

The Politics of Unilateral Secession in the European Union: the Case of Catalonia

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Abstract: In this article we analyze the diplomacy of unilateral secession in the European Union (EU). We focus on the Catalan secessionist conflict, examining how the involved central state and secessionist sub-state actor fought for the support of the supranational party. Building on a triangulation strategy, within which collected primary data is cross-checked through semi-structured expert interviews, we explore different channels of influence such as partisanship, para-diplomacy and intergovernmental networks. We identify different logics of political legitimation and examine how they were confronted in these diplomatic struggles. We find that by switching from the position of non-intervention toward one of open support for the central state government, the EU has developed an informal framework, which might deter future unilateral secession intents.

Keywords: EU, secession, internal, unilateral, Catalonia, Spain, diplomacy, unilateral, independence

Introduction

Due to a lack of law and precedent, the politics of secession within the European Union (EU) and the influence of the EU on them has been, up until recently, widely uncertain. Cases of revision of borders, such as the Algerian independence from France in 1962, Greenland's separation from European Economic Community (EEC) in 1985, or the German unification in 1990 do not provide comparable examples or a concrete blueprint. While, during the referendum in Scotland of 2014 the EU remained mainly on the side-lines due to the consensual nature of the voting, throughout the unilateral secession effort of Catalonia in the years 2014 – 2017 the escalation of the conflict forced the EU to take a more explicit position. This conflict created not only a large political and constitutional crisis in one of the largest European democracies, but also had significant impact within Europe. In this sense, it made evident the mechanisms of unilateral secession and counter-secession within the European multi-level framework.

The biggest bunch of the literature on secession within EU Member states

focuses mainly on legal discussions (Medina, 2014; Bossacoma, 2016). Most of these works examine the possibility if a seceding sub-state unit would be automatically part of the EU (Gounin, 2013; Closa, 2016; Kenealy, 2014; Piris, 2017; Guirao, 2016; Tierney, 2013). Scholars have also examined extensively the question of how and why national/regional or secessionist parties present the EU as a possible substitutive framework (Nagel, 2004; Cetrà and Liñeira, 2018; Duerr 2015), how the pro-independence milieus appeal to European institutions (Guidi and Casula, 2019), and the actions of para-diplomacy (Aldecoa and Keating, 2013, García and Etherington, 2019) and social movements (Della Porta et al. 2017) to alter existing status quo.

On the micro-level, scholars have examined political attitudes of Spanish and Catalan citizens towards the role of the EU in the secessionist crisis (Muro and Vlaskamp, 2016; Wagner, Marin, and Kroqi, 2019). The game-theoretic approach by Griffiths et al. (2015), examined the Catalan secessionist conflict in the EU, although the analysis begins after a secession referendum. Secessionism rarely features in the literature on European integration, multi-level governance or similar discussions of treaty-based integration¹; only Zielonka (2014), when analyzing EU disintegration, argues that secessionist tendencies of powerful sub-state units can lead to a break-up of an EU Member State. In normative discussions, scholars have described secessionism in the EU as running contrary to the historical ethos of European integration (Weiler, 2012).

These different fields of literature, while usually focusing on certain aspects of secession in the EU, have not completely analysed the politics of unilateral secession within the EU's multilevel framework. While most have tended to focus on the post-referendum momentum, few authors have studied a possible EU mediation before an unilateral voting (with an exception here: Caplan and Vermeer, 2018).

This article makes two contributions to the literature on EU integration, regionalization and secession. First, we show that during this crisis, the EU progressively developed an informal juridical and institutional framework, which could deter future unilateral efforts for any territory within the EU. Second, we identify how different logics of political legitimation emerged and confronted these diplomatic

¹ In general, the literature on the interdependences between the supranational, national and sub-state levels in EU governance has argued that European integration lowers the stakes of regionalization (Hooghe et al. 2010; Keating, 2013, Alesina and Spolaore, 2003). Others have claimed that supranational integration and state fragmentation can be in fact complementary processes (Jordana et al. 2019).

struggles. While secessionists claimed for a consensual referendum arguing their ‘right to decide’, as a democratic principle, the Spanish government relied on defending their legal attributes and the existing institutional framework at the state level.

Overall, our article shows that the Spanish government was largely successful in securing the status quo, because of its relations within the bigger European party groups and the benevolent support of EU Member States, but also because of the secessionist-restraining nature of the EU. Catalan secessionists were unsuccessful in their attempts to control the way the crisis played out in the European institutions. They only got the support of the less powerful allies, e.g., political groups and individuals, both right and left-leaning and those more extreme.

Our article builds on available primary sources such as statements by various institutions, the parliamentary questions by Members of European Parliament (MEPs), and the answers given by the European Commission (EC). We have conducted media analysis and nine interviews with politicians and public servants that were involved in the conflict. This article consists of five sections. Following this introduction, we present the research design, data, method and time period of the analysis. We then present the theoretical discussion of the findings from the existing literature. In our empirical analysis, we examine the tactics of the sub-state unit and central state in this secessionist conflict, while also analyzing the reactions of the EU institutions, above all after the referendum in October 2017. A final discussion restates not only the article’s main results and its theoretical implications, but also considers ways for future research.

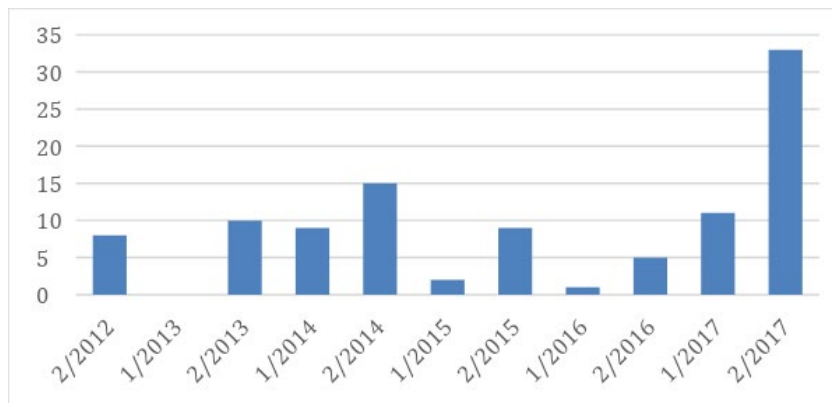
Research design, data, method and time period

In order to map an overview of the events, we first examined public documents and secondary literature. Considering the primary data, we analyzed over 120 parliamentary questions from MEPs and the responses to it by the EC or to a minor extent the European Council (hereafter, the Council). This primary data has been codified distinguishing between the nationality and party affiliation of the MEPs, and if they supported or criticized the secessionist cause. Due to the lack of votes in the European Parliament (EP) on the Catalan secessionist conflict, we had to examine extensively the only one debate in the EP and the statements of the relevant actors and EU institutions.

Where necessary, we examined the social media accounts of the most relevant politicians. These documents were complemented by the analysis of secondary literature, such as press articles, and relevant legislation.

We have conducted nine interviews, with Spanish, secessionist Catalan and European key actors. With these interviews we have contrasted the document data and have extended it by providing new information. We selected interviewees using non-probability sampling, which allows controlling the selection process and including key actors (Tansey, 2007). Those interviewed include nine current or former MEPs or political officials from other institutions involved in the Catalan secessionist conflict (see the interviews' list after the bibliographical references).

Figure 1: Number of parliamentary questions on the Catalan self-determination issue in the EP, 2012-1017 (Authors' own work, 2020)



The frequency of written questions submitted in the EP did variate and was higher during the important events of the conflict (see Figure 1). MEPs started to submit written questions to the EC (and to a lesser extent to the Council) about the conflict in 2012, when the Catalan government first announced a route towards independence. The

first peak reflects the questions on the first Catalan consultation on independence in November 2014. The next peak came with the Catalan regional elections in October 2015, which at the time were declared ‘a plebiscite on independence’ by the secessionist coalition *Junts pel Sí* (Together for Yes/JxSí). The conflict climaxed in the second part of 2017, with the unilateral referendum on the 1st October 2017 and the following declarations and votes on independence (10th of October and 27th of October). While our analysis focuses mainly on the period between 2014 and 2017, we also use data from before that period, focusing mainly on former interventions of EU institutions on questions of internal secession. Further, we examine comparative aspects on the Scottish independence referendum and Brexit, which informed the Catalan dynamics.

Approaches to secession dynamics

External actors have a proven influence on secession dynamics (Siroky, 2011; Pavković and Radan, 2007). Coggins (2011, p. 433) shows that when pushing for secession, aspiring states need ‘friends in high places’. Further, international actors do not always apply the hard-edged rules of international law, but sometimes make a subjective judgement, choosing a pragmatic decision. The theory of recognition of states emerges from a conflict between the constitutive and the declaratory doctrines (Lauterpacht, 1944, p. 419), where the former deduces the legal existence from the recognition of the already existing states, and the latter argues that a state exists as soon as it fulfills the conditions laid down in international law, e.g. the Montevideo Convention².

International actors such as supranational organizations or nation-states tend to take a conservative approach to secession attempts. International law only allows unilateral colonial secession, based on its limited decolonization approach arising from the UN General Assembly Resolution A/RES/637 (VII), adopted in December 1952 (UN General Assembly, 16 December 1952). The so-called ‘Salt Water’ doctrine argued that only overseas territories could secede. The UN Declaration A/RES/2625(XXV) adopted in 1970 made the principle of self-determination subject to compliance with the principle of territorial integrity, and restricted its application to circumstances where national governments did not recognize marginalized population

² Art 1. of the Montevideo Convention on the Rights and Duties of States of 1933 defined three characteristics of a state: (a) a defined territory; (b) a permanent population and (c) a government.

groups as citizens (UN General Assembly, 24 October 1970). However, international law is neutral on other forms of unilateral secession: it does not prohibit a declaration of independence or an independence referendum, nor does it entitle sub-states to independence. This international legal neutrality on secession places the burden of changing the territorial status quo on the secessionists, which does not make unilateral secession illegal under international law but improbable (Vidmar, 2019).

Membership of international organizations for seceded states is a complex subject. The Vienna Convention on Succession of States in respect of Treaties does not answer clearly if continued membership in the EU would be possible under international law (Gounin, 2013). While Article 34 ordains a presumption of continuity, Article 4 of the Convention sends the question back to the international organization to set the rules (Chamon and Van der Loo, 2014).

In the case of a secession attempt from any territory currently part of an EU Member State, or what this article refers to as an internal secession, the EU could respond through its own legal order, or allow it to develop further.³ While Article 50 in the Treaty of Lisbon allows secession from the EU, the question of internal secession cannot be found in any of the Treaties of the EU (TEU) (Keating, 2017), and has not been addressed formally until now by EU institutions. In the case of occurring consensual secession, many scholars suggest that the restraining uncertainty would be considered too large, and the EU would intervene to decide whether a seceding sub-state unit could remain within the EU. At this point however, there are generally two views on how the EU could react.

Most scholars and practitioners argue that the seceding state would have to exit and reapply for membership following Article 49 of the TEU (Piris, 2017; Tierney, 2013). Others state that a possible scenario could be via the implementation of Article 48, which provides an alternative route for general Treaty revision that would incorporate an additional state without a previous exit (Avery, 2014; Kenealy, 2014; Bossacoma, 2016). Guirao (2016, p.189) argues that the two scenarios – uninterrupted and interrupted EU membership – are possible, but not plausible, and the EU could open a possible secession agreement and make certain parts of it flexible. Considering questions of unilateral secession, Closa (2016) warns that unilateral secession is

³ The European Court of Justice (ECJ) ruled at the beginning of the EU integration process that in contrast to standard international treaties, the EU Treaties could create their own legal international order (ECJ, 5 February, 1963). This observation was recently re-confirmed (ECJ, 8 March, 2011).

incompatible with key EU principles, such as the requirement to respect territorial integrity (Article. 4.2, TEU) or the values of the EU (Article. 2, TEU). While Fasone (2017) argues that the secession procedure in the EU cannot be unilateral in any case and that the central state must be involved, De Miguel Bárcena (2014) states that it cannot be totally discarded as a matter for TEU judgement.

Some authors argue that a possible standard EU practice could be deduced from its behavior in many territorial conflicts across the world. In documents such as the '2016 Global Strategy of the EU' the EU commits to an active role in conflict prevention (Caplan and Vermeer, 2018). In the last years, the EU has been 'strongly committed to delegitimizing and marginalizing secessionism' in the Western Balkans (Biermann, 2014, p.487). Considering the recognition of states, the EU showed a pragmatic attitude placing security and peace at the center of its approach after the collapse of the Soviet Union and Yugoslavia (Almqvist, 2019). Other scholars have argued that the EU defines itself in its external role as 'ethical power Europe', building on a discourse of universal ethics, which defines the EU as a 'force for good' (Aggestam, 2008, p.1). Against this background, it is unsurprising that secessionists try to push for a more secession-friendly approach from the EU, paralleling the more interventionist, foreign-action approach, and presenting themselves as a peaceful movement. Such an approach is also helped and influenced by exceptions such as the secession clause in Article 50 of the TEU, - as used by the United Kingdom in March 2017.

Central states actors and secessionists move within the EU in pre-existing networks; both groups try to influence within the EU through partisan or state/intergovernmental channels in the most relevant EU institutions, such as the EC, the EP and the Council. Partisanship is most prominent in the EP and least visible in the EC or the Council (Lindberg et al, 2008, p.1115). Over the years, in the context of the EU integration process, European political parties (EuPPs) or political groups in the EP (EPPGs) have been established, articulating ideologically similar parties from the different Member States (Calossi and Cicchi, 2019, p.2), something that facilitated multiple exchanges and contacts.

Legislative decision-making in the EU has gradually transferred into informal, exclusive arenas (Bressanelli et al, 2016, p.92), which has left plenty of room to influence party colleagues within the EuPPs or the EPPGs. The progressive EuPPs assign agenda-setting power to the leaders of these legislative party organizations, in

order to enlighten partisan arrangements in the Council and the EC (Hix, 2008, p.1262). The EPPGs allocate important positions in the committee structure of the EP. There is also a strong probability that MEPs cast their votes following instructions from their EPPGs (Rasmussen, 2008, p.1173).

Beyond partisanship, this article explores other channels of influence, in particular the paradiplomacy initiatives or the use of intergovernmental networks. In fact, all European sub-state units have some presence in Brussels, which has become a natural way to give regional interest representation in the EU (Donas and Beyers, 2013, p.1-2). Further, quite often it is the sub-state units that connect with supranational actors through channels of paradiplomacy (e.g. Aldecoa and Keating, 2013). Paradiplomacy can be either cooperative or in parallel with the central state's foreign policy, and in most cases potential tensions and discrepancies with their state diplomats may emerge. If a political-territorial tension is present, the state can also turn to protodiplomacy, which is seen as a parallel external action in conflict with the foreign action of the central state (Soldatos, 1990; García and Etherington, 2019). Duchasek et al. (1988, p.22) go as far as to see protodiplomacy as diplomatic preliminary work for a future secession of the sub-state unit. Also leading civil organization of sub-state units can try to influence the supranational actor by focusing on an internationalization of the conflict (Portos, 2020).

A note on the development of the secessionist conflict

The Catalan demands for self-determination are based on a long self-perception by part of its population as a national minority within the Spanish 'State of Autonomies'. While secessionism was not a leading political stream in Catalonia over many decades, one of the triggers for the recent conflict was the halted reform of the 2006 Statute of Catalonia, which aimed at introducing a new fiscal regime and a symbolic upgrade in the form of recognition of the Catalan nation (Colino, 2009). In 2010, during a deep socioeconomic crisis, the Constitutional Court interpreted some of the articles of the new Catalan Statute as unconstitutional and other articles were even declared null or void (e.g.: Guibernau, 2013; Serrano, 2013). This verdict of the Constitutional Court was used by the secessionists to successfully discredit the legitimacy of autonomism or plurinational federalism in Catalonia (Basta, 2017).

When analyzing the drivers of the secessionist movement in Catalonia, some authors see elite-driven motivations as central. Barrio and Rodríguez-Teruel (2017) or Elias (2015) argue that the switch to more extreme positions was the result of a secessionist outbid of the two regionalist parties, *Convergència i Unió* (Convergence and Union or CiU) and *Esquerra Republicana de Catalunya* (Republican Left of Catalonia or ERC). It was also fueled by civil society organizations such as *Assemblea Nacional Catalana* (National Catalan Assembly, ANC) and *Òmnium Cultural*, which launched massive street protests during the National Day of Catalonia (Diada) from 2012 onwards (Della Porta and Portos, 2020).

In the conflict with the Catalan secessionists, the central state authorities have shown a strong institutional closure. As seen in 2017, the at that time governing party *Partido Popular* (People's Party or PP) as well as the main opposition parties such as *Partido Socialista Obrero Español* (Spanish Socialist Workers' Party or PSOE) or *Ciudadanos* (Citizens) had rejected the demand for an agreed referendum between the central state and the sub-state unit. Only the leftist party *Podemos* (We Can) has shown favor. Most of the central state actors, be it the government or the opposition, have argued that the Art. 1.2. of the Spanish constitution enshrines the indivisibility of the Spanish nation and therefore excludes an independence referendum. This interpretation has been confirmed numerous times by the Spanish Constitutional Court for example by the ruling 31/2015 (Constitutional Court, 2015). The reform of the constitution to allow such a referendum is complex with rigid requirements. It would need a super-majority of two-thirds both in the Spanish Congress and the Senate, followed by new elections, then again, another majority win by two-thirds in two freshly elected chambers, and finally an approval via statewide referendum (Cetrà and Harvey, 2019).

Empirical analysis

Answers to internal secession of the EU institutions

The question of internal secession within the Member States cannot be found in the Treaties. The European Court of Justice (ECJ) ruled only once on a similar topic, arguing that ‘the EU cannot comprise a greater number of member states than the number of states between which the Treaties were established’ (ECJ, 1997). In the eve

of the escalation of the conflict, the legal and institutional framework was a mixture of formal and informal rules, with undefined responsibilities between the EU institutions. The Council stated early that questions of states' secession 'do not fall within its sphere of competence' (Council, 12 February 2007) and later it unwillingly answered questions while avoiding any position on this matter (e.g. Council, 2014). It was the EC which started to officially answer questions regarding internal secession from the early 2000s, pointing to EU law and Treaties as the relevant framework.⁴ It is not clear, on which legal basis the EC felt responsible (Kenealy and MacLennan, 2014).

What should be later known as the 'Prodi-Doctrine' was established in 2004 by the ECs President Romano Prodi. He answered a written question from a MEP which among others asked on whether 'a newly independent region would have to leave the EU and then apply for accession afresh?' (EP, 1 March, 2004). His answer, even if informal, set the legal context for the years to come, denying the plausibility of an internal secession:

When a part of the territory of a Member State ceases to be a part of that state, e.g. because that territory becomes an independent state, the treaties will no longer apply to that territory. In other words, a newly independent region would, by the fact of its independence, become a third country with respect to the Union and the treaties would, from the day of its independence, not apply anymore on its territory. Under article 49 of the Treaty on European Union, any European State which respects the principles set out in Article 6(1) of the Treaty on European Union may apply to become a member of the Union (EC, 1 March, 2004).

When in 2012 the Scottish secessionists asked the EC on its stance on the future of an independent Scotland, the EC re-confirmed the 'Prodi-Doctrine' stating that the 'legal context has not changed since 2004 as the Lisbon Treaty has not introduced any change in this respect' (EC, 3 December, 2012). Further, the EC formulated an answer which would become the standard response in the following years to come. It emphasized the

⁴ Our analysis reveals that e.g. the first Barroso Commission (2004-2009) sometimes pointed to international law as the relevant framework (EC, 6 June, 2007). But in general, the EU institutions related to EU law and Treaties.

position of non-intervention in internal matters of Member States, and indicated that the EC could express an opinion only on request of the Member State. However, it did not refer at any time to Article 4.2 of the TEU on territorial integrity of the Member States:

It is not the role of the Commission to express a position on questions of internal organisation related to the constitutional arrangements in the Member States. Concerning certain scenarios such as the separation of one part of a Member State or the creation of a new State, these would not be neutral as regards the EU Treaties. The Commission would express its opinion on the legal consequences under EC law, on request from a Member State detailing a precise scenario (EC, 12 November, 2012).

The tactics of the sub-state unit and central state on the EU arena

The Catalan secessionists

Given this restraining but also in parts, ambivalent framework, the Catalan secessionists hoped that the EU would be more flexible with its own position, should Scotland gain independence (Terricabras Nogueras, 2020; Tremosa, 2020). From 2012, the Catalan secessionists started to internationalize the conflict with the Catalan Parliament adopting a strategy of ‘constant dialogue and collaboration with the European institutions, especially the European Commission and the European Parliament’ (Parliament of Catalonia, 27 September 2012). In the same resolution the main arguments of the separatist movement were outlined: that Catalonia wished to continue within the Spanish state, but as a recognized nation and with more self-government.

They argued further that the refusal of this by the Spanish state led to further demands such as the democratic expression of its ‘right to decide’: a referendum on self-determination. Also the civil organization ANC stated in its Declaration of the National Conference for the Independent State, that after independence Catalonia should stay part of the EU and that relations with the rest of the EU should be fostered (Assemblea, 2011). While in the beginning, nearly all secessionist forces emphasized its ‘Europeanness’, this attitude changed with the Catalan regional elections of 2015.

The radical left *Candidatura d'Unitat Popular* (Popular Unity Candidacy or CUP), which became a part of the secessionist coalition, had an eurosceptic narrative against the neoliberal EU (Portos, 2020).

Even if the Catalan secessionists used their presence in the European institutions to push their agenda, they only had a marginal representation. They did not hold any leading position in the relevant institutions such as the EC, the EP or the Council. Between 2014-2019, among the 53 Spanish MEPs in the EP, only nine were from Catalonia, and only a minority of three stood for the secessionist cause. Ramon Tramosa was the MEP of the centrist party Democratic Convergence of Catalonia (transformed later to the Catalan European Democratic Party, or PDECat) which was part of the Alliance of Liberals and Democrats for Europe (ALDE). Josep-Maria Terricabras and Jordi Solé, (who replaced Ernest Maragall in 2017) were MEPs for the Republican Left, which formed the European Free Alliance (EFA).

In addition to the EP, the Catalan secessionists only had access to EU policy-making through the Committee of the Regions (CoR), which acts primarily as an advisory body. The Law of International Action and Relations with the EU (Parliament of Catalonia, 4 December 2014) brought the Catalan secessionist's push for independence to the table in Brussels, switching from traditional paradiplomatic action to protodiplomacy by entering in conflict with the foreign action of the central state. In 2016 the Government of Catalonia created a Ministry of Foreign Affairs and Institutional Relations and Transparency, aiming to intensify international connections. Further, Amadeu Altafaj, a former Member of the Olli Rehn Cabinet (former Commissioner for Economic and Monetary Affairs and the Euro) became the Permanent Representative of the Catalan Regional Government to the EU. The Government of Catalonia relied on the Public Diplomacy Council of Catalonia (Diplocat), a public-private partnership consisting of public entities and private organizations, financed nearly entirely by the Catalan government.

The civic organizations such as ANC, *Òmnium Cultural* and the Association of Municipalities for Independence (*Associació de Municipis per la Independència*) - which bring together more than 700 town councils across Catalonia - aimed for the internationalization of the independence process by inviting interested Europeans to Catalonia for the 2015 Catalan Weekend (Portos, 2020). Also the Catalan government 'Europeanized' the conflict by organizing events across Europe, such as the joint conference, '*The Catalan Referendum*' in the EP in January 2017, where Catalan

President Carles Puigdemont famously argued for a Catalan referendum stating that ‘Europe must be part of the solution’ (Government of Catalonia, 24 January, 2017). Our interview partners confirmed that despite such events being numerous and well frequented, decisive EU officials abstained from attending. The EC worried it could be instrumentalized in the conflict (Brok, 2020; Almunia, 2020). Indeed, from 2012 leading EU officials stopped having meetings altogether with Catalan secessionist politicians. This included the more supportive contacts which the Catalan ex-presidents such as Jordi Pujol had held in the past (Almunia, 2020). Notably, during this period the Commission's President Juncker (2014-19) never met the Catalan President, despite extending and receiving invitations to presidents of the other Spanish autonomous communities.

The Spanish central state

The Spanish central state parties were EU integration friendly. Also its institutional closure facilitated the dialogue within the EU institutions. After the secessionists announced the first independence consultation for 2014, the central government started a diplomatic offensive. It issued a 210 page-long manual titled ‘Catalunya in Spain. For a democratic coexistence’, which was sent to all Spanish embassies to lay down its arguments with which to counter the position of the Catalan government. The document stated that the Catalan preference for a referendum was not a democratic option, but represented the rupture of the framework of coexistence based on the Constitution of 1978. Further it argued that the Catalan push for independence was based on an egocentric drive of a rich region, which did not want to share its resources with its poorer neighbors (Spanish Ministry of Foreign Affairs, 2014).

Most of our interview partners confirm that in the prelude of the conflict, the approach of the central government was to widely ignore the Catalan demands and not engage in any debate on a possible secession referendum. Its main goal was not to give the Catalan sub-state government any bargaining power. The international partners should consider Catalonia as a sub-state unit or a region, and the Catalan secessionist conflict as an interior affair of the Spanish state (Lopez, 2020; Fisas, 2020). Following this line, the central government challenged all the protodiplomatic efforts of the Catalan government in front of the Constitutional Court, which in 2016 suspended the competences in matters of foreign action of the new Catalan Ministry of Foreign Affairs

(Garcia Segura and Etherington, 2019). In addition, the Spanish government exerted pressure on other Member States to limit the Catalan action in Brussels.

The Spanish government took its own diplomatic action through the Permanent Representation of Spain to the EU, but also made an important effort within the EU institutions. The main actor was the at that time ruling party *Partido Popular*, whose politicians were present in the intergovernmental and supranational EU institutions. In the period of the secession conflict, Prime Minister Mariano Rajoy attended the meetings of the Council, while other PP ministers sat at the different Council tables. A PP politician, Miguel Arias Cañete, was Commissioner for Climate Change and Action between 2014-2019. PP contributed 16 MEPs to the European People's Party (EPP) group. Among the other Spanish parties in the EP there was PSOE, which sent 14 MEPs and were part of the second largest political group in the EP - Socialists & Democrats (S&D). Further, there were Spanish MEPs in the ALDE, European United Left/Nordic Green Left (GUE/NGL) and Green/EFA political groups.

The conflict in the European institutions

In the EP, due to the absence of debates and votes on the question of secession, the MEPs mainly used the tool of written questions. During the examined period 2012 – 2017, over 120 parliamentary questions were put forward by both sides, including independent and foreign MEPs to the Commission. While many of the questions asked about the general framework of internal secession, we see a particular focus on the Catalan secessionist conflict since 2014.

The analysis and interpretation of these written questions reveals some interesting patterns.⁵ Many MEPs supporting Catalonia reported that the Spanish handling of the secessionist conflict revealed huge problems in the aspects of rule of law. Several of the MEPs interventions issued warnings against the possible Spanish military intervention in Catalonia, requesting for the application of the Article 7 TEU against Spain (e.g. EP, 13 January, 2014). Most of these interventions intended to create a negative image of Spain as a state with authoritarian features. Further, another significant group of questions denounced the pejorative comparisons made in the Spanish TV describing the members of Catalan secessionist movement as Nazis (e.g.

⁵ The document with all coded written questions can be delivered by the authors on request.

EP, 22 October, 2014). Only a few questions focused on the Catalan movement itself, emphasizing its democratic and peaceful nature in accordance with the values of Article 2 TEU (EP, 30 September, 2014). There were also interventions from MEPs from the likes of the Eurosceptic parties such as the Italian *Lega Nord* or the Dutch Freedom Party, which spoke out for Catalonia, while also pushing their own secessionist efforts, or just using the forum to criticize the EU (e.g.: EP, 28 February, 2017).

The written questions asked by Spanish MEPs reveal that most of their interventions complained about the Catalan secessionist movement, and criticized the violation of EU values referred to in Article 2 TEU, focusing on the breaking of the rule of law (EP, 21 July, 2015). Aspects such as the violation of data protection in Catalonia featured in these questions too (EP, 8 February, 2017). The majority of the questions were asked by MEPs of the ruling PP or the liberal MEPs, which were grouped in ALDE. They pushed the EU institutions to take a clear stance against the Catalan secessionists.

When asked about the future of Catalonia in the EU, the EC repeated the Prodi answer (e.g.: EC, 18 November, 2013). In addition, the EC stated that the officials of the Member State were the first point of reference and contact (EC, 19 March, 2015). During the period 2012-2017, the answers given by the EC to similar queries (and later, demands) were consistent: they showed some benevolent neutrality towards the Spanish state, but were careful not to explicitly condemn the Catalan secessionist side either.

Public and private interventions from EU officials suggest different positioning with regards to the conflict. They were clearly in favour of maintaining the status quo. In May 2017, EC President Juncker stated that ‘for as long as possible — and it is possible forever — we need to show that we will not accept unilateral change of borders in Europe’ (EP, 27 October, 2017a). Juncker argued that he and other top-level EU policymakers were not in favour of independence for Catalonia, because this would cause ‘a domino effect’ in Europe (EP, 7 November, 2017). A further example is the opinion of the President of the EP, Antonio Tajani, which was published in an open letter responding to the Spanish ALDE MEP, Beatriz Becerra Basterrechea in September 2017:

The constitutional frameworks of individual Member states are part of the legal framework of the European Union. Their respect must be guaranteed at all

times. [...] Any action against the constitution of a Member State is an action against the European Union's legal framework (EP, 7 September, 2017).

Most of our interview partners stated that from September 2017, the Spanish MEPs within the larger party groups briefed not only their colleagues in the EP, but also in the party headquarters of different Member States (Lopez, 2020; Terricabras Nogueras, 2020; Brok, 2020; Becerra, 2020). Catalan secessionists invited many important EU officials to Barcelona, albeit with divided success (Tremosa, 2020). While politicians of the three bigger party groups usually declined, some of the politicians from the smaller parties visited, for example during the referendum on the 1st of October, 2017. Most MEPs that were receptive were not just from other regional/national parties, but also politicians from smaller Baltic Republics or Member States from former ex-Yugoslavia who had more recently experienced independence conflicts and were more engaged with such issues (Terricabras, 2020; Tremosa, 2020; Royo, 2020).

The showdown in October 2017

The crucial point in our analysis is the aftermath of the referendum on October 1st, 2017. The reaction of the Spanish state made the situation particularly dynamic, and consequently opened some windows of opportunity for the secessionists. Leading politicians such as Belgium's Prime Minister Charles Michel of the centrist Reformist Movement - who governed in coalition with the Flemish nationalists - condemned the police aggression (Michel, 2017). There was also significant media coverage across Europe which focused on police brutality towards the referendum voters.

In the days and weeks following the referendum and subsequent protests that dominated the headlines, the Catalan secessionists were able to build larger coalitions within the EP. Sympathetic MEPs came mainly from regional/national parties and leftist parties, which were aligned in the EP in the Greens/EFA or the GUE/NGL political groups (e.g.: EP, 17 November, 2017). Members from these groups publicly condemned the actions of the Spanish central state. Further, the interventions of MEPs from the larger party groups or from Member States such as Germany or France - that would have been expected to defend the actions of Spain - were marginal at best.

Just one day following the referendum, on the 2nd of October, the EC delivered an official statement on the matter. Besides emphasizing the illegality of the unilateral

referendum, the EC pledged its trust and support to the Spanish state. Although, in the same statement, it appealed to move towards dialogue and criticized the use of violence, which overall made the statement ambivalent:

Under the Spanish Constitution, yesterday's vote in Catalonia was not legal. For the European Commission, [...] this is an internal matter for Spain that has to be dealt with in line with the constitutional order of Spain. [...] the Commission believes that these are times for unity and stability, not divisiveness and fragmentation. We call on all relevant players to now move very swiftly from confrontation to dialogue. Violence can never be an instrument in politics. We trust the leadership of Prime Minister Mariano Rajoy to manage this difficult process in full respect of the Spanish Constitution and of the fundamental rights of citizens enshrined therein (EC, 2 October, 2017).

The EP, which had ruled out any debate on Catalonia some days before the referendum, finally permitted it on the 4th of October 2017. The main drivers were the regional/national and leftist parties, which wanted the debate to focus on policing and the demand for dialogue to find a political solution after the referendum (Terricabras Noguerras, 2020; Tremosa, 2020). But instead, the three main political groups of the EP (EPPGs) - EPP, S&D and ALDE – pushed that the debate took place under a more neutral name: ‘The Constitution, Rule of Law and Fundamental Rights in Spain in the Light of the Events in Catalonia’ (EP, 4 December, 2017). In addition, the larger parties were able to block the vote on a resolution following this debate (Tremosa, 2020). In the EP, the three EPPGs agreed with the Spanish position that the referendum was illegal and not binding. The influence of party networks on its position was visible, for example when the Leader of the EPP, Manfred Weber told of his Catalan EPP Group colleague, who had reported to him ‘ “I am Catalan and I am Spanish”, it is not a conflict between Catalonia and Spain, he said [to me], it is a conflict within Catalonia’. Considering a possible mediation, Weber argued:

We will not find a solution to this Spanish internal conflict here in the European Parliament. This conflict can only be solved by the Spanish people itself. The EU has neither the will nor the right to intervene in a true liberal democracy such as Spain (EP, 4 October, 2017).

A similar statement was given by the S&D leader, Gianni Pittella, who not only condemned the Catalan government, warning that ‘a unilateral declaration of independence would be a further provocation’, but pointed to what he considered to be one of the biggest problems of the Catalan secessionists: ‘A regional government representing less than 50% cannot jeopardise the future of an entire people’ (Ibid., 2017). Pitella, but also the ALDE leader Guy Verhofstadt called on Rajoy to start a dialogue, but notably omitted any possibility of an EU mediation.

It was Patrick Le Hyaric from GUE/NGL, who first suggested that the EU must offer ‘its services to facilitate dialogue to find a peaceful and democratic way out of this crisis, in accordance with international law, the founding pact of the Spanish Constitution of 1978 [...]’ (Ibid., 2017). Further, Ska Keller, on behalf of the Greens/EFA Group, asked for EU mediation and a political solution. Both were the first to heavily criticize the use of violence by the Spanish government.

While the former statement given by the EC on the 2nd of October could have been perceived as confusing, during this debate the initial and final intervention by the Vice-President of the Commission Frans Timmermans, made its position crystal clear. The EC unconditionally supported the Spanish state, insisting that the EU is ‘a community of rule of law and it cannot agree to breaks of the constitutional order’ (Ibid., 2017d). Considering a mediation, Timmermans emphasized that this conflict is ‘an internal matter for Spain that has to be dealt with in line with the constitutional order of Spain [...]’. Those directly concerned are all 46 million Europeans who are Spanish citizens’ (Ibid., 2017).

His insistence on the protection of the rule of law was so strong, that he even defended the use of force during the referendum: ‘It is a duty of any government to uphold the rule of law, and this sometimes requires the proportionate use of force’ (Ibid., 2017d).⁶ When some days later, President Juncker reiterated in an interview that the EC would not become involved (Boffey and Jones, 2017), the EC disappeared from the table. Since then, the Council has handled the conflict.

⁶ Also in one of the written answers after the referendum, the EC referred to Article 72 of the Treaty on the Functioning of the European Union (TFEU) stating ‘that Member States — Spain in the case at hand — are responsible for maintaining law and order and safeguard internal security’ (EC, 17 January, 2018)

On the 10th of October 2017, Puigdemont planned to declare independence in Barcelona. Some hours before, the President of the Council, Donald Tusk asked in Brussels to respect the constitutional order and not to make a reactive move that could cause dialogue to be impossible (Tusk, 10 October, 2017). He also publicly tweeted the same message directly for Puigdemont (EU Council Press, 2017). Puigdemont himself emphasized that this intervention was one of the key reasons for the revocation of the declaration of independence on the same day (Puigdemont, 2020),⁷ - the Catalan government hoped for the possibility of dialogue. In the following days, there were proposals of mediation from inside and outside the EU from states such as Denmark, Finland, Slovenia and Sweden (Terricabras Nogueras, 2020; Tremosa, 2020). The most advanced mediation proposal came from the Swiss government, which approached the Spanish authorities directly, but was rejected (Puigdemont, 2020).

Before the Council meeting on the 19 and 20th of October 2017, the Spanish actors were active to consolidate its support in the EU institutions. The issue of the Catalan secessionist conflict, which had originally appeared listed for discussion (for example on the twitter account of the German representation to the EU (EU2020DE, 2017), was not included in the finalized agenda. The Catalan secessionist conflict was not discussed formally, neither the referendum nor a possible mediation. During some informal exchanges, Germany's Chancellor Angela Merkel stated:

We are taking a very close look at Catalonia and are supporting the position of the Spanish government, which happens to be supported by all major political parties in Spain [...]. We are very concerned and hope there will be solutions based on the Spanish Constitution (Claude, 2017).

Only the Belgian Prime Minister Michel called for dialogue either within or outside the bounds of the Constitution (Ibid., 2017). There was no support from representatives of any other EU Member States. Following the Council meeting, Tusk said, 'We all have our own emotions, opinions, evaluations, but formally there is no room for an EU intervention' (Emmot, 2017). Most interview partners of our analysis

⁷ Carles Puigdemont confirmed in our interview with him, that there was no direct contact between him and Tusk to ease a mediation between the Spanish and Catalan government.

agreed that following this Council meeting, the question of a possible mediation had been closed (e.g. Lopez, 2020; Puigdemont, 2020).

When on the 27th of October the majority of the Catalan Parliament voted a symbolic declaration of independence, the EU institutions condemned it, taking side with the Spanish state. The President of the EP, Tajani, declared it: ‘a breach of the rule of law, the Spanish constitution and the Statute of Autonomy of Catalonia, which are part of the EU’s legal framework. No one in the European Union will recognise this declaration’ (EP, 27 October, 2017b).

Only a few hours later, after a decision of the Spanish senate, the central state invoked Article 155 of the Spanish Constitution and applied direct rule in Catalonia. No resistance from the Catalan side occurred at all, and part of the Catalan government went into exile.

Concluding remarks

Our article shows that considering the politics of unilateral secession in the EU, it is nearly impossible for a sub-state unit to change the position of the EU towards mediation. In questions of secession, the EU acts as a ‘Union of Member States’ having full control of the territories. Even the use of force by Spanish authorities during the referendum was not officially considered by the EU as a breach of fundamental values of the EU.

While at the beginning of the Catalan question, the EC emphasized its position of non-intervention, over time its position gradually hardened and finally it stood as a benevolent supporter of the Member State following the secession referendum. As detailed in our article, when the Council became involved - even just informally - the restraint was significantly clearer, and the Member State intergovernmental logic prevailed without discrepancies. Our article argues that the juridical and institutional framework of the EU - which in part was established as *a propos* of the Catalan secessionist conflict – has now developed to restrain and limit any mediation on the subject of unilateral secession. The EU has become a ‘veto player’ which goes against secessionist attempts — also because (at least unilateral) secessionism generates tensions with EU’s key principles such as stronger integration and cooperation.

Considering the politics of counter-secession, the central state was able to fully prevent EU mediation on their internal territorial disputes, even if this result has to be

considered with some caveats. The absence of a clear-cut majority in favor of secession in Catalonia, did not openly confront the democratic legitimacy principle that the EU is built on. As demonstrated, the juridical and institutional framework of the EU already displays some level of secession-restraint and in this case, we cannot clearly evaluate how much influence the Spanish government had on the final result. Also, the Spanish institutions and political actors had to bear some reputation costs, as the case revealed its difficulty in managing territorial conflicts. It remains to see what would occur in those cases in which democratic legitimacy - meaning a large majority of a territory - is in favor of secession.

Further, we found that the EU institutions do not identify internal secessionist conflict as an issue of high priority. While other internal EU problems within this period - such as the democratic backsliding in Hungary and Poland - were widely debated in the EP, including numerous votes for or against the adoption of resolutions (Meijers and Van der Heer, 2019), the Catalan secessionist conflict was taken only once to the plenum of the EP, without a vote. In general, questions of internal secession seldom became more than just written questions, asked by the MEPs and answered by officials of the EC. The Catalan secessionist conflict was not on the agenda of the Council meetings, and the topic of Catalonia did not appear in any 'State of the Union' address of the Presidents of the EC in this period.

The low salience of the conflict in the European institutional framework can contribute to explain the lack of success of the secessionists in their search for EU mediation. Nonetheless, our interview partners emphasized the successful Catalan foreign media offensive, where Catalan officials won the war of the narratives among European public opinion. Survey data from 2018 confirms that Europeans looked more favorably towards the Catalan secessionist movement and have interpreted the reaction of the Spanish state as exaggerated (Real Instituto Elcano, 2018). However, ultimately even if Catalan secessionists were able to monetize sympathy within some EU countries, it was not translated into political support for the referendum in any of the EU Member States.

The change in nature of the Catalan secessionist conflict after 2017, which became rather a judicial than a self-determination problem could be investigated in future research. Further, while this analysis included some of the motivations of the Catalan secessionists, future research could offer a more detailed analysis as to why they ignored the negative signals coming from the EU on possible mediation.

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