

Article

ON THE ISSUE OF THE ADMINISTRATIVE AND LEGAL METHODOLOGY USED BY THE KINGDOM OF SPAIN TO COUNTER THE NATIONALIST AND SEPARATIST ASPIRATIONS OF THE BASQUE COUNTRY

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***Introduction.** The article is devoted to the instruments used by the Spanish Kingdom in administrative and legal spheres to counter nationalist and separatist aspirations of the Basque Country throughout different historic periods. Special attention is paid to the confrontation with the Basque terrorist organization ETA.*

In addition, the research analyzes what caused ETA to emerge, underscores the major stages of its evolution, and discusses cross-border aspects of bilateral cooperation

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between Spain and France under the aegis of the supra-national specialized organization of Europol. The administrative and legal instruments used by Spain are distinguished in context of the analysis of the prospects for the applying of modern political and legal toolkit in the regional policy that is often contrary to the interests of the modern centralized state. The research pays attention to the administrative measures that led to ETA crisis and its further collapse.

Material and methods. *The paper uses the methodology of a retrospective analysis and content-analysis to characterize the shifts in the principles of Spanish administrative and territorial tools and their influence on the nature of the Basque nationalism. The Constitution of 1977 and the Statute of autonomy of the Basque Country are considered.*

Results. *The paper sums up all the major shifts in the Spanish practice in the usage of administrative and political measures to combat the Basque separatist aspirations, evaluates their efficiency and outlines current obstacles towards the way of the establishment of a new bilateral dialogue with Madrid.*

Conclusion. *The first part of this article points out the growth of nationalist and separatist aspirations in the Basque Country and shows how political systems (absolute monarchy, republic, authoritarian governance, constitutional monarchy) lead to the application of new administrative and legal instruments that affect the Basque nationalist aspirations. The second part focuses on the current state of relations between the region and the central government.*

Introduction

While analyzing the evolution of the Basque nationalist movement it is impossible to overlook the historical roots of the Basque Country itself.

The history of the region covers a centuries-long period prior to the formation of the Kingdom of Spain, but its major events are connected with Spain. Though, the Basque region and Spain did not always follow the same path – during the Islamic invasion in the VIII century A.D., the Arabs were unable to conquer the Basque Country. From that moment on, a specific mentality emerged in Basque society, based on the theory of exclusivity and even God-chosen Basque people, who did not fall under the power of the Arabs. During the Reconquista period from 718 to 1492 such provinces as Alava, Gipuzkoa and Biscay, the largest Basque territories, became the Spanish administrative regions. The geographical position of the Basque Country, its remoteness from the center, contributed to the preservation of its unique culture, identity and language [6. P. 132-134].

Relations between Madrid and the regions have always been a special issue on the agenda of the Spanish political life and have not lost their relevance up to the XXI century. During a long time, the Basque Country retained special privileges, so called *fueros*, granted by the Spanish kings, which represented a set of rights and

obligations that regulated the relations between the center and the region [7]. *Fueros* enabled the Basques to maintain their traditions, without coming into conflict with the central government for a long period [8].

In 1876, as a result of three Spanish civil wars (the Carlist wars) *fueros* were replaced by «economic agreements» (sp. *conciertos económicos*), which implied the preservation of the independence of the local Basque authorities, especially in the area of tax administration [5]. Nevertheless, the new format centre-region was perceived by many strata of the Basque society as an attack on the established way of life. The theoretical formulation of nationalist ideology occurred at the end of the XIX century, when two brothers Sabino Arana Goiri and Luis Arana Goiri created the theory of the unique Basque nation and its identity [8].

Sabino Arana argued that the central government had turned the Basque Country into its own colony: «the Basque Land has never been Spanish, neither ethnically, nor in language, traditions, laws. The Basques, being dependent on Spain, cannot be true Catholics». The ideological basis of Arana's theory was the «ideological myth», which could be defined as anti-hispanism [24].

A certain degree of irredentism is key feature of the Basque nationalism, as the nation divided between two countries (Spain and France) seeks political unification within one state.

In 1902 the two brothers put forward the idea of creating a Basque League within the Spanish borders making a shift from the initial radical idea of separatism. The establishment of the Basque nationalist party (BNP; sp. PNV - Partido nacionalista vasco) in 1895 concluded the political formalization of the Basque nationalist idea [23. P. 152-161].

In 1921, an internal left-wing trend emerged within the BNP and later due to Ignacio de Roteche became an independent unit – the Basque national action party – the first Basque nationalist left-wing party. Nevertheless, the division was halted by the dictatorship of General Miguel Primo de Rivera during 1923-1931 who suspended all political activity. Anti-separatist laws were typical of dictatorship and aimed at the state unity: any kind of nationalist symbols, including the flag of the Basque Country, became criminalized and were sent to the military courts [24].

In 1936, during the last year of the Second Spanish Republic (1931-1936) the Cortes (the Spanish parliament) along with the active participation of BNP leader Jose Antonio Aguirre y Lecube adopted the project of the Basque autonomy, the Basque Country government was formed and empowered to regulate social, financial and cultural spheres [20. P. 135-143]. After the victory of Francisco Franco in the civil war in the summer of 1937 the Basque provinces were deprived of their autonomy status, resistance of the Basque military was suppressed. Biscay and Gipuzkoa were declared «traitor provinces»; the most painful blow to the national feelings of the Basques was the destruction of Guernica in 1937, the city which for a long time had been considered a symbol of freedom of the Basque nation [14. P. 236-241].

Since the main goal of the francoists was to form a unitary state, special political measures directed at the autonomy of the Basque Country were taken: local political parties, trade unions and even cultural organizations were dissolved [4. P. 197-203]. Basque flag, language, folk songs, traditional names were banned. Education or legal proceedings in the region were allowed exclusively in Spanish [14. P. 242-245].

The government of the Basque Country fled to Barcelona, later emigrated to France (Basque government in exile located in Paris was headed by Jose Antonio Aguirre) [6. P. 110-123]. Active usage of restrictive administrative, legal and coercive measures against the Basque people (1936-1939) alongside the lack of opportunities for legal political participation provoked armed resistance to the regime of F. Franco. At the end of the World war II, the

anti-Basque measures carried out by the central government were not weakened but started to be institutionalized.

Research

The nationalist group ETA (basque: Euskadi Ta Askatasuna – the Basque Country and freedom) is considered to have been established on July 13, 1959 – the Day of St. Ignatius of Loyola, the famous Basque founder of the Jesuit order. The organization did not emerge spontaneously. During the 1950s and 1960s a significant number of politically active Basque young people joined the national movement and returned the slogan of independence from Spain on its agenda. In 1953 students from Bilbao founded a political Association called «Action» (basque; «Ekin»), which condemned the leadership of the national Basque movement for losing the morale and being unable to act. It was «Action» that nurtured ETA which initially positioned itself as a «patriotic and democratic organization» with the aim to defend the Basques and struggle for their independence [9].

An important role as an ideological platform had the work «Basque» written by Ludwig Federico Krutwig Sagredo (1921-1998) «Baskonia» (sp. «Vasconia») [17]. The author relying on the concept of S. Arana proposed to abandon the ethnic approach; called for the restoration of the Basque language (basque: euskera); stressed the necessity to abandon the anti-communism, a typical feature of the classical Basque nationalism. He pioneered the idea of violence in the form of guerrilla warfare, which was seen as the only possible way to achieve the goals [17].

Eventually, ETA established its ideological platform in 1967, when the organization declared itself the «socialist Basque movement for national liberation» [20].

With the formation of ETA, BNP lost its ideological and political monopoly in the Basque nationalism. The terrorist group was characterized by a more radical ideology and focused on direct action, while BNP adhered to more moderate views and tactics of legal political struggle. The Basque Country's right to self-determination that should not depend on Madrid was the only common point of moderate and radical political forces.

ETA sought to be active in all spheres of society in the Basque Country: in the politics: the group released underground newspapers; established nationalist organizations aimed at the working class of the region; in economy: ETA received contributions from members of the group and established the so-called «revolu-

tionary tax» that was «imposed» on the Basque entrepreneurs [26]; in culture: the group taught the Basque language.

Internal conflicts were inevitable due to extreme heterogeneity of the group, and huge width of its tasks. In the mid 1960s, the group split into two wings: one part of shared the values of the democratic regime, whereas the second one stood for the values of nationalists and left-wing radicals. The democrats sought to legalize the activities and to start functioning in the legal political framework, while the radical representatives, on the contrary, stated the purpose as a socialist revolution by terrorist methods [6].

In 1968, the group moved to the armed struggle for the independence of the Basque Country – the first victim was Meliton Manzanas, the head of the secret police in San Sebastián and a committed supporter of the francoist regime [12]. In 1973, members of ETA killed Admiral Luis Carrero Blanco – the planned successor of F. Franco; the same year the group organized an explosion in Madrid cafe «Rolando», located near the Main Directorate of Spanish security. The attack left 12 people killed and 70 injured. [9] Activities of the group had had a significant impact on the entire Spanish Kingdom until the death of F. Franco in 1975 and the end of his regime [8].

From 1975 on Spain stepped on the path of democratic transformation which was marked by the following events in the administrative and legal spheres:

- in July 1976 a partial amnesty was granted to political prisoners;
- in 1976 the law on political reform was adopted; the multi-party system in the country was restored;
- according to the article number 148 of the Constitution of 1978 Autonomous Communities of the state were granted broad powers [18];
- The Statute of the autonomy of the Basque Country (sp. The Guernica statute) adopted in 1979 guaranteed additional privileges and competences to the region [16].

The given changes in administrative and legal spheres led to the split of ETA into two factions. The political wing announced its self-dissolution in 1981 [5], while the military one intensified its activities.

Some of the members of «Euskadi Ta Askatasuna» found shelter in the French Republic, what sparked the dissatisfaction of the Spanish government. On October 5, 1983 ETA militants kidnapped military doctor Alberto Martin Barrios – events that showed the need for the

Spanish-French law enforcement agencies cooperation [22].

The Spanish government led by Adolfo Suarez Gonzalez along with the French authorities established the so-called «anti-Terrorist liberation groups» (sp. Grupos Antiterroristas de Liberacion, GAL). One of the most known and simultaneously the most unsuccessful operations, conducted by GAL fighters was the kidnapping of Segundo Marey who was mistakenly taken for ETA leader Mikel Luzhua on December 4, 1983 in French Basque region [31].

This incident and the subsequent killings of 27 «Euskadi Ta Askatasuna» activists in France demonstrated the illegality of actions carried out by the Spanish government that eventually led to a series of trials and provoked a political scandal which made Prime Minister Felipe Gonzalez resign [31].

In the early 1990s ETA actions can be characterized as low-intensity terrorism, since the organization was weakened as a result of counter-terrorist operations and could not carry out a full-fledged campaign of violence [6]. However, in 1995-1996, activists of the group were able to commit a number of attacks on the representatives of the Spanish political elite: king Juan Carlos I de Borbon, leader of the right-wing People's party (sp. Partido Popular, PP) Jose Maria Aznar Lopez and former judge of the Supreme court of the country Francisco Tomas y Valiente. Only the last act succeeded.

In parallel with the organization of violent actions, ETA had a political representation to operate in the legal field – the Batasuna party (until 2001 was called Herri Batasuna, which in Basque means «Unity of the people») but in 2003 its activities were completely banned [19].

There are 3 main stages in the activity of ETA:

1. 1968-1978. ETA members launched a revolutionary movement against the francoists and provoked the new wave of repression from the government, which increased public support for ETA and encouraged them to commit new attacks which consequently led to new repression. According to ideologists the aim was to demonstrate the fascist essence of the political regime, to strengthen the discontent of the population which was expected to result in a revolution.

2. 1978-1998. The period is characterized by the so-called «war of attrition». The attacks were carried out in order to put pressure on the government, which, according to ETA ideologists would not withstand the campaign of violence and would be forced to agree with the demands of the nationalists.

3. 1998-2003. ETA realises its defeat in the war of attrition and decides to move closer to

the BNP, which was an association of moderate and radical nationalists. Such a shift was guided by a desire to increase pressure on the Spanish authorities in the political field.

In the mid 1990s, the group being under strong pressure of the central government transformed into a complex system of disintegrated structures, united by the ideas of achieving the independence of the Basque Country through radical movement and terrorist methods. The group created a network of radical youth organizations, activists entered legal politics, becoming participants of the existing radical parties [10]. Therefore, the phenomenon of ETA became a legal and important component of the Spanish statehood.

The central government responded with legal measures: in the 2000s the Spanish legislation expanded the judicial conceptualization of «ETA activities» including into this term non-violent manifestations of Basque radical separatist movements. The so-called organizational «integral components» of ETA (for example, the coordination committees of CAS – Patriotic socialist coordinating center) and «Ekin», «Harrai-haika-Shogi» youth groups (a radical youth organization responsible for ETA's international relations), as well as individuals (the Batasuna party leadership) became outlawed. Currently, the expanded interpretation of the term covers all political activities directly or indirectly related to ETA, which led to the almost absolute criminalization of organized radical separatism in the early part of the XXI century.

In the Spanish legal discourse activity of ETA is defined as radical separatism, «a single entity, namely the terrorist organization ETA, hidden behind the apparent multitude of legal entities established at different times in accordance with the» Operational continuity», developed in advance by the organization» (quoted in the ECHR Decision, Herri Batasuna and Batasuna V. Spain, 2009 [11]).

The end of the first decade of the XXI century was marked by a period of growing ideological disagreements within ETA – fewer activists supported terrorist methods, in 2009-2010 a number of imprisoned members began to openly condemn ETA armed struggle, many members decided part ways with the group and switch to civilian life. As a result, the group announced its 11th consecutive truce. The then government of the Spanish socialist workers party (sp. Partido Socialista Obrero Español, PSOE) reacted with a degree of skepticism. The BNP reconfirmed its commitment to the put an end to arm struggle and party leader Inigo Urkullu underscored: «violence can no longer exist, and if it used to

exist, it must remain in the past. It does not lead anywhere» [3]. During the PSOE government led by Jose Luis Rodríguez Zapatero, the position of the BNP strengthened, which was marked by a bilateral agreement. The Basque political force backed the budget for 2011 and agreed to adopt «the proper laws and initiatives to overcome the economic crisis». The PSOE committed to provide assistance to the Basque Country in implementing the current Statute of autonomy [2]. With this step, the BNP showed willingness to support the central government during the economic crisis, as well as the desire to achieve political stability in society.

In the XXI century the cooperation between Europol and the Spanish authorities was strengthened and based on the exchange of information about the location of criminal groups, their storages of weapons and other data that helped prevent possible terrorist attacks. In the introductory part of the 2008 Europol annual report, head of the organization Max-Peter Ratzel characterized the Basque radical organization as one of the key destabilizing factors of the European security. There were convincing reasons for that – 517 attacks (out of 583) were claimed or attributed to separatist terrorist groups in Spain and France, although many were aimed at causing material damage. The increased efficiency of the Spanish police was proved by the same report which noted, Spain had set a record for the number of people indicted during a single trial – 52 [29].

According to the Europol 2017 report [30], the following measures had been taken jointly with Spain in the area of counter-terrorism activities against ETA:

- Information and intelligence cooperation. The national police Department of Spain provided data on the number of terrorist attacks committed or failed, deaths and injuries, arrests, trials and sentences, sources of funding etc.;
- Europol launched a programme to track the financing of terrorism – the Terrorist Finance Tracking Programme (TFTP) and the First Response Network (FRN) to provide the EU member states with the necessary operational support in the investigation terrorist attacks and other serious crimes [30].

The threat posed by ETA contributed to the emergence of new approaches in Europol's counter-terrorism methodology – new anti-terrorist centers and services that were actively used to combat terrorism and the Basque radical movements.

On April 8, 2018, ETA declared its ultimate disarmament. In a video message the gunmen stated that they were ready to transfer weap-

ons to the authorities of France and Spain in a sign of a decisive rejection of military methods of struggle. Later that month, the group sent a letter to the Spanish institutions to confirm its decision to finally dissolve the organizational structure [15]. The letter appealed to all members and activists with the call to dissolve ETA structures, recognized the public support loss among the Basques and expressed the need to concentrate efforts on the legal political field [19].

Results of the research

The following reasons of ETA to stop its armed struggle and to be dissolved can be underscored:

1. Efficient joint anti-terrorist activities carried out by the Spanish and French authorities since 2000;
2. Successful cooperation between Spain and Europol;

3. Modernization of the Spanish legislative framework;

4. Positions of foreign countries, many of which backed Spain and included ETA in the list of terrorist organizations (France, Canada, the USA etc.);

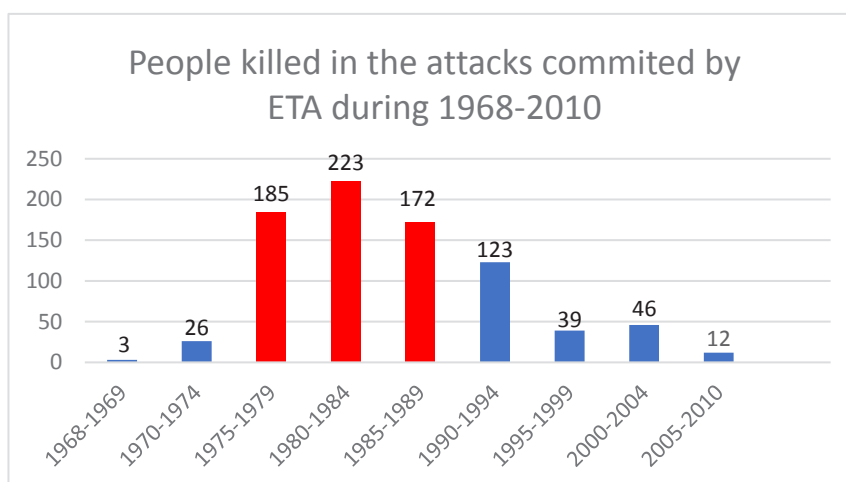
5. Political fatigue in the Basque society;

6. The spread of democratic norms and universal values;

7. The weakening of the global left-wing movement, which was associated with the collapse of the USSR in 1991 and the reduction of material and ideological support coming from outside;

8. Nationalist/separatist and leftist political terrorism that prevailed in Europe in the second half of the XX century was replaced by the terrorism of radical Islamists.

Currently, the majority of experts tend to believe that activists of ETA will seek new ways to implement their ambitious plans aimed at achieving the independence of the Basque Country from Spain [22].



Graph 1. The number of murders committed by ETA militants in 1968-2010.

Prepared by the authors according to the data provided by <https://es.statista.com/estadisticas/702588/victimas-mortales-en-atentados-terroristas-de-eta-espana-1968-2010> (Accessed: 01.12.2019)

So, ETA existed 58 years. Within 1968-2010 ETA activists, according to es.statista.com, the Spanish database website, killed 829 people and left hundreds more wounded. During the existence of the group (1959-2018) its campaign for the Basque independence claimed lives of 853 people in total. Graph 1 draws attention to the period of the highest death toll – 1975-1989. During the XXI century the group gradually began to weaken. Due to efficient measures of the Spanish authorities a large number of ETA members were detained, at present 302 activists are serving their prison sentences, while hundreds of others are made to complete social reintegration programmes and several dozen leaders of the organization emigrated [1].

With ETA disappeared, the main goal of the Basque Country government is to change the format of relations with Madrid through the usage of purely legal tools. However, the implementation of such an approach in communication with the Spanish government is currently limited due to an ongoing complex party-political crisis in the Kingdom, which has been on the agenda since 2015.

Conclusion

It should be pointed out that throughout different historic periods, the central government of Spain tried to develop the most effective strategy towards the Basque Country using various

administrative and legal instruments to curb its nationalism. Until the last quarter of the XIX century, the region possessed the privileges of «fueros», which in 1876 were replaced by «economic agreements». In the Basque society the shift was regarded as an undermining factor of the existing way of life and contributed to the emergence of the Basque nationalist theory.

During the period of F. Franco the region was completely deprived of any rights, the key instruments used to combat nationalism were political repressions. In response to that policy amid weakness and indecisiveness of the nationalist forces in combating that oppression a radical wing of Basque nationalism – ETA emerged.

The democratic transformation after Franco's death which implied the modernization of legislation (the adoption of a new Constitution in 1977, and a Statute of autonomy of the Basque Country in 1978) and the legalization of all political parties marked the beginning of a new more flexible administrative and legal approach considering the specifics of the region. It enabled the Basques to participate in the political life not

only of their region but of Spain as a whole.

Opposition to ETA by the central authorities was carried out through both undemocratic (the forces of GAL) and democratic procedures (the Spanish-French cooperation under the aegis of supra-national organization Europol). The given measures amid general democratization of the country and political fatigue of the Basque society made a significant contribution to the weakening of the group and led to its complete collapse in 2018.

At present moment, the leadership of the Basque country condemns radical methods of struggle and uses only political and legal tools to change the format of relations with the central government. However, the effective implementation of the chosen strategy, notably the desire to elaborate a new Statute of autonomy, is restricted due to the ongoing party-political crisis in the Kingdom of Spain. Thus, we have to admit that activities aimed at changing the center-region relations are suspended and frozen; solving internal socio-economic issues of the region top the agenda of the Basque administration.

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К ВОПРОСУ ОБ АДМИНИСТРАТИВНО-ПРАВОВОМ ПРОТИВОДЕЙСТВИИ КОРОЛЕВСТВА ИСПАНИИ НАЦИОНАЛИСТИЧЕСКИМ И СЕПАРАТИСТСКИМ УСТРЕМЛЕНИЯМ СТРАНЫ БАСКОВ

Введение. В статье исследуются теоретические и прикладные аспекты методики задерживания Испанским Королевством административно-правовых инструментов для противодействия националистическим и сепаратистским устремлениям Страны Басков. Особое внимание уделяется противостоянию с баскской террористической организацией ЭТА.

В контексте анализа перспективности современных практик задерживания политико-правовых инструментов в региональной политике, зачастую противоречащих интересам современного централизованного государства, исследуются причины зарождения и основ-

ные этапы эволюции ЭТА, рассматриваются трансграничные аспекты борьбы с группировкой в рамках кооперации Испании, Франции и национальных специализированных объединений по примеру Европола.

Методы исследования. В статье используется методология ретроспективного анализа и контент-анализа нормативных правовых актов для характеристики влияния принципов административно-территориального деления Испании, связанных с принятием Конституции Испании 1977 г. и впоследствии Статута автономии Страны Басков, на характер баскского национализма.

Результаты. В статье обобщены все основные сдвиги в испанской практике применения административно-политических мер по борьбе с баскскими сепаратистскими устремлениями, дана оценка их эффективности и обозначены существующие препятствия на пути установления нового двустороннего диалога с Мадридом.

Выводы. В первой части работы выделяются рост националистических и сепаратистских устремлений в Стране Басков и показано, как испанские исторические сдвиги в системе управления (абсолютная монархия, республика, авторитарное управление, конституционная монархия) приводят к применению новых административно-правовых инструментов, влияющих на баскские националистические устремления. Вторая часть, с другой стороны, посвящена текущему состоянию отношений между регионом и центральным правительством.

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Ключевые слова:

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Keywords:

Administrative-territorial division, the Constitution, the Statute of autonomy in the contemporary European law, Basque Country, nationalism, terrorism, ETA, Europol, political parties, national legislation

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