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Focus and scope

Catalan Social Sciences Review (CSSR) is edited by the Philosophy and Social Sciences Section of Institut d'Estudis Catalans (IEC). IEC is an academic, scientific and cultural institution devoted to scientific research and Catalan culture located in Barcelona.

CSSR came out in 2012 as a yearly publication on the popularization of science. Its aim is to publish scientifically relevant articles which originally came out in Catalan translated into English. By doing so, CSSR addresses academicians, professionals and students around the world interested in social sciences subjects and Catalan research. The articles relate to social sciences subjects such as Philosophy, Pedagogy, Psychology, Sociology, Demography, Geography, Law, Economics, Anthropology, Communication and Political Science. Each subject constitutes a section of the review.

The objectives of CSSR are:

1. To promote, foster and spur on Catalan academic scientific production related to Philosophy and Social Sciences
2. To coordinate an international diffusion platform on Catalan scientific production related to the various disciplines under the generic category of "social sciences"
3. To participate in the initiatives for the international diffusion of Catalan science in English through the IEC on line publications catalog
4. To guarantee the access to Catalan high quality research on social sciences to the world scientific community, emphasizing the fact that the results have been originally drawn in Catalan
5. To contribute to create a shared supportive cultural membership feeling among philosophy and social sciences researchers from all Catalan speaking countries and territories

Catalan is a language spoken mainly in four Autonomous Regions of East Spain (Catalonia, Valencian Country, Balearic Islands and part of Aragon) and also in Andorra, Rosselló (South East France) and the city of l'Alguer (Sardinia, Italy).



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Independence referendums. Catalonia in perspective

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***Revista de Catalunya*, (2019)**

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Translated from Catalan by Mary Black

Abstract

Is the political independence of a territory in a liberal democracy legitimate? Where does the referendum held in Catalonia on 1 October 2017 stand in relation to the comparative politics of cases of independence referendums around the world? We have analysed the first question, which is regulatory, political and moral in nature, in previous studies based on the responses provided by the range of current theories on democracy. We primarily stressed the fact that the responses on legitimacy provided decades ago are insufficient today for both regulatory and institutional reasons. Characteristics of the institutional situation of the case, and more importantly its specific context, must also be included in the analysis. Thus, we should avoid providing simple, general responses to demands for secession. A secession may be legitimate, or more legitimate in some cases than in others. The analyses must be performed on a case-by-case basis – using the most appropriate conceptions in each specific case – while trying to avoid overly simplistic, generic conclusions. In this brief article, we shall analyse the second question above. We will review the history and current status of independence referendums in the world and then analyse the referendum held in Catalonia on 1 October 2017 in light of the data provided by comparative politics, in both democratic and non-democratic settings. We shall further distinguish between consensual and unilateral referendums and consider the conditions of actual access to statehood (effectiveness and recognition).

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School Achievement and Immigration in Catalonia, 2011- 2016: A Demo-spatial Analysis

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Translated from Catalan by Mary Black

Abstract

In this paper, we present a study of schoolchildren of immigrant origin from the “generations” perspective, with the initial aim of visualising and re-evaluating the different situations associated with immigration and a secondary aim of analysing school achievement in relation to the determinants of the migratory process. The results indicate that major changes are occurring in the composition of the student body by origin, with second generations becoming increasingly prominent. At the same time, much of school failure is explained by recent arrival in Catalonia or by immigration-related discontinued presence in the country, in some cases at rates that are considerably higher than the figures for the students defined as autochthonous. This approach, which offers a better understanding of the composition of the student body in classrooms, has not previously been possible owing to a lack of statistical data, and it is a good example of the analytical possibilities of crossing data from administrative records and population statistics. These operations are indispensable for any project which seeks to design more effective school integration policies, thereby contributing towards social cohesion in the middle and long term.

Key words: immigration, school, migratory status, school failure, demographics.

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1. Introduction: Contributions to social innovation from the demographic perspective

Generating specific new statistics which adapt to the transformation of sociodemographic phenomena, and especially using administrative records and crossing this data with other existing population statistics, are utterly essential in order to generate informed policies.¹

This is also true with regard to schools and the education and pedagogical action policies they require. This issue is particularly relevant at a time when a recent and particularly intense migratory wave in Catalonia – with more than 2,078,604 immigrants from abroad from 2000 to 2017 – has converged with an economic crisis that has had strong effects on both migratory currents, leading students to leave school and accelerating family regrouping flows of school-aged minors, and on schools themselves, primarily with budget cut-backs and limitations on staff. Last but not least, we are currently at a critical juncture in the organisation of population statistics with the National Statistical Institute's announcement of the definitive elimination of census operations. That is, we are in the midst of an exceptional demographic and economic juncture, coupled with a rethinking of the statistical records which underlie the visibility of populations and their dynamics, including the integration of the immigrant population and their descendants at school.

Being able to roll out more effective school inclusion policies that help contribute to social cohesion in the middle and long term depends on having a clear picture of this phenomenon. However, the data available from the Department of Education have traditionally been released by students' date of birth or nationality. This classification, which at the beginning of the migration boom caused no problems, has become insufficient with the increase in the number of children who are the descendants of immigrants born in Catalonia or the rest of Spain and have Spanish nationality. This statistical procedure has had two immediate repercussions. The first is the gradual loss of coverage associated with students' migratory flows, which are increasing in absolute terms and account for an ever-larger percentage of students in classrooms. Yet not only is this coverage partial, it is also biased since, as is common knowledge, access to Spanish citizenship varies from one nationality to the other, with the priority going to Latin American migrants, who are only required to have two years of continuous legal residency – as are Filipinos, Andorrans and Sephardic Jews – over other nationalities, as well as their children born in Spain, who have to have lived here ten years (Álvarez Rodríguez, 2006 and 2012). Secondly, it should be noted that methodological nationalism, the outcome of this availability of data, ended up guiding the reading of school achievement towards interpretations that highlighted students' expectations or living conditions depending on their origin or the nationality of their parents above other variables, thus excluding the disturbance that the very phenomenon of migration can cause in school achievement from the scope of study. The same held true in relation to territorial analysis, where the concentration (the existence of high proportions of a given population group) or segregation (the distance in distribution compared to another group) of certain

¹ This article contains the main results from the research *School Achievement, Migration and Territory. Catalonia 2011-2016*, conducted by the Centre of Demographic Studies for the Secretary of Equality, Migration and Citizenship of the Generalitat de Catalunya.

nationalities or origins in both neighbourhoods and schools was systematically underestimated, while those of other groups might be overestimated.

However, as demographers, one of our main hypotheses is that the low school achievement of children from some of the nationalities with the strongest representation in Catalonia may stem from their very migratory processes, which affect the child's schooling. Linking the data from the Department of Education with the ongoing local population census has made it possible for us to analyse the disturbances that migrations may have caused in the insertion and permanence of the foreign-born student body at school because of either late arrival or discontinuity. This is what we generically called the "migratory trajectory".

Once the trajectories have been established, we classify these minors by generational status, such that on the one hand, for the first time the school population can be described using this taxonomy (and not merely by place of birth or nationality), while on the other it enables us to compare the school achievement of those who were born in Spain as the children of immigrants with those we call "autochthonous", that is, those born in Spain to natives of Spain. The distinction according to their relationship with their and their parents' place of birth and their migratory trajectory also help us fine-tune our description of the relationship between school achievement and the concentration and segregation of the groups to which the children belong, particularly whether this different distribution in the territory translates into processes of identity encapsulation or social exclusion.

Within this context, this article has three main objectives. The first is to show a new perspective on the school population associated with international immigration in the 21st century, beyond students' place of birth or nationality, which bears in mind their migratory trajectory and status. The second is to reproduce this taxonomy based on migratory trajectory in the territorial distribution, especially in the spatial concentration at both municipal and school level. The third objective seeks to relate the demographic characteristics of the student body and their spatial distribution with school achievement, measured as graduation from compulsory secondary school (henceforth CSS). Finally, the conclusions contain reflections on the results for the field of education.

2. The student body from the perspective of migratory trajectory

To relate the students with their migratory trajectory, we decided to use a "generations" classification, which is primarily used in studies on school achievement in the United States. Specifically, we have adapted the classification proposed by Ruben Rumbaut (2014) to the Catalan educational system. In this classification, the variables taken into account are place of birth, the year the student arrived and the place of birth of each parent. Despite occasional criticisms of this kind of classification, which argued that it perpetuated the classification of children born in the country (many of whom had the nationality of the host country) as "immigrants", thus contributing to their stigmatisation, this operational classification sheds light on the disadvantages that the very phenomenon of migration can entail and the inequalities that would otherwise remain hidden.

2.1. Sources: Administrative records and population statistics

The data sources on the students examined in this study were provided by the Department of Education of the Generalitat de Catalunya through the Statistical Institute of Catalonia (Idescat). We examined the microdata on the students enrolled in non-university education in Catalonia for academic year 2015-16. With this microdata, we found the main variables on the students and the schools where they are studying:

- 1) In addition to age and sex, the student is defined by their nationality (Spanish or foreign, and in the latter case the main nationalities and continental aggregations), as well as by their country of birth (born in Spain or abroad, and in the latter case the country where they were born).
- 2) The students are classified by type of study and year at school, the ownership of the school (public or private) and its location (city or inframunicipal).
- 3) Note is taken if the students have any special educational needs (including late arrival and disadvantageous social situations).
- 4) In addition to school achievement, two further variables are examined; first, whether or not the student has repeated any school year (yes, no or partially), and secondly, the variable analysed here: whether or not the student graduated from CSS, that is, whether they earned the diploma certifying that they have attained the basic competences of compulsory education in Spain. Following international criteria, we have used failure to graduate from CSS as synonymous with school failure. Despite the fact that this variable is only available for public schools, they are the home to 75% of the immigrant student body in the last year of CSS.

These data are joined by several variables coming from the examination of the Ongoing Population Census²:

- 5) The nationality and place of birth of the parents (if the student lives with them) was ascertained in order to identify the volume of second generations and their relationship with school concentration; this is particularly associated with certain groups, such as the children of Latin Americans born in Catalonia with Spanish nationality, who disappear from view, unlike students from other origins.
- 6) For each student, the date they entered the census system of Catalonia was ascertained, with their first entry, which we identify as their arrival in Catalonia, although we do not know whether they have been schooled in Spain, and their last entry, which tells us of possible discontinuities in their residence in the country, a factor which is particularly relevant in some origins and nationalities, especially at

² Through a partnership agreement, the Statistical Institute of Catalonia (Idescat) has linked the microdata from the Department of Education on students from academic year 2015-2016 with the Ongoing Population Census. This is the administrative record that tallies the residents of any municipality in Spain and their main demographic characteristics.

a time of economic crisis such as the one experienced during the years studied.

2.2. Classification of the student body by migratory trajectory: Generational groups

In this way, our classification consists in five generational groups:

- 1) *Generation 1 or First Generation*: students born abroad who reached Catalonia at the age of seven or older, and therefore have not studied in its educational system from the start of their education;
- 2) *Generation 1.75*: students born abroad but who reached Catalonia before the age of seven, and therefore have studied in the compulsory educational system from the start of their education;
- 3) *Second Generation*: students born in Spain, both of whose parents (or one, if they only live with one parent) were born abroad;
- 4) *Generation 2.5*: students born in Spain, one of whose two parents was born abroad; and
- 5) *Generation 3 or Autochthonous*: students born in Spain whose parents were also born here. If there is information on only one parent, and this parent was born in Spain, the child will also be considered Spanish.

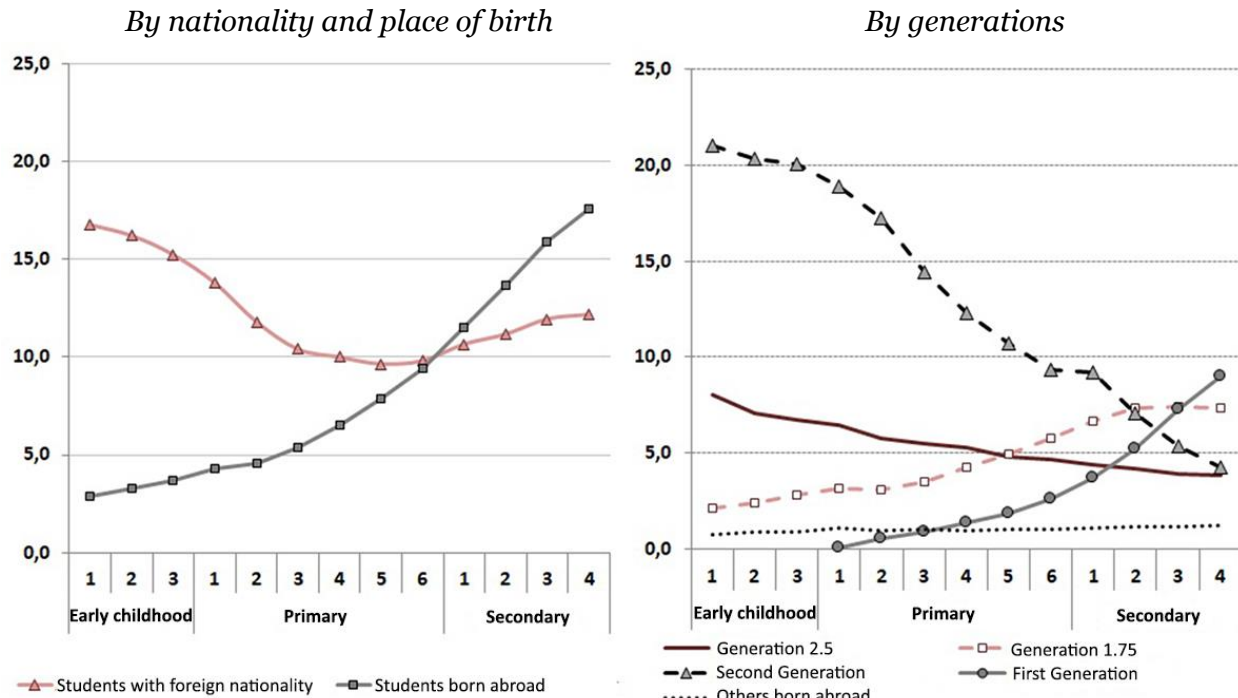
3. Contributions from the migratory generations approach

The perspective we are taking in our analysis of the minors in relation to immigration is essential to understanding the volume and composition of this group within the entire student body, as well as to ascertaining their territorial distribution and concentration in classrooms. Considering the students enrolled in general, non-university education in Catalonia in academic year 2015-16, out of a total of 1,224,755 students (48.1% girls), the figures fluctuate between 9.75% of students born outside Spain and 11.9% with foreign nationality; despite the similarity of these two categories, they conceal very different age profiles, encompassing foreign minors born in Catalonia during their early years of schooling and other immigrants with Spanish nationality in their last years of CSS (Figure 1, left). However, if we consider the broader generations perspective, we find that 25.0% of these same students are either directly or indirectly associated with the phenomenon of immigration, through either their own or their parents' migratory process (Figure 1, right).

Among the student body, the Second Generation is gradually becoming more prominent among the youngest children, accounting for more than one-fifth of students in early-childhood education and becoming increasingly prominent in the different years of primary school. In contrast, in CSS the composition by generations is much more marked by recent migratory phenomena, with the students who have made a migratory movement (First Generation and Generation 1.75) being the most heavily represented. Conversely, there were few descendants of immigrants in academic year 2015-16, although this situation shifts in the ensuing years due to the growth of the Second

Generation. We should also consider the future evolution in migratory flows, where the economic recovery may come with a new upswing in the number of immigrant students. What is more, in Catalonia, the unequal distribution of these origins according to school ownership means that the percentages shown here are considerably higher in public schools.

Figure 1. Proportion of students in Catalonia according to their and their parents' origin, academic year 2015-16



Source: Authors, using data from the Department of Education and Idescat

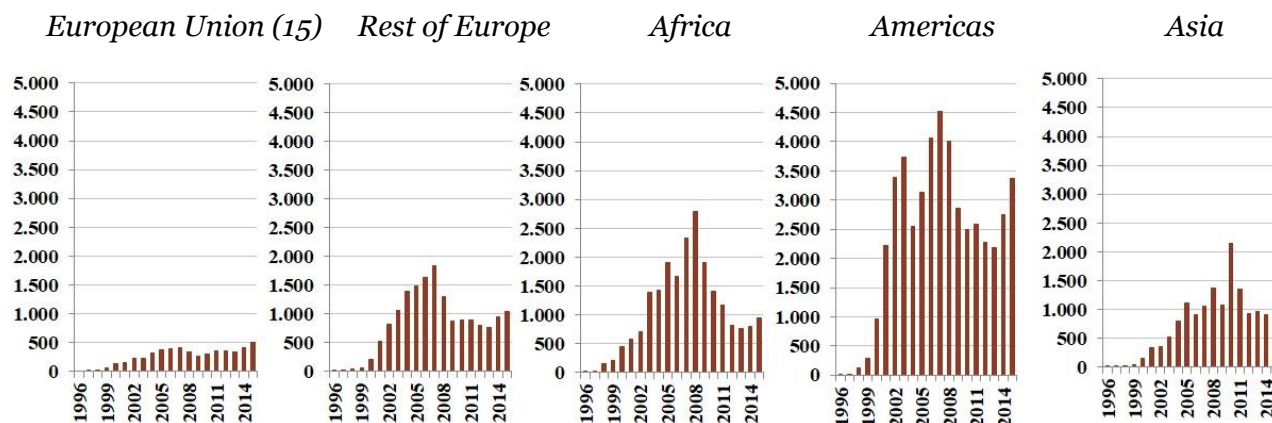
One of the main factors to bear in mind in relation to students' migratory process is the year they arrived in Catalonia³. Half of the immigrant students came before 2007, after which the numbers start to decrease, dovetailing with the first effects of the economic crisis on migratory flows. More recently, since 2013, we have been witnessing a clear upswing in arrivals, with 6.4% of immigrant children entering within the last academic year. According to place of birth (Figure 2), we can see that the decline in arrivals associated with the crisis is more intense among Africans, while the upswing in figures is particularly among students from the Americas.

Another variable examined, which is associated with the migration plans of immigrant families, is the relationship between their first year of arrival in Catalonia and

³ We have this information for the first year in which their residence in Catalonia is registered on the ongoing census, and therefore it signals when they entered the school system. However, we do not know whether these students came directly from abroad or whether they came from other regions in Spain; in this latter case, the differences in the educational system would be much smaller.

the last time they entered the country. We have access to this information by crossing the administrative records on the student body with the data from the Population Statistics Records, with which we can identify the last year of entry into the ongoing census system. However, we do not know the length of this discontinuity; we know that there has been a hiatus in their continuity in the Catalan educational system, but not its length, the time when they left, or whether it might happen again. The results presented here only refer to secondary school students, and they reveal that one out of every eight students associated with the migratory process has experienced this upheaval, a proportion which rises to 18.8% of those from Generation 1.75, although the Second Generation also shows a high rate of 15.1%. Among the last to arrive, the First Generation, the percentage of discontinuity drops to 12%, since they have had a shorter timeframe during which this situation could arise, while for Generation 2.5 this possibility is even lower, 4.6%, very similar to the discontinuities experienced by the autochthonous students. By place of birth, among those born abroad, the discontinuity is quite notable among Pakistanis (28.8%) and Ecuadorans (23.1%), while it is less common among Moroccans (14.1%) and Romanians (9.7%). This practice, which we could relate directly to the migratory process – either the desire for the minor to be familiar with the customs of their home country or a temporary return due to a poor economic situation resulting from the economic crisis – is repeated among the Second Generation. Considering the father’s origin⁴, if he is Chinese (37.6%), Dominican (23.4%) or Filipino (22.8%), there are higher levels of discontinuity, even though in absolute terms the group with the most discontinuities is Moroccans (9.9%).

Figure 2. Immigrant students in Catalonia according to year of first arrival in Catalonia and zone of origin, academic year 2015-16



Source: Authors, using data from the Department of Education and Idescat.

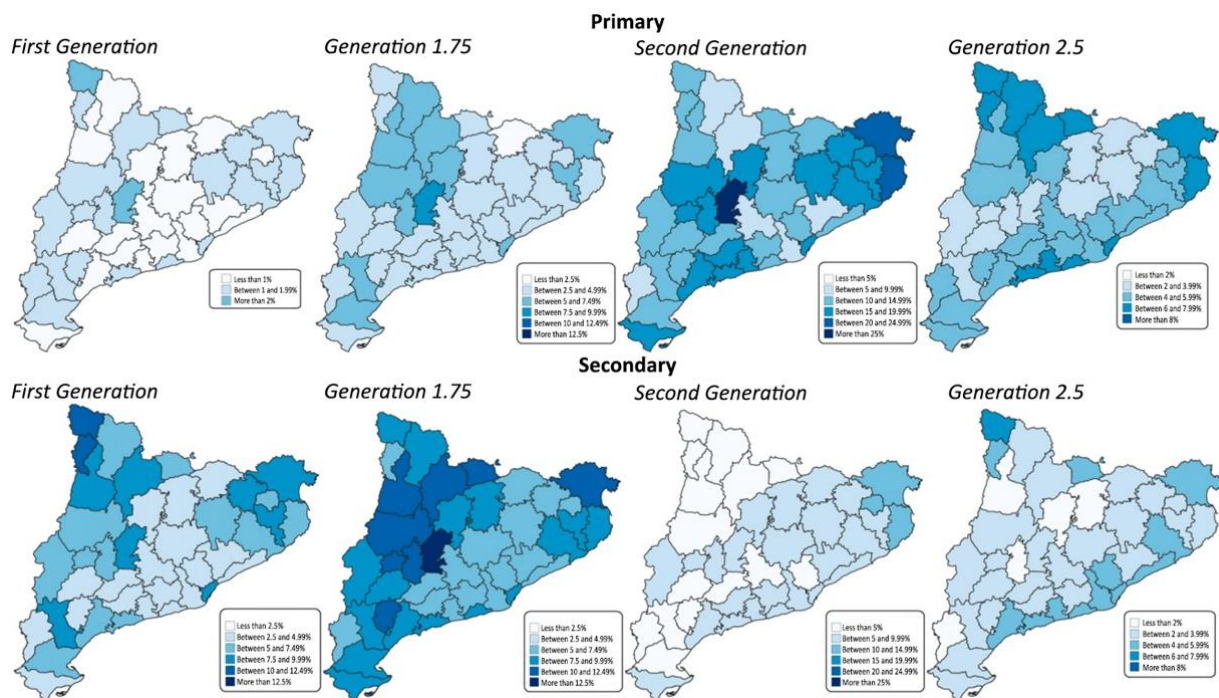
⁴The figures are quite similar from the perspective of the mother. The use of one of the parents as a reference is to avoid the complexity of couples from different origins.

4. The territorial analysis

The considerable territorial dispersion of foreign-born students representing virtually all schools and years, plus the concentration in absolute number in some of the most populous municipalities in the country, many of which are located in the Barcelona Metropolitan Region, shape the main geographic patterns in Catalonia on a county and municipal scale.

These patterns reproduce the territorial distribution of the immigrant population in Catalonia, although in some regions their presence is more noticeable because of the low number of students overall. One example of this is the counties in the Pyrenees region. Figure 3 illustrates this distribution according to generations and stage at school, either primary or secondary, at the county level. The most visible results include the fact that Second Generation children are the most prominent in primary school, especially in counties like Segarra, where they are 25.8% of the total, and the Alt and Baix Empordà, where they account for more than 20%.

Figure 3. Students associated with immigration, primary and secondary school, by county, Catalonia, academic year 2015-2016



Source: Authors, using data from the Department of Education and Idescat

Generation 2.5 is also more prominent in primary school, where it has the most significant portion of students in the Pyrenean and coastal counties. On the other hand, the First Generation is not very prominent in primary, although its representation

increases in secondary school, primarily in the Pyrenees of Lleida and in the Barcelonès county, which acts as a gateway to Catalonia. This last pattern is reproduced in Generation 1.75, but less intensely, and in particular in the county of Segarra, which is the home to the town with the highest percentage of immigrants, Guissona.

Table 1. Towns with the highest percentages of students associated with the migratory process over total number of students, academic year 2015-2016 (early childhood, primary and secondary)*

| Town | Students | % | Town | Students | % |
|---------------------------|----------|------|----------------------|----------|------|
| Salt | 3,095 | 69.9 | Vic | 2,966 | 43.6 |
| Aitona | 137 | 60.4 | Torroella de Montgrí | 834 | 43.4 |
| La Jonquera | 326 | 56.4 | Creixell | 111 | 43.0 |
| Guissona | 692 | 56.2 | Manlleu | 1,265 | 42.6 |
| Castelló d'Empúries | 832 | 56.1 | La Seu d'Urgell | 815 | 41.5 |
| Cadaqués | 176 | 53.3 | L'Escala | 485 | 41.3 |
| Sant Pere Pescador | 126 | 52.7 | Salou | 1,580 | 41.2 |
| Lloret de Mar | 2,092 | 48.6 | Ulldecona | 331 | 40.5 |
| Roses | 1,391 | 46.5 | Castell-Platja d'Aro | 444 | 40.3 |
| Figueres | 3,479 | 46.0 | La Bisbal d'Empordà | 707 | 40.3 |
| Palafrugell | 1,565 | 44.7 | Canovelles | 813 | 40.2 |
| L'Hospitalet de Llobregat | 12,275 | 43.7 | Alcarràs | 533 | 40.1 |

*Only towns where more than 100 students are associated with the migratory process were included.

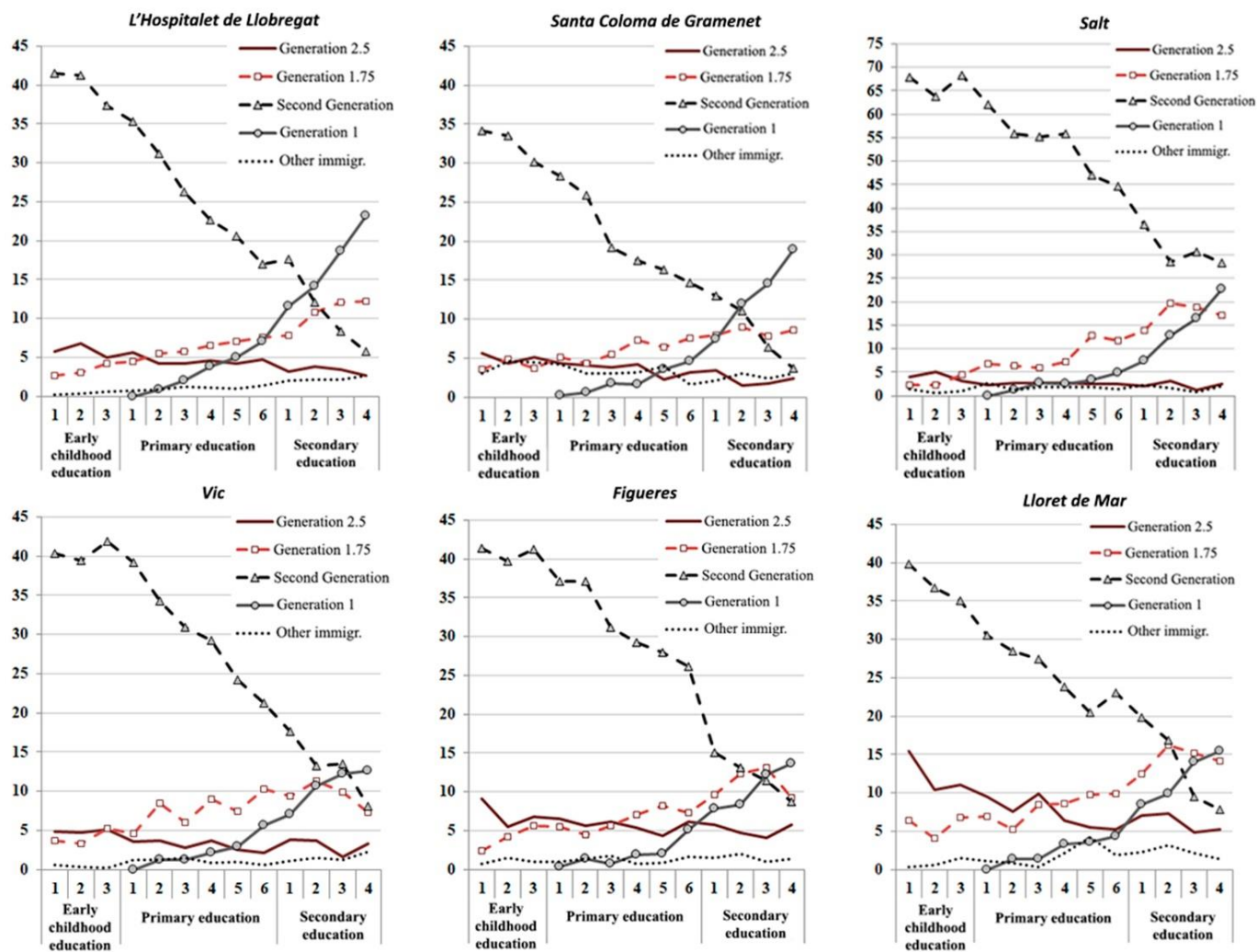
Source: Authors, using data from the Department of Education and Idescat.

In some specific towns, these percentages are high above the average (Table 1) and can account for more than half the student body, as in the town of Salt, where it verges on 70%, with more than 3,000 students. They primarily include a strings of towns located on the Girona coastline from Cadaqués to Lloret de Mar (Cadaqués, Castelló d'Empúries, Sant Pere Pescador, Roses, Palafrugell, Torroella de Montgrí, l'Escala, Castell-Platja d'Aro and Lloret de Mar), all with more than 40%. These coastal towns are joined by some in the inland regions from the same counties, such as La Jonquera, Figueres and La Bisbal d'Empordà. The remaining municipalities are geographically dispersed and encompass everything from metropolitan towns like L'Hospitalet de Llobregat and Canovelles to others closer to Lleida like Aitona and Alcarràs, along with towns that border Andorra (La Seu d'Urgell) or are located in Terres de l'Ebre (Ulldecona) and in the Tarragona region (Salou and Creixell), inland towns like Vic and Manlleu, and the town of Guissona in the county of Segarra, which shows a high degree of territorial dispersion of children with immigrant origins.

In Figure 4, these overall percentages for some of the cities with the largest immigrant student bodies are broken down by year in school and educational stage. In

some of these towns, the First Generation still has quite a considerable impact in the classrooms, such as in L'Hospitalet de Llobregat, Salt and Santa Coloma de Gramenet, where they account for close to or slightly over 20% of the students in the last year of CSS. However, the most striking fact is how in most cases the Second Generation represents a considerable percentage of students in the early stages of education. Salt in relation to Girona, and L'Hospitalet de Llobregat and Santa Coloma de Gramenet in relation to Barcelona, show us the metropolitan nature of the settlement of international immigrants and the need for supramunicipal school policies.

Figure 4. Composition of the student body by academic year, educational stage and migratory status, in percentages over the total number of students, academic year 2015-2016. Main towns



Source: Authors, using data from the Department of Education and Idescat

5. Inadequate achievement in CSS

Graduating from compulsory secondary school is tantamount to attaining the minimum compulsory education in the country. This does not mean that the student cannot continue their education, since there are vocational training programmes they can access without a secondary school diploma; nor does it mean that they cannot earn their secondary school diploma at a later date. However, failure to graduate from secondary school is internationally equated with the idea of “school failure” (Department of Education, 2013). Furthermore, it is a diploma which can be crucial in the future job placement of many of these youths, and therefore it conditions their future possibilities, further exacerbating any initial disadvantages they may have. However, we are not aware of the competences associated with these levels attained, since the objective of our study was to ascertain the determining factors of insufficient school achievement among minors directly or indirectly related with international immigration in Catalonia.

Generally speaking, students with immigrant origins show lower school achievement than autochthonous students (OECD, 2016), in Catalonia as well (Bonal et al. 2015; Domingo & Bayona, 2016). Schnepf (2007) justifies these lower competences with two main groups of reasons: 1) because of the dearth of cultural capital of the families of students associated with immigration compared to the autochthonous students; and 2) because of the unequal geographical distribution of immigrants, meaning that they are associated with higher levels of school segregation and concentration. In addition to these factors, among those born outside the country, age of arrival is crucial (Böhlmark, 2008), and it becomes even more important in students from places where the language of the host country is not spoken (Corak, 2011).

In our case, graduating from CSS is information we only have available for those students enrolled in public schools, a total of 42,797 students who were in their fourth year of CSS. However, because we do not have the results of 3.2% of these cases, we only have the results of 41,442 of these students. On the other hand, for all academic years we have information on whether the student is repeating the year or not. Up to 2,395 students enrolled in the fourth and last year of CSS (5.8%) were repeating the year, a situation which is more common among foreigners than autochthonous students (10.5% versus 4.5%).

Table 2. Proportion of students who do not complete compulsory secondary school, by their migratory status, academic year 2015-2016

| | Males | Females | Total | Difference males/females |
|-----------------------|-------------|-------------|-------------|--------------------------|
| Autochthonous | 13.3 | 7.4 | 10.3 | 5.9 |
| Generation 2.5 | 12.6 | 7.7 | 10.1 | 5.0 |
| Second Generation | 21.3 | 13.7 | 17.4 | 7.6 |
| Generation 1.75 | 21.7 | 12.2 | 16.7 | 9.5 |
| First Generation | 34.8 | 23.5 | 29.3 | 11.3 |
| Total students | 17.5 | 10.5 | 14.0 | 7.1 |

Source: Authors, using data from the Department of Education and Idescat.

The student body analysed shows a generational composition which should be borne in mind when interpreting the overall results. Thus, among these repeating students, the First Generation is quite common (4,749 students, or 11.5%), but so is Generation 1.75 (3,561 or 8.6%); together, these two groups account for two out of every ten students. In contrast, the Second Generation is barely represented (2,118 or 5.1%), and Generation 2.5 even less so (1,478 or 3.6%). This distribution by migratory status is quite particular and will vary intensely in the forthcoming academic years, as gleaned from the data in Figure 1.

The upheaval entailed by migration is decisive in school achievement in Catalonia (Bayona & Domingo, 2018). The figures are the highest among the First Generation, 29.3% of whom do not graduate. Among them, those that entered Catalonia in 2015 and therefore are identified as arriving in the last year show an excessive proportion of 59% of school failure, which even surpasses 80% among those coming from African and Asian countries. In contrast, if the child arrives before the start of compulsory education, those we have labelled Generation 1.75, the differences are fuzzier compared to the children of immigrants, the Second Generation. We could say that arriving as a small child has the same effect as having been born here to immigrant parents. Despite the decline in percentages, there is still a 17.4% failure rate in the Second Generation, far higher than the 10.3% among autochthonous students. This is associated with the socioeconomic characteristics of the households in which they live, which have lower parental purchasing power and often educational levels or knowledge of the language which are much lower than in other households. In contrast, Generation 2.5 students show equal values as autochthonous students, even though the diversity according to the parents' origin is still noteworthy. However, the importance of the mother's educational level in the children's achievement is significant: the levels are higher if the mother is autochthonous or European than if she is African or Asian, from which we can deduce a significant difference in educational level. However, the origin of the father does not seem to have such a pronounced effect on the children's achievement.

The discontinuity mentioned above is negatively correlated with school achievement, since the children that have experienced ruptures in their presence in the Catalan school system – presumably because they emigrated from Catalonia – generally show the worst results. The exception is those who have just arrived, caused by a purely statistical effect, since it is impossible to find students among them whose year of first entry is very recent. The effect of discontinuity on the children of Generation 2.5 and Second Generation is worth underscoring, and it affects the marks of boys more intensely than girls.

Table 3. Proportions of school failure among students with discontinuities at school, academic year 2015-16

| | Males | Females | Total | Difference males/females |
|-----------------------|--------------|----------------|--------------|---------------------------------|
| Autochthonous | 19.9 | 14.6 | 17.4 | 5.3 |
| Generation 2.5 | 32.3 | 15.2 | 23.4 | 17.1 |
| Generation 1.75 | 26.0 | 16.5 | 20.9 | 9.4 |
| Second Generation | 28.4 | 15.6 | 22.0 | 12.8 |
| First Generation | 32.2 | 23.9 | 28.2 | 8.2 |
| Total students | 25.0 | 17.0 | 21.0 | 7.9 |

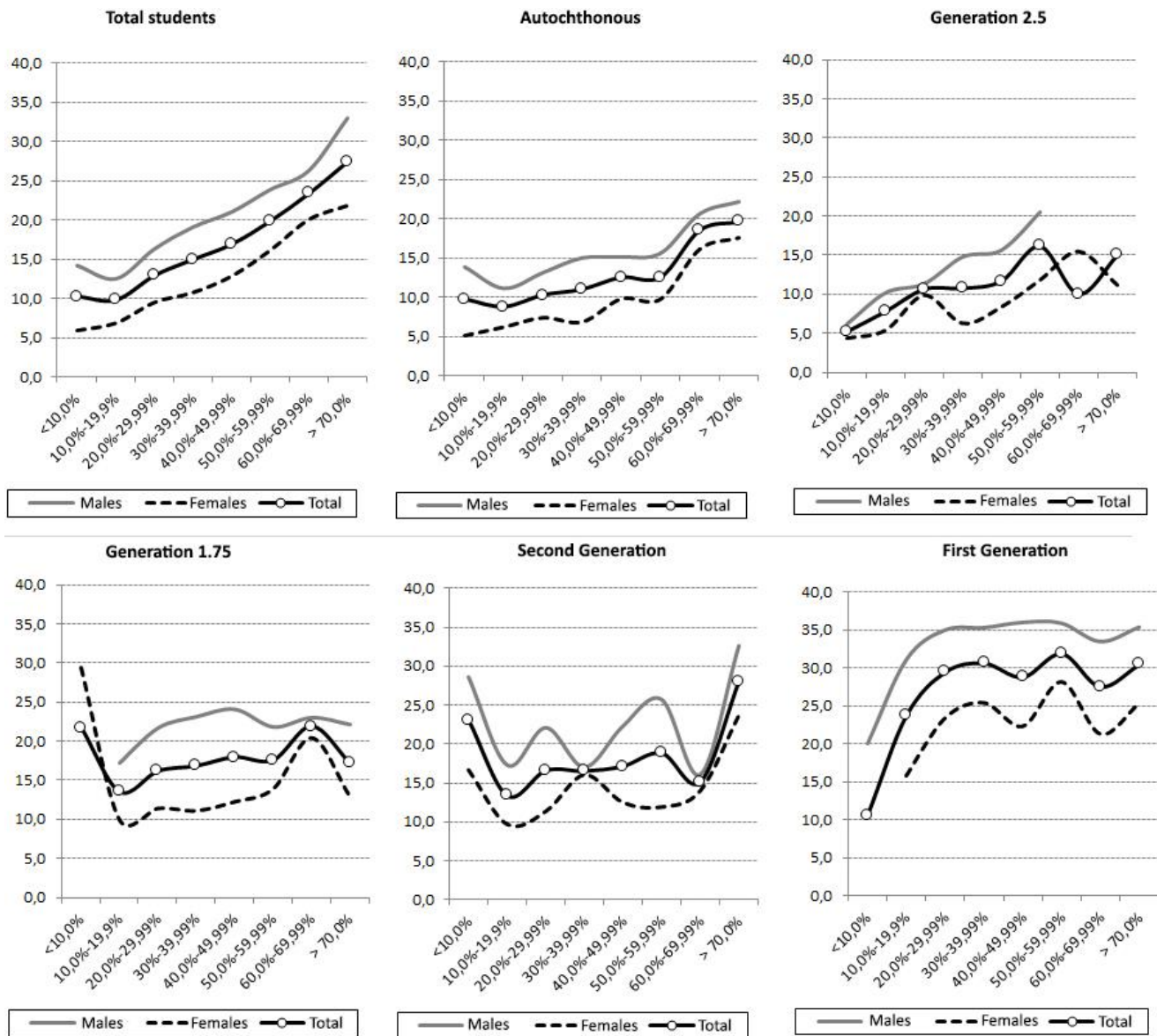
Source: Authors, using data from the Department of Education and Idescat.

One last factor that was considered in this study is the relationship between the school achievement and the concentration of immigrant children and adolescents at the school. Concentration tends to be viewed with concern, since it is directly associated with school failure. The social composition of the families at the schools with the highest proportions of immigrants is one of the main reasons behind these results (Garrido & Cebolla, 2010); this is in direct relationship with their residential spaces and with the higher concentration or segregation of the population with immigrant origins in Catalonia as a whole (Galeano et al., 2014), and at schools in particular (Síndic de Greuges, 2008; Benito & González, 2007; López-Falcón & Bayona, 2012). Nonetheless, the effects of concentration have only been identified with significant levels of concentration are reached (Cebolla & Garrido, 2011; Calero & Escardíbul, 2016), and they affect both immigrants and the autochthonous student body.

School segregation and concentration is motivated by factors such as the parents' initial selection of the school (Síndic de Greuges, 2016); the gradual diversification of school educational plans intensifies this practice among the families with the most information and social capital. At the same time, the stigmatisation associated with concentration activates flight mechanisms by some families, which is known as "white flight" (Sánchez Hugalde, 2009), while others with fewer resources remain.

In our study, concentration was defined as the percentage of students associated with the migratory process (the sum of the different migratory statuses), which provides us with a different picture than what we get from nationality or country of birth, systematically increasing the levels of concentration. Figure 4 shows the percentages of school failure at schools in Catalonia according to the percentages of concentration at those same schools.

Figure 5. Relation between the levels of concentration of students associated with the migratory process and school failure, by migratory status, academic year 2015-16



Source: Authors, using data from the Department of Education and Idescat.

Generally speaking, a direct relationship was found between concentration and school failure; the higher the concentration, the higher the failure rate for both boys and girls. However, this is due to a composition effect (the higher the concentration, the higher the number of students with worse marks), and it is essential to check what happens for each of the migratory statuses examined. By doing so, we find that for the autochthonous students, concentration is associated with failure and that the effects increase with

concentration higher than 50%. For Generation 2.5, a similar effect was found, even though in this case we found a small number of cases and the volatility of the results is higher. Among Generation 1.75, the effect is also positive, although the intensity is low. If we discard the students in schools with a concentration under 10% (even though there are very few of schools like this), concentration leads to a 5% increase in school failure, from values under 15% to higher than 20% in the highest concentrations. A similar picture can be gleaned from the graph on the Second Generation. However, for the First Generation, concentration does not increase failure levels, since they remain steady regardless of concentration. In this last case, only in schools where immigrants have a very low presence can positive results be found. Therefore, the effect of concentration is low-intensity and especially significant among the autochthonous student body, most likely those with the fewest resources.

Table 4. Proportions of school failure by municipality of the school and migratory status, academic year 2015-16*

| | Autochthonous | First Generation | Generation 1.75 | Second Generation |
|----------------------------|---------------|------------------|-----------------|-------------------|
| Badalona | 13,1 | 31,4 | 15,3 | 20,5 |
| Barcelona | 8,7 | 27,2 | 14,2 | 13,2 |
| Figueres | 7,7 | 29,6 | 16,7 | 20,9 |
| Girona | 10,0 | 28,6 | 15,9 | 7,1 |
| Hospitalet de Llobregat, l | 14,6 | 29,2 | 15,1 | 21,1 |
| Lleida | 11,1 | 29,4 | 12,0 | 8,5 |
| Mataró | 12,7 | 37,5 | 11,4 | 20,0 |
| Reus | 11,9 | 31,1 | 14,9 | 12,8 |
| Rubí | 10,0 | 30,4 | 16,7 | 16,7 |
| Sabadell | 10,9 | 31,6 | 29,2 | 16,7 |
| Salt | 38,9 | 26,1 | 37,5 | 52,5 |
| Santa Coloma de Gramenet | 11,4 | 32,7 | 24,3 | 24,1 |
| Tarragona | 9,1 | 15,5 | 14,1 | 11,8 |
| Terrassa | 15,3 | 35,6 | 17,6 | 28,2 |

* Only municipalities with a minimum of 30 students in each of the categories were included.

Source: Authors, using data from the Department of Education and Idescat.

Finally, Table 4 shows the municipal perspective on school graduation rates. As can be seen, there is a wide range of situations. The data show that the high failure rates among First Generation students is a consolidated phenomenon around Catalonia, from the

minimums in Tarragona and Salou (15.5% and 21.6%, respectively), where are nonetheless always above the levels for autochthonous students, to the maximum levels of over 40% in Vilafranca del Penedès, El Vendrell, Martorell, Lloret de Mar and Blanes. Comparatively, Generation 1.75 shows the best performance, even though it still lags far behind the performance of the autochthonous students; however, these figures are close in some municipalities or cities. The behaviour of the Second Generation is disparate, since some municipalities show better results than in the two aforementioned typologies, with values close to those of autochthonous students (as in Barcelona, Girona and Tarragona), while in other cases the differences remain or are even accentuated in relation to Generation 1.75. In these cases, we imagine that the differences can be explained by the composition of the different student groups by origin. Badalona, Figueres and L'Hospitalet de Llobregat may be examples of this. What are particularly exceptional and worrisome are the towns where the school failure rates among the Second Generation are higher than one-third of the students, which is far behind the results of the autochthonous students, accounting for more than 40% of the generational group. This can be found in Banyoles (contrasting with a scant 5.8% of autochthonous students), Blanes (with no differences between First and Second Generation), Salt (with a discouraging 52.5%) and even Terrassa, where the rate is 28.2%. Of course, the absolute numbers in these cases are important enough to attract attention, even if the percentages are lower than in less populous municipalities. The combination of the composition by student origin and the neighbourhood effect should be the interpretative factors with the strongest bearing on the results.

6. Conclusions: The road out of hell

The poor achievement of students associated with international immigration, and especially the distance between the achievement of those born in Catalonia and those we have called autochthonous in terms of graduating from compulsory secondary school, should spark a reflection. Despite the teaching community's efforts and the possibility that the achievement levels will improve with the change in the composition of the student body and the increasingly high proportion of Second Generation students in the forthcoming years, the gap between this generation and the autochthonous students persists, in some cases in an unsustainable fashion for both some origins and some territories. If this is true, instead of serving to offset inequalities, as the official discourse seeks to project, and despite the good intentions inspiring it, school will become one of the pathways where the most direct inequalities are reproduced. Stigmatising origins, municipalities or schools is not only unfair, it is also sterile. This is not how a truly serious problem should be addressed: it should be neither downplayed nor neglected.

If we had to classify the causes of this gap, we could find three kinds of reasons: 1) strictly demographic reasons; 2) reasons comprised of structural economic factors; and 3)

what we call “cultural” reasons. Among the first, as we have seen, the most important one is the disturbance that the migratory process itself can cause in individuals’ school careers, where the most prominent factors are late arrival – not only because of the difficulties adapting, but also because expectations which are often placed in the job market – and discontinuity – which continues to affect some of the Second Generation students and can be related both to migratory (and educational) strategies and to economic difficulties in the household where the child lives. Finally, we also find the phenomenon of drop-out, although we were unable to examine it because of a lack of data, which is associated with other socioeconomic variables beyond migration itself. Among the factors we call socioeconomic, we should first point out the endemic lack of resources at schools, which is aggravated by the austerity policies which were implemented during the early years of the economic crisis. Secondly, school achievement is translating the disadvantaged situation in the households and neighbourhoods where the children live: although this can happen in privileged socioeconomic environments, in the majority of cases, concentration and segregation of the school population is associated with vulnerability. Finally, we want to stress that given the profile of immigrants, who are overwhelmingly here to provide untrained labour, the educational level of many of the immigrants’ parents is very low, and this circumstance – especially among the women, who still bear the brunt of the reproductive tasks, including raising children – affects the supportive role that parents can play in their children’s education.

Thirdly, we can highlight three reasons we have classified as “cultural”. Even though these causes were not dealt with in this study, their effects on the results cannot be ignored. First, we should bear in mind the social capital for some students stemming from their initial knowledge of the Spanish language, which is notable among Latin Americans; this goes an extraordinary way towards facilitating their schooling compared to students of other origins, in terms of not only their own school integration but also their parents’ potential participation in the educational community and their children’s education itself. Yet secondly, we should also consider symbolic capital, that is, the hierarchisation of the children according to the prejudices and stereotypes which are widespread among the autochthonous population, including the teaching community. The expectations of children based on these stereotypes, though apparently not lower in the case of foreign parents and the descendants of immigrants to Spain than in the case of autochthonous students (Aparicio & Portes, 2014; Portes et al., 2016), tend to have effects on their achievement, for better or for worse, and in turn on the expectations of the parents themselves.

Formidable efforts were clearly made in the field of education during the years of the migratory boom, beginning with the loads that the teachers had to take on, and yet the results are far from what we might expect. Part of this distance stems from the conviction of the exceptionalism of the migratory episode, beyond the improvisation and fragmentation of the students’ educational experiences. As noted, we have the ingredients,

but the recipe does not seem to be working (Rué Domingo, 2018). A comprehensive educational policy should encompass not only schools, which obviously need higher investment, but also society as a whole – not solely what is known as the “educational community” – and all the processes involved in pedagogical action, beginning with recording and producing statistics which enable us to empirically analyse students’ situation. For example, the typology suggested in this article could lead to micro-policies better geared towards offsetting the sociocultural deficits and discontinuities found.

The reinforcement from welcome support classrooms reflected the reality of a period marked by massive and increasing immigration flows, and today this service should be continued – since the migratory flows have resumed, albeit still at modest levels. However, as we have seen based on the poor results of the Second Generation students, special reinforcement should be planned for these students whose family environment cannot provide additional educational support because of a lack of resources. This means extending, to the extent possible, the pedagogical effort to the household members where the children are cared for, especially their mothers.

If urgent measures are not taken, we will be facing a paradox in a country where the “intercultural” discourse is hegemonic, concerned with putting an end to what has been called “parallel lives” (Cantle, 2005); a country which virtually spearheads a transversal policy reflected in the *National Education Pact* (2006) – where one of the three basic programmatic elements is social cohesion and equal opportunity – and a *Pact for Living Together. National Immigration Pact* (2008) – one of whose principles is the promotion of autonomy and equal opportunities to foster real equality, eliminating arbitrary conditions and circumstances; yet a country where the population is divided from the start of the life cycle and the careers of the student body are preordained. There have already been voices warning about the distance between goals and reality from the very start (Medina, 2007), but the distances have taken specific shape in children’s achievement levels, as they drag the ballast of their failure as they search for jobs, try to start a family and in general aspire to improve, thus perpetuating and further deepening the inequality, legitimised by ethnocultural and religious prejudices. All of this contributes to constructing what we call a “pigmentocracy”, that is, the hierarchisation of the social structure based on these prejudices. The discourse on meritocracy and upward social mobility through individual effort (Littler, 2017), which so many of our politicians cite when speaking about national identity, may be revealed to be an alibi to conceal the creation of inequality in the worst calque of the classic by Pierre Bourdieu and Jean-Claude Passeron (2014).

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Constitutional Questions on the Application of Article 155 SC to the Catalan Conflict

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Abstract

The main purpose of this article is to analyse the application of art. 155 SC to the constitutional conflict over the relationship between Catalonia and Spain, which has particularly intensified since the Parliament of Catalonia elections in September 2015. This topic is examined within the context of the other conflict-resolution channels available, such as the courts of justice, the Constitutional Court and political negotiation. This article examines the process by which this provision was developed during the constituent process, its constitutional limits and the requirements and conditions that the article itself places on the extraordinary measures that the State can adopt. Based on these general criteria, this study first examines the procedure by which art. 155 SC was applied, highlighting several serious problems that have hindered it from serving as a channel of dialogue and deliberation prior to the exercise of those extraordinary powers. This study also seeks to assess the constitutional suitability of the specific measures that have been adopted. It ends with a final reflection that highlights the inappropriateness of applying art. 155 SC as a means of dealing with a constitutional crisis like the one that has arisen in Catalonia.

Key words: constitutional conflict in Catalonia, State control over the Autonomous Communities, extraordinary State powers, article 155 Spanish Constitution, territorial State model, resolution of constitutional conflicts, territorial conflicts, Constitutional Court.

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1. Article 155 SC within the context of the State's means of control over the Autonomous Communities

It is common knowledge that in any composite state there are three ways to resolve conflicts among the different regional governing entities that comprise it: negotiation, recourse to the courts to resolve it by law, and the coercive imposition of one party over the other. In fact, these are the three routes available to resolve conflict between any two parties in general, such that any conflict-resolution instrument can be channelled to one of these three categories. And these three routes are also provided for in Spain, a State with autonomous regions since the enactment of the 1978 Constitution, albeit each route with different intensities and modalities.

Without any doubt, the route that prevails, at least in terms of its provision in the Spanish system, is the jurisdictional route, especially the recourse to the Constitutional Court (CC) through different instruments that allow the majority of conflicts with a constitutional dimension that may arise between the State and the Autonomous Communities to be heard by the CC (primarily appeals of unconstitutionality against acts with the rank of law, conflicts of jurisdiction, both positive and negative, and challenges to art. 161.2 SC; however, they are joined as well by the issue of unconstitutionality, which has also been used quite often in recent years as a way to get the Constitutional Court to review at judicial level whether regional laws fit the Constitution in both substance and with regard to the powers granted¹. Among all these proceedings, which have been common throughout the entire development of the State of the Autonomies² at rates incomparable to those of systems around us, what stands out for its significance, and for its effects, is the challenge to the regional provisions and acts provided for in article 161.2 SC and title V of the Organic Law of the Constitutional Court (abbreviated LOTC), which allows the State government, and only it, to bring before the Constitutional Court any regional norm or action, *de facto* as well, which is considered unconstitutional for reasons not of jurisdiction but of substance³. This extremely broad capacity for appeal – in fact, the choice between constitutional or ordinary courts to deal with these controversies – is coupled with the legal procedural privilege of automatic suspension provided for in this same article, which is unquestionably its *raison d'être*. Indeed, according to art. 161.2 SC, simply by invoking it, the State government forces the CC to suspend the provision or the act challenged for a five-month period after it admits the appeal, during which time the Court must issue an opinion on whether to lift or maintain the suspension. The fact

¹ In the period 2007-2016, the CC has handed down 87 rulings in preliminary ruling proceedings of the laws of the autonomous communities citing unconstitutionality. See *Annuaire International de Justice Constitutionnelle*.

² In the same period, the CC has handed down 321 rulings on appeals of unconstitutionality which posed territorial conflicts and 121 rulings in positive conflicts of jurisdiction.

³ However, the reasons for this challenge must be constitutional and not merely related to ordinary law, despite the statement in art. 77 LOTC (“regardless of the motive on which it is based”), given that the purview of the court “is limited to examining constitutionality, not legality” (Constitutional Court Ruling [CCR] 54/1982, FJ 7). There are significantly fewer of these challenges than those filed by other routes (6 during the same previous period).

that this legal procedural privilege extends⁴ to all the proceedings that the State government – and only it – files with the CC gives the State government a very powerful intervention instrument in conflicts with the Autonomous Communities, which allows it to temporarily halt any regional initiative or action. In fact, this provision replaced the one contained in the draft Constitution⁵ which established the State government's prior oversight of the laws approved by what were then called the "autonomous territories", such that if it opposed a given law, it could not be approved unless it had an absolute majority in the regional assembly. Both provisions thus clearly share the fact that they can temporarily veto the norms approved by the Autonomous Communities⁶, albeit via different modalities and using different mechanisms.

Secondly, it is clear that territorial conflicts, and any others, can be resolved through negotiation between the parties. This is a route that is always possible which the parties can turn to it if they choose to, without the need for any specific legal provision to this effect. Nonetheless, the Spanish legal system also stipulates certain cases in which it somehow obligates, or urges, negotiations to be held to attempt to resolve conflicts. This is the meaning behind the submission of a prior injunction before lodging a conflict in authority – the LOTC (art. 62 and 63) authorises the State to do so but makes it obligatory for the Autonomous Communities – which at least opens an opportunity for dialogue before turning to the CC. This is also what the LOTC introduced in 2000 in relation to appeals for unconstitutionality via deferral of up to nine months, up from the original three months, before filing an appeal as long as the party can justify to the CC that negotiations have started in an attempt to resolve the conflict between the State and the affected Autonomous Community (AC)⁷. And more generally, this is the purpose of all the bilateral cooperation

⁴ This extension of the suspension authority provided for in art. 161.2 SC is not as obvious as it may seem, because this article explicitly provides for it only in relation to the type of challenge it contains, which, as the CC has said (CCR 64/1990, dated 5 April 1990), must be a challenge of the laws of an Autonomous Community. However, the extension to appeals of unconstitutionality and positive conflicts of jurisdiction (obviously it makes no sense in negative conflicts) comes in art. 30 and 62 and 64.2, respectively. In the former, it is precisely an exception to the general rule of non-suspension – based on either validity or efficacy – of the laws challenged because of agreement to hear a direct appeal or a preliminary question of unconstitutionality. And in the latter, it is regarding conflicts of jurisdiction, with the simple final note that "all of the above notwithstanding the fact that the government may invoke article 161.2 of the Constitution, with the corresponding effects", included in art. 62 with regard to positive conflicts of jurisdiction, as further explained in art. 64.2. In both cases, this is the extensive interpretation of a specific element that the SC stipulates with regard to a given challenge – art. 161.2 SC – which also is somewhat extraordinary in nature, in that it allows controversies to be filed with the CC which would normally correspond to the ordinary jurisdiction. And it is specific element which is exceptional in itself because it breaks with an elementary principle of legal procedure: the equality of parties. All of this means that its application beyond the procedure for which the SC explicitly provides for is questionable, particularly when the suspension is applied to the laws of the Autonomous Communities. Doctrinal opinions, many of them dubious of the constitutionality of applying art. 161.2 SC to the laws of the autonomous communities, can be consulted in Medina Guerrero, *Comentario*, 446-447. With regard to conflicts of jurisdiction, see García Roca, *Comentario*, 1041 and forward.

⁵ Art. 143 of the Draft Constitution, published in the *Boletín Oficial de las Cortes* on 5 January 1978.

⁶ In this same sense, Alzaga, *Comentario sistemático*, 708.

⁷ Section 2 of art. 33 LOTC, added by Organic Law 1/2000, dated 7 January 2000, which stipulates that the timeframe for filing an appeal of unconstitutionality extends to nine months if the bilateral

committees created over time, more or less successfully, as provided for in the different Statutes of Autonomy, which are attributed negotiation functions both *ex ante* – on projects and affairs of mutual interest, precisely to prevent conflicts in these sensitive areas – and *ex post* – once the conflict has arisen yet before it is formalised in jurisdictional terms.

Thirdly, the 1978 Spanish Constitution also provides for the State’s use of unilateral imposition, force or coercion to impose itself in a given conflict with an AC, in the event that the AC “does not fulfil the obligations that the Constitution or other laws impose, or if it is acting in a way that is seriously prejudicial to the general interest of Spain” (art. 155 SC). The purpose of this article is precisely to examine the scope of this last route, especially in view of its application for the first time in the constitutional conflict posed in Catalonia in October 2017.

2. The constitutional debate on the extraordinary State powers in art. 155 SC

It is widely known that art. 155 SC was introduced into the Spanish Constitution following the model of art. 37 of the Basic Law of Bonn (Grundgesetz, GG), of which it is virtually a verbatim copy⁸. However, they are different in three significant way, leading some authors to believe that the similarities are more superficial than substantive⁹. The first two are related to its literalness: on the one hand, art. 155 SC expands the circumstances under which it can be applied compared to what is provided for in art. 37 GG not only by stipulating the AC’s failure to fulfil the obligations stemming from the Constitution or the laws, the sole circumstance cited in art. 37 GG, which refers specifically to the Constitution and the federal laws, but also by adding actions by the Autonomous Regions which seriously harm the general interest of Spain. Secondly, art. 155 SC adds a procedural element prior to the exercise of extraordinary measures, namely an injunction to the president of the Autonomous Community, which is important, as we shall see below. However, the third main difference is determined by the institutional context: in both cases, the measures available to the government – either federal or State – to obligate forcible compliance with the ignored obligations (or to protect the general interest, in Spain) must be approved by the second chamber. Yet for our purposes, the abysmal differences in the composition of the German Bundesrat compared to the Spanish Senate is widely known. In Germany, the federal government’s measures in application of art. 37 GG can only be taken with the approval of all the governments of the *Länder*, while in Spain a governmental parliamentary majority is sufficient;

cooperation committee meets, if it agrees to initiate negotiations to resolve the discrepancies, and if the CC is notified of this agreement within the first three months after the publication of the law in conflict, and furthermore if it is published officially in the Official State Gazette and in the official gazette of the corresponding AC.

⁸ Regarding the Bundeszwang provided for in art. 37 GG, see Albertí, *Federalismo y cooperación*, 213 and forward.

⁹ Cruz Villalón, *La protección extraordinaria del Estado*, 685; in this author’s opinion, the extension of the circumstances for invoking art. 155 SC to actions that seriously harm the general interest of Spain is particularly significant, as he believes that this ends up turning this provision into a general power clause.

this means that it is not difficult to attain the absolute majority required given the electoral system of the Senate, which usually amplifies the majority in the Congress of Deputies. As such, the Autonomous Communities have no say.

However, Germany is not the sole referent for comparisons on this matter. The constitutions of Austria, Italy and Portugal, looking just towards Europe, also contain clauses which authorise exceptional powers for the central government in the event of conflict with regional entities¹⁰. What these three countries have in common, beyond the obvious differences in their respective institutional contexts, and unlike German and Spain, is that all three have explicit provisions for some of the measures to be adopted – clearly the most incisive ones for the autonomy of the regional entities – in the exercise of the exceptional powers that they authorise. Without delving into the details of the conditions, procedure and modalities, it should be noted that Austria allows the Bundesrat to dissolve the Parliaments of the *Länder* at the request of the federal government (art. 100); in Italy, the regional councils may be dissolved by decree handed down by the President of the Republic (art. 126); and in Portugal, the President of the Republic is authorised to dissolve the governing bodies of the autonomous regions (art. 236). Because they entail maximal interference in the autonomy of the territorial entities affected, it has rightly been believed that they are measures that should be explicitly authorised in their respective constitutions.

The issue of which measures can be adopted is unquestionably one of the most important ones because it determines the scope of the extraordinary powers that the State government can wield in extreme situations, such as those under which art. 155 SC should be applied. Yet as mentioned above, this section does not outline these measures but instead limits itself to establishing two general conditions which must be met, referring to its purpose and its need. We shall return to these conditions below. However, throughout the constituent process, in the period when the current art. 155 SC was being drafted, this issue was discussed in such a way that can shed light on its interpretation.

Indeed, two amendments were submitted to the text that was being drafted (first art. 144 of the Draft Constitution, and secondly art. 149 of the draft approved by Congress, which was supposed to go through the Senate, both submitted by the UCD), which sought to explicitly introduce the possibility of dissolving “the regional

¹⁰ Switzerland does not, although at times it is cited in this regard. Art. 52 of the 1999 Constitution contains the traditional Swiss legal institution of federal intervention (art. 15 and 16 of the 1874 Constitution), which is not really a control mechanism but more an assistance mechanism which allows (and obligates) the Confederation to intervene to protect the constitutional order of the cantons when this order is attacked or threatened and the canton is not able to preserve it, either alone or with the assistance of other cantons. This is the same philosophy that inspired section 4 of art. IV of the Constitution of the United States, which contains what is called the Guarantee Clause, which states that “The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence”. These guarantee or assistance clauses have little to do with the mechanism of art. 155 SC, yet they are cited as comparative referents in the Agreement of the State government, dated 21 October 2017, which deems the injunction formulated to the president of the Generalitat disregarded and proposes that the Senate approve measures to apply art. 155 SC.

assembly” – as it was called at the time – in the former¹¹ and of “dissolving the regional bodies” in the latter¹². Neither of the amendments was approved, and therefore the concrete, specific provisions they contained on the possibility of dissolving the regional parliaments (or, in general, the regional governing bodies) were not included in the text of the Constitution. These two failed attempts were the continuation of an earlier one, which also failed, in which the *Alianza Popular* Parliamentary Group also sought to explicitly introduce a text in the Draft Constitution authorising “the suspension of one or more regional bodies” and the “appointment of a governor-general with extraordinary powers” as measures that the State government could take in the event of the *takeover* of an autonomous region “in dire cases”¹³. It is interesting to note here that the difference is that the two amendments discussed during this constituent process were meant for a text that was practically the same as the one that ended up being approved as art. 155 SC, while the AP’s dissenting vote would have designed a completely different territorial model, and therefore the *takeover* which it proposed was one part of a system which was broadly rejected. Therefore, it can be claimed that a text quite similar to the definitive one currently in force refused to stipulate the dissolution of the regional assembly or other regional organs as a possible measure.

Naturally, one could debate the influence that the constituent debate should have on the current interpretation of this article, and whether or not it is conclusive in determining if certain measures have a place, such as the dissolution of Parliament or other bodies of the Autonomous Communities. Yet in any event, the fact that this option was on the table in the constituent debate and the parties refused to include it in the constitutional text cannot be irrelevant. Nor does it seem like a sound argument to consider that the refusal to include this text – with the lack of clarity in the constituent debates themselves, which contributed nothing with regard to this measure – was based on an understanding that this possibility was already implicit in the necessary measures contained in the general text, the text of the article, and therefore it was unnecessary to explicitly state it. Quite the contrary, the fact that amendments of this specific kind were submitted in fact indicates that they were not considered implicit and that therefore, if they were to be included, they had to be made explicit. This is congruent with the comparative experience, which shows us, in the cases of Austria, Italy and Portugal, that when there is the will to include this

¹¹ Amendment no. 736, of the UCD, with Mr Ortí Bordas as the first signatory, which requested adding a third section to art. 144 that would allow the king, at the proposal of the president of the government, after the deliberation of the Council of Ministers, and after having consulted the presidents of the Congress and Senate, to dissolve “the regional Assembly” “over the commission of acts that run counter to the Constitution, for seriously violating the law or for reasons of State security”.

¹² Amendment no. 957, from Mr Alberto Ballarín of the UCD, to add a new section 3 to art. 149, which would stipulate that “the regional bodies could be dissolved if the measures adopted are not fulfilled, or for reasons of national security”. There were plans to appoint an oversight commission made up of people elected by the regional assembly, which was supposed to call elections within three months (or without a timeframe if the dissolution was called for reasons of national security, such that the oversight committee would serve for the period of time set by the government, after which elections would be held).

¹³ Art. 12 of the dissenting vote submitted by Mr Fraga Iribarne in title VIII of the Draft Constitution, which proposed an alternative territorial system to the one contained in the Draft.

kind of measure, one of such magnitude and so exceptional, it must be made perfectly explicit in the constitutional text itself¹⁴.

This is how it has been viewed by much of the Spanish doctrine that has examined this question. Indeed, different authors have explicitly stated that they believe that the measures referred to in art. 155.1 SC do not allow for the dissolution of the Parliament or the dismissal of the government of the Autonomous Community¹⁵. They cite the basic, more or less explicit arguments that on the one hand, what art. 155.1 SC essentially does is call for the compulsion of the regional bodies, but under no circumstances does it have a penalising or punitive nature, while on the other, this kind of measure would be incompatible with the principles of necessity and proportionality which the measures adopted must fulfil. However, other positions have also been expressed, which, from an *Italian interpretation* of art. 155.1 SC, are more open to admitting that the generic and indeterminate expression in art. 155.1 SC referring to the necessary measures that can be adopted may include the dissolution of the regional parliament or other governing bodies¹⁶.

In any event, I think that we could claim that there is general concurrence that despite its generic, indeterminate nature, art. 155 SC does not give the government unlimited powers or the Senate the power to approve them. Extraordinary powers, yes, but under no circumstances unlimited powers. First, there are at least two clear limits which stem from the systematic consideration of the Constitution as a whole: first, art. 155 SC cannot be used to reform either the Constitution or the constitutional system. It seems obvious that art. 155 SC is not an alternative to art. 168 and art. 168 SC, and this means that it cannot be used to modify or alter the rules of territorial organisation established, be they related to organisation-institutions, authorities or relations. A special regime could be established – especially a relational one – with regard to certain matters or issues, but this regime must be temporary and provisional and solely aimed at meeting the purposes that justify resorting to these extraordinary powers. And secondly, it cannot affect the rights and freedoms of constitutionally recognised persons. The suspension of rights is expressly provided for – and therefore limited – in the Constitution, such that it is impossible to apply it under conditions or with regard to rights that are not explicitly

¹⁴ In the case of Germany, as is common knowledge, art. 37 GG has never been applied and therefore without a specific determination in the GG, the question of admissible measures has merely been the subject of doctrinal debate with the backdrop of the very traumatic historical experience of applying the extraordinary presidential powers provided for in art. 48 of the Weimar Constitution (which juxtaposed and encouraged confusion between the *Reichsexekution* and the *Diktaturkompetenz* with the state of exception provided for in paragraphs 1 and 2, respectively, of art. 48). Regarding admissible measures in Germany *ex art. 37 GG*, see Albertí, *Federalismo y cooperación*, 218 and forward, and García Torres, *El artículo 155*, esp. 1277 and forward, with numerous references throughout the entire study explicitly excluding the dissolution of the bodies of the *Länder*.

¹⁵ For example, García de Enterría, *La ejecución autonómica*, 184; García Torres, *El artículo 155*, 1283; Gil-Robles, *Artículo 155*, 514; Aja et al., *Sistema jurídico*, 474; Ballart, *Coerció estatal*, 162.

¹⁶ Vandelli, *El ordenamiento español*, 331; Tolivar Alas, *El control del Estado*, 187. Alzaga does not explicitly include or exclude this kind of measure, stating that the only limit is “reasonable proportionality” (*Comentario sistemático*, 678), similar to Gómez Orfanel, who stresses substitution measures (*Artículo 155*, 2580 and forward.). On the other hand, in the case of serious harm to the general interest, Vírjala does explicitly admit the dissolution of bodies, establishing the limit at the German Liquidation or British direct rule with regard to Ulster (“La coacción estatal”, 103).

cited, either collectively (arts. 55.1 and 116 SC) or individually (art. 55.2 SC). Art. 155 SC could hypothetically be applied at the same time as exceptional situations which enable rights to be suspended, but these are two completely separate situations and each of them may be invoked under different conditions, which are totally different even if they may dovetail in time.

And on the other hand, the very text of art. 155 SC reveals two clear limits applicable to the measures which may be adopted: their purpose and their need. As mentioned above, this means that they must be subjected to a test of appropriateness and proportionality. Thus, it is not overly bold to state that the measures have to be aimed at forcing the Autonomous Community to fulfil the constitutional or legal obligations it has ignored or to protect the harmed general interest; therefore, they must adhere to this purpose – which, furthermore, must be outlined in the previous injunction that the State government sends to the president of the community. Secondly, they have to be necessary to achieve this purpose, in the sense that not only are they appropriate but there are no other reasonable alternative means that are less drastic or invasive. Thirdly, they should be proportional, in the strict sense, with the purpose justifying them, such that they should entail the least interference possible in the autonomy of the community. I believe that these considerations provide sufficient criteria – both negative, in the sense of excluding circumstances, and positive, in the sense of requiring certain conditions – to constitutionally assess the measures that can be adopted in the exercise of the extraordinary powers authorised by art. 155 SC.

3. The application of art. 155 SC in the conflict in Catalonia

With the injunction to the president of the Generalitat agreed upon by the Council of Ministers on 11 October 2017, the mechanism of art. 155 SC was put into motion for the first time. It was applied it to the constitutional crisis that had arisen in Catalonia around the sovereignty process that had taken place, especially in the 11th Legislature after the Parliamentary elections of September 2015. This injunction asked the president of the Generalitat to

“confirm whether any authority from the Generalitat de Catalunya had declared the independence of Catalonia and/or whether in his declaration from 10 October 2017 before the Parliament the president had implied the declaration of independence, regardless of whether or not this declaration still stands”.

He was granted a peremptory deadline to respond by 16 October at 10 am. If the response was positive (with the proviso that “any response other than a simple affirmative or negative response will be considered confirmation”) he was summoned to

“revoke or order the revocation of that declaration of independence in order to restore the constitutional and statutory order, and order the cessation of any action aimed at promoting, advancing or culminating what is called the constituent process leading to the declaration and configuration of Catalonia as a state independent from the rest of Spain, with full compliance with the resolutions handed down by the Constitutional Court.”

The president of the Generalitat answered with two letters, dated 16 and 19 October, to the president of the Spanish government. In them, after outlining several considerations on the political situation in Catalonia, he asked for a meeting with the president of the government in order to initiate a dialogue process, and he announced in the second letter, that

“if the State government persists in preventing dialogue and continues its repression, the Parliament of Catalonia may, if it deems it appropriate, proceed to vote on the formal declaration of independence on which it did not vote on 10 October.”

The State government deemed that these letters avoided responding to the injunction, which it thus considered disregarded. Furthermore, it deemed that its content, which recognised the referendum held on 1 October after the CC had handed down a ruling on 17 October nullifying the law on the referendum of self-determination of Catalonia, entailed confirmation of the violation of constitutional order. Thus, on 21 October, the Council of Ministers adopted an agreement in which it deemed that the injunction submitted had been disregarded and proposed that the Senate approve a set of measures “needed to guarantee fulfilment of the constitutional obligations and the protection of the aforementioned general interest”, with the goals of “restoring constitutional and statutory lawfulness, ensuring institutional neutrality, maintaining social welfare and economic growth, and assuring the rights and freedoms of all Catalans”.

These measures were targeted in five different directions: A) to the president and vice-president of the Generalitat and to the Catalan government; B) to the administration of the Generalitat; C) to certain spheres of administrative activity; D) to the Parliament of Catalonia; and E) transversal measures. The purpose of this article is not to analyse these measures in detail, but the main ones in each sphere are worth noting in order to assess their suitability in dealing with the conflict in Catalonia. The main measures adopted in each sphere consisted in authorising the State government to:

A) proceed to remove the president, the vice-president and the government of Catalonia and to replace them in the exercise of their duties with the bodies or authorities created or appointed by the State government. Specifically, the president of the Generalitat’s authority to dissolve the Parliament and call elections was shifted to the president of the State government.

B) place the administration of the Generalitat under the directives of the bodies created or appointed by the State government and authorise these bodies to adopt any provisions, acts and orders needed to exercise the authorities and duties they take on, and to subject the actions of the administration of the Generalitat to a system of prior notification or authorisation, stipulating the nullity of actions if this requirement is not met. Furthermore, the bodies created or appointed by the State government may object to the acts that require prior notification, and this objection is binding; they may appoint, remove or temporarily replace any authority, public official or personnel of the administration of the Generalitat and its associated bodies and entities; and they may ask disciplinary responsibilities to be applied to

the personnel of the Generalitat in the event that they fail to comply with the provisions, acts and orders adopted by the bodies appointed by the State government.

C) adopt certain singular measures on matters of public security and order¹⁷; economic, financial, fiscal and budgetary management¹⁸; and electronic and audiovisual telecommunications and communications¹⁹.

D) prohibit the Parliament of Catalonia from carrying out the investiture of a President of the Generalitat until a new Parliament is assembled from the elections called by the president of the State government. Likewise, the Parliament's oversight duties of the actions taken by the bodies appointed by the government were removed, and this monitoring and oversight duty was instead assigned to the Senate, while political and governmental proposals were also forbidden from being addressed to the bodies appointed by the State government. What is particularly significant is the establishment of a prior oversight system of parliamentary initiatives, both legislative and non-legislative, by a body appointed by the State government, which must previously approve their submission.

E) finally, the section devoted to transversal measures stipulates: special provisions on the system of regional acts (stating the nullity of full rights and the inefficacy of any regional provisions, acts and resolutions that contravene the measures approved in the Agreement); publication in official gazettes (stipulating that any act or provision of any rank, and either administrative or parliamentary, published in the Official State Gazette of Catalonia or the Official Gazette of the Parliament of Catalonia without authorisation or counter to the agreements reached by the bodies created by the government will be null and void in the case of provisions, and will be neither valid nor effective in the case of resolutions, acts or agreements); modification of departments, bodies or entities (authorising the organisational power to be held by the bodies and authorities appointed by the State government); and special provisions regarding the disciplinary system (in the twofold sense of on the one hand considering fully null and void any proceedings which might have been initiated to sanction behaviours which constitute compliance with

¹⁷ Placement of the *Mossos d'Esquadra* (Police of the Generalitat) under the orders and authorities of the bodies appointed by the State government and substitution the *Mossos* with troops from the State Security Forces and Corps.

¹⁸ Exercise of the Generalitat's authorities in these areas by the bodies appointed by the State government, especially with the objective of guaranteeing that the funds transferred by the State and the revenues earned by the Generalitat were not earmarked for "activities or purposes related to the secessionist process or that contravene the measures" contained in the Agreement to enforce art. 155 SC.

¹⁹ Exercise of the Generalitat's duties on matters related to telecommunications, digital services and information technologies by the bodies appointed by the State government, and the guarantee, with regard to the media operated by the *Corporació Catalana de Mitjans Audiovisuals*, to "broadcast truthful, objective and balanced information that is respectful of political, social and cultural pluralism and of the territorial balance, as well as knowledge of and respect for the values and principles contained in the Spanish Constitution and the Statute of Autonomy of Catalonia", yet without specifying the formula or mechanism for securing this guarantee.

resolutions from the CC or ordinary courts that nullify “activities or pursuits linked to or associated with the secessionist process”, and on the other stating that for disciplinary purposes, noncompliance with the measures contained in the Agreement would be understood as noncompliance with the duty of loyalty to the Constitution and the Statute).

The Agreement of the Council of Ministers ultimately called for this set of measures to remain in place until the new government of the Generalitat resulting from the elections called took office, and while they were in place the government could ask the Senate to modify them or to put an end to them.

It went through the Senate very quickly, in a total of six days²⁰, and concluded with the Agreement of the Senate Plenary which approved the measures requested by the government on 27 October. It was published in the BOE on the same day. Likewise, as the application of art. 155 SC was being processed in the Senate during that week of heavy political tensions, the Parliament of Catalonia held a plenary session on the 26th and 27th to engage in a “general debate on the application of article 155 of the Spanish Constitution in Catalonia and its possible effects”. At the end of the session on the 27th, after the conclusion of the Senate session which approved the measures requested by the government to apply art. 155 SC, the Parliament approved a draft resolution submitted by the group *Junts pel Sí* and CUP which reproduced the “Declaration of the Representatives of Catalonia” that the deputies had signed on the 10th of October, which contained a declaration on the establishment of the “Catalan Republic as an independent, sovereign, democratic and social state governed by the rule of law”²¹.

The Senate approved the measures requested by the government, albeit with a few modifications, including the following:

- it directly attributed to the government, or the authorities or bodies appointed by the government, the duty to substitute the president of the Generalitat and the members of the Catalan government who were stripped of office,
- the references and provisions on the public audiovisual service of the Generalitat were eliminated, and

²⁰ Agreement of the Committee to admit the government request to the Senate to approve the measures and establish a joint commission with the General Commission of the Autonomous Communities and the Constitutional Committee to process the government request (21 October, *BOCG-Senate*, no. 162, 21 October); meeting of the committee to formulate a proposal (26 October); meeting of the Joint Committee to debate and vote on the proposal (26 October); plenary sessions (27 October). The president of the Generalitat submitted in writing the allegations provided for in art. 189 of the Senate Rules to the Commission (published in the *BOCG-Senate*, no. 165, 27 October). The meeting of the Committee and the spokespersons of the Commission prior to the Commission session held on 26 October (*Journal of Senate Sessions*, no. 183, 26 October, 2 and 3) refused to allow the government delegate of the Generalitat in Madrid, Mr Mascarell, to act as a representative of the president, and ultimately Senator Cleries took on this role. The dissenting votes were published in the *BOCG-Senate*, no. 166, 28 October.

²¹ Resolution approved by 70 votes in favour, 10 against and 3 abstentions, with the absence of the deputies from the Socialist, Ciutadans and Popular parliamentary groups, who left the session before the vote.

–the State government’s prior oversight of parliamentary initiatives was eliminated (with the argument, interesting to note, that it deemed that this ran counter to the Constitution).

Furthermore, it ordered the government to use the measures approved in a “proportional and responsible” way, “bearing in mind the evolution of events and the gravity of the situation”.

The approved Senate Agreement and the government’s initial Agreement proposing measures were published simultaneously in the BOE on the same day, 27 October 2017, and the following day the official gazette published the first measures adopted by virtue of that authorisation, which consisted in the following:

- the president²² and the vice-president of the Generalitat and the remaining members of the Catalan government were stripped of their offices²³,
- the Parliament of Catalonia was dissolved and elections were called for 21 December²⁴,
- different bodies of the Generalitat were eliminated and the officials in charge of those eliminated bodies were stripped of their duties²⁵, and several senior Generalitat officials were dismissed²⁶, and
- bodies and authorities were appointed to effectively apply the measures authorised by the Senate, especially the substitution of the Catalan authorities stripped of their offices, an appointment which was made in favour of the president of the State government, the vice-president, the Council or Ministers and the ministers.

Likewise, on the following days, the elimination of other bodies from the administration of the Generalitat was approved and their leaders were stripped of their duties, as were any temporary personnel linked to the eliminated officials²⁷.

Thus far, the facts. However, for the purposes of this article what we must do is inquire into the constitutional questions sparked by the application of art. 155 SC in the terms under which it occurred. The constitutional questions in this case run in two directions: the first and most obvious one is whether the way the extraordinary powers *ex art. 155 SC* were applied abides by the Constitution, both from the procedural and formal standpoints and in relation to the types of measures adopted. Yet we must also question the suitability of the application of an instrument like 155 SC to a conflict like the one in Catalonia. The first question shall be discussed

²² RD 942/2017, dated 27 October.

²³ RD 943/2017, dated 27 October.

²⁴ RD 946/2017, dated 27 October.

²⁵ Offices of the President and Vice-president, Advisory Council for the National Transition, Special Commission on the Violation of Fundamental Rights in Catalonia, Patronat Catalunya-Món-DIPLOCAT and government delegations abroad, except in the European Union (RD 945/2017, dated 27 October 2017).

²⁶ Government delegate in Madrid, permanent representative before the European Union, general secretary of the Department of the Interior, the general director of the Police (stripped of their duties via RD 945/2017, dated 27 October), and the major of the Mossos d’Esquadra (Order INT/1038/2017, dated 28 October 2017).

²⁷ RD 954/2017, dated 31 October (BOE dated 2 November 2017).

below in a brief, general way, while the second will be the subject of a reflection in the following section, which is also necessarily brief, to conclude this article.

The Senate Agreement approving the measures requested by the government in application of art. 155 SC has been the subject of appeals on the grounds of unconstitutionality²⁸, which the CC agreed to hear, thereby giving the Court the opportunity to rule directly on art. 155 SC for the first time²⁹. Yet unfortunately, from the start, the Court has explicitly refused to hand down a timely opinion on the application of art. 155 SC while the measures imposed via its application are still in force³⁰. It is not that the Court, given its traditional delay in resolving affairs, did not have the time to issue an opinion on the constitutionality of the measures while they were in force; instead, it explicitly refused to do so. After all, the only consequence of suspending the deadline for the government of the Generalitat to formulate allegations on the appeals filed until Royal Decree 944/2017 is no longer in force could be to authorise the Council of Ministers to exercise the duties corresponding to the government of the Generalitat de Catalunya. The commendable goal of avoiding a conflict of interest nonetheless means that effective constitutional justice is denied, because this Royal Decree is precisely one of the main measures adopted in application of art. 155 SC. This is not the place to suggest alternatives, but I am confident that other solutions could have been found that do not entail explicitly refusing to exercise effective constitutional justice as opposed to merely historical or pedagogical justice.

With regard to the formal and procedural aspects of the application of art. 155 SC in Catalonia, what stands out in my opinion is that the injunction phase was rendered meaningless because of the way it transpired. Indeed, it shows several serious flaws that affect the requirements and conditions stipulated in the Constitution which compromise its designated purpose in the process of applying art. 155 SC. The injunction phase provided for in art. 155 SC is in no way merely a

²⁸ Appeals submitted by more than 50 deputies from the Confederal Parliamentary Group of Unidos Podemos-En Comú Podem-En Marea and by the Parliament of Catalonia. The CC, however, did not agree to hear another appeal submitted by the government of the Generalitat on the grounds that it was premature, given that it was filed against the Agreement of the Council of Ministers on 21 October 2017 before it had been approved by the Senate (ITC 142/2017, 31 October 2017).

²⁹ In the CC's jurisprudence, there are several references to art. 155 SC, but not to its specific application, since this issue has never arisen until now. The Agreement of the Council of Ministers dated 21 October 2017 cites different CC rules which refer to art. 155 SC (SCR 25/1981, 27/1987, 49/1988, 215/2014). However, it does not cite CCR 76/1983 on the draft LOHPA; it had declared part of art. 7.2 of the draft LOHPA unconstitutional because it generally defined the circumstances in which art. 155 SC would be applied (FJ 12).

³⁰ In the admission provisions of the two aforementioned appeals (dated 10 January and 7 February 2018, respectively), the CC suspended the government of the Generalitat's deadline to submit allegations "in order to avoid a conflict in the defence of the interests of the State and of the Autonomous Community of Catalonia" until "[...] the Council of Ministers, in accordance with art. 5 of Royal Decree 944/2017, dated 27 October 2017, exercises the duties and authorities corresponding to the Council of Government of the Generalitat de Catalunya". Thus, the CC refused to hand down a ruling as long as the application of art. 155 SC lasted, which is precisely what was being challenged by the appeals, whose hearing was thus suspended. Without a doubt, this is a fraught balance between the right of defence on the one hand and the effectiveness of the jurisdictional review requested, which could have been resolved in a way that would not have entailed an explicit refusal to provide an effective response to the appeals.

formal requirement prior to activating the extraordinary powers that the provision authorises; instead, it plays an essential role in that first it determines the circumstances under which the application of extraordinary powers is justified – what, in the State government’s view, constitutes noncompliance with the constitutional or legal obligations or what is an action that seriously harms the general interest of Spain – and it thus sets the terms of the debate between the State and the AC, with important effects on the jurisdictional oversight which may later be established. Secondly, similar to the way an injunction works in conflicts of jurisdiction, but more politically significant given the greater importance of the matter, the injunction phase opens the possibility for the parties to work towards a solution which would render it unnecessary to activate the extraordinary State powers.

The injunction that the State government issues to the president of the CA must logically first identify the noncompliance with the obligations or the harm to the general interest attributed to the CA, and secondly request the measures deemed appropriate to rectify the situation. In his or her response to the injunction, the president of the CA may, in turn, dispute both the action attributed to the CA and the rectifying measures requested by the government. The government then has to weigh the response and determine whether or not it is satisfactory for the purpose stated in the injunction, and propose that the Senate approve the measures needed if it believes that the response is inadequate. Finally, the Senate has to check that the injunction has been issued and disregarded (art. 189.1 of the Senate Rules) as a necessary condition for it to approve the measures requested by the government. When it works in this way, an injunction is actually a dialogue process between the State government and the CA, one which must necessarily take place before extraordinary measures are adopted; furthermore, it is focused on the CA’s action that is the subject of the grievance and is politically overseen by the Senate. Therefore, it is a prior, complex phase in which three different actors must take part (State government and president of the CA, as well as the Senate), and it is therefore a decisive moment to justify turning to such an extraordinary instrument as art. 155 SC.

However, an examination of the actions taken in this phase of the injunction shows that several basic conditions of the procedure were neglected, which prevented it from serving the purpose it is assigned. Indeed first, one can observe a lack of congruence between the injunction initially issued by the Council of Ministers on 11 October and the Agreement taken by the same Council of Ministers on 21 October which deems the injunction disregarded and suggests measures for the Senate to approve. The initial injunction, in fact, focuses on – and is limited to – asking the president of the Generalitat to confirm whether or not any authority of the Generalitat has declared the independence of Catalonia. And, if the answer is affirmative, the president of the Generalitat is asked to revoke this declaration and cease any action related to the constituent process³¹. In contrast, the Agreement of

³¹ The order in the injunction stated: “A. To ask the President of the Generalitat de Catalunya, in his capacity as the highest representative of the Generalitat and the ordinary representative of the State in Catalonia, under the protection of article 155 of the Spanish Constitution, the following: 1. To confirm whether any authority from the Generalitat de Catalunya had declared the independence of

the Council of Ministers dated 21 October, which deems the injunction disregarded, expands this scope extraordinarily, extending it far beyond both the initial purpose and the measures proposed. Thus, it generally alludes to manifest, obstinate and deliberate nonfulfillment by the Autonomous Community of Catalonia, by its top governmental and parliamentary institutions, of its constitutional obligations by launching this Autonomous Community's secession process from the Spanish State, with rebellious, systematic and conscious disobedience of the repeated rulings and injunctions of the Constitutional Court, thus seriously harming the general interest of Spain.

According to the Agreement, this attitude has caused serious harm to the model of constitutional coexistence and to the rights of all Spaniards, who are the holders of national sovereignty, and it has already generated notable damage due to the political instability caused, which diminishes the economic and social welfare of Catalans as a whole.

It next refers to the Parliament of Catalonia's approval of Laws 19/2017 and 20/2017, which were suspended by the CC, and to the determination expressed by the President of the Generalitat to recognise the referendum on 1 October. This, it says, constitutes even more serious harm to the general interest of Spain, since it states the deliberate desire to persist in the secession from Spain and thus to flagrantly attack the national sovereignty of the Spanish people and the territorial integrity of the State, which are the basic cornerstones of the Spanish Constitution.

All of this, it says, leads to "serious deterioration in the social and economic welfare of the Autonomous Community of Catalonia", which is "affecting the economic evolution in Catalonia and stands in contrast with the economic dynamism it has shown until now".

Obviously, all of these reasons, with their corresponding arguments, go far beyond what was stipulated in the initial injunction, with the consequence that these points could not have been part of the dialogue among institutions which the injunction should trigger. And on the other hand, as mentioned above, the measures it proposes also extend far beyond those initially requested, which sought to revoke the declaration of independence – if indeed it had been declared – and cease any actions related to the constituent process.

In this same Agreement, which should have been part of the dialogue between the two parties, the response of the President of the Generalitat contained in the two

Catalonia and/or whether in his declaration from 10 October 2017 before the Parliament the president had implied the declaration of independence, regardless of whether or not this declaration still stands. 2) To duly notify the government of the nation of his affirmative or negative response by 10 am on 16 October of this year. B. If the answer is affirmative, and for these purposes the absence of a response and/or any response other than a simple affirmative or negative response will be considered confirmation, he is asked, in accordance with article 155 of the Constitution, the following: 1. For the President and the government of the Generalitat de Catalunya to revoke or order the revocation of that declaration of independence in order to restore the constitutional and statutory order, and order the cessation of any action aimed at promoting, advancing or culminating what is called the constituent process leading to the declaration and configuration of Catalonia as a state independent from the rest of Spain, with full compliance with the resolutions handed down by the Constitutional Court."

letters sent to the president of the government are neither taken into consideration nor in any way considered in relation to either the request he was given – in which a denial that Catalonia’s independence had been declared can clearly be gleaned – or the measures he proposed to channel the conflict, namely initiating a dialogue process which would begin with a meeting with the president of the State government. The fact that in its injunction, the State government said that any response other than a simple affirmation or denial of the declaration of independence would be considered confirmation is still astonishing. Obviously, the government is free to formulate the injunction in the terms it deems the most suitable, but it is unacceptable that it seeks to condition the other party’s response and predetermine its effects. In any event, this reveals a conception of what an injunction is that in no way fits what we have seen, in that it is meant to be a dialogue phase prior to the use of extraordinary powers *ex art. 155 SC*.

In turn, in its Agreement dated 17 October, the Senate did not consider either the government’s previous injunction or the president of the Generalitat’s response when determining its noncompliance, as stipulated in art. 189.1 of its Rules. Furthermore, the Senate’s very deliberation process was affected by the fact that it prevented the representative personally appointed by the president of the Generalitat from appearing to speak before the Commission, as noted above³².

The conclusion reached by examining the procedure by which art. 155 SC was applied in the case of Catalonia is the categorical failure of the prior dialogue and deliberation process that the Constitution requires before adopting extraordinary measures, thus completely denaturing it and giving it no opportunity to fulfil the purpose for which it exists, in my opinion.

Regarding the measures taken, I shall only mention those approved by the Senate, which are the ones ultimately applied. Nonetheless, I believe that it is significant to note that the State government also proposed others, which the Senate itself explicitly rejected because they ran “counter to the Constitution”³³. These were the measures that sought to establish prior control over the legislative and non-legislative initiatives of the Parliament of Catalonia, such that they could not be dealt with without either the explicit or tacit approval of the authority appointed by the State government for this purpose³⁴. However, with regard to the Parliament, the measures upheld the prohibition from initiating the investiture process of a president of the Generalitat until new elections were held; the prohibition from exercising the monitoring and political initiative duties regarding the authorities and bodies designated by the government to apply the measures of art. 155 SC, which it says befall the Senate; and in general, the prohibition from “processing initiatives

³² See note 20. It is difficult to understand the legal underpinning behind this denial, since art. 189.3 of the Senate Rules explicitly mentions the possibility that the president may “appoint, if s/he deems it suitable, a person to take on representation for these purposes”. This denial is gratuitously burdensome, because it is difficult to understand the prejudice that could lead the president’s personal representative not to be a member of the government of the Generalitat (which is the reason alleged) while thwarting the deliberation process on such a delicate, controversial matter as this one, a matter in which it is more essential than ever that the forms serve deliberation and not, conversely, that they become obstacles to it.

³³ Senate Agreement dated 27 October 2017, cited, section II.c.

³⁴ Section D.4, paragraphs 2 and 3 of the Government Agreement.

which run counter to these measures in their budget, target or purpose”. Nonetheless, because the Parliament was dissolved and elections were called immediately, these measures had virtually no effect.

The measures that were in fact effective, and which are indeed at the core of the application of art. 155 SC, were dismissing the government, dissolving the Parliament of Catalonia and calling elections, as well as placing the entire administration of the Generalitat under the orders of the State government, which also entailed the authority to eliminate bodies and dismiss officials.

These measures can be analysed according to the constitutional demands and conditions which can be gleaned from art. 155 SC, as discussed above generally, to determine whether they fall within the extraordinary powers which art. 155 SC confers upon the State. This is not the place to undertake a detailed assessment of the constitutionality of these measures, but several general considerations are worth noting. The first is that they largely dovetail with the measures that were discarded in the constituent process, as discussed above. Indeed, both the dissolution of Parliament and the dismissal or cessation of the government were considered and rejected in the constituent debates. Interpreting the constitutional text in light of the constituent debates cannot be conclusive and definitive in shedding light on the meaning of a given precept, but in this case it is very difficult to claim that measures in art. 155 SC which were specifically rejected in the process of drafting the Constitution now fit there. Indeed, there are so few clear cases like this one, in which a given option was explicitly excluded from the constitutional text that was ultimately approved. The argument that these measures are implicitly included in the “necessary measures” is extraordinarily weak, as asserted above, not only because they were explicitly proposed (which is actually a symptom that they were not considered explicit) but also because of imperatives of elementary constitutional logic, which require measures of this importance to be stated explicitly, as they are in the cases of Italy, Austria and Portugal, as shown above.

The second observation is that these same measures affect fundamental rights, which is one of the basic limits to which they are subjected, also as discussed above. Indeed, both the removal of members of the government and the early dissolution of the Parliament affect the rights of political participation *ex art. 23 SC* for both citizens and the dismissed officials and representatives. Regarding the latter, it is clear that their dismissal for causes not provided for in the legal system and by a body other than the one established therein³⁵ affects their *ius in officium*, which is protected by art. 23.2 SC, as repeatedly stated by the CC³⁶. After all, it is difficult to imagine what could more intensely affect the *ius in officium* of public officials and representatives than decreeing the early termination of the duties for which they were elected or appointed. For this reason, the legal system takes

³⁵ With regard to the deputies, early termination of the legislature is regulated in art. 75 and art. 67.3 of the Statute of Autonomy of Catalonia (SAC) (generally in art. 75 and with respect to failed investiture in art. 67.3, and in all cases the authority to dissolve it is held by the president of the Generalitat). With regard to the members of the government, they may also only be removed from their posts by the president (art. 68 SAC) and, with regard to the latter, their removal is also provided for in just a few and specific cases (art. 67.7 SAC).

³⁶ CCR 5/1983, 298/2006, among many others.

particular care to determine the cases in which this may be done and who may do it. And it is obvious that these conditions – the circumstances under which this may happen and the authorities who may do it – do not exist in this case, rendering it a violation of the rights of the elected representatives and members of the government protected by art. 23.2 SC. Likewise, citizens' right of political participation is also affected in that their elected representatives – and the members of the government who were subsequently appointed by the politicians whom the citizens had chosen in the ballot boxes – were unable to exercise their duties during the established period³⁷.

Finally, the measures adopted in application of art. 155 SC can be subjected to a test of proportionality based on the necessary conditions with respect to their *purpose* and their *necessity*, as explicitly stated in art. 155 SC itself, as highlighted above. However, there are several major obstacles to undertaking this examination which stem from the flaws in the prior injunction phase, as discussed above. The lack of congruence between the initial injunction and the Agreement which deemed it disregarded and proposed measures to be approved in the Senate casts doubt and uncertainty on decisive aspects, which generates a great uncertainty. However, the target of the injunction, with the identification of its purpose and the measures it proposes, can only be what appears as such in the Agreement of the Council of Ministers dated 11 October, which is what truly and effectively started the procedure. Therefore, the purpose which the adopted measures should seek is to get a response on the potential declaration of independence of Catalonia, and if this response is affirmative, the measures should be aimed at restoring constitutional order (measures which are asked of the president of the Generalitat, which, if not fulfilled, could give rise to the obligatory instructions provided for in section 2 of art. 155 SC). Therefore, it is very difficult to reasonably sustain, with a serious, rigorous application of the test of proportionality, that any of the basic measures adopted (removal of the government, dissolution of the Parliament and substitution of the leadership of the administration of the Generalitat) could satisfactorily pass this test.

None of the three basic measures adopted is adequate to achieve the purpose sought, and they are even less *necessary* to achieve this purpose in the sense that it could be achieved only through them and not through less harmful measures. After all, it is clear that revoking a declaration of independence – which was denied in the response to the injunction – and restoring the constitutional order, removing the president and the entire government and placing the entire administration of the Generalitat under the orders of the State government, and even transferring to the State government the organisational powers to eliminate bodies and dismiss officials, are clearly disproportionate measures in terms of both the possibility of using less harmful alternatives and the seriousness of these measures themselves and the damage they cause to the Community's autonomy. Likewise, the early dissolution of the Parliament cannot under any circumstances be ascribed to this purpose, since citizens can once again vote for a similar political majority, as in fact transpired. What is more, appealing to the ballot boxes in a situation like this is

³⁷ CCR 203/2001 affirms that the right that “art. 23.1 SC recognises for citizens would be devoid of content or ineffective if the political representative were deprived of it or disturbed in their exercise of it”.

actually tantamount to asking the citizenry to issue a political judgement of the events that happened, which can be understood as being politically validated or condemned, depending on the results. This democratically expressed judgement will coexist with the judgements of the other actors in this process – importantly, the State government as well – in a relationship that can be uneasy and may extend over time and only serve to aggravate the conflict. In any event, because the same political majority can be reproduced, the dissolution of the Parliament and the calling of elections are not in themselves adequate measures to address noncompliance with or harm of the general interest of Spain, as accused.

4. A final reflection: Art. 155 SC and the ways to resolve the constitutional conflict in Catalonia

Everything said so far leads us to once again consider the suitability of applying art. 155 SC to resolve the constitutional conflict in Catalonia. And to do so, I believe that it is relevant to bear in mind that the application of art. 155 SC was not the only means used by the State government to deal with this constitutional crisis. Indeed, we should recall first that the State government has systematically appealed before the Constitutional Court all the actions, legislative and non-legislative, definitive and draft, juridical and political, which have been produced throughout what is known as the sovereignty process in Catalonia³⁸. On all occasions, the government has

³⁸ Just between March 2017 and the date when art. 155 SC was applied, the following actions can be cited:

- Appeal of unconstitutionality submitted by the State government on 31 March 2017 against the Law on Budgets of the Generalitat for 2017, resolved by CCR 90/2017, dated 5 July 2017, which declares different sections of the Law on Budgets unconstitutional and null and void if the funds are spent to finance the referendum on the political future of Catalonia.
- Appeal of unconstitutionality submitted by the State government against the reform of the Rules of the Parliament of Catalonia dated 26 July 2017, on the processing of laws using the single reading procedure, which was resolved by CCR 139/2017, dated 29 November 2017, which declared the reform of the Rules constitutional as long as they do not prevent amendments from being processed.
- Appeal of unconstitutionality submitted by the State government against the Law of the Parliament of Catalonia on the referendum on self-determination, resolved by CCR 114/2017, dated October 2017, which declared it unconstitutional and null and void.
- State government challenge of the appointment of the members of the Electoral Commission of Catalonia by the Parliament, resolved by CCR 120/2017, dated 31 October 2017, which nullifies the appointments. Previously, the CC had imposed a coercive fine on the members of the Commission, as it deemed that they had taken actions that run counter to the suspension ordered (Constitutional Court Injunction [CCI] 126/2017, dated 20 September 2017), which it later lifted (CCI dated 14 November 2017) because the officials had stepped down. Likewise, coercive measures were imposed, and later lifted, on numerous public officials in charge of the electoral administration of Catalonia (CCI dated 21 September and CCI dated 8 November, respectively).
- State government challenge of the decree to call the referendum, resolved by CCR 122/2017, dated 31 October 2017, which declared it unconstitutional and null and void.
- State government challenge of the decree on complementary referendum rules, resolved by CCR 121/2017, dated 31 October 2017, which declared them unconstitutional and null and void.
- Appeal of unconstitutionality submitted by the State government against the Law on Transitory Legal System and Founding the Republic, resolved by CCR 124/2017, dated 8 November 2017, which declared it unconstitutional and null and void.
- Interlocutory appeal for enforcement submitted by the State government with respect to the “Declaration of the Representatives of Catalonia” approved by the Catalan Parliament on 27 October

invoked art. 161.2 SC to automatically suspend the act challenged, and at all times as well, the CC has ruled in favour of the State government by nullifying these acts³⁹. It has furthermore used the authorities granted it by Organic Law 15/2015, dated 16 October 2015, which enormously expand the CC's powers to enforce its own resolutions by allowing it to personally warn certain public officials of their duty to prevent or paralyse any action which entails ignoring or evading the suspension, with a warning of criminal liability in the event of noncompliance, and even by directly imposing coercive fines.

In this way, it could be argued that at the request of the State government, the CC paralysed and nullified all the Community's actions aimed at developing the political sovereignty process.

Secondly, it should also be borne in mind that the administration of the Generalitat had been financially taken over since September 2017⁴⁰, such that it was prevented from making any expenditures on the sovereignty process. Apart from the debate that may arise over the legality or constitutionality of this takeover⁴¹, which the ministerial order justified with Organic Law 2/2012 on budgetary stability,

2017, as well as the declaration on "The Constituent Process" approved on the same date, which was resolved by the CC (SCI dated 8 November 2017) by nullifying the aforementioned declarations because they contravene several earlier CC resolutions (especially CCR 114/2017, which nullified the law on the referendum and the provision which it admitted for processing and suspended the law on the Transitory Legal System). These challenges were joined by different incidents involving the enforcement of rulings and interlocutories previously handed down by the Court to stop certain parliamentary sessions from being held, or the processing of certain initiatives (e.g., the CC interlocutories dated 20 September 2017 which nullify the agreements of the Board of the Parliament of Catalonia which allowed for voting on the laws on the referendum and the Transitory Legal System), as well as different appeals on the grounds of unconstitutionality submitted by deputies from the opposition, based on which the CC suspended certain parliamentary sessions.

³⁹ With the sole exception of the appeal against the reform of the Rules of the Parliament of Catalonia, dated 26 July 2017, as mentioned in the previous note.

⁴⁰ Order HFP/886/2017 of the Ministry of the Treasury and Public Administration, dated 20 September 2017, stating the non-availability of credit in the budget of the AC of Catalonia for 2017, handed down after the Agreement of the Delegate Government Commission for Economic Affairs which adopts measures in defence of the general interest and to guarantee the public services of the Autonomous Community of Catalonia (published by Order HFP/878/2017, dated 15 September 2017), which asked the president of the Generalitat to adopt within 48 hours an agreement on the non-availability of its budget that would affect all the budgetary credits other than those explicitly stated in annexes I and II of the Agreement of the Delegate Government Commission for Economic Affairs, dated 20 November 2015, which stipulated an obligation of formal notification of the expenditures made by the Generalitat. The Order dated 15 September was replaced by Order HFP/128/2017, dated 22 September 2017, which published the Agreement of the Delegate Government Commission for Economic Affairs, which adopts measures in direct application of art. 155 SC and, in essence, attributes the Spanish government the authority to pay the Generalitat's creditors on its account. This Order renders the Agreement of the Delegate Government Commission dated 15 September without effect, and it stipulates that the Order dated 20 September would cease to be in force on 31 December 2017.

⁴¹ In terms of both its purpose, which does not fall within the provisions of Organic Law 2/2012 on control of the public debt and deficit and spending rules, and the procedure followed, which ignores the processes and requirements explicitly stipulated by the same Organic Law, which is used as its legal underpinning (especially art. 6 related to forcible compliance with the agreement to not make budgetary credit available, which can only be adopted by applying art. 155 SC, with the authorisation of the Senate).

whose stated purpose is to “prevent activities counter to the legal system in place from being financed”⁴², the fact is that via this instrument the State government put the finances of the Generalitat under its direct control, assuring that public funds were not allocated to activities related to the 1 October referendum or to the sovereignty process in general.

Through these two routes, then, the State government paralysed and nullified the actions of the Generalitat related to the sovereignty process and controlled its future actions in this vein by both financial oversight and the potential to file new cases before the CC, possibly asking for criminal liability in the event of noncompliance. However, the recourse to these instruments was not sufficient to resolve the conflict that had arisen in Catalonia, or at least it was not sufficient for the State government, which deemed it necessary to resort to the extraordinary powers of art. 155 SC as well. Yet as it was used, this route presents dire problems of suitability with the Constitution, as discussed above, nor did it resolve the constitutional conflict with Catalonia, as reality has stubbornly shown, especially after the Parliament of Catalonia elections⁴³. The State’s application of coercive extraordinary measures in the Community has revealed these measures’ inefficacy as a way to resolve the conflict, showing that it cannot be resolved through the unilateral imposition of one party over the other, which is what art. 155 SC entails.

If this is so, and therefore neither the jurisdictional route nor unilateral coercion is a suitable way to resolve the constitutional conflict in Catalonia, the only solution left on the horizon is negotiation, as the only one left among the three cited at the beginning of this article as possible ways to deal with territorial conflicts or, more broadly, conflicts in general. And the recent comparative referents relevant to Spain, such as Canada-Quebec and United Kingdom-Scotland, show that the Constitution can indeed channel this kind territorial conflict resolution, and that even if ways or instruments have not been explicitly provided for, they can be established to provide a democratic resolution to the conflict that is acceptable to all parties. In these cases, the Constitution has been called to fulfil its underlying purpose of political integration and to become the spillway that carves a channel out of the conflict instead of becoming a rigid, immutable wall that acts instead like a dyke which prevents it from being channelled and ends up aggravating the matter.

A negotiated political solution is also consistent with the nature of the conflict in Catalonia, which is a true constitutional crisis that reflects a rupture of the constitutional consensus. What is at stake is the territorial model stemming from the 1978 Constitution, as it has been interpreted and developed in recent years. And the most obvious and natural way to deal with this crisis is by trying to rebuild the shattered constitutional consensus, in an attempt to find a solution that is satisfactory to all parties involved⁴⁴. The dire problem emerges when it is impossible

⁴² Statements of Order HFP/878/2017, dated 15 September 2017.

⁴³ Indeed, the results of the elections held on 21 December 2017 in application of art. 155 SC were a parliamentary majority that was also in favour of the pro-sovereignty parties, quite similar to the results of the elections held on 27 December 2015. The election results can be seen at <https://www.parlament.cat/web/composicio/resultats-electorals/index.html>.

⁴⁴ For this issue, I shall refer readers to E. Albertí (2016), *La reforma constitucional*, p. 243 and forward.

to reach a new constitutional consensus, because then the only alternatives are a forcible maintenance of the status quo (how/until when?) or rupture and a new beginning, or multiple new beginnings, with all the deep-seated questions of not only what but also how.

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Menorca: From the third tourism boom to the economic crisis and the role of the Insular Territorial Plan

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Abstract

Territories and tourist destinations have experienced a large-scale process of evolution and transformation in recent decades. This period has witnessed extremely important morphological and structural changes, which have also affected the island of Menorca. Increasing numbers of tourists, approval of the Insular Territorial Plan, the subsequent economic crisis and end of the real estate bubble are the main factors conditioning the evolution of Menorca in the past few decades. This paper analyses these three factors in order to study the main transformations that have occurred on Menorca and how they have come to shape the territory today.

Key words: Menorca, tourism, Insular Territorial Plan, tourism boom, urbanisation, crisis.

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1. Introduction. Objectives and methodology

With the onset and expansion of tourism in recent decades, the island of Menorca has undergone profound social, economic and territorial transformations. The main objective of this article is to analyse them from the 1990s until today, a 25-year period in which tourism has gained momentum. Therefore, many of the changes that have happened cannot be explained without taking it into account, especially when it has been described, here too, as drawing from a model with rather Fordist characteristics.

It is also true that the role of tourism cannot be understood studied in isolation, without relating it to land-use planning. This leads to the second objective, namely examining how certain land-use policies signal a turning point with regard to the changes that occur in a specific place. This article analyses whether with the 2003 Insular Territorial Plan of Menorca (abbreviated ITPM), the island began to lay the groundwork for a territorial and economic model which would mark a break with the model in place until then. However, the Plan was not the only important initiative in this change; it is also important to bear in mind Menorca's declaration as a Biosphere Reserve in 1993. Finally, the third objective is to ascertain how this increase in tourism has started to slow down in the past decade because of not only the implementation of the ITPM but also the start of the economic crisis and the bursting of the real estate bubble, which have clearly played a crucial role since 2008.

The methodology used in this article was based first on the analysis of certain quantitative indicators, and secondly on a bibliographic search for studies written on the topic. Basically, we should mention the studies published by both the Socioenvironmental Observatory of Menorca (Observatori Socioambiental de Menorca, abbreviated OBSAM) and the Sustainability and Territory Research Group (Grup de Recerca en Sostenibilitat i Territori, GIST) at the Universitat de les Illes Balears.

This article starts with a brief introduction describing the territorial and tourism framework, and then it analyses the evolution of the territory, with a particular emphasis on three factors. The first is the territorial changes and transformations which can be gleaned from the cartography by analysing the land-cover maps from 1995 and 2005. To do so, the first step was to unify and simplify the categories on both documents in order to facilitate their comparison; ultimately, an entirely new set of categories was defined. Secondly, this article analyses the importance of tourism using three basic indicators (spatial tourism function rate, residential tourism function rate and tourism function rate) which provide a snapshot of the sector's presence. Finally, based on variables like the percentage of the employed population by sector and population evolution, the main social and economic transformations which preceded the approval of the Insular Territorial Plan are surveyed.

The article then continues to a second section focused on the revision of the Insular Territorial Plan of Menorca. The territorial consequences that the Plan may have had, as well as the current crisis in the economy and the real estate sector, are analysed to see whether we can detect a turning point in the growth dynamics from previous decades. The analysis of the economic crisis is based on statistical information sources from the Statistical Institute of the Balearic Islands (Institut d'Estadística de les Illes Balears, abbreviated IBESTAT) and the National Statistical Institute (Instituto Nacional de Estadística, INE), given that even today there is a dearth of articles that undertake a

detailed analysis of its territorial consequences. The phenomenon's closeness in time means that the topic has not yet been thoroughly analysed.

Finally, the article ends with conclusions which reflect on the possible future of the island.

2. Justification of the period studied

Tourist spaces have been heavily studied in the recent history of this activity in its most modern guise as the spread of mass tourism. Of course, the Balearic Islands have been a prime target in this sense, given that they have become a leading destination worldwide. The initial idea of this article, which is still important, is that the onset of tourism in the 1960s led to excessively quick urban development, especially in the early decades and on the coastline. At that time and place, the most important thing was to grow and not (or not so much) how this growth took place. Subsequently, with the introduction of the process leading to the autonomous regions and a higher level of self-governance for local entities, the vast majority of town halls reviewed and in some cases wrote their own municipal plans; however, they carried on with the same growth patterns. This explains why the application of urban and land-use plans in the Balearic Islands as a whole in the 1980s sought continuity with and legitimisation of this earlier growth (Blázquez, 2006; Rullán, 2010a).

Nonetheless, the first law drafted by the regional parliament after it was established in 1983 was precisely Law 1/1984, dated 14 March 1983, on the Organisation and Protection of Natural Areas of Special Interest. The speed with which this law was enacted can be interpreted as a sign of the Balearic Islands' desire to resolve the tourism and urbanisation issues, which even back then were showing truly worrisome signs. This law gave the Parliament the capacity to intervene on matters involving the protection of spaces that are threatened by urbanisation processes, even though this problem did not begin to be grappled with fully until Law 1/1991, dated 30 January 1991, on Natural Spaces and the Urban Development System of Specially Protected Areas on the Balearic Lands. With this law, one-third of the land at risk of being urbanised on the islands was placed under protection. Despite these early efforts to stanch the expansion of urbanisation, the true turning point on Menorca did not come until the approval of the Insular Territorial Plan.

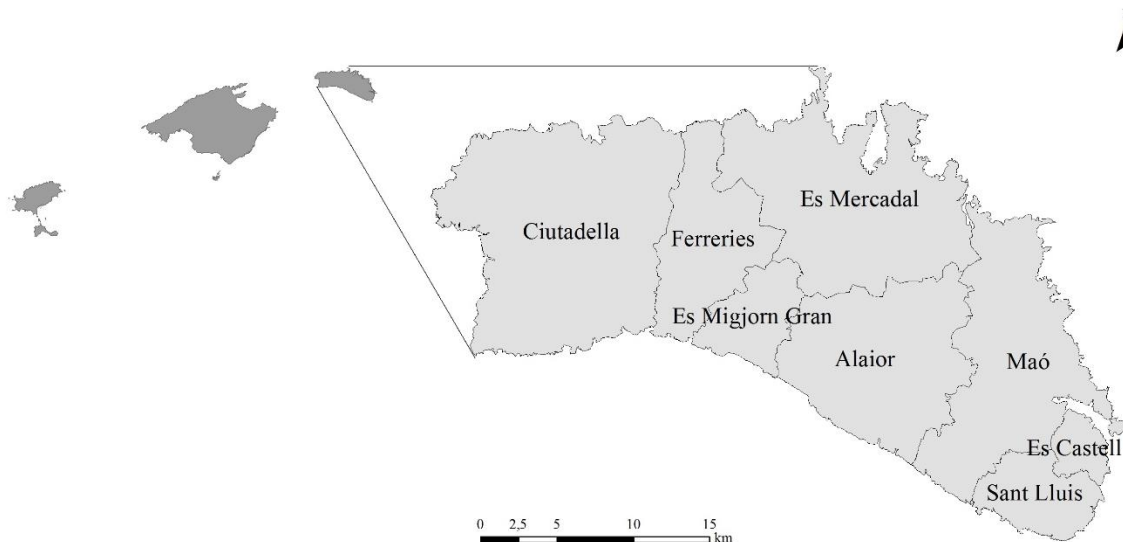
Therefore, the period studied begins in the 1990s, after the first tourism boom of the 1960s, characterised by growth in the number of hotels, and the second one in the 1980s, when the construction of urban residences scattered along the coastline predominated. The third tourism boom on the island was characterised by steep growth in urbanisation all over the territory as the residential model – single-family dwellings – spread far and wide, although primarily in the areas closest to the coast (Rullán, 2004). There was also a rise in tourism urbanisation with more hotel places and flats, especially directly on the coast (Blázquez & Murray, 2010). As Yrigoy (2013) claims, this urbanisation was a particular temporary solution to the accumulation of capital after the second half of the 20th century, and it materialised in the “production” of “fun in the sun” and beach spaces.

3. Tourism as a factor in the transformation of Menorca

3.1. Territorial and tourism context

The island of Menorca is made up of eight municipalities: Alaior, Ciutadella, Es Castell, Es Mercadal, Es Migjorn Gran, Ferreries, Mahon and Sant Lluís. Measuring a little over 700 km², it is the second largest island in the Balearic Islands after Mallorca. It has a coastline around 200 km long, wrapping around an elongated yet totally homogeneous island (Fig. 1). The different geological formations in the southern and northern parts create two quite distinct halves of the island: the northern coast has a more rugged terrain with a notable presence of reefs, while the southern coast is gentler and flatter. The distances are relatively short, with a maximum distance lengthwise of 49 km (from Cap de Bajolí to La Mola spur) and a maximum width of 23 km (from Cap de Cavalleria to the beaches of Son Bou). Sixty percent of its land is protected by both the Law on Natural Spaces and the Insular Territorial Plan (Comas, 2004).

Figure 1. Menorca: Location and municipalities



Source: Authors

In terms of the structure and distribution of the settlements, what stands out is a clear urban bipolarity between the cities of Ciutadella and Mahon, which are the home to most of the island's population. These two towns are functionally supported by a road network which joins the two urban poles on either end of the island. The island's current population is 95,183 inhabitants (IBESTAT, 2013a), who are scattered homogeneously around the land. The cities of Ciutadella and Mahon account for almost two-thirds of the entire population of the island (both with almost 30,000 inhabitants), while the remaining towns have under 10,000 people. Table 1 shows the evolution of the population of Menorca since the onset of tourism, revealing how it has more than doubled in slightly over 30 years.

The population density is 135.6 inhabitant/km², but it should be borne in mind that this figure – as well as previous population figures – is not entirely real since it does not take into account the floating population, or the temporary population. We can deduce that it is much higher in the summer, dovetailing with the high tourism season. For example, the Socioenvironmental Observatory of Menorca (Marí et al., 2013) regularly calculates a Daily Human Pressure (DHP)¹ indicator, and it recently concluded that in August 2012 (specifically on the 11th of the month), the figure of 201,660 people was reached (a new historical high), 4,800 higher than the previous year's record. In other words, the resident population more than doubled. In fact, ever since time series have been developed (1997), the DHP has never stopped growing from one August to another, starting with “just” 160,000 people that year.

Table 1. Evolution of the population of Menorca, 1960-2013²

| | 1960 | 1970 | 1981 | 1991 | 2001 | 2011 | 2013 |
|----------------------------------|--------|--------|--------|--------|--------|--------|--------|
| Menorca | 42,305 | 48,817 | 57,243 | 64,431 | 71,524 | 94,397 | 95,193 |
| Alaior | 4,939 | 5,106 | 5,606 | 6,444 | 7,108 | 9,450 | 9,769 |
| es Castell | 2,060 | 2,575 | 3,637 | 5,389 | 6,424 | 7,895 | 7,956 |
| Ciutadella | 12,240 | 15,113 | 17,637 | 20,874 | 23,103 | 29,510 | 29,629 |
| Ferrieres | 2,019 | 2,506 | 3,076 | 3,681 | 4,048 | 4,667 | 4,610 |
| Maó | 16,086 | 18,466 | 21,860 | 21,541 | 23,315 | 28,789 | 28,765 |
| es Mercadal + es Migjorn Gran | 2,887 | 2,779 | 2,937 | - | - | - | - |
| es Mercadal | - | - | - | 2,365 | 3,089 | 5,292 | 5,425 |
| es Migjorn Gran | - | - | - | 1,049 | 1,167 | 1,520 | 1,520 |
| Sant Lluís | 2,074 | 2,272 | 2,490 | 3,088 | 3,270 | 7,275 | 7,509 |

Source: Authors based on data from IBESTAT (2013a)

With regard to the other neighbouring islands, Menorca got a somewhat late start in the development of its tourism activity. Nonetheless, just like the others, the sector has managed to become important and currently employs a large percentage of the active population. In fact, this case study may also be a good example of the recurring concept of “Balearisation”, which lends its name to a very intense urban development growth model right on the sea and is often associated with a negative image because of the mass occupation of beach zones, hotels with large occupancies, accentuated seasonality and underused infrastructures and facilities the rest of the year (Antón et al., 2011).

¹ This indicator measures the volume of people on the island every day and is calculated based on the number of passengers entering and leaving Menorca daily by the airport and the ports of Mahon and Ciutadella, which are collected by AENA, the Port Authority and the Directorate General of Air and Maritime Transport of the Government of the Balearic Islands.

² The towns of Es Mercadal and Es Migjorn Gran appeared as one aggregate town for the years 1960, 1970 and 1981, such that the figures are shown together. These figures are not broken down into two municipalities until the 1991 census.

Naturally, today the Balearic Islands are suffering from the problem of the obsolescence of many of their towns, while from the ecological standpoint there are countless situations of biophysical unsustainability and an oversized ecological footprint³ (Gorostiza, 2005; Murray et al., 2005; Murray, 2012). Nonetheless, since the instatement of the regional government, there have been no end of ecological and environmental claims in favour of protecting natural spaces, issuing urban development moratoriums or increasing urban permeability (Blázquez et al., 2005). For Menorca, it has been pointed out that this Balearisation has paradoxically taken place since the island was declared a Biosphere Reserve (Mata, 2006).

Thus, the urban growth in the second half of the 20th century, especially tourism-residential growth, is unquestionably one of the facts that best explains the current land use. Nonetheless, we should also recall that in 1993 UNESCO's Man and the Biosphere Programme awarded Menorca (as a whole) the distinction of being a Biosphere Reserve because of the high degree of compatibility between economic development, landscape and heritage conservation, and the consumption of the resources found in the territory. This became the point of departure for subsequent land-use policies; within the sphere of land-use planning, the most important contribution to the objectives set by the Biosphere Reserve declaration was the 2003 approval of the Insular Territorial Plan, which incorporates urban growth guidelines that are meant to contribute to the cohesion of the island's natural spaces. If we start with the idea that the objective of any planning is to reach the proposed model that the public administration deems the most suitable (Fernández, 2004), then it is undeniable that this plan has been crucially important from the standpoint of tourism (Dubón, 2006).

To contextualise the evolution of tourism on Menorca since the 1990s, it is important to know what happened in the previous decades. In this sense, Onofre Rullán (2004) establishes a timeline of the tourism stages or booms on the Balearic Islands, which was used as a point of departure for this article. This author divides the development of tourism on the islands into three periods, the first starting in the late 1950s (slightly later on Menorca), which entailed what Blázquez and Murray (2010) called the "economic modernisation of the Franco regime". This boom was characterised by the construction of a large number of hotels and an increase in air traffic thanks to charter flights. Afterwards, it started to wane with the world energy crisis in 1973. The second stage primarily stands out for a change in the kind of accommodations, with a predominance of apartment buildings; its turning point can be pinpointed at the time of the First Gulf War (1991), with a stagnation that some believe did not lift until 1993.

However, given the problems stemming from the increase in urbanisation, the first attempts to act on it arose in this same period. Using the approaches that were still common at the start of democracy, Menorca was able to double its population, yet at that time it saw the need to implement several measures or regulations at the supramunicipal scale (Rullán, 1999). The 1983 approval of the Statute of Autonomy of the Balearic Islands signalled the shift of new authorities over urban and regional land-planning policies to

³ The ecological footprint measures the demands that a society places on nature. It is an indicator of environmental impact which answers the question of how much productive land is needed to sustain a given human population, thus indicating the possibilities for a socioeconomic model to be sustainable. However, applied to the case studied in this article, the concept could be defined by the abusive urbanisation of the coastline, which is intensive and often chaotic.

the Autonomous Community of the Balearic Islands. Thus, some of the laws that were approved thereafter include Law 2/1984, dated 12 April 1984, on Non-hotel Accommodations, and Law 7/1988, dated 1 April 1988, on Transitory Land-use Planning Measures for Hotel Establishments and Tourist Accommodations, which stipulated specific features and thresholds for newly-built accommodations. In the 1980s, two tendencies which had begun to appear earlier gained ground, albeit tentatively: the growth in unregulated tourist services and extraordinary development of the sector in general, which would continue throughout the entire period analysed here (Rullán, 2010b).

The early 1990s ushered in the third tourism boom on the Balearic Islands (1991-2001), which was accompanied by the proliferation of tourist apartments and hotels on the coastline, as well as an increase in the influx of passengers by sea and air. It was also when the island of Menorca experienced an extremely intense urbanisation process thanks to vacation homes and an increase in the existing towns' capacity to host tourists: there was a diffuse, low-intensity process of urbanisation on the coastline (Pérez, 2012), as well as an increase in urbanisation outside the traditional towns, largely because of the advent of new forms of housing such as rural hotels and agro-tourism (Bauzá, 2006). That is, there was more urbanisation both on the coast and inland. Therefore, the construction industry played a crucial role in the proliferation of single-family dwellings used as second residences (Blázquez et al., 2002). In fact, this third boom added no new tourism products but instead primarily entailed an acceleration in the construction industry (Rullán, 2010b).

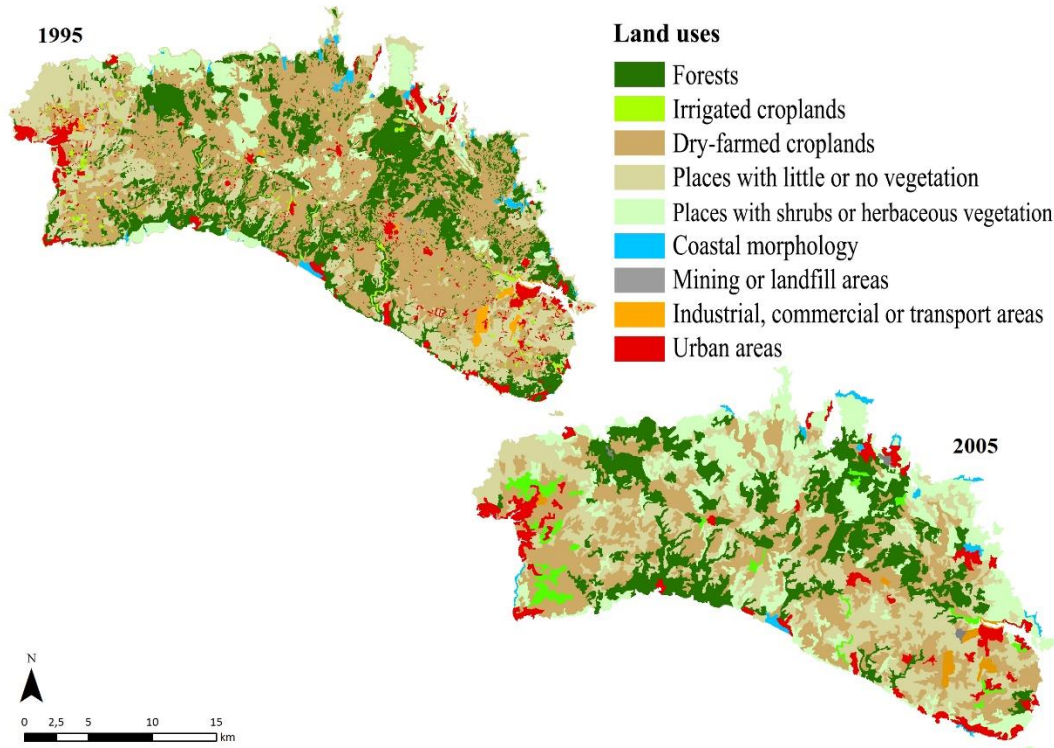
Nonetheless, the 1990s started with a crisis in the tourism sector, as had happened in the 1970s, largely because of the economic recession in the main source market at that time, Great Britain. However, in an increasingly global context, tourism on the Balearic Islands in general and on Menorca in particular benefitted from the outbreak of the First Gulf War (1991) and international tensions, which detracted from the appeal of competing tourist destinations on the southeast shore of the Mediterranean. Therefore, we could say that global economic cycles and tourism are closely linked on the Balearic Islands and shape clear patterns of evolution. The three tourism booms reflect this: the first one was the effect of the upswing at the end of Fordism, the second can be associated with the arrival of European capital after Spain joined the European Union, and the third is closely associated with economic growth and the availability of larger volumes of capital as a result of the transnationalisation of credit.

As a whole, tourism functionalisation and growth has had a profound effect on the territory of Menorca and has sparked two kinds of changes: structural and morphological. Regarding the former, both the demographic structure and the economic activity have changed, with a clear restructuring in favour of the tourism sector. In terms of morphology, we should mention the transformations in the landscape, with a rural environment where different leisure activities are represented today, as well as a specialisation in tourist residences and hotel complexes. The sections below briefly survey these changes.

3.2. Territorial transformations. Analysis of land uses and covers, 1995-2005

The territorial transformations on Menorca with the onset of tourism explain the main changes in land occupation. These changes can be more clearly seen from the land-cover analyses in 1995 and 2005. Figure 2 shows the land uses in those two years.

Figure 2. Land uses, 1995 and 2005



Source: Authors with map bases extracted from OBSAM

The most important differences are the loss of dry-farmed croplands and the increase in areas with shrubs or herbaceous surface coverage, followed by the increase in spaces with little or no vegetation. These changes are related to the abandonment of activity in the countryside, which led to a proliferation of areas with little vegetation or shrubs and herbaceous vegetation (Blázquez et al., 2010). Generally speaking, in the period analysed, around 10,500 hectares of croplands were lost and more than 12,500 of the other two typologies was gained (5% and 11%) (Table 2 and Figure 3). On this point, it is important to briefly explain the predominant plant cover on Menorca, especially woodlands and shrublands, bearing in mind that two elements condition it: the Mediterranean climate and its status as an island. Clearly Mediterranean vegetation predominates, with a higher presence of wetlands with holm oak (*Quercus ilex*) and an understory that fosters constant high moisture levels, which help plants and thickets grow. However, in areas where the holm oak groves have deteriorated, pine groves (*Pinus halepensis*) have taken over. On the other hand, in the drier areas where there is no forest, we can find different kinds of garrigues, including wild olive trees (*Olea europaea*) with white hedge-nettles (*Prasium majus*) and dwarf fan palms (*Chamaerops humilis*), which

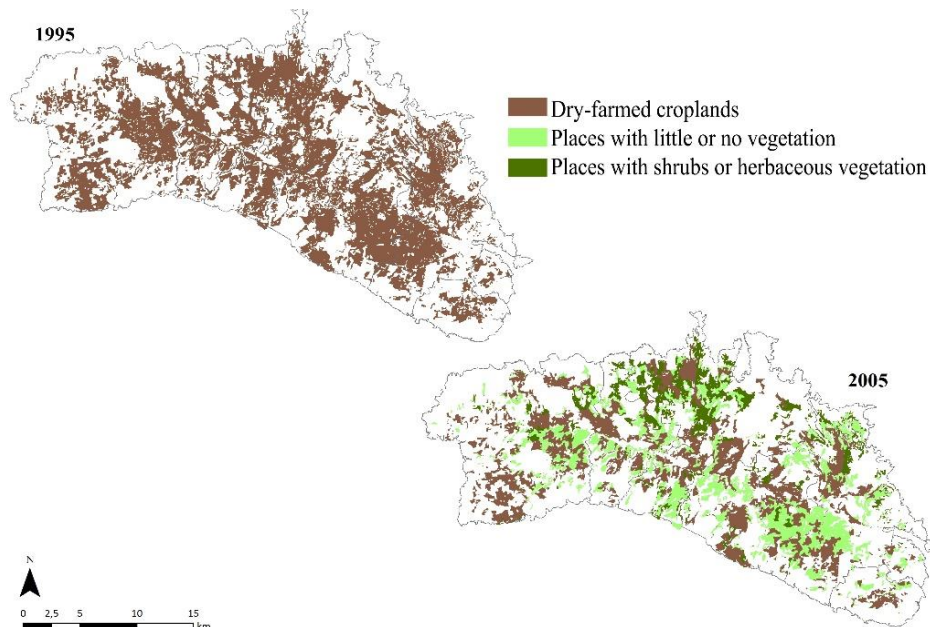
have spread also as a result of the deterioration of the holm oak groves. Near the coast, where salinity prevents larger species from growing, Balearic milk vetch (*Astragalus balearicus*) and other endemic species adapted to the local conditions predominate. Because of Menorca's status as an island, there is a large number of endemic species, and the majority of the Mediterranean species are represented except for the typical mountainous or fluvial and riparian species.

Table 2. Quantification of the changes in land cover, 1995-2005

| Land cover | 1995 | | 2005 | | 1995-2005 | Variations |
|---|-----------|-------|-----------|-------|------------|------------|
| | ha | % | ha | % | ha | % |
| Forests | 15,736.67 | 22.66 | 13,403.59 | 19.14 | -2,333.08 | -3.52 |
| Irrigated croplands | 860.07 | 1.24 | 1,652.39 | 2.36 | 792.32 | 1.12 |
| Dry-farmed croplands | 29,488.31 | 42.46 | 18,959.35 | 27.08 | -10,528.96 | -15.38 |
| Places with little or no vegetation | 13,216.81 | 19.03 | 17,441.26 | 24.91 | 4,224.45 | 5.88 |
| Places with shrubs or herbaceous vegetation | 5,627.74 | 8.10 | 13,990.24 | 19.98 | 8,362.50 | 11.88 |
| Coastal morphology | 774.51 | 1.12 | 292.37 | 0.42 | -482.14 | -0.70 |
| Mining or landfill areas | 74.96 | 0.11 | 153.03 | 0.22 | 78.07 | 0.11 |
| Industrial, commercial or transport areas | 474.99 | 0.68 | 594.01 | 0.85 | 119.02 | 0.16 |
| Urban areas | 3,189.03 | 4.59 | 3,526.05 | 5.04 | 337.02 | 0.44 |

Source: Authors

Figure 3. Changes in land covers and uses, 1995 and 2005



Source: Authors with map bases extracted from OBSAM

Given the importance of agriculture on Menorca in terms of the environment, the landscape and the economy, it is important to describe its main features. In recent years, the island's agricultural system has been in the throes of a restructuring process which is defined by a decrease in the number of farms and a stagnation in the population working in this sector stemming from the specialisation in tourism. In contrast, the size of farms has increased and farming has intensified and industrialised, with a mean of 120 hectares per farm. There are around 300 farms, most of them livestock and 175 of them exclusively working in the dairy sector to produce milk and cheese. Thus, we can detect a shift in the crop-livestock farming sector, with the gradual replacement of cropfields with livestock farms. Despite these changes, it is also important to stress that the decrease in cultivated land does not necessarily mean a parallel loss of the activity, since it has reconverted into more specialised, intensive and mechanised farms.

The abandonment of the countryside took place after the onset and expansion of tourism. Furthermore, in the primary sector, a large number of plots have become specialised in livestock for milk production. Whether because of the loss of agricultural spaces or the decline in the primary sector, overall there has been a shift in the active population and the weight of different activities within the island's economic structure, with a decrease in farmwork in favour of the tertiary sector and services. This change can be seen even more clearly by the evolution in the active population by sector: the number of people working in the primary and secondary sectors has dropped, while the number working in services has grown, albeit with major fluctuations throughout the year because of the seasonality of the tourism model in place. The primary sector's share of production (as well as jewellery and footwear) dropped considerably in the mid-1990s because of the constant crises, which led to mergers and the disappearance of some companies (López & Rosselló, 2002).

In this analysis, the degree of land cover transformation can also be evaluated in greater detail. Table 3 shows the differences between 1995 and 2005 by calculating the number of hectares lost by each kind of land cover, the number gained (on another part of the island) and the number that remained unchanged. The last column indicates the total area by land cover, which corresponds to the sum of the hectares gained and those that remained unchanged.

The changes that are more the focus of this article are those that occurred in artificialised areas, because they are crucial to understanding the evolution of the urbanised space and therefore the space used for tourism. Figure 4 shows the increase in urbanisation by zone between 1995 and 2005, distinguishing between urban nuclei⁴, dispersed urbanisation⁵ and other artificialized spaces⁶.

⁴ Urban nuclei include the entire continuous urban extension.

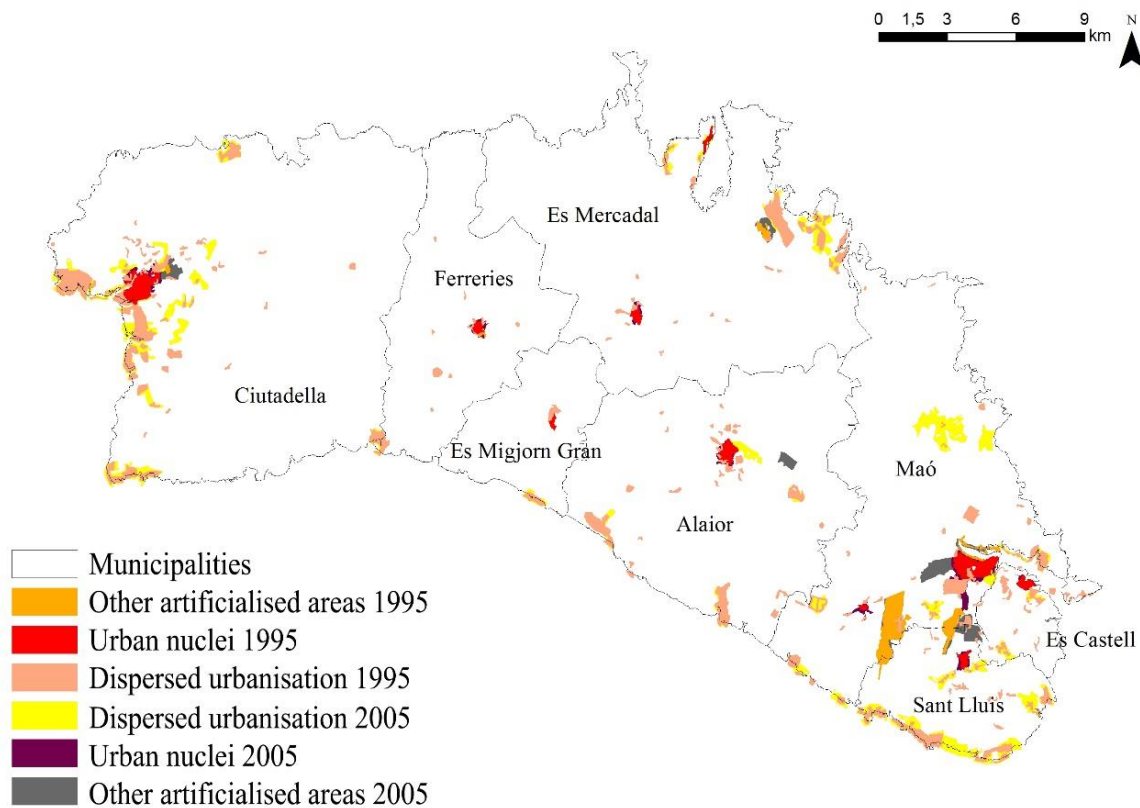
⁵ Dispersed urbanisation includes the discontinuous urban extension, urban estates and rural nuclei.

⁶ The following elements are included in this category: industrial estates, port zones, airports and sports areas.

Table 3. Transformations in land cover until 2005

| Land cover | hectares lost | hectares maintained | hectares gained | total (hectares gained + hectares maintained) |
|---|---------------|---------------------|-----------------|---|
| Forests | 8,185 | 5,727.84 | 7,544.1 | 13,271.94 |
| Irrigated croplands | 17,020.78 | 6,326.4 | 2,009.21 | 8,355.61 |
| Dry-farmed croplands | 574.71 | 1,353.04 | 285.37 | 1,638.41 |
| Places with little or no vegetation | 6,871.48 | 12,574.36 | 4,674.29 | 17,284.65 |
| Places with shrubs or herbaceous vegetation | 3,454.82 | 11,615.1 | 2,170.68 | 13,785.78 |
| Coastal morphology | 2,037.69 | 82.32 | 204.61 | 286.93 |
| Mining or landfill areas | 72.25 | 148.77 | 2.71 | 151.48 |
| Industrial, commercial or transport areas | 104.1 | 208.83 | 370.5 | 579.33 |
| Urban areas | 1,236.96 | 1,521.13 | 1,937.56 | 3,458.69 |

Source: Authors

Figure 4. Evolution in artificialised land cover, 1995-2005

Source: Authors with map bases extracted from OBSAM

The category that increased the most is dispersed urbanisation, while traditional nuclei hardly increased in area. What stands out is the growth on the coast in the municipality of Sant Lluís, which actually created a long urban strip along its coastline. Also worth noting is the growth in the municipality of Mahon, while the municipality of Ciutadella grew because of the construction of a series of urban estates located not on the coast but on the outskirts of the traditional nucleus. Urbanisation also increased in Fornells; this is a nucleus which belongs to the township of Es Mercadal where many of the homes are used as second residences.

By analysing each of the categories, we can see how they all increased in this ten-year period, with dispersed urbanisation increasing the most in absolute numbers (more than 500 hectares). The urbanisation of traditional nuclei grew around 200 hectares, while other urbanised zones grew more than 250 hectares (especially in the industrial areas in both Ciutadella and Mahon). What varies in this sense is the relative weight of each of the land covers: while in 1995 lax urbanisation exceeded 72% of all artificialised land cover, by 2005 it had dropped to 68%: both the urbanisation of traditional nuclei and other artificialised zones gained relative weight (Table 4). As a whole, there was a 1,000-hectare increase in these three new uses by 2005 (an average of around 100 hectares per year).

Table 4. Evolution in artificialised land covers 1995-2005

| Land cover | 1995 | | 2005 | | variations 95-05 | |
|----------------------------|-----------------|-------|-----------------|-------|------------------|------|
| | ha | % | ha | % | ha | % |
| Traditional urban nuclei | 454.61 | 14.53 | 644.72 | 15.65 | 190.11 | 1.12 |
| Dispersed urbanisation | 2,294.19 | 73.34 | 2,825.93 | 68.59 | 531.74 | 4.75 |
| Other artificialised areas | 379.30 | 12.13 | 649.40 | 15.76 | 270.10 | 3.64 |
| Total | 3,128.10 | - | 4,120.05 | - | 991.95 | - |

Source: Authors

3.3. *The rising importance of tourism*

Tourism is an activity which has gained popularity on Menorca over the years, while also bringing certain problems, the most important of which is seasonality. It is primarily concentrated in the three summer months, which means that the beaches, facilities and infrastructures are saturated, whereas the rest of the year they are underused. This seasonality also has effects on demographics, with major population fluctuations over the course of a year.

Tourism's importance in a land can be evaluated with a series of indicators that show not only its weight but also the pressure it can exert on a territory. Here we shall present three of them. The first is the *tourism function rate*,⁷ which reveals Menorca to be a semi-specialised space, although this varies if the rate is analysed on a municipal scale. Specifically, Es Migjorn and Es Mercadal show the highest functional specialisation

⁷ This measures the percentage relationship between the number of beds or places available for tourists in a town and its permanent population. In short, the goal is to ascertain a place's tourism potential. This rate establishes several thresholds according to the degree of tourism specialisation: from 0 to 10 minimum tourism function; from 10 to 100 semi-specialisation in tourism; from 100 to 1,000 tourism specialisation (which is considered strong at 400 and higher); more than 1,000 functional hypertrophy (Defert, 1967).

(212 and 129), since they are the home to large urban estates like Sant Tomàs in the former and Fornells in the latter. In fact, both municipalities have more tourist places than residents. The other municipalities on the island have the same degree of semi-specialisation yet much lower rates, with the exception of Mahon, which has a minimum tourist function level. Ciutadella, with a rate of 78, is far and away the municipality with the highest number of tourist places on the island, with almost 23,000 in 2011 (IBESTAT, 2013b).

The second indicator is the *residential tourism function rate*⁸, and worth noting here is the high degree of tourism specialisation in the municipality of Es Mercadal (235), because it includes the town of Fornells, which is traditionally the home to second residences. In contrast, the other seven municipalities have very low rates, and with the exception of Sant Lluís (a rate of 53), they show figures closer to the level of semi-specialisation. Likewise, the importance of second residences is quite high, at around 20% of all homes on Menorca (IBESTAT, 2011), while 70% are primary residences and the remaining 10% are vacant. Of course, many of the second residences are not owned by locals, meaning that a large share of these homes are empty most of the year.

Finally, the third indicator used to measure the importance of tourism on the island is the *spatial tourism function rate*⁹. According to this measure, Menorca is a semi-specialised space, with an overall rating of 71. Just like the other two islands, it is a heterogeneous territory, since the greatest specialisation can be found in Sant Lluís, Ciutadella, Es Castell and Es Migjorn Gran and (rates of 100), while the other four municipalities have visibly lower rates or extremely low ones (such as Ferreries and Mahon). Table 5 shows these rates for each municipality and for the island as a whole.

Table 5. Tourism Function, Residential Tourism Function and Spatial Tourism Function Rates

Source: Authors based on data from IBESTAT (2013b)

| | TFT | TFTR | TFTE |
|--------------|-------------|-------------|-------------|
| Alaior | 71.3 | 41.2 | 61.1 |
| es Castell | 15.9 | 34.0 | 108.4 |
| Ciutadella | 78.1 | 42.4 | 122.8 |
| Ferreries | 20.2 | 18.8 | 14.2 |
| Maó | 6.4 | 28.7 | 16.0 |
| es Mercadal | 129.2 | 235.8 | 50.9 |
| es Migjorn | 212.3 | 35.0 | 100.8 |
| Sant Lluís | 81.7 | 53.4 | 156.4 |
| Total | 52.3 | 45.4 | 71.3 |

3.4. Socioeconomic transformations

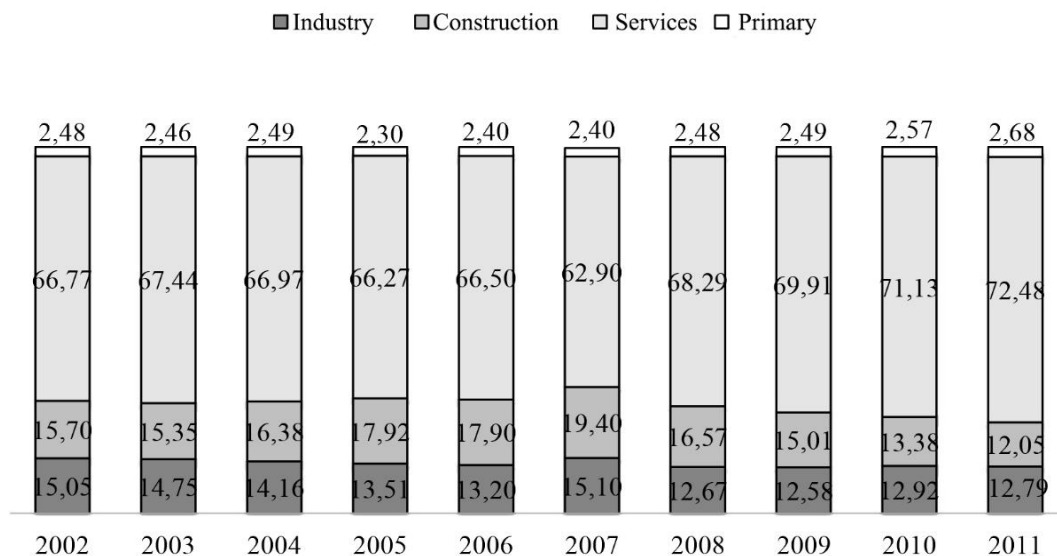
⁸ This measures the importance, percentage-wise, of second residences in relation to primary residences in a given space, and the thresholds established to interpret the rate are the same as for the tourism function rate, but in this case specialisation occurs after a rating of 50-75 (Barbier, 1966; Renucci, 1984).

⁹ This measures the weight of the tourist function or occupational density of tourist accommodations in a given place, relating the number of tourist places and the supporting land for these places. The results are interpreted the same as the tourist function rate (Defert, 1967).

The increase in tourism has led to major changes in the island's socioeconomic base, giving rise to a productive model based increasingly on the services sector. Menorca has shifted from being a society that relied on the primary sector to gradually having a more tertiary economy (Pérez, 2003; Ordinas & Binimelis, 2013). Currently, more than 70% of the population of Menorca is employed in the tourism and services sectors, and if we break this down by activities, 35% of the total active population currently works in the hospitality industry and retail. However, it should be borne in mind that this figure is an annual mean; therefore, during the summer months it is even higher, reaching more than 40%. Figure 5 shows the relative weight of each economic sector for all Social Security affiliates on Menorca between 2002 and 2011.

Despite the losses in the primary and secondary sectors, which began to appear after the onset of tourism in the 1960s, within the last decade this trend has been particularly magnified; agriculture accounts for a minuscule 2.5%, while at the other extreme we find that the active population in the tertiary sector is growing steadily. Despite the gradual decrease in fieldwork, farming has played – and continues to play today – a very important role in shaping the landscape and maintaining the island's biodiversity (López & Rosselló, 2002). On the other hand, also worth noting is the loss of industry, which is related to the recent economic crisis and the disappearance of many factories. Furthermore, it is important to consider the construction sector, which is still in the midst of a serious recession because of the bursting of the real estate bubble, which shall be discussed below. In fact, since 2007, the percentage of the population working in construction has dropped from 19.4% to a little over 12% (2011).

Figure 5. Active population by sector, 2002-2011



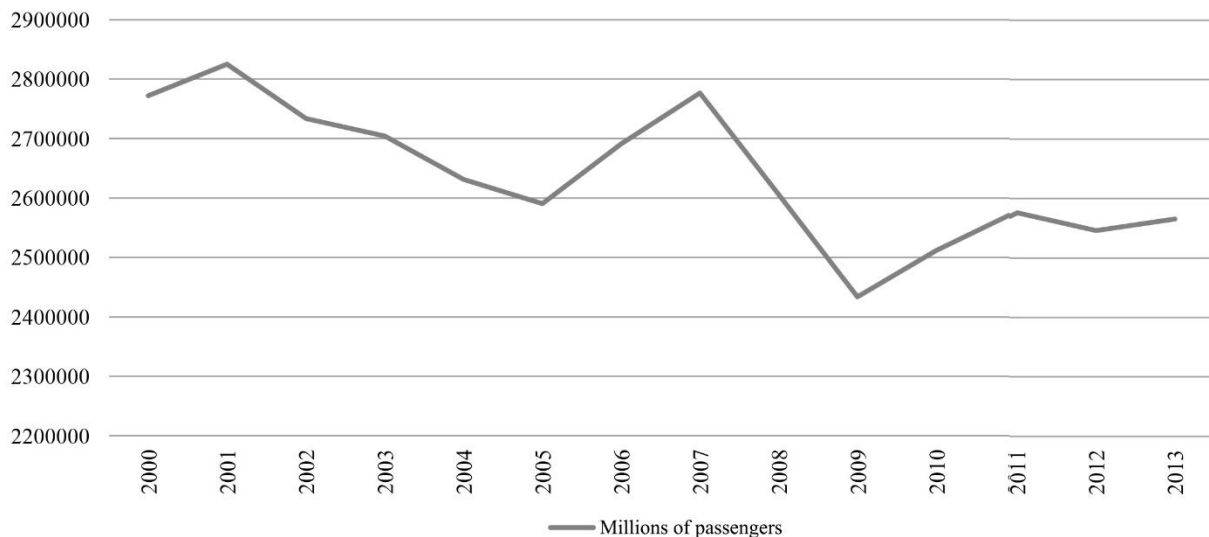
Source: Authors based on data from OBSAM

In the past two decades, the population of Menorca has increased, mainly because of the appeal of its tourism activity, which attracts immigrants from both abroad and the rest of Spain (Fullana, 2005 & 2008), although the population increase is also due to

vacation or work reasons. From 1998 to 2009, the number of foreign residents increased, whereas in the late 2000s the contingent of immigrants began to drop. While in 1998, the foreign population living on Menorca accounted for a little over 3% and reached its peak in 2009 with 16.7%, today this figure has decline slightly to 15.5%.

The importance that tourism has gained can also be demonstrated with the number of passenger entries (Figure 6). Since 2000, there has been a drop, mainly because of the growth of new tourism destinations like Turkey and Cyprus, which compete fiercely with the Balearic Islands. Also worth citing is 9/11, which temporarily slowed down the amount of travel around the world. Furthermore, Germany, the second largest source of tourists on Menorca after Great Britain, experienced an economic crisis. Nonetheless, the number of passengers entering increased in 2005, but then it slowed down again after 2007 because of the crisis that hit Spain, and it remained in a downturn until 2009, when the curve rose slightly and then became stable.

Figure 6. Tourist entries, 2000-2013



Source: Authors based on data from AENA

4. The Insular Territorial Plan: An initial turning point

In the 1990s, a series of transformation patterns began to appear on all the Balearic Islands. The tourism and construction sectors showed increases never before seen, while there were demographic changes which were crucial in a labour market that was surging and needed more than just the local population to fill the jobs. However, once the new millennium had started, the tourism development model began to show clear signs of exhaustion. Despite a few initial attempts during the regional decentralisation process in the 1980s, the decision to truly tackle the territorial problem, namely the increase in overall tourism urbanisation, was not taken until the 1990s. Afterwards, the first decade of the 21st century signalled a turning point because of two key factors: the approval of the Insular Territorial Plan and the economic crisis.

4.1. *Legislative framework*

In order to understand the scope of the Insular Territorial Plan, the first thing to bear in mind is Law 8/1987, dated 1 April 1987, on Land-use Planning (abbreviated LOT), which established a new context for land-use planning instruments above and beyond the level of urban planning. It is a framework law that stipulates the documents that must be drawn up and assigns the authority over them. The next regulatory framework is called “Land-use Planning Directives” (abbreviated DOT), which always prevail over the Territorial Plan because they constitute a steering instrument that is binding for the other plans.

After three decades of steep growth in tourism and urban development, the 1990s led to significant changes with laws and plans which sought to regulate or stanch the new wave of territorial expansion that was occurring (Rullán, 1999). A few tentative steps started to be taken in favour of land protection, albeit with only minor and barely perceptible repercussions (e.g., in 1991, the Law on Natural Spaces was approved, which protects more than 60% of the land from urbanisation). Late in the decade, however, society and the different political forces began to consider the need to limit the growth in tourism and urban development (Manchado, 2001), which became feasible through the General Tourism Law and the Land-use Planning Directives, both of which were approved in March 1999. However, with this new legislation, growth did not entirely halt; the difference is in the way it happened: from then on, it was redirected and had a clearer goal of bringing order to the chaos that had characterised the urbanisation of some parts of the island.

The General Tourism Law of the Balearic Islands placed a moratorium on increasing new hotel places unless they were replacing obsolete existing places. However, being unable to expand the stock of hotels and tourist flats meant that the second residence market rose steeply (Jordi & Vicente, 2007). Therefore, this law did not prevent the volume of tourist places from increasing, but quite the opposite: it led to an unbridled increase. In turn, the measures approved with the DOT banned the creation of new, isolated nuclei that could be urbanised, as well as the creation of new urbanisations within the 500 metres of the sea; it limited the classification of buildable land to a periurban area of 500 m from the existing nuclei; and finally, the key measure limited the growth of Menorca to 12% of the urban and buildable land with the definitive approval at the time the Directives entered into force.

On the other hand, also worth citing is Law 2/2001, dated 7 March 2001, on Land-use Planning, which conferred land-use planning authorities on the island councils. This, then, laid the legal framework for drafting and approving what would become the Insular Territorial Plan of Menorca, promoted by the island itself upon the initiative of the Island Council.

4.2. *The Insular Territorial Plan of Menorca*

After sketching the context prior to the approval of the Insular Territorial Plan of Menorca (ITPM), now we must analyse in further detail how it contributed to changing the patterns of territorial transformation. The Balearic Islands were one of the first autonomous communities to enact policies to redirect their urban growth, and ultimately the ITPM represents the culmination of the previous attempts in the tendency towards integrated

land-use planning. The ITPM was also created with the clear mission of organising and regulating the entire island following sustainable parameters and criteria, especially in the coastal areas whose urbanisation process had irreversibly increased. Thus, the main issues that it had to deal with were: the increase in land consumption in the past few decades, the gradual abandonment of primary activities (and the transformation of farmland) and the need to change the island's tourism model, which was considered obsolete and low-quality.

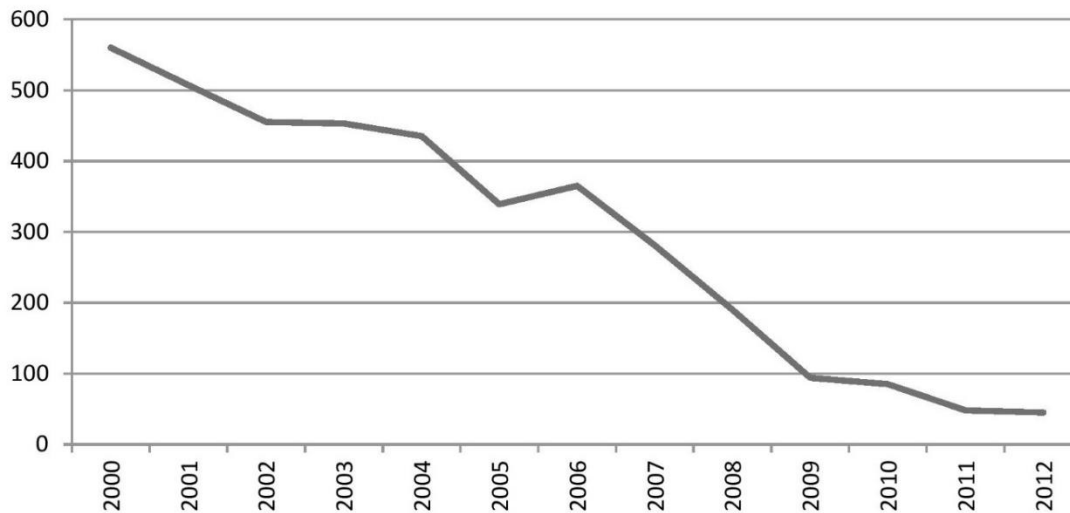
The approval of the ITPM signalled a fundamental step towards land-use planning and was warmly welcomed by the institutions involved and the population as a whole. Menorcan society was particularly receptive and interested in the future definition of the island as called for in the plan. This was fostered by keen citizen awareness, as the residents of Menorca viewed it as a fragile, unique island with high environmental and landscape values, which necessitated special approaches to appropriately safeguard it. Therefore, it was both a political and a citizen initiative.

Another key feature of the ITMP is its emphasis on problems in the agricultural sector and the fact that this activity was paradoxically viewed as basic to the maintenance and management of many of the natural and landscape resources. Thus, the Plan also proposed the separation between traditional population nuclei and tourist zones, setting different measures for each of them (CIME, 2003). Below we shall present the most salient aspects of each.

4.2.1. The system of traditional settlements

Until 2003, urban growth was scarcely regulated, and therefore it was essential to place limits on growth, as stipulated by the 1999 Land-use Planning Directives. It is also worth noting that either because of a conservationist mentality or because Menorca was believed to have reached its growth limit, the decision was made not to reach the maximum ceiling stipulated in the Directives but instead to allow growth of just over 10% in the areas that were already and could be urbanised. Therefore, the ITPM is the instrument that had to guarantee a pace of growth in urbanisation and building following more sustainable criteria. In addition to the fact that the Plan entailed delimiting the zones which could be urbanised and the criteria of how they could be urbanised, it also proposed setting a cap in specific time periods by controlling the issuance of building licenses. Moreover, one of its most important elements is the limitation on building on rural land. Figure 7 shows the number of building licenses granted on Menorca for new residential and non-residential buildings, illustrating the gradual decrease since 2000.

Figure 7. Building licenses for new residential and non-residential buildings, 2000-2012



Source: Authors based on data from IBESTAT (2013b)

To tally the land that had to be made available for urbanisation in order to meet the housing needs of the permanent population, and doing so harmoniously within the traditional nuclei, the future population that would need housing was estimated. Additionally, following the criteria of integration into cities and social cohesion in towns, the Plan also set forth criteria in which certain land sectors had to be set aside for publicly-subsidised housing. Without government regulation, a major population contingent could be excluded, rendering them unable to access a home. To combat this, almost 40% of new buildings have to be set aside for housing subjected to some kind of public subsidies which would authorise the administration to assess their price.

4.2.2. The regulation on tourism urbanisation. The Tourist Accommodation Stock Land-use Plan (POOT)

The urbanised land on the island accounts for approximately 5% of the total land on the island, and only 0.82% lies inside traditional nuclei. Therefore, we could say that the remainder reflects the urbanisation process which occurred in the second half of the 20th century (Dubón, 2006), with the onset and expansion of tourism. Menorca specialised in the “fun in the sun” and beach market, with a supply of accommodations that was considered low quality, a highly seasonal use and a small complementary housing supply. These factors, along with the territorial effects stemming from the excessive weight of tourism, rendered it necessary to limit the sector, change the predominant kind of accommodations and create a major complementary housing supply. These are the three main strands underpinning the Tourist Accommodation Stock Land-use Plan (POOT) within the Insular Territorial Plan. This desire to regulate the tourist accommodation stock became one of the key elements regulating tourism on Menorcan soil.

Menorca and its territory are the main assets in its tourism product because it is a fragile space which has a large, diverse array of landscapes, environments and heritage

sites (Barceló, 2007). Thus, it was deemed essential for the administration to intervene in setting strategies in favour of a tourist-territorial model that bore in mind all of these factors, as well as the population. The Insular Territorial Plan thus grants a crucial role to planning tourism, as the leading economic and consumer sector shaping the land. However, Menorca's environmental and landscape quality contrast with the spread of a model of accommodations comprised primarily of low and mid-category hotels and flats. Given that in the zones where tourism is concentrated there are different types of occupation, saturation and categorisation of the accommodation stocks that do not reflect the desired model, the POOT's first measure was to define and integrate the land in tourist zones into the category of land for tourism use (compatible with residential uses), establishing general provisions for each of these spaces. In addition to these provisions, particular determinations were added for each tourism area which reflected specific environmental or landscape territorial conditions that had to be integrated into the new tourism land-use model it sought to promote.

Based on these premises, the POOT proposed a series of principles that would govern the future tourism model of Menorca, halting its growth and becoming a turning point in the way the island had been urbanised to date, especially the coastline. First, it set forth sustainability criteria for future growth, prompted by the idea that the land had already reached its maximum carrying capacity and was running the risk of being irreversibly degraded. Therefore, counter to excessive growth, it sought to foster a different kind of land-use planning and a change in the typology that would guarantee higher quality. On Menorca, consolidated zones with a high degree of saturation (little vacant land with dire accessibility and congestion problems in the summer and in areas of significant environmental value) coexist with others with little development of the urban or buildable land, where tourism accommodations more coherent with the principles of the ITPM could be promoted.

Secondly, branching off from the first point, it defines 20 of what it calls "territorial reconversion areas" on the island, with two action strategies: increasing their permeability and changing their land use. The areas whose permeability was to be increased are located in spaces considered to have a high level of congestion, with the goal of increasing their supply of green zones and higher-quality facilities, or moving the buildable land and exchanging it for vacant plots of land. In contrast, the areas where the land use was changed are located in tourism areas that are not consolidated which have vacant lands that meet a series of environmental and landscape quality criteria. The objective in these areas is to encourage high-quality accommodations to be built there, along with facilities that will help counter the seasonality of tourism.

However, one of the problems in these Reconversion Areas is that they were left to be managed by the municipal plans, so in many cases the only result was that the land was declassified, while the projects that were to effectively develop them into other lands classified as buildable in the municipal plans were never drafted. In fact, the crisis that got underway in 2008 led these projects to stall and never be brought to fruition, even though the local administrations' responsibility should also be taken into account, as they were the entities that were supposed to have applied the provisions of the Insular Territorial Plan first.

The number of potential tourist places in the year when the plan was approved was double the number already built, a totally unsustainable figure; out of a potential 153,669 places in 2000, only 74,199 had been built (Estradé et al., 2009). The Plan lowered the number of places to be built in the next 10 years by almost 60,000 (Mata, 2006). Nonetheless, acquired rights and negotiation still left a considerable potential for growth in some coastal areas (e.g., Sant Tomàs, Torre Solí and Cales Coves) (Camps, 2008). This was possible through the declassification of buildable land without a definitively-approved partial plan, lands that had been inherited from a recent and more “development-friendly” past which were reclassified as rural land. In contrast, in other areas, plans that would change the land use or make the lands more permeable were drawn up and applied. Table 6 identifies the growth allowed by the ITPM by municipality, distinguishing between what had been provided for prior to the approval of the ITPM and the increase ultimately proposed, with a total decrease of more than 61,000 places.

Table 6. ITPM’s proposal on the number of tourist places

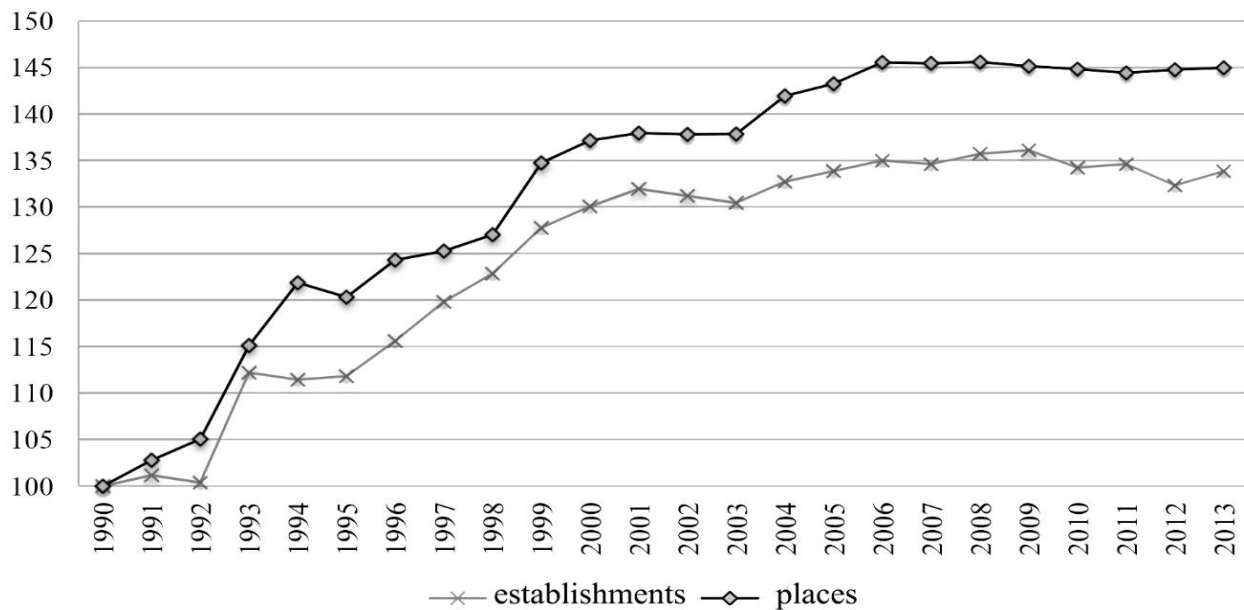
| | Tourist zones | | | ITPM proposal | | |
|--------------|---------------|---------------|----------------|---------------|---------------|----------------|
| | built | vacant | total | vacant | total | difference |
| Alaior | 9,965 | 12,451 | 22,416 | 3,381 | 13,346 | -9,070 |
| es Castell | 1,300 | 2,170 | 3,470 | 15 | 1,315 | -2,155 |
| Ciutadella | 32,917 | 33,065 | 65,982 | 3,429 | 36,346 | -29,636 |
| Ferrerries | 1,479 | 124 | 1,603 | 124 | 1,603 | 0 |
| Maó | 1,652 | 1,686 | 3,338 | 493 | 2,145 | -1,193 |
| es Mercadal | 11,381 | 23,382 | 34,763 | 6,814 | 18,195 | -16,568 |
| es Migjorn | 3,502 | 1,164 | 4,666 | 345 | 3,847 | -819 |
| Sant Lluís | 12,003 | 5,428 | 17,431 | 3,134 | 15,137 | -2,294 |
| Total | 74,199 | 79,470 | 153,669 | 17,735 | 91,934 | -61,735 |

Source: Ezquiaga Arquitectura, Sociedad y Territorio (2003)

Once the zones were determined, the types of growth had to be defined with the basic premises of avoiding overcrowding and attaining the maximum added value. Therefore, the decision was made to focus only just two types of buildings – hotels and single-family homes – each with specific characteristics. A maximum height of two storeys was defined for the hotels, with a cap of 450 places per hotel and a minimum category of four stars. Limits on growth were also placed at 600 places per year, divided among the eight municipalities. The new buildings had to house one family and have at most a ground floor and one upper storey, maximum development of 0.35 m² and a cap of 1,052 new homes in the first two years that the Plan was in force (which was lowered to 858 after the third year). Additionally, there are other kinds of places which can be authorised and are not subjected to quotas: in rural areas – outside the traditional nuclei and urban estates for tourists – hotel enlargements in urban nuclei and tourist homes in addition to those that already exist (Rullán, 2007).

Figure 8 shows the evolution in the number of hotel places and rural establishments on Menorca; the effects of the ITPM can be seen by the fact that after 2003 the upswing plateaued and stands at approximately 49,000 places.

Figure 8. Evolution in tourism places and accommodations, 1990-2013 (index 100 = 1990)



Source: Authors based on data from IBESTAT (2013b)

4.2.3. Regulations of the natural and rural environment

Within the context of the determinations approved by the ITPM, a crucial step with regard to the natural and rural environment was taken, since until then it was rare for a land-use planning instrument to include the rural world as a prime consideration. As mentioned in Estradé et al. (2009), the ITPM diagnosed the limits of the Menorcan ecosystem with a study of its socioeconomic, environmental and cultural components, stressing three major themes: the cultural and natural heritage, the intense residential tourism development in the last boom, and the spread of urbanisation to rural land inland and on the coast.

The main purpose of this part of the document is to protect certain rural lands deemed to be of high ecological interest which are located near the Natural Areas of Special Interest (abbreviated ANEI) and the Parc de s'Albufera des Grau (the core¹⁰ of the Biosphere Reserve). This was done by identifying and delimiting "Natural Areas of Regional Interest" which are defined by biophysical and territorial criteria. The outcome of this measure was a ban on new residential buildings on these lands. Thus, the delimitation of rural lands protected as ANEI and other spaces representing the island's ecological diversity was expanded and improved, shifting from isolated protected spaces to a connected network.

¹⁰ The core of a biosphere reserve is the area made up of the ecosystems that are the best preserved and most representative. This area has a level of legal protection that only allows for activities that are compatible with the conservation of the landscape, the ecosystems and the species it harbours. Only activities related to research and traditional land uses that do not harm the environment are allowed.

5. The economic crisis and the real estate bubble

Without a doubt, the economic crisis that was triggered in 2008 has affected development patterns and the pace of change of Menorca's economy and society. One result is that the building sector has lost a great deal of sway as an economic engine and job-creator. At the same time, the housing market has also undergone major changes, and in addition to the impact of the ITPM, there was also a time of contraction stemming from the economic crisis, especially if we recall that it had been preceded by a period of steep growth in the housing stock.

Until 2006, real estate was a sector that showed steady growth, but one year later it began to be clear that the economic cycle had peaked. The sector entered a recessive curve which has not yet stopped, a trend which was manifested more intensely on Menorca than on the other islands. Within this context, the residential land category has been harmed the most, even though the non-residential real estate market has also suffered from the effects of the crisis, albeit not so strikingly. Thus, some determinations in the Insular Territorial Plan were halted, while it became more difficult for some of the population to access housing. Even though the Plan stipulated a percentage of newly-built homes which had to be set aside as publicly-subsidised housing, the crisis and the bursting of the real estate bubble meant that they were never built.

This shifting trend in the building and real estate sectors became clear with a couple of indicators, namely the evolution in housing starts and completions, and real-estate transactions. On Menorca, the number of housing starts has increased steadily since 2008, and precisely the previous year they reached a historical peak of 13,000; however, the total in 2011 was just over 2,000 homes (Ministry of Public Works, 2011). In terms of real-estate transactions, they also declined abruptly in recent years, as exemplified by two figures: first, there was a 70.7% drop in free housing transactions on Menorca in the period 2004-2011, and secondly, 2006 was the year with the most real-estate transactions (3,144) while only 921 were recorded in 2011 (Ministry of Public Works, 2011).

This crisis was not only evident in the building sector but also affected other areas. Worth noting is the demographic stagnation caused largely by the departure and non-arrival of immigrants, bearing in mind that the island offered good job prospects for labourers with a low educational level. Yet the crisis also led to a decrease in the number of incoming passengers, while also lowering the spending power of a large chunk of the population. From the standpoint of economic sectors, industry was also severely affected, while, as mentioned above, in agriculture – which often faces feasibility problems – an increasing number of crop and livestock farms were abandoned. Therefore, while the onset and development of tourism led to a change in Menorca's economic model and society, the current crisis once again triggered a shift in the development patterns in recent decades.

6. Conclusions: Where is the Menorca of the future heading?

The onset and growth of tourism brought radical changes to Menorca, as it did to many places. The first were profound territorial and landscape transformations; the island went from being an agricultural and partly industrial model to one based on (or perhaps

monopolised by?) services. Tourism also prompted social transformations in that the arrival of immigrant groups – for both work and tourism – altered the demographic structure and helped somewhat rejuvenate the population. Despite the indisputable positive impacts inherent to tourism, which it would be futile to deny, certain models implemented on an island lead to even direr problems than in other places precisely because islands can be considered closed ecosystems. One example is the impacts on the natural and rural environment due to a prolonged upsurge in construction. On Menorca, the approval of the LOT and the DOT should be seen as a turning point whose main objective was to contain and mitigate the negative impacts on the island. Of course, the 1993 Biosphere Reserve declaration had a great deal to do with essential issues like increased awareness of the need for a different land-occupation model. However, Menorca also experienced a wave of construction which spread across the island and called into question the importance of the values protected in that declaration, which are paradoxically part of the island's appeal.

The 2003 Insular Territorial Plan was characterised by its emphasis on sustainability and by being backed by broad consensus among the population and the public agents charged with safeguarding the land. At first, its approval meant establishing quotas or caps on urban growth, and Menorca thus began to have a legislative framework which determined how its land would be shaped in the short and middle term (it was approved for a 10-year period, after which it could be revised)¹¹. On the other hand, the reality of the economic crisis and the virtual standstill in the entire construction sector contributed to curbing the dynamic that had begun the previous decade, especially in terms of the harmful effects of a specific urbanisation model on the landscape. Growth is still allowed, but now more rationally because it is redirected and limited. This means that on the Balearic Islands as a whole, the Insular Territorial Plan of Menorca is the plan that most clearly attempts to remedy the more negative trends in terms of the continuity of the expansionist urbanisation model if we compare it to the Insular Territorial Plans of Mallorca and Ibiza.

Currently, there is some debate around the ITPM and its repercussions on the island. While some prefer to reformulate it, bearing in mind that the patterns when it was written have changed, while others prefer to leave it the way it is, given the benefits it has brought since it was approved. At the same time, some sectors view the plan as a hurdle to greater economic development on the island, as opposed to those who argue that it has managed to maintain a space which is still appealing to many visitors yet where the local population can enjoy a high quality of life and wellbeing.

Times of crisis, like today, are ideal for considering different alternatives to situations that are clearly fraught, such as focusing on short-term policies that bring in revenues and create jobs even though they are detrimental to the recent strides made in terms of safeguarding the land, or alternatively, thinking directly about the middle- and long-term benefits and continuing with the guidelines of the ITPM as it was originally envisioned. Regardless, the Plan is still a sound reference document for rational territorial

¹¹ Despite the possibility of revising the ITPM 10 years after it was approved, it has not yet been done. However, the Menorcan public administrations have stated their desire to undertake it shortly, using the same technical and drafting team as the 2003 Plan. In this sense, a major debate has been launched on which points should be included or discarded: essentially whether urbanisation should be allowed to grow more or whether the regulations should be left the way they are now.

development and the maintenance of spaces and assets that contribute to making Menorca unique. It is important to recall that the growth levels stipulated in the plan have not been reached in the projections for either the tourist demand or residents. Yet the current crisis is the reason, not the Insular Territorial Plan.

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Immigrant working women and work-life balance: Fewer opportunities for occupational mobility?

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Abstract

This paper studies the occupational mobility of immigrant women by analysing their work-life balance strategies. Results show that the lower level of support for the work-life balance received by these women is an obstacle to their upward mobility. However, the segmented structure of the job market must also be taken into account in the analysis.

Key words: occupational mobility, immigration, gender, work-life balance.

Until recently, the occupational mobility of immigrants has been studied from different vantage points, bearing in mind factors like human capital, market and labour segmentation, migratory policy, gender and age. Nonetheless, the implications of family care burdens have seldom been considered when trying to grasp this population's occupational mobility. More specifically, immigrant families' difficulties balancing work and household chores has scarcely been studied within the framework of mobility. This article aims to contribute to filling this void with a qualitative analysis of the occupational experiences of immigrant working women in Spain. It starts with the idea that the careers of these workers show slower patterns of promotion over time than those of autochthonous women because they have less support to achieve a work-life balance. The analysis of interviews corroborates this idea; however, it is important to bear in mind the segmented structure of the Spanish labour market in order to understand how vertical mobility occurs over time.

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1. Introduction

The study of the occupational mobility of the immigrant population is situated within the sphere of relations between the job market and migratory flows. This relationship is not static but changes and evolves over time. For this reason, longitudinal studies enable us to capture the work itineraries of immigrants in the host country more accurately. In Spain, empirical evidence shows that since the late 1990s and the onset of the current economic crisis, there has been occupational mobility among immigrants, albeit to a lesser extent than among the autochthonous population (Simón, Ramos, & Sanromá, 2010). Furthermore, the segmentation patterns within the job market are different for autochthonous and immigrant workers, and this mobility has been possible within the context of strong economic growth during this period. On the other hand, in addition to being dynamic, these processes are not gender-blind. The figures show that in recent decades, when the migratory flows to Spain have increased, the presence of women who emigrate alone has been quite high, which has led to talk of the feminisation process of migratory flows (Ribas, 1999; Mestre & Casal, 2002). This process is closely related to the labour demands of the Spanish market, which has needed unskilled workers to cover jobs in the lowest rungs on the occupational scale during the period studied (late 1990s until 2007).

The purpose of this article is to study the effects that difficulties achieving a work-life balance can have on the occupational mobility of immigrant working women. For this reason, the study concentrates on occupational evolution in the years when heavy migratory flows were coming in, and it analyses the careers of female immigrants during this period from the standpoint of the work-life balance. The research question on which this study is based revolves around ascertaining the effects that difficulties achieving a work-life balance between productive and reproductive time can have on the careers of immigrant women.

Many previous studies have shown that autochthonous women have fewer opportunities for promotion, work in occupations with lower pay with more part-time workdays and are more affected by unemployment than men (Rica, 2007; Villar, 2010). The desire to explain the reason behind these differences has prompted the need to reveal the connection between the productive and reproductive work spheres (see Rubery, Fagan, & Smith, 1994; Jacobs & Gerson, 2004). This approach assumes the socioeconomic existence of two spheres or subsystems which account for the complexity of the concept of work. The relations between the two spheres are unequal in that paid work is economically and socially dominant. Men and women are not equally distributed in these spheres, and historically the responsibility for housework has fallen exclusively upon women. Currently, despite women's full entry into the workplace, these patterns still remain in place. Although it is true that men are gradually increasing their involvement in reproductive tasks, especially those from the younger generations and with a higher educational level, women still spend more hours on household chores and therefore have a double workday: in the job market and at home.

In the case of immigrant women, their type of migratory plan, the dominant social mores in their home country, the weakening of their family network after emigration and their lower access to social policies all hinder the work-life balance. This study seeks to ascertain to what extent these difficulties may prove to be a hindrance to vertical mobility,

while also observing the structural factors that condition careers, like the occupational structure of the Spanish job market and the limitations imposed by migratory policy. With this goal in mind, the results of six[†] in-depth interviews with immigrant and autochthonous women with similar occupational characteristics are analysed.

Even though this is not the first study to relate immigration, family and work-life balance (Bailey, Blake, & Cooke, 2004; Parella & Samper, 2007), it is one of the first that tries to shed new light on the phenomenon of occupational mobility by incorporating the qualitative study of immigrant women's imaginaries of care.

2. Occupational mobility of the immigrant population

In this study, occupational mobility is approached in an intergenerational way, bearing in mind the changes in the occupational positions of individuals throughout their working lives. In this sense, mobility can be upward or downward in terms of differences between the salary and/or status of the previous and new jobs.

The literature has shown that changes in immigrant workers' occupational mobility depend on multiple factors. First, emigration itself leads to a major social and economic ruptures (McAllister, 1995) which initially positions emigrants in disadvantageous situations. Studies conducted in different geographic and social settings show that immigrant workers experience unfavourable occupational differences compared to their socioeconomic status at home (McAllister, 1995; Clark & Lindey, 2005; Redstone, 2008). Secondly, there are significant disparities according to gender, in that women tend to experience a steeper occupational downgrade after emigration (González-Ferrer, 2011). In this sense, the structure of job opportunities for immigrant women differs from that of immigrant men and from that of autochthonous women. First, the status of immigrant women is affected by the restrictions of a sexually segregated occupational structure in which they earn lower salaries, have less job stability and are given fewer opportunities for promotion than immigrant men, regardless of their qualifications (Parella & Samper, 2007). Secondly, their immigrant status situates them on a lower stratum of the occupational structure compared to autochthonous women, in that they cover the jobs with the least social prestige that are not wanted by their autochthonous counterparts, such as domestic service and the lower-tier occupations in the hotel or retail industries (Ribas, 1999; Mestre & Casal, 2002; Parella, 2003). Thirdly, other factors have often been mentioned as well, such as individuals' legal status, entry visa or national origin (Friedberg, 2000; Redstone, 2008). Finally, other studies have proven the existence of major differences in mobility according to educational level, with less mobility among workers with lower levels of schooling (Chiswick et al., 2005).

Other approaches have stressed structural explanations, such as market segmentation theories. From this vantage point, the lower mobility of the immigrant population can be explained by their concentration in secondary segments of the job market (Martín Artiles et al., 2011). Likewise, we should not ignore explanations based on

[†] These interviews are part of a broader study on the careers of immigrant workers in Spain between 1997 and 2011 (Lozano, 2013).

social capital; social networks are sources of information and resources of occupational mobility for immigrants, while also lowering the risks of emigration (Massey et al., 1998).

A new approach is proposed in this study, without ignoring previous contributions. Specifically, given that immigrant women are fitting into a previously segmented job market with a particular demand for labour in a process in which social variables such as gender and socioeconomic status also come into play, this study seeks to provide yet another element of analysis which will allow for a better approach to studying occupational mobility. As mentioned above, the work-life balance difficulties experienced by immigrant women are presented here as an explanatory factor of their mobility; they may not work in isolation from other variables, but they are suitable for being considered an important factor in the job expectations of immigrant women, just as they are for autochthonous women (see, among many other studies, those by Tornø, 2005; Crompton & Harris, 1999; Jacobs & Gerson, 2004; Lewis, 2009).

3. Immigrant women, the job market and work-life balance

Currently, there is a broad range of studies on the occupational mobility of immigrant women, and the inclusion of gender as an explanatory variable has led to a considerably better understanding of international migrations and immigrants' entry into new job markets (see Oso, 1998; Anthias & Lazaridis, 2000; Parreñas, 2001).

Nowadays, conceptualising migration from the gender perspective means addressing a series of debates that had already weighed heavily in studies on women and the job market. The first debate was on the assumption of multiple segmentation by class, ethnicity and gender, which entails studying the relations between and gender, immigration and work. This multiplicity must be understood as more than the mere sum of different sources of discrimination and instead as the intersectionality of the different elements shaping the status of women and immigrants. In other words, under the prism of multiplicity, explanations of immigrant women's lower rates of participation in the job market, as well as their lower results compared to their male counterparts, reflect their triple status as women, immigrants and working class. These factors condition the way they access the job market, which is limited to certain activity sectors such as the informal economy (Pessar, 2009) and domestic service (Escrivá, 2000).

This study sets out to take a second debate into account, one that is seldom addressed in the case of female immigrants: considering the relationships between productive and reproductive work time when studying the occupational mobility of immigrant women. This interest reflects two main motives. First, studying work trajectories without bearing in mind the intertwined dynamics between the work and domestic spheres would entail taking a step backward in the study of job market inequalities. Secondly, many studies have stressed the effects of the segmented market structure on immigrant women's mobility (Rendall et al., 2008), and the influence of other institutional variables and individual attributes (Boyd & Grieco, 2003). Nonetheless, the effects that the impossibility of balancing paid work and family can have on the occupational mobility of immigrant working women has not been sufficiently studied. The work-life balance, or more accurately the degree of support available, conditions the quantity and quality of time available of productive work. Having less time

may be an obstacle to occupational mobility, especially for immigrants who require a heavy initial investment to become familiar with a new work environment.

This proposal emerges from the observation that even though many studies on the job market and gender have emphasised that women have fewer opportunities for job promotion because they are the ones balancing work and family, and therefore they cannot devote as much time to work as men can, in studies on the job market, immigration and gender, this situation has seldom been taken into account. This is why before specifying the methodology and results of this study, we should first clarify the terminology regarding the notions of *work-life balance* and *work*.

According to Greenhaus and Beutell (1985), the concept of *work-life balance* is defined via the tensions between employment and family stemming from the incompatible pressures between work and family roles. Throughout this study, we will refer to the concept of *employment* to mean productive work, understanding the notion of *work* based on the revision undertaken by the feminist sociology of work (see Borderías, Carrasco, & Alemany, 1994). Starting with the analysis model called the paradigm of production and reproduction, the notion of work is understood to include not only activities geared towards producing goods and services in the market but also all activities geared towards the biological, social and ideological reproduction of the workforce (Torns & Carrasquer, 1999). Following this revision, and bearing in mind the critiques levelled at the concept of *work-life balance* in the previous literature (Moreno, 2006), this study defines the notion of *work-life balance* as the act of harmonising the two spheres of production and reproduction, which do not start on the same level and have incompatibilities on a macro scale. These incompatibilities are an important factor that must be borne in mind when examining the differences in occupational mobility that may emerge between immigrant men and women, and between autochthonous and immigrant workers. Furthermore, this incompatibility takes shape through not only the unequal and asymmetrical social recognition of productive and reproductive work but also the logic of space and time. In this vein, Balbo (1978) describes the situation of working mothers using the term *double presence*, to reflect the double burden in the same time, space and day.

4. Methodology

This study uses qualitative data analysis techniques to answer the research question guiding the entire article; specifically, it uses six work biographies of immigrant and autochthonous working women chosen after a typological grid was developed. The informants were chosen by empirically developing a theoretical typological grid, identifying four sample distribution axes of the most important work biographies to be defined. To do so, two primary data sources were used: the Continuous Sample of Working Lives (CSWL) for 2007, and the Active Population Survey (APS) for the period 2007-2011. With these two empirical databases, a qualitative typology of trajectories was defined. Specifically, the sample selection criteria took the following basic dimensions of the social structure into consideration: gender, generation, geographic origin and socioeconomic class. In terms of gender, only profiles of immigrant women were chosen and then compared with similar profiles of autochthonous women with the goal of explaining the different conditions on accessing and remaining in the job market, and the

presences and absences in housework and caregiving. Secondly, women between the ages of thirty and fifty who have a minimum of ten years of work history in Spain, and who live with at least one child between birth and twelve years old, were taken into account in order to capture a sufficient work trajectory. Thirdly, geographic origin was established as a definer of the immigrant population, and only profiles from Latin America, Eastern Europe and North Africa were chosen, with the goal of capturing immigration for economic reasons. Finally, socioeconomic class was defined via three sub-indicators: level of formal education, employment sector and mobility throughout their career in Spain. The data from the APS and the CSWL were extraordinarily helpful in establishing the mobility indicators (classified into high, middle and low) as measured through changes in positions along the occupational scale, as well as in seeing their distribution throughout the employment sectors. High mobility corresponds to changing positions between six and nine times, middle between three and five, and low between one or two, or no changes. Although the interviewee's socioeconomic class at home was not a selection criterion, it was borne in mind when interpreting the results as a structural and conditioning factor of their work trajectories.

Based on the stories of their work trajectories, this study seeks to inquire into the factors related to work-life time balance, immigrant and autochthonous women's perception of productive and reproductive work, and the connections between the work and family spheres throughout the course of an individual's life. The ultimate goal is to identify the imaginaries around employment and family care in order to respond to the hypothesis guiding this study, which starts from the idea that the work trajectories of immigrant women show fewer opportunities for upward mobility because the degree of work-life balance accessible to them curbs their mobility. With this goal in mind, the work-life balance strategies adopted by immigrant women are compared to those of autochthonous women, along with their perceptions of the tensions between employment and family. Following Garrido and Gil Calvo's (1993) definition, by strategies we mean the selection of alternative courses of action (tactical resources) to produce future results (strategic objectives) in situations of uncertainty.

The table below shows the distribution of the universe of informants in the sample. All the interviews were held between March and November 2011.

Table 1. Typological grid

| | | | | |
|----------------------------|---------------|---------------------------------|--|---------------------------------------|
| Educational Level | | Higher ed. | Middle-primary school | Primary school |
| Activity sector | | Healthcare and skilled services | Unskilled services, retail, hospitality and industry | Household and domestic service sector |
| Origin | Immigrant | <i>MAI1 (Ana)*</i> | <i>MMI3 (Milena)</i> | <i>MBI5 (Fàtima)</i> |
| | Autochthonous | <i>MAA2 (Marta)</i> | <i>MMA4 (Laura)</i> | <i>MBA6 (Roser)</i> |
| Mobility trajectory | | High mobility | Middle mobility | Low mobility |

* Pseudonyms in parentheses.

Source: Created by the authors by identifying the four sample axes.

5. Results

5.1. Immigrant women with high mobility

The mobility of this first profile is usually defined by the interaction of factors such as the importance of the first sector in which they work, their skill level, their migratory project, the class of their family in their home country, their job expectations and their subjective assessment of caregiving work.

With regard to their professional trajectories, both immigrant and autochthonous women always start their careers in unskilled jobs, but while for the latter this is the time when they are finishing their education, for the former it is a result of inconsistent status, that is, a discrepancy between their skill level and the job they hold, which often lasts much longer than they had imagined.

When I came, I never imagined that I would never again work as a journalist... I mean, the entire process is really complicated, [...] I had to take classes to earn my degree [...] and I came to earn my Master's, because you realise that if you want a skilled job you have to study here. If not, they only glance at your CV, I mean maybe not if I'd gone to Harvard instead of the University of Lima, but actually I don't know... [...] it's a bit frustrating. [Ana, MAI1]

In the case of this interviewee, a journalist who emigrated from Peru, the fact that her inconsistent status has lasted a long time becomes clear. Her efforts to invest in education and the time she spent on the job throughout her career in Spain have enabled her to improve her professional status, but she never manages to develop her career as a journalist. Thus, what allows for the occupational mobility of these women is the acquisition of new educational resources, which is also made possible because of their social status in their home countries and their professional aspirations to improve their career. Nonetheless, as explained below, their social imaginaries around caregiving and family responsibilities significantly curb these aspirations. Furthermore, the origin of these women must also be taken into account. They have university degrees and come from the prosperous middle class in their countries, and they had sufficient family resources to emigrate. Therefore, this emigration takes place not because of the family's economic need but because of their desire to further their careers; thus, they emigrate either alone or with their partners with similar job expectations.

I left Peru because I didn't think I'd find the same conditions there, I don't know. It was a carefully planned decision, and before deciding I came here to spend a month of vacation, quote-unquote, but before coming I searched for contacts and met with some people to see what it would be like. I came to Spain obviously because the language made it easy, and because I thought that later it would be easier for me to go to France with Spanish nationality. It was a strategy I had thought through from the start. [Ana, MAI1]

Understanding how these women's mobility takes place, with an emphasis on their work-life balance, enables us to see aspects which are hidden with just quantitative data, such as women's double presence and the existence of feelings of guilt that curb their upward mobility. Even though work-life balance strategies often come up when the interviewees are asked about their occupational mobility, the perception of caregiving varies according to their origin and determines different work expectations. For the autochthonous women, family burdens are part of the "puzzle" that they identify in their daily lives, and

they have resources such as a family network, the distribution of household chores (even though they run the household), hiring help formally or informally, access to public and private resources when school is out, etc. In contrast, even though the immigrant women have some resources, their perceptions of caregiving time and work time come into conflict. Even though these women have university degrees and professional migratory projects, they tend to find themselves in polarised situations: on the one hand, they want successful careers, but on the other they feel guilty for leaving their children with other women (often immigrants as well), which leads them to reject opportunities for upward mobility. For the autochthonous women, this guilt is lower because they have family networks which they regard as nurturing, affective environments for their children. This is illustrated by the stories recounted.

Since I have a more flexible timetable [than her husband] I usually go myself [to take the children to school], but my daughters are no doubt the queens of extracurricular activities. They do one every day because I can't get off work until 6:30. [...] Obviously, I'm very happy to be a mother, and fortunately I have my own mother, I mean, and my husband who does help me a lot, but still it's exhausting. [Marta, MAA2]

Oh yeah, my son is my life, my reason for being; he's everything to me, and when I don't have much time to spend with him, I feel awful. It's difficult to be a good mother, and sometimes I wonder if my mother was a good mother. And yes, she was, the best mother I could ask for, and the reason is simple: my mother is always there when she's needed [...] so I prefer to stay where I am, because accepting the managerial job [with more responsibility than her current job] would mean that I have to study and then spend lots of hours in the hospital... and I'd have to leave my son with a babysitter and that would kill me. [Ana, MAI1]

The work-life balance strategies of these women are therefore affected by job market expectations, where feelings of guilt appear and double-presence strategies reveal that despite their access to higher education, they nonetheless abide by the typical gender roles. The differences between the two lie in the weakening of family networks that immigrant women experience because of their emigration; however, all the women accept the reproductive work as "their own responsibility" and therefore, even if they outsource housework, they are in charge of managing and overseeing it.

5.2. Women with middle mobility

The trajectories identified in this profile share a much higher presence of unemployment than in the previous profile. Furthermore, the periods of unemployment often dovetail with times of more family responsibilities (small children or ill parents), such that these women leave the job market both by being dismissed and out of the need to care for their families. In this sense, these women's availability for caregiving marks their trajectories. The differences between female autochthonous and immigrant workers can be explained by the fact that the latter are less protected from unemployment, both because they have less support from the family network and because of the lack of unemployment benefits or other job-related subsidies. Furthermore, the importance of work-oriented migratory projects is also worth noting, such as sending home monetary remittances, which renders it absolutely essential to have economic income, a need that autochthonous women do not have.

The cases interviewed clearly exemplify these factors: on the one hand, Milena (MMI3), originally from Rumania, who started as a household worker and is currently a waitress in a restaurant, and on the other Laura, who was born in Barcelona and is the owner of a café without salaried workers, who left the job market for four years to care for her children. They both identify the constant conflict between work and family but are able to resolve it in different ways. Generally speaking, the factors that influence occupational mobility have to do both with the productive sphere and the work role they play, and with the family structure and their role as mothers. In this sense, one of the important factors in understanding the mobility of these women is what has been called gender self-schemas (Bem, 1981), which determine patterns of attitudes and behaviours. These patterns are common to both autochthonous and immigrant women, but the resources available to each group determines the differences.

It's always gone like that, I mean it's easier for me to stay at home with the kids because ultimately if you count day care, and I mean with the bar we also need solutions for after school, recreational activities and stuff, and the summers, in the end all that is much more expensive. And we decided that I would stop working and stay at home. So I didn't work for four years, I mean, I didn't work outside the house because let me tell you at the end of every day I had bags under my eyes like you couldn't believe! [laughing] But you know it could have been more, but in the end, I mean, since my father was elderly I started working in the café. [Laura, MMA4]

I spent a few months taking care of my son, but I had to start looking soon because we need both salaries [hers and her husband's]. Would you have liked to spend more time caring for your son? Of course I would, a lot, but then comes rent, money to send to Rumania, the... expenses, I mean there are lots of expenses and I had to look for work. [Milena, MMI3]

Another important aspect of this profile is that the work trajectories of the autochthonous and immigrant women are parallel, that is, their jobs are complementary, which means that there is no competition for jobs. In this sense, the autochthonous women tend to accept part-time work or fewer hours in order to balance productive and reproductive time, while the immigrant women need the salary from a full-time job even if there are incompatibilities between job and family. For these women, the time they spend in the Spanish job market is key because it produces mobility, not only because of the acquisition and improvement of linguistic competences but also because of the importance of the relational network.

At first I didn't leave it, it didn't matter to me because what mattered was having a job, and I mean I did lots of things I had never done before, and of course only those of us from abroad did them, like night-time cleaning hours, lots of hours on my feet in a restaurant until very late and so on. Later, you gradually come to understand the country better. [...] What you notice the most is that after a year you start knowing people, and they help you or you help them and so it's better. Plus, now I speak Spanish really well, and I'm taking Catalan classes, and this is very important because everything doesn't seem so strange, like it did at first. [Milena, MMI3]

In terms of the work-life balance strategies in this profile, the first differential factor between immigrant and autochthonous families is the greater division of household chores between immigrant men and women. This is not due to a change in mindset among

the immigrant population; to the contrary, in the discourses analysed, the women are always the ones who take the responsibility. However, having a smaller network of work-life balance resources means that men have to share the household chores so the women can spend more time working and therefore contribute more money to the household. For example, Milena (MMI3) very clearly describes how she and her husband arrange their job schedules so that they can both devote as many hours to paid work as possible. She describes it as an economic necessity for the household, while she nonetheless exclusively manages the housework.

I'm there in the morning and I prepare lunch, so my husband is there at lunchtime and he goes to get the kids and they eat what I've left prepared. And he goes in the afternoon, too, and then I arrive soon after that. If we need to go shopping, he goes, and I leave him a list in the mornings, too. So, what time do you get up to prepare so many things? At six, and I work from... at night until 11, he works from 7 in the morning until 1 in one place and from 6 to 9 in another. And I work from 9 to 6, and after 9 I go and clean at the hospital until 11. [...] The problem is weekends, when both of us work and our son doesn't have school, so it's difficult... since our older son is bigger he can take care of the little one, or sometimes a neighbour, who's also Rumanian, comes for a bit. [Milena, MMI3]

In fact, as highlighted in the excerpt above, another strategy that these women use is having older siblings care for younger ones, never as the only solution but often for just a few hours. This strategy is not found in the interviews with autochthonous women of any profile. Making timetables compatible is found, but in these cases, autochthonous women often care of each other's children. In the case of Laura (MMA4), who was interviewed in this mobility profile, family care tasks are divided between both partners, but especially between herself and her sister, and between the sisters and their mother.

Yes, of course, it's all covered, both Saturdays with recreation and during the week. I mean they also go to recreation, but I can see that they're happy; it's a place with outstanding values, which is what we're missing today. [...] And I mean, of course I also leave them with their grandmothers, that's great, and with my sister because she lives right above us, you know? And you know sometimes I get home late and she's fed them dinner at home. I mean, it's a luxury because who knows: it's not like I have to go collect them or take them anywhere, you know? I've got peace of mind because I can always stay at work without worrying because I know that if my sister sees that I'm going to get home late she'll come down and takes care of them. So, you know, so I'm more relaxed at work in this respect. And sometimes she works on Saturdays, so I stay with all the kids. [Laura, MMA4]

Finally, one very important aspect which distinguishes these women is the legal status of the immigrant women. Their work trajectories are also directly affected by their legal status, which creates a keen sense of insecurity and positions them in the most vulnerable spaces within the informal economy.

5.3. Women with low mobility

Finally, for women with low-mobility trajectories, their threefold status as women, immigrants and working-class situates them in one of the weakest positions on the occupational scale (Parella, 2003), in line with what previous studies have concluded.

This position also explains their greater difficulties managing their daily time between work and family responsibilities.

This profile encompasses workers with less occupational mobility and less stable working conditions. However, once again the differences according to the socioeconomic level of the family in the home country explain the subjective validity of each of the women interviewed. The work trajectories analysed in this profile show particular characteristics, some of which are associated with migration, such as the emergence of global caregiving networks or the inconsistent status of immigrant working women, while others are associated with the employment sector and the structure of the Spanish job market, such as their perpetuation as household workers and the more glaring lack of protection in the domestic sector. Once again, one of the most important characteristics of these women's occupational mobility is related to their gender self-schemas.

Generally speaking, the factors that influence their occupational mobility have to do both with the productive sphere and the work role they play, and with the family structure and their role as mothers, or with their migratory plans (it is important to distinguish between those who have been brought here by their husbands to reunite the family and those who initiated their own pioneering migration project). The case of Fátima (MBI5) from Morocco illustrates the importance of the migratory project. She was reunited with her husband and their two children, and at first her main occupation was caring for the family. It was not until her husband's parents came from their home country that they needed higher earnings, and she had to look for paid work. She found a job as a domestic worker, and she expresses the impossibility of being able to work as anything else even though her legal status would allow her to (three years after the family was reunited, she secured a work permit). One of the reasons she accepts the current working conditions is that they allow her to care for her own children while she cares for her employers' children. Furthermore, signs of ethnic discrimination she perceives in the host society are clear in her discourse.

Since the parents aren't there, I can take my children, and this helps me because otherwise I don't know how I'd do it. This is why I don't want another job, because if I go somewhere else I don't know what I'd do with my little kids. And it's not easy, because we Muslims are not very well accepted, and I know this because I walk down the street and other women tell me about it. [Fátima, MBI5]

Another important aspect observed in the discourse is the expression of a kind of moral superiority of her own values over the caregiving values of Spanish society. As low-paid workers, it is possible to argue that this rhetoric saves them and enables them to feel better not only about their jobs but also with the migratory experience they have undertaken by leaving behind their families and roots (this is also described in Datta et al., 2006). To these women, respect and discipline are values that have been lost in Spanish society, where the children are poorly raised and become "little dictators" within the household.

You don't dare tell a child from here "don't do this or don't do that" because they're going to answer you with something like "who do you think you are? I don't care." It's terrible, they show no respect either at home or in public places. Sometimes I'm riding the train and I see situations in which the children are hanging off the rails or don't let elderly people sit down, they make a lot of noise,

they're little kids in uniforms coming back from prestigious schools. [Fátima, MBI5]

On the other hand, the differences between the women interviewed in this profile can also be found in the number of hours and therefore time spent on their jobs, which they are willing to work in exchange for money. It should not be surprising that immigrant women have a greater need for income, but what is worth pointing out is that for autochthonous women, a part-time job is a way to achieve a work-life balance, while for immigrant women, more income means more help sent to their family in their home country.

I prefer to work mornings only, because that way I have the entire afternoon to do housework, be with the kids, help collect them at school, prepare dinner, run baths, do laundry and all that, and since my husband works and earns more than I do, because you know all that about caring for the grandparents. [Roser, MBI6]

Furthermore, just as in the previous profiles, the difficulties balancing work and family are greater for the immigrants. Two strategies were identified in this sense; the first is observed in the families of women in the middle-low mobility trajectories, and the second is a low-cost version of strategies also found in the families of the interviewees with high-mobility, stable work trajectories. On the one hand, the solution to incompatibility lies in the combination of the couple's work hours, even though the women are the ones who coordinate and manage all the reproductive work. On the other, the low-cost solutions are based on occasionally hiring caregiving services, always with contractual informality, usually young immigrant women who have just arrived whom they meet in their neighbourhood or through the community network. What is more, we observed a third route facilitated by the very informality of their jobs, which enables them to bring their children to work with them, as mentioned above.

6. Conclusions

The interviews conducted for this research reveal that immigrant women use a variety of strategies to balance work and family. Specifically, four different strategies were identified; they never occur in their pure state, but instead two or more of them are often combined, and the double female presence is always present: 1) paying for care from caregivers without a family relationship with the hiring family, mostly informally; 2) negotiating care within the family, in that both partners take on certain responsibilities but always under the management and coordination of the woman; 3) informal work-life balance in the workplace, meaning a preference for informal jobs which make it possible to bring children to paid jobs; and 4) putting older siblings in charge, minors who care for other minors who are home alone while the parents are working.

Furthermore, the results of this analysis also show a relationship among migratory projects, work trajectories and the work-life balance strategies identified. In this sense, women with higher educational levels who have expressive or professional migratory projects and high mobility in their host country tend to outsource part of the household and family work. In contrast, among the immigrant women who have emigrated via family reunification or who have initiated their own migratory projects because of economic needs in their home country, who are less qualified and have middle- and low-mobility career trajectories, the work-life balance is achieved with low-cost solutions or via the presence of children at work and siblings caring for siblings. These women are also

more exposed to occupational and residential segmentation, atypical workdays and low income.

Among the more qualified women with higher mobility, the perception of care has a strong presence and directly impacts their careers. To these immigrant women, the difficulties achieving a work-life balance are the expression of a polarised situation between the quest for professional success after emigration and the sense of guilt for “neglecting” their small children. In contrast, the autochthonous women with similar occupational characteristics have a lower sense of guilt because they have more resources to achieve a work-life balance, which they also consider affective and educational, such as the family network made up of grandparents and other family members or children’s free-time environments.

Among the workers with lower qualifications and mobility, the pressures to work (economic migratory projects, need for income) and the pressures in the workplace (atypical workdays, job insecurity) are the main factors limiting their work-life balance, especially childcare. Given the need for income and the low salary levels, these workers have to find low-cost solutions to caregiving, such as combining the unwieldy working hours of both adult members of the household, older siblings caring for younger siblings or the community network. In the specific case of women with low-mobility work trajectories, another important factor in occupational vulnerability is the job sector in which they work, usually domestic service. This sector has a high rate of job insecurity; furthermore, since it is vastly unprotected by the welfare state, unemployment and joblessness make these women’s trajectories more vulnerable. Many of them also face the paradox of caring for other women’s children as they scramble to care for their own. In these situations, these women’s narrative discourses revolve around creating a kind of moral superiority compared to the caregiving values of the host society. This discourse protects them and makes them feel better not only in terms of their jobs, but especially with regard to the social and economic exclusion which they experience during their early years settling into the Spanish market and society.

The work trajectories of the autochthonous women in the middle- and low-mobility profiles can primarily be explained by the importance of motherhood and the perception of care. In this sense, these trajectories are marked by the centrality of reproductive time, with long periods spent outside the job market to exclusively dedicate themselves to family tasks. This later has an indirect impact on their work trajectories, as they always remain in sectors directly or indirectly related to caregiving and cleaning activities. Many of them naturalise their experience of this process by justifying the internal division of work at home with their husbands’ ability to earn more and the added expenses of extracurricular services.

In short, the class differences between the mothers show different kinds of preferences and limitations when choosing work and family alternatives, and these are usually socially and culturally created via their biographic experiences, their kinship relations and the normative views of the society where they live. In this context, work-life balance strategies are linked not only to time or economic needs throughout the work trajectory but also to aspects of morality with regard to the family role of these women.

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