

The Spanish Constitutional Court's Sentence Concerning Catalonia's Autonomy Statute (p. 13)

*Joaquín Tornos Mas*

*The essay reconstructs the institutional and legal framework that led to the Spanish Constitutional Court's judgment no. 31/2010, which, in considering constitutionality issues raised against the new Statute of Catalonia, has identified the limits within which the system of autonomy outlined by the Constitution may be reformed on Autonomous Communities' initiative by rewriting their own statutes. If the new Catalan statute's aim was to raise the quality of autonomy of the Autonomous Community in its policy implementation, overcoming its current configuration as an institution enjoying (albeit ample) administrative autonomy, according to the author it is almost completely divested of all power by this sentence. This is demonstrated, in particular, by the position in the system of sources given by the Court to the statute of autonomy and the denial of its "constituent" power. This interpretation, in turn, leads to the solution given to specific profiles of unconstitutionality raised against the statute.*

The Statutes of Autonomy After the Spanish Constitutional Court's Sentence No. 31/2010 (p. 47)

*Luis Ortega Alvarez*

*The distinctive element of the autonomy statute reform process, started in recent years in Spain, is the promoter role played by the Autonomous Communities, which have become political and institutional subjects of primary importance for their decisive contribution to the development of the welfare state and the elimination of regional imbalances. According to the author, however, it was expected the Constitutional Court's intervention would reduce the impact of the Catalonia reform project; in previous rulings the Court had already addressed the relationship between Autonomy Statutes and the Constitution. Sentence no. 31/2010 clarifies unequivocally that the Statute, as a source subject to the Constitution and territorial constraints, cannot change the framework of national competences which can be derived directly from the Constitution and its interpretation by the Constitutional Court.*

Non-implementation of Title V of the Italian Constitution and the Failure of the Statutory Solution for Regional Autonomy: Will We All Die Centralists? (Italian Notes on the Spanish Constitutional Court's Judgment No. 31/2010 Concerning the Statute of Catalonia) (p. 69)

*Francesco Merloni*

*The article draws on the Spanish Constitutional Court's sentence no. 31/2010 concerning the Statute of Catalonia in order to develop some reflections concerning differentiated regional autonomy in Italy and Spain, considering the different distribution of legislative powers between the central state and regions / autonomous communities and in light of the particular nature of the function of control of constitutionality by the Constitutional Court. In the essay, the author addresses the risks identified in the ongoing debate in both countries: federalist / autonomist perspectives tend to encourage separatist demands, to which the system's response must be, rather than neo-centralism, constitutional revisions introducing genuinely federal elements within a unitary framework, by creating a venue for regional participation in state-level decisions (for example, via the establishment of a territorially-based parliamentary chamber).*

A "Territorial" Administrative Justice? (p. 93)

*Vincenzo Cerulli Irelli*

*Starting from the incontestable fact that, even after the reform of Title V, Part II of the Italian Constitution, jurisdiction, including administrative justice, is still a function of the state, as established by Article 117 sentence (paragraph 2, letter l) of the Constitution, the author examines the possible existence of a constraint for the state legislator in ruling judicial and organizational (administrative) functions of jurisdiction, arising from the principles that relate to the Italian Republic's regionalist structure. The author thus proposes a constitutionally-oriented reading of Article 125 of the Constitution, which would introduce a novel meaning, in that it would require the state legislator not only to set up administrative tribunals of first instance, but also to provide them with an inviolable field of jurisdiction /competence and justicial functions.*