan, the PNV has been reluctant to take any plan forward that does not have the backing of both the Basque *abertzale* left and the Basque Socialists, to ensure cross-party support spanning the nationalist-statewide divide—a very difficult feat to achieve—as well as strong support from society. While the Socialists’ opposition to the idea of self-determination and cosovereignty is well known, this section will focus on the difficulties the PNV also faces in securing support from the Basque *abertzale* left for its proposals.

Following Basque terrorist group ETA’s decision to make its ceasefire permanent in 2011, the radical Basque *abertzale* left was able to reenter formal politics under the Bildu coalition from 2011, gaining power for the first (and so far only) time at provincial government level in Gipuzkoa in the provincial elections that year. Batasuna, which had previously been outlawed, was refounded as Sortu and legalized in 2012, becoming the lead party of the coalition, with which the latter was renamed EH Bildu. A key question was how this new situation would impact party alliances in the Basque Country. While the ongoing ramifications of the history of terrorism in the region still conditioned the PNV’s political project and the feasibility of nationalist alliances with the Basque *abertzale* left, it also became clear that the PNV and the Basque *abertzale* left were in competition with one another to lead the process of securing a new fit for the Basque Country within or with Spain.

Differences between the PNV and EH Bildu over the Economic Agreement have been particularly evident, which, in turn, has problematized the scope for EH Bildu to agree with the PNV’s view of the Economic Agreement as providing a suitable starting point to seek political sovereignty for the Basque Country. EH Bildu’s time in power as a minority provisional government in Gipuzkoa in 2011–2015 put the spotlight on these differences.<sup>24</sup> Back in formal politics and in control of the Gipuzkoan treasury, EH Bildu kept up its longstanding criticism of the Economic Agreement as an insufficient basis for Basque sovereignty, in clear contrast to the PNV’s praise of the model as the closest current equivalent to the form of “bilateral relationship between equals” that it seeks in wider Spanish-Basque political relations. Certainly, the PNV shares with EH Bildu many of its frustrations over the perceived “limitations” of the Economic Agreement: while both political forces consider it very positive that they have almost full legislative autonomy over direct taxes, they criticize the subordination of the Basque authorities

21 Josu Erkoreka, “El Concierto Económico en el contexto de la crisis financiera,” personal blog entry, August 5, 2012, at <https://josuerkoreka.com/2012/08/05/el-concierto-economico-en-el-contexto-de-la-crisis-financiera/> (my translation). See also “PNV reclama que los poderes fiscales tributarios vascos sigan equiparados a los de estados si se llega a una unión fiscal europea,” *Europa Press*, August 5, 2012.

22 For example, “Ciudadanos vuelve a cargar contra el Concierto vasco,” *Noticias de Guipúzcoa*, April 5, 2016.

23 For example, “El Gobierno vasco denuncia la ignorancia supina de Ciudadanos sobre el Concierto Económico,” *Deia*, April 5, 2016; “Ciudadanos y el PNV se enzarzan por el Concierto,” *El Diario Vasco*, April 4, 2016.

24 Gray, *Nationalist Politics and Regional Financing Systems*, 167–200.

to Spanish legislation in other areas such as indirect taxes, the fight against tax fraud, and other areas of competence crucial to the economy and financial sector, such as financial system regulation, society security, and labor relations.<sup>25</sup> Nevertheless, while the PNV under Urukullu sees these as shortcomings to be gradually improved on, for EH Bildu they are simply evidence that the Economic Agreement is too far removed from its goal of full Basque independence. In the view of Helena Franco, Gipuzkoan treasury minister for Bildu in the period 2011–2015, “Ultimately, a part of Basque nationalism represented by the PNV seems quite comfortable with the Economic Agreement despite its limitations, while for another, more sovereignty-orientated part of Basque nationalism, it seems clearly insufficient to us to guarantee the future of this country.”<sup>26</sup>

The experience of the Basque *abertzale* left entering into formal politics and with a significant political presence, governing at provincial level in Gipuzkoa, also drew attention to the gulf between the PNV and the Basque *abertzale* left on issues of fiscal and economic policy. Under the Economic Agreement, it is the three Basque provinces (known as “historical territories” or “*foral* territories”) that are responsible for collecting almost all taxes and for regulating the majority of them, though they must comply with tax harmonization laws with the other provinces as well as with Spanish legislation. Coordination among provinces has worked reasonably well in general since the 1980s, but the past decade has pointed to the pressure that the system can come under at times when different political forces are dominant in different provinces. This has been fundamentally due to opposition from Gipuzkoa to certain tax measures that have nevertheless secured the approval of both Bizkaia and Araba, in large part owing to the longstanding relatively greater weight of left-wing political forces in Gipuzkoa—the Basque Socialists, Eusko Alkartasuna (EA), and the Basque *abertzale* left. Most notably, when Bildu was in power as a minority government at provincial level in Gipuzkoa in the period 2011–2015, it sought to distance itself from the PNV and to carve out a different fiscal vision for the Basque Country, preferring to ally with the Basque federation of a left-wing statewide party (the PSOE) rather than a center-right nationalist party.<sup>27</sup> Thus, it attempted

25 The perceived shortcomings of the Economic Agreement listed by Juan José Ibarretxe (PNV) in an interview on October 28, 2014, closely matched those listed by Helena Franco and Xabier Olano (Bildu), interviewed on September 5, 2014, and May 29, 2014, respectively.

26 Personal interview, September 5, 2014 (my translation).

27 For details, see Gray, *Nationalist Politics and Regional Financing Systems*, 194–200.

to seek allies within the PSE in Gipuzkoa to make changes to personal income tax and wealth tax in 2012, and subsequently corporation tax in 2013, which in all cases would have meant higher taxation in Gipuzkoa than in neighboring Bizkaia and Araba.

In turn, this competition on fiscal matters between the PNV and Bildu reduced the scope for them to collaborate on a wider sovereignty agenda for the Basque Country. Bildu sought on many an occasion to stress these differences publically, aiming to differentiate itself clearly from the PNV. PNV representatives, on the other hand, downplayed these differences. For example, they suggested that Bildu overemphasized and even exaggerated its discrepancies with the PNV on fiscal policy as a short-term competition tactic only, but that ultimately it was highly unlikely the Basque *abertzale* left would seek a longer-term social pact with the Socialists, a statewide party, given their incompatibility on the national and territorial question.<sup>28</sup> They also suggested that practical experience of being in government in Gipuzkoa had served to soften the strength of Bildu’s anti-capitalist ideology, making it increasingly difficult for the Basque *abertzale* left to claim genuinely that it was carving out a radically different fiscal and social path for the Basque region to that of the PNV.

Ultimately, Bildu’s initiatives were thwarted by the regional alliance arrangement and the full fiscal reform pact sealed between the PNV and the PSE at the regional government level in 2013, which also applied to the provinces and was supported too by the PP governing in Araba at the time. This put an end to Bildu-PSE collaboration on fiscal issues in Gipuzkoa, and resulted in the minority Bildu provincial government in Gipuzkoa being outvoted by the PNV, PP, and PSE. A return to a period of relatively more harmonized and harmonious fiscal relations between the three provinces then looked set to ensue from 2015, when the provincial elections put the PNV back in government in all three provinces and resulted in stable PNV-PSE coalition or support arrangements throughout the whole region. A precedent of Bildu-PSE collaboration in Gipuzkoa has nevertheless been set, and the possibility of a degree of collaboration again at some point in the future between left-wing forces in Gipuzkoa, against the PNV, cannot be ruled out. Even if there was perhaps a degree of short-termism in Bildu’s behavior, it still revealed the extent to which the Basque *abertzale*

28 For example, personal interview with Joseba Egibar (PNV), April 8, 2014.



left is in strong competition with the PNV, with both seeking to be the dominant political force in the region.

More recent declarations from EH Bildu leaders suggest that they might now be coming around to the idea of reaching a compromise on the PNV's idea of a confederal model as being a "first step" toward EH Bildu's ultimate goal of full independence. In March 2018, Arnaldo Otegi, secretary general of Sortu and figurehead of the Basque *abertzale* left, expressed willingness to explore the idea of a "pact between equals" with Spain as an intermediary solution.<sup>29</sup> At the same time, though, he reiterated the Basque *abertzale* left's rejection of the Economic Agreement as a suitable model for political sovereignty, continuing to argue that EH Bildu considers the model a result of Basque subordination to Spain rather than a genuine pact between equals.

What the future holds is uncertain, and much may also depend on how political shifts underway in wider Spain continue to impact the Basque Country and contribute to shaping political alliances there. During the most recent Basque regional elections in September 2016, the PNV won with a minority of seats in the parliament as usual, but the shift in the political landscape meant that for the first time, parliamentary support from the PSE was not quite enough to give it an absolute majority (it fell one seat short), since the Socialists declined at the hands of left-wing newcomer Podemos. The rise of Podemos in the Basque region from 2015 provided another potential left-wing ally for EH Bildu and one which is further to the left than the PSE, though some of Podemos' success in 2015 and 2016 came at EH Bildu's expense. The future evolution of such developments will contribute to shaping EH Bildu's views on whether to prioritize forming left-wing alliances against the PNV, or territorial alliances with the PNV against statewide parties, or indeed shifting alliances between both possibilities. Certainly, the PNV's ideal goal of securing the backing of *both* the *abertzale* left and the Basque Socialists for its vision of a bilateral Political Agreement akin to a confederal model still looks a long way from being realized.

## CONCLUDING REMARKS

The Basque Economic Agreement has long provided the fundamental basis for Basque self-government, and its bilateral nature is highly valued by most representatives of the Basque institutions, to the extent that it now provides a prototype for the kind of political cosovereignty with Spain that the PNV seeks. The hurdles to achieving this, however, remain sizeable. Ultimately, much comes down to disputes about sovereignty and where it should lie, which is the fundamental question at the heart of most disagreements between the central Spanish authorities and nationalist parties in the historic regions.

The task of developing the Economic Agreement itself over the years has often been fraught with difficulties, in large part due to the discrepancies between the PNV's vision of the Economic Agreement as a model of fiscal cosovereignty with Spain and desire to develop it as such, in contrast to most Spanish statewide parties' view of the Economic Agreement as a model of fiscal decentralization in which the Basque treasuries should remain subordinate to Spanish legislation. Beyond Spain itself, although the European Union does offer some opportunities for regional participation, the primarily state-centric EU framework cannot easily accommodate the PNV's conception of fiscal or political cosovereignty either. While substate representatives can participate in state delegations at EU Council working groups and meetings, and Bizkaian treasury representatives value their ability to do so in Ecofin working groups, regional interests must ultimately be subordinated to the overriding state position. These dilemmas at state- and supranational levels undoubtedly present hurdles to the feasibility of achieving a wider bilateral Political Agreement too. Meanwhile, on the other hand, the PNV faces an entirely different challenge from EH Bildu, which argues instead that the PNV's idea of political cosovereignty with Spain is not ambitious enough.

These complexities aside, the positives of the Economic Agreement from the Basque perspective have helped to contribute to the continued accommodation of the Basque Country within Spain and to avoid a political and institutional crisis akin to that seen in Catalonia in recent years. Spain undeniably still faces territorial challenges in more than one corner, but nowadays the PNV seeks slower, incremental change, rather than any immediate radical overhaul.

<sup>29</sup> "Ortuzar ve 'realista' instaurar un 'concierto político,'" *Noticias de Álava*, March 2, 2018.

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