

New beginnings or more of the same? The new Galician Foreign Action Law and the Spanish Foreign Action Strategy 2021-2024

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RESUMO: Neste artigo analízase a nova Lei 10/2021 de Acción Exterior de Galicia. Desde a perspectiva da análise documental e das evidencias obtidas a través da praxe, contextualízase na traxectoria de máis de tres décadas de acción exterior autonómica galega, particularmente no relativo á Unión Europea. De cara ao futuro, tamén se examina no contexto máis amplo da Estratexia de Acción Exterior de España 2021-2024.

Palabras chave: Galicia, Acción Exterior, EGAEX, LAESE, Paradiplomacia, UE

RESUMEN: Este artículo realiza un análisis de la nueva Ley 10/2021 de Acción Exterior de Galicia. Desde la perspectiva del análisis documental y la evidencia obtenida mediante la praxis, se la contextualiza en la trayectoria de más de tres décadas de acción exterior autonómica gallega, en particular en lo relativo a la Unión Europea. Mirando a futuro, se la examina también en el contexto más amplio que supone la Estrategia de Acción Exterior de España 2021-2024.

Palabras clave: Galicia, Acción Exterior, EGAEX, LAESE, Paradiplomacia, UE

ABSTRACT: This article analyses the new Law 10/2021 on Foreign Action of Galicia and, through the use documentary analysis and evidence obtained through praxis, contextualises it withing the trajectory of more than three decades of Galician foreign engagement, in particular as regards to the European Union. Looking forward it is also placed in the broader context of the Spanish Foreign Action Strategy 2021-2024 and the Conference for the Future of Europe

Keywords: Galicia, External Action, EGAEX, LAESE, Paradiplomacy, EU

Introduction

Galician Law 10/2021, of 9 March, aims to regulate the foreign action of the Galician autonomous public sector outside Spanish territory and facilitate the collaboration of Galician public administrations with Galician private agents with a presence, projection or interests abroad. It also incorporates the legal regime of the regional public sector in terms of cooperation for sustainable human development and international solidarity. Almost at the same time, the Spanish government approved its new Foreign Action Strategy 2021-2024.¹

The Galician Law complements the previous work of more than 30 years of foreign action in Galicia (Cancela Outeda, 2011) and represents a step forward in terms of previous Strategies. The holistic approach must be highlighted, by which Galicia's foreign action is understood as a collective phenomenon that is not limited to the government itself but involves the whole of society.

This need for legalization is also a direct consequence of the regulatory and codifying approach of the foreign action of the Law of Action and Foreign Service of the State (LAESE) Law 2/2014, of 25 March. Instead of generating an opportunity to seek synergies between the different actors of the State as a whole abroad, LAESE tries with its codification to rather restrict the space of this foreign action by other entities outside the central government. A missed opportunity (García Pérez, 2014; Pazos-Vidal, 2017), and which consequently forces the Autonomous Communities (the 17 Spanish regions) to adopt the same approach to provide legal certainty to their acts abroad to a degree that would not be necessary in another context.

On the other hand, Spain's Foreign Action Strategy 2021-2024 claims to have been prepared in an intense public consultation process with the participation of the Autonomous Communities, and in contrast to previous documents, includes a more explicit reference to the role of the Autonomous Communities. .in the participation of the foreign policy of the Kingdom of Spain.

The practice of the participation of the Autonomous Communities in foreign action and in particular the European Union has depended a lot on the position and ideology of the central government in power (Sánchez Amor, 2010) but on the other hand there are factors of bureaucratic maximization (particularly by part of Foreign Affairs) and little willingness and inter-autonomous agreement (Pazos-Vidal, 2019a) which are structural factors that explain and foreseeably limit the possible scope of the new foreign action instruments, whether they are autonomous, such as the Galician law, or state law, such as the aforementioned Strategy.

In the context of the Conference on the Future of Europe, the possibility opens up to revisit discussions that have essentially been fossilised for twenty years regarding the role of the Autonomous Communities (De Castro Ruano, 2021) in the main and most intense area of foreign action that is the one facing the European Union.

1. Background of the Galician Foreign Action Law

In this context, the Foreign Action Law that complements the previous work of more than 30 years of foreign action in Galicia and represents a step forward in terms of Previous Strategies. In this aspect, Galicia (or more specifically the Galician Government or *Xunta de Galicia*), although without monopolizing -nor pretending to- the headlines of foreign activism in Catalonia or the Basque Country (but also others such as Extremadura, Valencia or the

¹This article reworks in depth the brief review published in Pazos-Vidal (2021a).

Canary Islands) has provided itself throughout these decades of reference instruments (more than strategic) when guiding its external action.

Méndez Romeu (2018) recalls that *Xunta de Galicia* published a document entitled "Galician Strategy for Foreign Action. Post 2020 Horizon" (EGAEX 2018), which is part of the 2015 State Foreign Action Strategy developed by the LAESE approved a year earlier. In turn, this Galician Strategy inherits previous documents, "White Book of Galician Foreign Action" (2004) -approved at the end of the Fraga era- and the "Galician Foreign Action Strategy" of 2007 -during the *bipartite* coalition of Spanish socialist party (PSOE) and left-wing Galician nationalist (BNG)-.

As this author also points out (he was responsible for the coordination of the aforementioned 2004-2009 coalition government) these previous documents are cumbersome to read and of a heterogeneous nature as well as not very operational, to a certain extent, a scheme also reproduced, now with the rank of law, in the new Galician law.

Two questions should be asked from the outset: why does Galicia have a long history in the production of these documents, long before the 2004 White Paper?² Why, however, are these documents so inoperative?

The possible answer to the first question, beyond commonplaces (enormous presence abroad as a result of emigration, the relationship with Portugal with whose language Galician forms a diasystem, both elements, together with the possibility of requesting the State the negotiation of international treaties, the only elements related to foreign action included in the Statute of Autonomy, never reformed, of 1981) has two elements:

On the one hand, the need to respond to the demands of self-government itself. In fact, as is well known, Galicia was the subject of the pioneering judgment of the Constitutional Court on external action of the Autonomous Communities (STC 137/1989). It declared a cooperation agreement on fisheries matters (between the *Xunta* and a department of the Danish Government) to be illegitimate. This factor is combined with the tendency of *all* the Autonomous Communities (nationalities or not, with a nationalist majority or not, with companies with foreign ties or not), by mimic each other (isomorphism) throughout their progressive institutionalization by equipping themselves with instruments or mechanisms for foreign action (Fernández de Casadevante Romaní, 2001.)

On the other hand, the institutional continuity of the Galician foreign action actors themselves: with the exception of the *bipartite*, the General Secretary of Foreign Action (since 2009, Director General) has always been the same person. Even in the two periods when government was in the hand of the Spanish Socialists and Galician nationalist (1987-1989 and 2004-2009) most of the people and organisations remained in place, there was no spoils system. The Fundación Galicia Europa, an entity that, among other functions, remained as the unofficial representation of Galicia in Brussels. The *Xunta* never wanted, due to its own institutional inertia, to make use of the possibilities emanating from the ruling of the Constitutional Court 165 of 26 May 1994, which allowed the opening of official delegations as long as they do not infringe the exclusive competence of the State in international relations or legally commit Spain with other states or international organizations (Sobrino Heredia, 2001). Indeed many of the defenders of the Fundación are quick to point out that it was created not by the perennial conservative administrations but during the tripartite coalition led by Socialist González Laxe in the late 1980s.

Regarding the second question, on why the Galician foreign action documents are so cumbersome, the possible explanation is due to the fact that Galician foreign action is torn between voluntarism and the delicate internal balances of its society. On the one hand, Galicia perceives itself -regardless of the party in power- on a par with the other two

² For example, the document "Galicia before the Convention for the Future of Europe" (2003) of which the author was one of the editors.

historical nationalities (as defined in the Spanish constitution), Basque Country and Catalonia. Like Galicia they voted for self-government before the 1936-1939 Civil War (see, for example, Fraga Iribarne, 1991).³ On the other hand, the Galician political and social majority (not only among the conservative majority) is suspicious of *gestures* that might be *perceived* as challenging the Spanish state such as foreign action matters. In fact, as Ríos (2018) points out, the change of government from the tripartite to conservative President Feijóo era from 2009 meant, against the background of the economic crisis and the growing territorial instability of the State, a broad backsliding of the Galician foreign policy of the previous executive, regarded as overly ambitious.

That is why Galicia quickly made foreign action framework fall in line with the LAESE (which, as said, instead of being an opportunity for multilevel coordination, the Conservative Rajoy Government just wanted to use to impose corrective to what was judged as foreign adventurism by the Autonomous Communities and historical nationalities in particular) -as evidenced in the Galician Strategy of 2015.⁴At the same time, and as a reflection of these unstable balances, although the LAESE basically sought to eliminate the presence of the derogatively called regional "embassies" abroad and in particular in Brussels, Galicia was one of the few who kept theirs instead of moving to the "coworking" space proposed by Foreign Affairs in the attic of the Permanent Representation of Spain to the EU -a single desk per region, under conditions below the Brussels rental market and without any additional advantage or status- (Pazos -Vidal, 2019b; Pazos-Vidal, 2017).

This Galician tension between identity voluntarism and political, if not emotional, dependence on "Madrid", is not, as we say, only the preserve of the traditional conservative majority: during the process of the new Galician Law, the socialist opposition (third force in Galicia, but governing in Madrid) stood out for his furious attacks not only on the form -the *Xunta* accelerated the deadlines and reduced the possibility of deliberations- but also on the very substance of the Law -although, as required by the LAESE, said project had been positively endorsed by Foreign Affairs.⁵ The Galician Foreign Action is not exactly a dependent variable of the policies, legislation, strategy or political climate prevailing in central government, but, more than in other places, it is necessary to study the Galician Law and its predecessors with reference to the analogous documents produced by the Spanish Government such as the new 2021 Spanish Foreign Action Strategy.

2. Law 10/2021 a step forward, but insufficient

For reasons of length, we are not going to detail the content of the Galician Law here. In fact, most of its content is of a programmatic nature (and that increasingly includes the content of the strategies already mentioned or that simply legalizes existing practices (see table I). That is why we will focus on its shortcomings.⁶

³ Or much earlier Fraga Iribarne (1991) .

⁴ With this endorsement, and always within the indispensable constitutional loyalty, the *Xunta de Galicia* approved Decree 178/2015, of November 26, which regulates the foreign action of the Autonomous Community of Galicia (hereinafter Draex), communicated to the Ministry of Foreign Affairs and Cooperation. In the field of international cooperation, it also approved Decree 29/2017, of March 9, on cooperation for development, in order to simplify and update the implementing regulations of Law 3/2003, of June 19, on cooperation for development, in relation to the Galician Registry of Development Cooperation Agents, the coordination and advisory bodies, inter-administrative relations and the management of subsidies for cooperation projects, among other matters.

⁵ PPP and Cs see a lack of specificity in the Foreign Action Strategy to alleviate Spain's weight loss (Galicia Exterior, 2021)

⁶ In addition to the documentary analysis, for the preparation of this *paper* several personal interviews have been carried out with various actors involved in its parliamentary process, whose debates have also been

Table I Content of the Galician Foreign Action Law⁷	
Title I:	subjects of Galician foreign action and concurrent private subjects,
Title II:	Procedure to carry out the programming of Galician foreign action, developing guidelines that were already contemplated in the DRAEX ⁸ and in EGAEX itself.
Title III:	Application of the Egaex and in the coordination of Galician foreign action.
Title IV:	Galicia-Northern Portugal Euroregion and the Lusophony deserve.
Title V:	Galicia in Europe, participation of Galicia in the affairs of the European Union, and foreign action in Europe outside the legal framework of the European Union;
Title VI:	Future treaties and other international instruments and agreements in which Galicia may intervene.
Title VII:	Sectoral actions beyond Galicia and Spain, systematised by homogeneous areas.
Title VIII:	Cooperation for development, which constitutes one of the pillars of Galicia's projection abroad, repealing Law 3/2003, of June 19.
Title IX	Updates the regime relating to regional delegations and offices abroad, adapting its provisions to the LAESE
Title X	International mobility of professionals and companies, and new

collected in the preparation of this paper.

⁷ [BOE.es - BOE-A-2021-5211 Law 10/2021, of March 9, regulating foreign action and cooperation for the development of Galicia.](https://www.boe.es/boe/BOE-A-2021-5211)

⁸ Decree 178/2015, of November 26, pole that regulates foreign action of the Autonomous Community of Galicia

	networks of Galician interests abroad outside the traditional Galician émigré communities of the diaspora.
First additional provision:	Council of Galician Culture ⁹
Second additional provision:	Fundación Galicia Europa
Third additional provision	Possibility of obtaining extraordinary support for the foreign delegations of the <i>Xunta de Galicia</i>
Fourth additional provision:	Possible participation of the staff of the Galician Public Health System in humanitarian emergencies.
Fifth additional provision:	Compliance with the global Agenda for sustainable human development (SDG)
Sixth additional provision:	Appointment of those responsible for monitoring Galicia's participation in European Union affairs.
Unique transitional provision	As long as the coefficients for reasons of service that may correspond to the staff of the <i>Xunta de Galicia</i> for residence abroad are not regulated, those established in the field of the General State Administration will be applied on a supplementary basis.

Source: author's elaboration.

The holistic approach must be highlighted, by which Galicia's foreign action is understood as a collective phenomenon that is not limited to the government itself but involves the whole of society.

It is perfectly understandable that they wanted to codify a whole series of practices that already exist in reality and include in Galician Autonomous Law a large part of the jurisprudence of the Constitutional Court in matters of foreign action of the Autonomous Communities.

⁹ institution provided for in article 32 of our Statute of autonomy, in order to meet the obligations and powers of the Autonomous Community in the defense and promotion of the cultural values of the Galician people.

A need, not only consistent with our legal-political tradition clearly anchored in regulation, much more than in other countries around us, even compared to those that also inherited the French administrative tradition.

3. The Galician foreign action community

It is very opportune to consider the different regional actors with external projection, such as the Galician Ministry of Culture, which even has its own external action strategy.

In the same way that, in another context, there is talk of the need to generate a "culture of defense" in Galicia, it is necessary to generate a "culture of foreign action". This is especially necessary given the comparatively wide degree of connection with the outside world, understandable given Galicia's history, but still much greater than would be expected given Galician level of economic development and the prevailing political views of Galician society.

Now, although this Law is a good descriptive exercise, it fails to promote a greater osmosis between the different Galician actors of foreign action through the regulations. Also missing, and above all, as IGADI's contribution points out (*vid. infra*), is a Master Plan and Annual Action Plans (linked in the case of the EU to the Annual Legislative Program of the Commission and the six-monthly presidencies, such as the Portuguese one this semester, and the legislative revision of the simplification program) (*Better Regulation- Fit for Future*), which will define predictable and evaluable instruments, objectives and activities Precisely in a year of particular international presence of Galicia due to the Xacobeo 2021-22 (international pilgrimage year to Santiago de Compostela and a key platform to promote both tourism and Galicia international image) is necessary as planning of activities abroad or with an international impact, including public and private "country brand" initiatives.

In the field of political intermediation and the necessary agreement between the different political actors, it is surprising that there is no attempt to create concertation mechanisms at a political level between the *Xunta* through the Director General for Relations with the EU in the Committee of the Regions, the Galician MEPs, mayors with their own foreign agenda (Eixo Atlántico, Arco Atlántico, Galician mayors as members of the FEMP in the Committee of the Regions and the Council of Local and Regional Powers of Europe, etc.) and the Parliament itself, specifically its Committee on European Affairs and the more than remarkable participation of the Chamber of Galicia in the Conference of Regional Legislative Assemblies of the EU (CALRE) and in the Council of Local and Regional Authorities of the Council of Europe, which by the way is not even mentioned in the Law despite the high representation of the Autonomous Community that the parliament makes abroad in this international organization and in that international association parliamentary.

In this census, it is surprising that despite the comprehensive approach of the Law that the Galicia Foreign Action Council is hardly mentioned, with just a passing reference to the decree of its creation.

In addition, the *corporatist approach* (in the sense that it is given in the field of public policies, not in its colloquial conception) of said Council is insufficient as a concerted entity between the different Galician interests, since many of them are not represented. In fact, the reading of this Council (*vid. IGADI, 2020*) is of a *corporativist nature*, in the sense of its capture by the regional civil servants.

A Foreign Action Council must have, for example, with entities with a recognised track record abroad such as IGADI, the Galician Economic Forum, the Northwest Peninsular Atlantic Eixo, the European Territorial Cooperation Groups of Baixo Miño and Verín Chaves, those experts and university centers or those of the Galician School of Public

Administration that are also involved abroad, and of course those Galician companies, clusters and entities that have a large presence abroad.

4. The *Fundación Galicia Europa*

As stated in the preamble of the Galician Law, the *Fundación Galicia Europa* (FGE) "is deserving of a unique treatment in the, because it has been providing uninterrupted service since 1988 and because it is constituted, in addition to the Autonomous Administration, by various provincial councils, by the Zone Franca de Vigo and by financial entities, being a living and unique example of cooperation between various public administrations and collaboration with Galician private entities, something that remains desirable and necessary in the spirit of this law."

By way of *disclaimer*, this author, who has been professionally linked to it in 2003 and part of 2004, has repeatedly shown himself in favor of its dissolution, due to its anachronistic nature after the Constitutional Court Judgment 165/1994 of 5/26/ 1994 and for not corresponding to the constitutional or political status of Galicia in the Spanish and European context (see Cancela Outeda, 2011; Pazos-Vidal, 2008; 2013; 2014) as stated in the written contribution to the processing of this law, which is the basis of this article (Pazos-Vidal, 2020a; Pazos-Vidal, 2020b). Instead, an official Delegation of the *Xunta de Galicia* in Brussels homologous to the German, Austrian *Ländervertretungen* or the delegations of Quebec, Aland Islands, Greenland, Scotland or Wales could be created.

The inclusion of the FGE in the Law is understandable given the organizational inertia of Galician foreign action, as it is an obsolete body in its legal basis of private law, from the moment that the STC 165/1994 judgment of 26 of May, allows the Autonomous Communities to have official representation abroad. within the scope of its powers and provided that they do not violate the exclusive state competence of foreign relations of art. 149.1.3 of the Spanish Constitution.

In these thirty years of existence, the Foundation has exercised the unofficial representation of the *Xunta de Galicia* in Brussels, of the European projects office, of the European information office, of the financing of studies and scholarships in European matters, of the publication of European texts and studies, from the information office in Galicia and promoter of European integration among citizens (Fundación Galicia Europa, 2021).

Too many objectives that do not coincide to be able to respond effectively to conflicting interests: sometimes you have to go against the decisions of the EU that is not silent with its founding mission of promoting the European Commission's agenda in Galicia. The Foundation's own literature, heir to the prevailing spirit at the end of the 1980s with its accession to the EU, shows that in the event of a conflict between the pro-European spirit and the defense of the specific interests of Galicians, it would tend to prioritise the former (*Xunta de Galicia*, 2018).

This multifunctional approach (a quite common conception, on the other hand, the organizations dedicated to "Europe" as catch-all term) and, as we say, the continuity of key actors and the organizational inertia itself (*path dependency*) are more than enough reasons for its continuity . beyond the initial reason that had justified its creation outside the structure of the Galician government.

In fact, a *proxy* to asses the high opportunity cost of creating a new structure, let alone an Official Delegation (a nationalist claim that was only very sporadically considered during the 2005-2009 bipartite PSOE-BNG ¹⁰), is evidenced by the additional provisions of the Law

10 Being, as we say, the creation of the FGE the work of the first and short-lived tripartite under socialist leadership.

detailing the cumbersome conditions necessary to send officials abroad. It must be taken into account that the creation of the Foundation coincides in time with the proliferation of foundations and boards of trustees at the end of the 1980s and the beginning of the 1990s, as a way of escaping Administrative Law, of which Galicia was a pioneer (see, for eg Pérez Castreje, 2020). Although the Foundation in case of doubt tends to mimic the practices of the regional administration, the fact of its legal nature allows it to contract personal goods and services in a way that is at least somewhat more flexible than if it were a body of the Galician administration, and more considering that you have an office in another country. In fact, the existence of assets such as a office on the main avenue of the European Quarter, bought by long-term mortgage in 2006 (Sampedro, 2006)¹¹ and indefinite contracted personnel under the rigid Belgian Employment law are sunk costs that favours FGE's survival.

Since this is a political decision, if it is mentioned in the commentary to this Law, it is because the FGE is not formally a body of the *Xunta* (which is, by far, the main financier) but rather an entity that nominally brings together private or semi-public entities (in his day, Provincial Councils, Savings Banks) with an interest abroad. Although this corporatist approach of the FGE has always been one so as not to violate the constitutional jurisprudence prior to 2004 (otherwise not so different from the German, Austrian and Italian constitutional jurisprudence of that time, see Pazos-Vidal, 2019) it has never been really taken advantage of organizing a concertation not only at a strategic level (in the Galician Foreign Action Council) but also at an operational level. This continues to be one of the great obstacles of our Galician external action ecosystem.

Once can look at successful models of coordination of the different public, civil society and private actors (Principle of Partnership or Association, as defined in EU legislation) in our environment that exist and complement the existence of a representation with full guarantees of bureaucracy before the European institutions.

Good examples is the Netherland's *Europa Decentraal*, a public body that advises public entities in the country on the application of European law), Flemish (VLEVA is a consultative body for different Flemish actors in the EU, although the headquarters of the institution is Belgium and the Flemish region is, together with two other Belgians, the only one in Europe that enjoys its own powers of external action on the basis of the "in foro interno, in foro externo"). In the Scottish example its Brussels Office technically does not exist but it is part of the UK Mission to the EU, even if it is based in a different building and whose civil servants are only answerable to the Scottish Ministers. The same applies in the Finnish model with Åland, Danish with the Faroe Islands and Portugal with the Azores and Madeira. However, in addition to that, the diverse Scottish EU interests are articulated through a "Scotland Europa" entity that seeks to influence the European institutions in a coordinated way (Pazos-Vidal 2019b). By contrast, this Galician Law lacks a mechanism for conciliation and concertation of interests that moves from the strategic to the operational, as in the examples cited above.

5. Participation of Galicia in the Affairs of the European Union

This chapter of the Law suffers from an overly simplistic description of the tasks of the Autonomous Community in these bodies. Given that this law is 154 pages long and mixes legal provisions with other fundamentally programmatic ones, one would expect a better description of the detail and nature of this participation, based on the actual practice of these non-performing bodies when it comes to creating an inter-autonomous agreement and

¹¹Sampedro, D. (2006).

excessively favorable to the agenda of the central executive (Colino and Parrado, 2002; Ruíz de Lezama et al., 2015).

Although it is not up to Galicia alone to achieve effective Spanish interregional collaboration mechanisms for EU policy formulation such as the Italian *Stato-Regioni Conference* or the Austrian *Landeshauptteutekonferenz* (cf. Hofmeister & Tudela Aranda, 2019), this Law would have been a good opportunity to develop practices that, from loyalty institutional can be signed by the three major Galician parties.

6. Participation in institutions and bodies of the European Union

The Law gives only a passing mention to this issue, given the centrality of the EU to Galician policymaking. Regarding the participation of the Council's Working Groups, it contains a purely normative description of existing practice without spelling taking into account the actual practice of the working methods of these institutions. For instance, it does not mention regions are representing Spain, alongside central government officials, in Council Working Groups in a rotating matter. Neither there is consideration in the Law of the connection of the former with the work the Spanish Sectorial Conferences between central and the 17 regional governments, let alone other cooperation structures that have long existed such as the Cooperation between Regional Offices of Spain in Brussels, (CORE), which the present Spanish coalition government program does mention it and has committed to formalizing it after almost 20 years of de facto existence (PSOE-PODEMOS, 2019: 43)¹² to overcome present disfunctions in the collaborations between these regional offices in Brussels.¹³

7. Committee of the Regions

Article 33 of the Law should be highlighted, which is insufficient since the representative of the *Xunta de Galicia* in the Committee of the Regions (substitute for the President of the *Xunta* and the effective representative, the Director General and, until 2009, Secretary General for Relations with the European Union) is the only official representative of Galicia in the European institution.

Unlike other so-called Regions with Legislative Powers (eg Scotland had four), Galicia only has one representative (two if one of the four nominated by the FEMP is Galician, as is currently the case with the mayor of Vigo). This should raise a greater demand for accountability, precisely given the growing behavior of the CoR as an institution governed by partisan and extraterritorial interests (Piattoni & Schönlaue, 2015) and the enormous number of acts, facts and files of relevance to Galicia of which The representative of the *Xunta* has the opportunity to participate directly in the discussions and the access that the CoR provides to the European institutional framework, which goes far beyond its formal role as an advisory committee for legislative proposals.

Surprisingly, this regular rendering of accounts to the European Affairs Committee of the Galician Parliament, which is not even mentioned throughout the Law, is not even planned.

¹²PSOE-WE CAN (2019)

¹³Very interesting updated view of the role of these offices in Riera and Astarloa (2017).

It is also surprising that ¹⁴there is very little mention in this Article 38 of the mechanisms for formulating the Committee of the Regions' responses to opinions (not to mention reports from the European Parliament or requests to its Committee on Petitions) when there is a whole case that could be codified, as the Basque Government did more than 20 years ago through a specific regulation.¹⁵

8. Transposing European legislation

Likewise, this Law, which precisely seeks to codify existing practices, paradoxically does not explicitly establish the internal mechanisms of the *downstream phase* of EU legislation and policies, from the transposition of legislation to the processing of state aid files, public contracting, or the programming and management of the Structural Funds, when they are the only investment lever that the *Xunta de Galicia* has.

Although these procedures must be regulated in other regulations, their total absence, even to refer the citizen to these other regulations, seems to be an important obstacle in the task of codification and transparency that the Law implies.

9. Final considerations to the Galician law of external action

It is necessary to warmly welcome the approval of this Law. In current times and given the national and international climate away from the Europe of Regions (Pazos-Vidal, 2020) it continues to be an important milestone.

However, given that this extensive legislative proposal is both normative and programmatic, it is surprising that no attempt is made to advance in defining the basic objectives of Galician foreign action that are more precise and likely to generate consensus among the forces represented in this chamber. The successive strategies of Foreign Action of Galicia already suffered from an excessively programmatic and generalised content that, to a great extent, is still present in this Law.

On the contrary, this law should have made progress in the process by defining more precisely the criteria and methodologies, indicators, definition of semi-annual, annual, legislative priorities, performance evaluation, allocation of resources that must follow a renewed Foreign Action Strategy of Galician foreign action (IGADI, 2020).

10. Galicia before the Spanish External Action Strategy 2021-2024

Given the contradiction inherent in Galicia's foreign action since its inception between identity voluntarism and political and emotional dependence on the ups and downs of the policies of successive governments and the Spanish climate in general, it is necessary to frame the new Galician law in the broader context of Spanish politics (its intergovernmental

14 Article 38. Appointment of responsible.

For the effective monitoring of the actions of the Autonomous Administration in the European Union, with regard to this chapter, a responsible person must be appointed in the areas of competence of the Presidency and of each ministry, preferably with the rank of general deputy directorate and with Vice-secretary or coordination functions, when possible with knowledge of other European languages, to act as a point of contact with the management body of the Autonomous Administration in which the fundamental competences of relations with the European Union and foreign action are framed.

¹⁵This internal document is summarised in: Basque Government (2018).

relations) and in the broader context of the European moment symbolised here at the Conference on the Future of Europe.

In other words, did the change of government from the right to the left in 2018 lead to an *unloading* of regional demands of EU participation like the one described by Sánchez Amor (2010) for the participation of the Autonomous Communities abroad and specifically in the European Union? Europe, as happened in the previous cycle from 2004?

On the other hand, will Galicia, which was very active -within its possibilities- in the Convention for the Future of Europe, try the same in the Conference on the future of Europe?

Paraphrasing the famous quote from Marx (1852), the activism of the Autonomous Communities will then be repeated this time as a farce?

As we have already said, the program of the coalition government mentions, as was foreseeable, a greater participation of the Autonomous Communities in European affairs and, an unusual fact -attributable in part to the personal career of one of the editors-, the so-called collaboration between offices in Brussels (vid. Supra).

It is also true that both the Conference of Presidents and the Conference for matters related to the European Union were reactivated after a long lethargy of almost a decade, something that both the Brexit contingencies and the pandemic spurred on (Casula and Pazos-Vidal, 2021). Now, if we go into detail and examine the new Spanish Foreign Action Strategy 2021-2024 (Gobierno de España, 2021) and compare it with the governance praxis of the Recovery, Transformation and Resilience Plan (Gobierno de España, 2021c) -which intends to spend 80,000 million euros of new European funds- and the Strategy for which there is room for pessimism.

Starting with the Strategy, in the announcement and its presentation and parliamentary debate, the government emphasizes the collaborative, multilevel and inclusive nature of its wording. A section 5.5.3 of two pages (pp. 95-96) of a total 115 is devoted to "Autonomous Communities and Local administrations" where the already existing collaboration of Autonomous Communities (and local entities) with the government in the CARUE, Interterritorial Commission for Development Cooperation or the Spanish National Commission for Cooperation with UNESCO, proposing to improve this participation "the establishment of regular consultation mechanisms that bring together the Foreign Ministry and the regional authorities in matters of foreign action", for immediately afterwards proceed to talk about internationalization, social dialogue with companies and unions, the Spanish Urban Agenda in the context of the European Urban Agenda and the Sustainable Development Goals - the authentic leitmotif of the Sánchez I minority government, replaced by the Sánchez II coalition government in part by the Recovery Plan "Spain Can") and the role of cities in international affairs. Apart from a mention of the Regional Houses abroad in the section on consular protection (p. 84), it seems an excessively brief reference for a strategic document of this scope and for the complex nature of the Spanish system of government.

If we compare the External Action Strategy with the governance of the Recovery Plan, which has been the subject of enormous controversy due to the disagreements between the Government and the Autonomous Communities, with unrealistic expectations, both for the distribution and for the governance of said funds European Communities (Pazos-Vidal, 2021b) in part a reflection of the same disagreements regarding the territorial management of the pandemic (Pazos-Vidal, 2021c; Pazos-Vidal, 2021d) we see that the participation of the Autonomous Communities -unlike the traditional Structural Funds colloquially called regional or Cohesion funds- in the Recovery Plan the government prioritizes consultation with the Autonomous Communities (turned into economic agents of programs designed by the ministries) over bilateral and multilevel negotiation in all phases of design and fund management (what is known as the EU Partnership Principle). Although *European funds are*

not exactly the same as *foreign action*, their governance is still a good *proxy* for the limits to the participation of the Autonomous Communities in the formulation of state policies arising from structural reforms in the field of their powers. autonomous, imposed – and financed – by the EU.¹⁶

A similar but gentler approach is found in the new UN Strategy on Sustainable Development Goals (SDGs, now in the hands of the minority partner of the government coalition). The "General Guidelines of the Sustainable Development Strategy 2030" already advanced (Gobierno de España, 2020: 30-31) in a very positive tone the contribution of the Autonomous Communities to these Objectives for this decade -yes, addressed without solution of continuity together with the role of cities, social and business actors-, and the same tone is repeated, corrected and expanded, in the Strategy itself approved by the Council of Ministers on June 8, 2021 (Gobierno de España, 2021). However, this constructive tone of the text (because part of the document focuses on detailing the achievements and commitments of the Autonomous Communities) is also explained by the programmatic nature of the SDGs, since despite being conceived by the UN as a management instrument (with commitments, goals and objectives) Spain is certainly not the only one that adopts an approach focused more on the aspirational than on accountability (Pazos-Vidal, 2021e)

In short, how would all of the above about the central government be translated into a Galician key? The Galician Law precisely includes both the SDGs (an additional provision is mentioned in passing, without specific articulation with other Galician policies, plans and legislation) and something of more specific interest to Galicia, such as the Lusophony, which, as said earlier, is one of the few areas in which the 1981 Statute gives consideration to foreign action (art. 35.3 EAG): “The Galician Autonomous Community may request the Government to celebrate and present, where appropriate, to the Cortes Generales, for authorization, the treaties or agreements that allow the establishment of cultural relations with the States with which it maintains particular cultural or linguistic ties”.

It was necessary to wait no less than a quarter of a century of self-government for Law 1/2014, of March 24, to be agreed, for the use of the Portuguese language and links with Lusophony (Paz Andrade Law) with great difficulty given the diversity of opinions regarding the Galician language (fully majority until just this year), its social status and its relations with respect to Portuguese with which it forms a diasystem – to the point that there is a different Galician language standard but also a unofficial one that is much closer to Portuguese, even if the official Galician standard was revised in 2003 to bring it closer to the Portuguese one while maintaining intelligibility with the Spanish; all this a telling example of the delicate geopolitical balances of Galicia (Igadi, 2019).

The Paz-Andrade Law is very brief (two pages). It was only passed because its promoters pushed on the argument of potential economic advantage - since the Modern Age the Galician business community speaks disproportionately in Spanish -. In its art. 1 it vows that “the Galician public authorities will promote knowledge of the Portuguese language and Lusophone cultures in order to deepen the historical links that unite Galicia with the Portuguese-speaking countries and communities and due to the strategic nature that economic and social relations have for Galicia. within the framework of the Galicia-North Portugal Euroregion”, furthermore, “ the Galician Government will progressively incorporate the learning of the Portuguese language in the field of foreign language skills in the educational centers of the Autonomous Community of Galicia.” (art. 2) and finally (art. 3) “Relations at all levels with the Portuguese official language countries should also be promoted, and this will constitute a strategic objective of the Galician Government” in addition to providing Portuguese radio broadcasting in Galicia (art. 4).

¹⁶See for example, CoR-CEMR (2020).

Clearly and, as expected, a Galician Law with such a geopolitical significance but with such a programmatic content has hardly had an impact either internally or much on external action. Still, its mention in this article is also justified by another recent episode: the integration of the *Xunta de Galicia* as an observer in the Community of Portuguese Language Countries (CLPF). Although the Consello da Cultura Galega (the Galician equivalent to the British Council or the Goethe Institut) and the AGAL (the association that promotes the aforementioned pro-Portuguese standard for Galician) are observers, the participation of Galicia as autonomy - fully supported by art. 35.3 of the Statute of Autonomy-¹⁷ would have been a huge step in the institutionalization of Galician foreign action.

It didn't turn out to be the case. As Manuel Gago (2021) put it ironically:

“The [Galician] Parliament unanimously approved in 2018 requesting Galicia's entry as a "member". We will rather understand it as "associate observer", which is the rank that the CPLP grants to the States or also, according to its regulations, to "Lusophone Regions that belong to third States", a way like any other to refer to Galicia. -. Among the powers of these observers, according to the data, is to participate in the summits of heads of state. Last chapter: **the Galician initiative was paralyzed in January 2020 when Spain suddenly felt the desire to participate** . Of course, **after countries with deep ties to Lusophony such as Slovakia, France, the Czech Republic, Chile, Turkey or Luxembourg had already joined.**”

This episode already happened under the Socialist Government, supposedly more tolerant of these initiative. To explain it, it is tempting to argue that the long-running Catalan crisis and its international repercussions (there are several court cases involving alleged misuse of public funds abroad by Catalan institutions) or the mistrust in the Spanish Government for the funding Catalan Government like many others use funding and projects with United Nations bodies to bypass the grip of central government in Spain's international representation.

However tempting this reasoning grounded in high Politics might be, there is a more prosaic explanation, wich has little t odo with the political colour of the ruling party in Madrid and much more with the corporatist self interest of the its Diplomatic corps.

If the Galician precedent had been accepted in the CPLP, the officials of the Autonomous Government would have, in practice, given the fundamentally deliberative nature of this Lusophone organization, the same treatment as diplomats. This mirrors the resistance of the staff of the Permanent Representation of Spain to the EU to maintain a formal institutional relationship and a collaborative work dynamic with the regional offices in Brussels in everything that was not explicitly required by the formal agreements by the central government for the participation of the Autonomous Communities in the formations and working groups of the Council of the EU (Pazos-Vidal, 2019b). Sometimes the mirage of party politics obscures the realities the ethos and agendas of the organizations that support them.

11. Conclusion

¹⁷ Three. The Galician Autonomous Community may request the Government to celebrate and present, where appropriate, to the Cortes Generales, for its authorization, the treaties or agreements that allow the establishment of cultural relations with the States with which it maintains particular cultural or linguistic ties.

2021 does not look like 2001 but it rhymes. Galicia's external action in Europe resembles that of 20 years ago, the moment of the last great moment of European territorial mobilization with the Convention for the Future of Europe, which gave birth to what is now the Treaty of Lisbon (Pazos-Vidal, 2019c) and predecessor of the recent Conference for the Future of Europe. Despite the ups and downs common to most of the Autonomous Communities and despite the double gravitational pull that Madrid's politics and the perennial Catalan territorial crisis exert on Galicia, Galicia has maintained a fairly proactive and coherent approach to its external action for several decades now.

The question is whether the trees (international actions, successive strategies, pompous laws) overshadow the forest and the meager fruits it hides.

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