

Spain: Mixed Model Electoral Management Becomes Well Established

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The first democratic elections in Spain after the Franco dictatorship were held in 1977, under the Royal Decree Law (RD Law) on Electoral Norms of 18 March 1977, to elect the parliamentary chambers that drew up the Spanish constitution of 1978.

Article 23(1) of the 1978 constitution recognizes the right to political participation. Articles 66 onwards establish the constitutional conditions for electing the members of the Congress of Deputies and the Senate, deciding the basic issues including the number of members, eligibility criteria, and conflicts of interest, or incompatibilities between the position of an elected member of Congress or the Senate and other work or positions. The constitution also requires that there be an organic law to regulate the entire electoral process, including the electoral administration, which is entrusted with overseeing all the aspects mentioned above.

The Organic Law on the General Electoral Regime (LOREG) was approved in 1985, drawing on the RD Law of 1977, and has continued in force to this day, with major amendments introduced in 1994, 1995, 1999 and 2003. During this period, and under the supervision of the central, regional, provincial and zonal electoral boards (*juntas electorales*), six elections have been held under completely normal conditions (in 1986, 1989, 1993, 1996, 2000 and 2004) in which Spain has consolidated its democratic system and the channels of political participation.

Institutional Structure

Spain has a decentralized system of autonomous governments based on a territorial distribution of power, that is, there are three levels of elections – national elections (to the Congress and Senate), elections in the autonomous regions (to the legislatures of the 17 *comunidades autónomas*) and local elections. At all levels the Organic Law provides that elections and referendums will be conducted under the full supervision of the electoral boards – the Central Electoral Board (Junta Electoral Central, JEC), with the support of the regional, provincial or zonal electoral boards in the respective elections. All are independent bodies. Under this arrangement, the JEC and the lower-level electoral boards are broadly responsible for the establishment of policy on the administration of elections within the framework of the electoral law and for oversight of the implementation of electoral administration and logistics by the polling station committees and civil servants who are assigned these tasks.

This supervision of electoral processes by the electoral boards is reinforced by an arbitration procedure which must be used before complaints and appeals on electoral issues can be brought before the judicial system.

The JEC, with its quasi-judicial composition (see below), is a permanent body, while all the other boards operate on a temporary basis during election periods only.

EMBs at the various levels are organized in a hierarchical manner. The JEC is the policy-making organ. Its decisions are binding for all other boards.

The JEC has 13 members. Eight are members of the Supreme Court, while the other five are professors of law, political science or sociology, chosen on the basis of proposals made jointly by the parties represented in the Parliament. In addition, the secretary general of the Congress and the director of the Electoral Census Office of the National Institute of Statistics (the body in charge of drawing up the electoral registers) are non-voting members of the JEC.

The composition of the lower-level electoral boards follows the same structure, although each has only five members, and the levels of judicial or professional qualification required of their members are not so high. None of the members of the electoral boards may be removed from office except when found to have committed a crime or an electoral infraction that is verified by the electoral board immediately superior to it in the hierarchy.

Powers and Functions

The electoral boards do not come under any other public agencies or branches of government. They are autonomous, neutral and independent entities within the organizational structure under the JEC which operate in their functional areas of responsibility.

Their duty, as defined in article 8 of the Organic Law, is to guarantee the transparency and objectivity of the electoral process, and that elections are equal and their conduct legal. To do this, their work is supported by the polling station committees (*mesas electorales*), made up of citizens chosen by lottery, who conduct the polling and counting of votes and ensure that the process is conducted properly on election day. The Ministry of the Interior, together with local governments and the Electoral Census Office, provides the necessary logistical support throughout the process, working at all times under the direct oversight and direction of the JEC and the other boards.

The work of the boards consists of processing, sanctioning and resolving election-related matters. The appeals procedure culminates with the JEC as the last resort, although there may be an optional final remedy to appeal to the regular courts or the Constitutional Court in cases brought to uphold the constitutional rights of citizens.

The main functions of the JEC include:

- directing the activity of the Electoral Census Office, the organ entrusted with drawing up the electoral registers and organizing postal voting (in coordination with the postal service);
- giving instructions (which are binding) to the lower-level electoral boards on any election-related matter;
- ruling on any requests for opinions forwarded to it by the electoral boards, overturning those that contradict the interpretation of the JEC, and thus unifying the criteria by which the electoral laws, regulations and norms are interpreted. Its rulings are binding;
- coordinating, in conjunction with the central government or the regional administration (*comunidades autónomas*), the formal and practical organization of the elections, including

deciding the voting schedules, the design, production and distribution of electoral protocols and ballot papers, the design and distribution of ballot boxes, the issuing of accreditations, and the organization of the count;

- resolving complaints, claims and appeals pursued in relation to election matters;
- ensuring that the campaign accounts and expenditure of all candidates and parties during the electoral campaign period comply with the relevant laws and regulations; and
- declaring the election results and formally accrediting the elected authorities and representatives in each election.

Each of the lower-level electoral boards performs these functions within its own area of authority.

Financing and Accountability

The JEC is the only permanent EMB. For its material and human resources it is entirely dependent on the Congress of Deputies, and is financed out of its budget. The lower-level electoral boards operate only during the electoral period, and their financing corresponds to their temporary nature. Their expenditures are financed from the general budget of the state through the executive branch, which ensures that their members are compensated for their work and that operational expenditures are covered.

There are no specific provisions in the legislation for the scrutiny of expenditures, since the staff of the electoral boards are normally members of the civil service who are temporarily assigned to election functions, and the administrative services that are in charge of organizing the electoral process meet the costs out of their own budgets and administer the expenditures.

The Professionalism of Electoral Officers

The members of the electoral boards are dedicated exclusively to their electoral functions during election periods, but do not receive special remuneration for their work on the electoral boards except for daily allowances. They continue to receive their usual salaries from their original places of work.

The polling station committees are responsible for the conduct of the voting and vote counting. The members of these committees are not professionals either. They are chosen by lot in the municipalities from among all registered electors over 18 years of age and under 65 years of age who are literate. The chairperson of each committee (*mesa*) is required to have completed secondary school. By law, this election work is a civic duty, with little financial compensation. Failure to perform this duty can result in administrative and criminal sanctions. This system has worked so far with few problems, which reflects the healthy level of public civic engagement in Spain.

Relations with Political Parties, the Media and Other Institutions

The electoral boards' objectivity and impartiality of action have led to good relationships with both the government and the opposition parties. The professionalism shown by the members of the electoral boards throughout the years has made them respected instruments of the electoral

machinery rather than a source of partisan disputes. To facilitate relations with the political parties, at the outset of the election period each party nominates a general representative to the JEC and a representative to each of the lower-level electoral boards, who serve as the only interlocutors between the party and the EMB.

Relations with the public administration, especially with the Ministry of the Interior and the Ministry of Justice, as well as with the autonomous and local administrations, are effective and flexible, as are relations with the Electoral Census Office. Such relations enable the JEC to maintain a solid institutional memory of elections in the country.

While a major part of the role of the electoral boards lies in arbitration and quasi-judicial functions, they also have a coordination role for the allocation of free broadcasting time in the public media and the supervision of the media's coverage of the electoral campaign. Beyond this, the relationship of the electoral boards with the media is limited to providing information on issues of general interest, such as the nomination of candidates or the official proclamation of the results. They maintain a distance from election campaign coverage, which improves the public perception of them as independent functional and administrative bodies.

Electoral Reform Management

In the 20 years that the Organic Law on the General Electoral Regime has been in force, the performance of the electoral boards has been generally accepted as very satisfactory. While there is permanent discussion of the possible reform of the organic law on issues such as the party list system (Spain uses the List PR system), the proportionality of the systems for allocating seats, or the financing of elections, at no time has the work of the EMBs been called into question by those involved in the elections. The Mixed Model of electoral management established in 1977, combined with the quasi-judicial composition of the electoral boards and complemented by a state administration which is accepted as effective and impartial, seems likely to endure.