

# **Parliamentary Reform in the Spanish Cortes**

**By**

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## **ABSTRACT:**

In this paper one analyzes modifications of the parliamentary rules in the Spanish Congreso de los Diputados between 1982 and 2015 from the viewpoint of institutional change. There were a few changes of the standing orders, and some new regulations of the Speaker and new agreements of the Bureaus of the Chambers, however the Standing Orders of 1982 have produced a strong equilibrium that has been consolidated with time. There has been a gradual reform of regulations that produced a change towards more efficient institutions, though minorities and opposition parties always demanded more opportunities of overseeing the executive. More transparency and new technologies have been at the core of the he changes.

## 1.- Introduction

When one pays attention to former analysis of parliamentary reforms one finds that at the end of the XX century it was relevant to consider patterns of institutionalization, in particular institutional organization of parliaments (Copeland and Patterson: 1997:152) Then the main question was how parliaments accomplish their mission, a mission that has changed with time and, as a consequence, the institutions must be adapted. Reform is just adaptation that results from functional change within parliament but also, and mainly, when the change goes to the core functions of the parliament, modifying the role of parliament in its political system.

In this way two different perspectives have been adopted to considered parliamentary reform, both closely linked. First the functional perspective, second the organizational one. From the functional perspective there are three aspects to take into consideration (Norton, 1985:200). One is the representative function of the parliament, another is the legislative function and finally the oversight activity. The first implies an external reform of parliament, the other two imply internal reforms. The representative side is related to the electoral system. It affects the composition of the parliament but also its behavior. In a very general perspective it affects the system of government. Thus, in a parliamentary system of government the parliament is the link between the electorate and the Government. According the agency theory we find a basic chain of delegation in here (electorate-executive) mediated by the parliament. In a precise perspective the representative aspect is related to the “adversary politics” produced by parties.

In the case of Spain there is a traditional debate about the nature and effects of the electoral system. It is proportional based on d'Hondt method. It also has small electoral districts. It produces a moderate multiparty system with a big tendency towards a two party system (Holliday 2002:250). Usually two parties, the socialist PSOE and the conservative PP, alternate in government, sometimes with a majority ( parliaments of 1982-86, 1986-89, 2000-4, 2011-5), some others with minority governments (parliaments of 1979-82,1989-93, 1993-96, 1996-2000. 2004-8 and 2008-2011) . Minority governments always obtained support of small nationalist parties in parliament. Small parties from the left, in particular United Left, are constantly claiming for a change of the system since they are always underrepresented. Another debate closely related to the general crisis of traditional parties is about opening the party lists in elections. But there is no agreement about this (Guillén López: 2011, Guerrero, 2004: 57). A radical proposal is to force by law a system of primaries to select party leaders (Diez, 2015).

Among internal reforms produced within the parliament one is related to the legislative process. Due to the fact that a majority supporting the Cabinet is usually in control of parliament in a parliamentary government, initiation and formulation of policies is in the hands of the executive, then parliament is never going to change its reactive nature (in terms of Mezey). The other function that implies an internal reform is scrutiny of the executive. In fact this function is a central one when we consider the democratic delegation process because the opposite side of delegation is responsibility and accountability.

In the present situation of parliamentary government the parliament is a body that the executive has to submit its proposals to, listen to, be influenced by, and, in certain circumstances, accept the judgement of (Norton, 1985:201). No more or less than that. The mission and role of parliaments in Europe, and in Spain particularly, is well defined in those terms. Parliamentary activity is then structured by three possible forms of party government: majority, minority and coalitions. Only in the two last cases the parliament plays a very relevant role as a transactional *locus* (Shugart, 2008:354).

Closely connected to this analysis is the organizational one that takes the viewpoint of the structure of parliament. In this field there are some very relevant topics. One is related to the number of chambers. In the Spanish case there is a bicameral system due to a federalized political structure. Federalism is the main representative nature of the Spanish Senate but it also plays a function as a conservative chamber, as a chamber for a second lecture of bills, with very limited functions. In fact the only thing the Senate can do in legislative process is to delay the approval of bills. To make transactions between the national executive and the regional governments the Senate doesn't play any role because there are sectorial committees that do the job. As a consequence different politicians, academics, and even the Council of the State have propose to reform the Senate giving it a more federal nature in decision making (Ferri Durá, 2009; Santaolalla López, 2007)

The second main aspect of parliamentary organization is committee structure. Today it is a convention that a strong committee system is a necessary, though not sufficient, condition for the legislatures to operate effectively (Martin et al, 2014:17). In the Spanish case there is a well-structured committee system, in which committees are set up according to executive departments and have both legislative and overseeing competences. By delegation of the plenary, committees can pass laws. Parliamentary parties are another substructure of today parliaments. The degree of institutionalization of parties in parliament is important. It is very interesting to see how leadership is organized and how party power is exercised in relation to MPs, especially how mechanisms to discipline the party work because it is determinant of the legislative outputs (Kam, 2014, 400). In Spain party discipline is very well developed and parties are strongly centralized (Sánchez de Dios, 1999).

From the organizational point of view it is also interesting to consider the status of individual MPs since they are the real representatives of people. Adverse selection is one of the risks of the representative process in democracy because interest groups have incentives to corrupt MPs in order to obtain advantages in legislative decision making. The analysis of politicians at the legislative level is relevant in our times when there is a big problem of representativeness and legitimacy that protest movements make clear. In Spain protest movements have been very relevant from 2011 to 2015, in particular the movement called 15-M. The economic crisis of 2008 and the high unemployment among the youth gave those protest movements impulse. In fact they are extraparliamentary actors but very influential; they have modified the way traditional parties organize and behave (Pastor, 2012). As an example primaries to select leaders have been established in the old parties. Another effect of social protest is the emergence of new parties with very good results in the European, local and regional elections of the last two years. Another effect is an increase of the fight against corruption since some very relevant cases emerged to the public opinion. The increase of corruption is a general perception of Spanish

population measured by different barometers (Eurobarometer, CIS) and is affecting legitimacy of institutions (Villoria and Jimenez: 2012:427). The corruption perceptions index of Transparency International of Spain had gone down in the last years. That is why corruption has been strongly prosecuted by judges and legislative changes have been adopted to give transparency to public institutions including the public administration, the monarchy and, of course, the parliament, as we will see below.

Another feature of legislative organization is the way that formal rules arrange parliamentary activity. They govern the conduct of parliamentary business. Parliamentary rules structure and constrain the behavior of legislative actors and structure also the core functions of the parliament. They are our main focus of attention in this paper. We find formal rules in the Constitution, the Standing orders of the House and also in resolutions of the Speaker and agreements of the Bureau or Council of directors of a chamber.

In this paper we are going to analyze parliamentary reform in Spain by studying rule change in the Congreso de los Diputados. Since formal rules govern the organization and activity of parliaments, they are the basic elements of parliamentary reform. Parliaments are institutionalized by formality. And rules are institutional structures that provide formality. It can be said that legislative institutions have a high degree of formality, in which procedures and rules are well developed and codified. Central processes of a parliament are governed by public, well-known rules and precedents. As Patterson and Coppeland (1997:5) wrote “the formality of legislature is indicated by virtue of elaborated and written rules of procedure”.

## **2.- Institutional changes and rules of procedure**

Since rules are basic institutional structures that organize the games of parliamentary activity, one is going to pay attention first to theory of institutional reform and secondly to the nature of parliamentary rules.

### *a) Institutional change*

Parliamentary reform can be considered as institutional change. For that reason it is necessary to explain in the first place the process of change. From the view point of comparative politics there are two main approaches in the analysis of institutional change. One is the rational choice the other is the historic-institutional approach. According to rational choice institutionalism change is considered a constant feature of institutions (March and Olsen, 2008: 11). Arrangements among actors determine how institutions emerge and how they are reproduced and changed. Institutions change over time in response to historical experience, they adapt to their environments, and changes are not always directed to historical efficiency. It means that change not always direct institutions to a uniquely optimum solution to the problems of surviving and thriving. The sources of institutional change are various, however political debate and competition are the main

sources of change in democratic systems. For example institutions seem sometimes to encourage and sometimes to obstruct reflection, criticism and opposition.

Rational choice explanations of stability and change rely on equilibrium analysis. Institutions are simply equilibrium ways of doing things (Shepsle, 2008:26). More precisely institutions are considered as the equilibrium outcomes of agent preferences and interactions. Once reached, nobody is interested and has any incentive to upset the equilibrium. As a consequence institutional change can only happen when there is some exogenous shock to the system that changes actors' preferences. The result of the shock is a new equilibrium based on the new preferences. Due to that fact, change is a move from the first equilibrium to another; in the new equilibrium the system will be at rest. This is the point of view of the "comparative statics" (Eriksson, 2011:206).

In rational choice predictions of the direction of change are problematic. Game theory offers predictions about new points of equilibrium in the process of change and the Nash equilibrium concept offers solutions to it. In general terms Nash equilibrium implies that always exists the best response to the strategies played by the others players (McCarty and Meirowitz, 2007:96), however some games have multiple Nash equilibria and theories based on game analysis do not give clear predictions. In addition Nash equilibrium presupposes that players know what their opponent's pay-offs are, but in real life it is at best just a good approximation. (Eriksson, 2011:211).

The comparative statics theory of equilibrium presents a main problem of not explaining the process through which adjustment takes place. It is important to know the system out of equilibrium and the process of the system adjusting to the shock, adapting to temporal aspects of the change. This theory also underestimates both intra and interinstitutional dynamics and sources of change (March and Olsen, 2008:12)

The historic-institutional approach considers institutions as human creation. In fact, they are considered as "humanly deigned constraints" that develop over time (Sanders: 2008:39). Consequently historical institutionalism is interested in the timing of events. This perspective is adopted by path dependence theory in which history counts and by which we must consider institutions in a historical perspective, since they are legacies of concrete historical struggles. The institutional change should be explained in historical terms, taking into consideration the timing of events. But institutions are subject to self-reinforcing according to path dependence (Pierson 2000). There is a positive feedback process that gives persistence of any particular institutional pattern or outcome, often over long periods of time. Institutions imply a power distribution effect and they persist because of increasing returns to power (Mahoney and Thelen 2010:7). For example being on scene can allow a player to get an advantage, and that advantage can then be consolidated. Change is explained by the existence of "critical junctures", which are understood as periods of contingency during which the usual constraints on action are lifted or eased. Critical junctures open up opportunities for historic agents to alter the trajectory of development.

Historical -institutionalism (HI) explains change as a "punctuated equilibrium", that is to say a discontinuous model of change in which enduring historical pathways are periodically punctuated by moments of agency and choice (Mahoney and Thelen, 2010:7) In other words, there are events during which the forces that normally make institutions

develop along certain paths disappear and new paths can form. There are exogenous social forces or internal group dynamics that make change or collapse institutions. According to HI institutional change is a regular breakdown of a set of institutions that is replaced with another. These critical moments can also be considered as “branching points” in which specific factors will reinforce the path established at this point (Pierson, 2000:263)

In a different perspective HI institutions are analyzed as mainly distributional instruments of power (Mahoney and Thelen, 2010:8). Any given set of rules (institutions) that pattern actions are specifically intended to distribute power resources to particular kind of actors and not to others. It is especially true for those institutions that mobilize highly valued resources, such as political ones. Institutions represent compromises based on specific coalitional dynamics and they are always vulnerable to shifts. This distributional approach suggests that dynamic tensions and pressures for change are built into institutions. Change depends on maintenance of a coalition support for a system. When there is an institutional change there is always a shift in the balance of power. As a result of all that it is conceivable or imaginable a gradual institutional change based on small modifications that produce redistribution of power.

#### *b) Rules of procedure*

As said above one way to analyze parliamentary reform is by considering procedures and rules that have the goal of governing the parliament activity. Parliaments need rules to organize action. In other words, without rules action becomes impossible. Formal rules are typically contained in the constitution and the standing orders or rules of procedure of parliaments. But they are not the only sources of parliamentary rules. For example it is very common at present to have an amount of interpretations of general rules by parliamentary authorities. In addition in the absence of formal rules there are parliamentary conventions. Those rules structure the parliamentary process and constrain the behavior of actors, though they also give opportunities.

What formal rules do is to guarantee that parliament works fulfilling the basic tasks assigned to it in the constitution: electing and holding to account holders of public office, making decisions on public policy by enacting legislation, overseeing and checking the executive and making public the most important political choices and their alternatives. Consequently the main areas of parliamentary rules are the ones governing executive-legislative relations, rules on agenda setting and voting, rules governing political control, and rules to create publicity of parliament. Rules should fulfill the following criteria: should be recognized as legitimate, should be simple and unambiguous, should apply to all identical decision matters avoiding exceptions, should simplify decision making, and finally should cover all relevant matters (Muller and Sieberer, 2014:314).

One perspective to understand the change of parliamentary rules is by considering the existence of a link between stability and predominance of majority values. Instability is caused by inadequacy of parliamentary rules to the values of the majority (Muller and Sieberer, 2014:312). However another perspective is considering rules as mechanisms of

power distribution. In that perspective one can capture the nature of institutional change by focusing on negotiation of rules by actors. Rules create opportunities for actors to pursue their goals, in particular when they work within a complex set of rules as the Standing Orders of a parliament. Rules are a dynamic feature of institutions, they are not just a guide for institutional practice because they can be manipulated like a strategic action. That is why rules at the same time that constrain action empower actors.

Rules generate inequalities, they favor to those who possess authority over rules and have particular skills in using rules advantageously. In the words of Shingate (2010: 200) whereas some actors operate from structural positions of authority that confer power over the creation and interpretation of rules, other may lack such power, seeking instead to challenge the rules or subvert them. In parliament majorities have confidence in establishing formal rules that give institutional authority and minorities could try to subvert the rules in practice. Minorities can pursue novel interpretations of rules that help them to control institutions. Due to ambiguity of meaning, actors can change the enactment of existing rules (“conversion” in terms of Mahoney and Thelen, 2010), other times, by introducing new rules and overlapping the existing ones, actors create conflict and contradiction among the rules. Complexity of rules multiplies opportunities to combine rules in myriad ways, exploit their conflicts and contradictions or convert rules into new purposes.

In a very general perspective Tsebelis (1990:104) explains that rule change (considered as institutional change) have two main effects. One is efficient change (or producing efficient institutions) that benefit all actors who live and work under these rules. It improves the conditions for every one and receive the support of all agents. Another is redistributive effect (the change produces redistributive institutions) that improves the conditions of one group at the expense of another. The change serves the interest of current majority at the expense of the others. Redistributive change would be supported by only a part of the agents. Adapting to technological change or other external developments (EU integration) to the benefit of the parliament as a collective body exemplifies the former, while restricting the access to parliament resources for minorities illustrates the other (for example in plenary settings) (Muller and Seieberer: 2014:326).

### **3.- Changes in the Standing Orders of the Congreso de los Diputados.**

The main focus of interest in this analysis is the rules of procedure of the Congreso de los Diputados that is the lower chamber of the Spanish parliament (Cortes Generales). First we are going to pay attention to the main characteristics of the Standing Orders that structure and organize parliamentary activity. Secondly we are going to consider three sources of rule change: one is rule renovation by reform of the standing orders, another is the group of resolutions of the Speaker interpreting and adapting the standing orders and finally agreements of the Bureau of the Houses that have the same goal.

*a) General characteristics of the Standing Orders of the Spanish Congress*

The Standing Orders of the Congress were adopted in 1982 at the end of the first parliament (1979-1982). Formally they have the consideration of a law, and as a consequence they are under review by the Constitutional Court. In fact the Spanish Constitution regulates in depth the Cortes, establishing the organization and the main rules of its activity in legislation and oversight of the executive. Thus Standing Orders develop the Constitution. Reform of the Standing Orders requires an overall majority of Members of Congress, what means that it is necessary a minimum consensus among parties, in particular with minority governments.

One characteristic of the Standing Orders is that they are based on parliamentary rationalization that was developed in Europe after the Second World War. It produced a reinforcement of the executive with the aim of giving stability to it. As a matter of fact all mechanisms and procedures work in the Congress as potent stabilizers of the executive, and they are very useful in case of minority governments (Paniagua: 2010:11)

In legislative activity there are three relevant features defined by the standing orders. The first is a legislative preeminence of the Cabinet. Legislation is mainly based on executive proposals (proyectos de ley) though there is the possibility of private member's bill (or parties proposals) and popular initiative. Bills of the executive have priority in the legislative debate.

A second feature is a full legislative capacity of committees. It means that all legislation is analyzed and evaluated firstly by committees and, by delegation of the House, bills can be approved in committee. Legislative committees are also in charge of overseeing the executive and can put questions to the government, have hearings, etc. One consequence of that is a high specialization of committees, though there is a high rate of rotation of MPs (Oñate, 2000a:92).

In committees there are reporting subcommittees called "ponencias" where is taken place the process of transaction among parties. They are composed of several MPs that represent all party groups. On the basis of the text and of amendments proposed to its sections, subcommittees make a report for the full committee. The floor of the chamber has a relevant role ending the legislative process, specially of the most important laws such as organic laws, related to the development of fundamental rights and public liberties, the establishment of Statutes of Autonomy and the general electoral system, regulation of the Constitutional Court and the General Council of the Judiciary. These laws require an overall majority. The floor is also a locus for the control of the executive. In the House there are debates about the investiture, confidence votes, interpellations and the question time. It is a place to conclude the main procedures of the parliament (Guerrero, 2004:139)

In the legislative and oversight procedures standing orders establish a very rigid system of MPs interventions on behalf of parties; they regulate the number of MPs interventions and timing. They have established a privilege of the Cabinet: he can intervene in debates as many times as he considers necessary. The Speaker has flexibility to open the debates whenever he thinks it is useful.



A third important feature of the Spanish legislative activity is the strong position of the parliamentary parties defined by standing orders of Congress. Though the Constitution establishes the principle of “representative mandate”, that means that MPs represent the whole nation and cannot be conditioned by any kind of organization, in fact the parliament works under the rule of parties. All parliamentary functions are in the hands of party groups, and as a consequence they have the parliamentary power (Paniagua, 2010:31, Oñate: 2000b:103). The Constitution gives parties a political nature and the standing orders organize parliamentary activity by means of parties. Spain has a parliament of parties and, according to Guerrero (2004:111), of strong parties. All MPs should be part of a parliamentary group and, in the Congress, a party must have at least 15 MPs or 5 MPs in case he has obtained 15% of vote in its electoral districts or 5% at national level.

More precisely the strong position of parties is due to the fact that legislative activity is controlled by parties. For example legislative proposal or amendments must be canalized through the party and must have the support of the party Spokesperson. The same happens with parliamentary questions and interpellations. Every group has a strict number of questions every session. It is also relevant the strong position that Standing Orders give to Spokesmen of parties in the floor and in every committee. At the top of the chamber structure is the Board, composed by the party spokesmen. It is a place where agreements are taken at the top level. The decisions of the Board should always be adopted by applying the principle of weighted vote (*voto ponderado*). This principle is also used in committee votes. Each representative is considered to have a number of votes represented by his group in the full House. Finally at the top of every party there is a general secretary that controls discipline of the whole group.

In addition to all this, the strong position of the executive in the Chamber is due to other different facts. First the majority decides who the Speaker is. The majority also has some of the positions in the Board of the House. Second the Cabinet participates in the meetings of the Board of Spokesmen where the legislative agenda is setting. Third the executive can take out any legislative proposal at any moment in the procedure. By this way the executive can avoid that a bill is substantially modified. Finally the executive can claim the use of an urgent procedure, reducing the time for debate and amend of a bill. In addition the executive can legislate throughout legislative decrees that have the same value as parliamentary laws, though they should be ratified 30 days after they are adopted.

#### *b) The reform of the Standing Orders*

From 1982 to 2015, when the 10<sup>th</sup> parliament (2011-2015) ended, Standing Orders of the Cortes have had eleven reforms. In addition there were two Private Member's bills proposing a general reform but they were never approved. More precisely there was a Standing Orders proposal as a text in sections made by the Rules Committee in 1989 in the third parliament (1986-1989) and another in 1993 in the fourth parliament (1989-1993). Reform of the Standing Orders had other trials in the sixth (1996-2000), eighth (2004-2008) and tenth (2011-2015) parliaments with a reporting sub-committees (*ponencia*) in the Committee on Rules, but there was not final agreement on a bill. The main problem for a general reform is that Standing Orders are considered as part of the

“constitutional bloc” since they are a direct development of the Constitution (Santaolalla 1984:27). As a consequence a reform needs an agreement of at least of the main parties since standing orders are considered fundamental elements of the political regime. The Standing Orders of 1982 were approved by the whole chamber, so it is expected to have the same majority in case of modification.

When we pay attention to reforms of the Standing Orders we find four fields of parliamentary life in which there have been changes. One is in relation to the status of MPs with different regulations across time. In 1993 it was ruled that MPs once elected shall register a “declaration of assets” in compliance with the terms of the General Electoral System Act. It was the first step towards having more transparency on MPs activity and towards defining an incompatibility regime for MPs in order to fight corruption. Later on in 2009 it was regulated publication of reports produced by the Committee of Member’s Status concerning parliamentary disqualifications. This regulation complemented the joint agreements adopted by both Bureaus of the chambers that are explained below.

In 2013 a general Law on transparency of the public sector was approved and the Cortes had to adapt to it by modifying the Standing Orders and by specifying the administrative information that can be publicized in the media. It has been regulated that not only information about the budget, the contracts with firms and the patrimony of the Cortes should be known be public, but also the administrative organization of the Houses and the salaries of MPs. As a result a web on transparency has been set up by which citizens can ask for information. Later on, in 2015, an agreement of the Board of the Congress has developed in depth the Law on transparency of 2013. It is expressly established that the public has the right to know public information in the hands of the Congress and all its activities based on administrative law.

In fact the change has produced a development of the former information technology of the chamber. In 1996 a web of Congress was created that gives information about the activity of the chamber and has been periodically improved. In 2012 new regulations by the Board of the House established how to organize information of the web in relation to the Official Bulletin. It now contains two parts: one is the Official Parliamentary Bulletin, Congress and Senate Sections, and the other is the Journal of Debates (*Diario de Sesiones*) of Plenary Sitings and of committees of both Congress and Senate and of the Permanent Deputation. It also includes an electronic certification. Since 2015 the web on transparency is added to the web of the Congress and gives information about its structure and activity and also about the parliamentary administrative structure. It also informs about economy and the budget of the Congress and about contracts of economic nature. It also includes its properties and the grants the Congress gives.

A second field of regulation is nomination of persons for positions in relevant institutions of the State. In 2001 the way in which six members of the General Council of the Judiciary were selected by the Congress was modified. The GCJ is in charge of governing the judiciary and it consists of the President and 20 members selected by the parliament. According to the Constitution each chamber nominates ten members, amongst whom shall be twelve judges and magistrates of all judicial categories. The change was to give the judges and magistrates the capacity to propose 36 candidates, usually by means of

associations; among them the each MP choses six. In the former regulation parties propose the candidates.

The third field is related to voting in the House. In 1993 it was established that the principle of weighted vote applied in the Board of spokesmen is extended to all committees. Another reform in this field was regulated in 2011. It was admitted for the first time that MPs expressly authorized by the Bureau can participate in a vote when they are absent and they will be counted as present. This change regulated the telematic vote in case of pregnancy, maternity, paternity or illness. This reform was adopted by assent to the Speaker's proposal. The proposal was formulated by a socialist mother who has to cast her vote just after having her first baby. At that time it was also the case of a vicepresident mother that has a baby. In 2012 an Agreement of the Board of the House specified the procedure of telematics vote.

The four field in which there have been changes is on regulations of committees. In Spain the standing orders regulate in detail standing committees, which are usually linked to the structure of the executive. So whenever there is a modification of the Cabinet it is necessary a new regulation of these committees. From 1982 to 2015 there were six changes of this kind. There was one in every of the last six legislatures. Form 1982 to 1989 there were 11 standing committees, from 1989 to 2004 there 14, 16 in 2004-2008, 19 in 2008-2011 and 17 in 2011-2015. Reforms usually divide or integrate committees. For example housing had an independent committee in the period of 2008-2011. In the last legislatures a committee on equality has been set up because of the social effects of the economic crisis. It was also created a separated committee on international cooperation that shows the relevance of this policy in the last years. The reform of committees' structure is usually adopted by an agreement of all parties. In the debate opposition parties usually indicate their preferences related to the structure of the government and the policies they think should be improved; opposition parties also talk about the creation of *ad hoc* committees (non legislative).

Another topic constantly under consideration of change is the rules on committees of inquiry. Minority parties want to reduce the control of majority over them, but their proposals are always rejected. In 1994 there was ruled that hearings in the committees of inquiry should be open and public. They only should be secret when it is so decided by the overall majority of their members, on the initiative of the Chair, the Government, two parliamentary groups or one-fifth of their members. They will not be public when the subject matter has been classified as reserved or secret in compliance with the current Law of Official Secrets and when the subject matter is related to legal proceedings under way that have been declared secret.

### *c. - Rules of the Speaker*

According to the Standing Orders it is the responsibility of the Speaker to interpret Standing Orders in case of doubt and make good any omission therein. When in the performance of this duty he or she proposes to issue a general ruling, a favorable opinion shall be required of the Bureau and of the Board of Spokesmen (section 32.2). In addition

to legislative reforms from 1982 to 2015 there were 44 resolutions from the Speaker, 20 of them are effective and currently ruling.

Among the rules of the Speaker some of them are repetitive measures that must be taken every new parliament. One is the composition of reporting sub-committees that should be adapted to the strength of each parliamentary group. For example in the tenth legislature (2011-2015) those sub-committees were composed by ten members, three from the majority, two from the main opposition party and one by each small opposition party.

In four parliaments the Speaker has modified the rules referred to the number of oral questions that each group can put at question time. The rule is that at least one MP of each parliamentary group participates in question time. In the tenth parliament every main party can put ten questions and every small party one; in total 25 questions have been answered by the Cabinet every sitting of control. The procedure of question time was first ruled in 1983 with a majority government of the socialist party. At that moment began by practice the participation of the Prime Minister in question time. This participation is ruled by the general regulation of oral questions in plenary sittings.

The general regulation of question time in 1983 was not good enough since the debate couldn't be flexible and was not possible to take into consideration the most urgent problems. So in 1996 a new regulation was adopted with a minority government of the conservative party (Popular Party). Since then it is possible to include one day in advance of the sitting some new questions, so that it is possible to debate about issues that have just emerged in the public debate or in the media. It is also possible to include in the first setting of the week a question about the decisions taken by the Cabinet in its meetings of last Friday. This procedure based on changing the question put in the first moment was simplified in new rules approved in 2008.

Another topic that has been regulated by the Speaker in several occasions has been the access to classified information, also regulated by Law of Official Secrets. In 2004 a new rule modified the former regulation of 1992 which on its turn modified one of 1986. Secret information is classified in two categories: secret and reserved, with different degrees of protection. As a consequence there are special rules to have access to it by MPs and committees. In every occasion the regulation has become more precise in specifying the MPs who can access to classified information. In 1986 the floor had to choose three MPs to have information contained in secret documents; in 1992 it was ruled that those three MPs should be from different parties; finally, since 2004 the rule is to release the secret information to representatives of all party groups, but the MPs should be chosen by the majority.

In 1983 and 1986 hearings in committee were regulated by the Speaker's resolutions. The new regulation is that the board of each committee has a delegated capacity to require any person or authority to give evidence. At the same time it was established that MPs can put questions after interventions of Cabinet members and it was regulated the timing of interventions. Also in 1983 there was a development of the Standing Orders by a Speaker's resolution establishing the procedure of urgent interpellation. With time it became the normal procedure to control the executive. Since then interpellations can be submitted just one week in advance.

In relation to the oversight activity in 1983 the Speaker regulated the organization and operation of the committee related to matters falling within the responsibility of the Spanish Radio and Television Authority (RTVE) and it was established the procedure of oral questions in the committee. Those questions have to be answered directly by the Director-General or by the Board of Directors, subject to the same rules for questions to the Cabinet. Since 1983 one week of every month must be devoted to a setting of questions in the committee. That regulation was changed in 2007 when it was established a mixed standing Congress-Senate on RTVE. At that moment new rules were set up for oral questions. There would be 26 questions every sitting that should take place once month. Questions must be answered by the chair of the RTVE Council. It was also ruled appearances of the chair before the committee when required by parliamentary parties or at his own request.

Another relevant procedure in political terms established by a Speaker's resolution in 1989 is related to the way of taking the oath or pledge to observe the Constitution of MPs. They have to do it at the first plenary sitting of Congress the MPs attend. It was ruled that MPs must only answer: "yes, I swear" or "yes, I promise". This rule was due to the fact that some radical MPs had rejected the Constitution and did not want to oath to observe it, and when they did it in order to acquire full status of member, they were saying: "By constitutional obligation I promise to observe the Constitution".

In 2014 there was a relevant resolution from the Speaker related to the control and publicity of MPs' travels. It is now regulated that parties should have knowledge about every trip of an MP out of his electoral district and that private trips cannot be funded by the budget of the House. In addition, the parliament will give information every three months of budgetary expenses on MPs' travels, and parliamentary groups will produce a report explaining MPs' travels. This new rule is closely linked to information released by the media in relation to private trips of MPs paid with credit cards funded by the budget of the Congress in the last years. It is connected to the new rules on transparency adopted in the last years.

Finally some other rules issued by the Speaker were in relation to procedure of debates about the annual report of the Ombudsman (Defensor del Pueblo) or about organic laws related to Regions Statutes of Devolution. In 2000 the Speaker regulated the procedures to designate members of the Constitutional Court and members of the General Council of Judiciary.

#### *d) Agreements of the Houses's Bureaus*

In addition to legislative reforms and resolutions from the Speaker in the period considered, and with the goal of interpreting and completing the rules of the Standing Orders, there were 21 resolutions from the Board of the Congress and 49 joint agreements of Bureaus of the Congress and the Senate. From the total only 33 are effectively ruling; the rest has been integrated in the Standing Orders or modified by new ones.

Among the Agreements of the Bureau of the House a relevant procedure was regulated in 1990 about how to handle inquiries related to corrupt practices of MPs (traffic of

influences) in the Committee on Members' Status. It is linked to section 17 of the Standing Orders which establishes that "Members may not avail themselves of or declare their status as such for the conduct of any business, industrial or professional activity". The regulation sets up that sittings of the committee and the plenary should be secret when considering a case of traffic of influences and that the final conclusion of plenary sitting should be published in the Official Bulletin.

Closely related to this topic is a joint agreement of Bureaus of Congress and Senate in 2009 about Declarations of assets that MPs have to make according to the General Electoral System Act of 2009. It was created a "registry of interests" in each chamber where MPs declare their assets by means of a formalized document that exists since 1993. The agreement regulates publicity of the registry of interests of MPs based on their declarations. In the web of each chamber are publicized the activities of MPs declared compatible with their status and the renounces declared, but not their properties. This rule completes the modification of the Standing Orders of 2009 that we analyzed above. This rule has been reformed again by a new joint agreement of both Bureaus in 2011 due to a reform of the electoral law. Now the MPs' declarations are not only publicized in the web but also in the Official Bulletin. The aim of the new regulation is to avoid manipulation of data when published on the web.

Another joint agreement of both Bureaus of 2010 is related to an increase of the amount of money paid to promoters in case of popular initiative of bills. It is given in the case an initiative obtains support of 500.000 signatures. It was regulated again in 2014 increasing the amount of money to 341.010 euros.

Another joint agreement of both Bureaus was issued in 2010 establishing the organization of the Budgetary Office of the Cortes and the way it operates. It is a new structure set up by law in 2010 with the objective of supervising the implementation of the budgets of both chambers. It is also in charge of economic evaluation and supervision of their expenditures. In its activities it is assisted by the juridical services of the Budget committee. In 2010 another joint agreement of both Bureaus set up the Court of Contracts of the General Cortes according to the new Law of Public Contracts of 2007. The Court has to hear appeals against financial contracts made by both chambers, the Ombudsman and the Central Electoral Tribunal. The Court is composed by one MP and one Senator and the General Controller of the Cortes. His decisions can be reviewed only by administrative courts.

Other rules produced by a joint agreement of both Bureaus have to do with composition and functions of the joint committees such as the ones on the Auditing Court in 1983, on the Ombudsman in 1983, 992 and 2000, and on the European Union established by law in 1994. A new regulation was produced in 2010 to adapt the joint committee on EU to the Treaty of Lisbon of 2009. An agreement was also issued to renovate the General Council of the Judiciary in 2006.

#### **4.- Concluding remarks**

We can see that in the Spanish case that the Standing Orders of 1982 have produced a strong equilibrium that has been consolidated with time. The institutional structure coming from the democratic transition is very solid based on a party system that has facilitated alternation of parties with majority and minority governments. Formal rules of parliament have reinforced the effects produced by the electoral law. Alternation of two main parties has been the condition of adversary politics in the configuration of both external and internal parliamentary institutions. The distributional effects of the standing orders centered in consolidating strong parties are in favor of those two main parties, conservative and socialist, and their agreement has been the base of government stability. This distributional effect always favors the government of the day and the party in control of the majority, in particular in face of oversight procedures. Alternation leads to share the distributional effect between these two parties.

From 1982 to 2015 there has not been any critical junctures that could have produced a big parliamentary change. The standing orders of 1982 can be considered in fact as a branching point in parliamentary terms produced by the democratic transition. There were two trials of producing a critical juncture in 1989 and 1993 under socialist governments, when negotiations leading to change the rules reached a high agreement, but at the end they lacked a majoritarian support that needs a norm of the constitutional bloc. They didn't have a qualified majority because the rejection of reforms by the conservative party. Minority groups constantly demand more resources to control the executive, like more debate in case of interpellations, facilitating more interventions of MPs or facilitating the creation of committees of inquiry proposed by opposition parties. The result of the whole period is that Spain has a very stable parliamentary system.

In the Spanish Congress there has been a gradual reform with very few modification of the standing orders. The change has been mostly based on formal rules and only in a few conventions such as the participation of the Prime Minister in question time. The usual way of rule change has been a first intervention of a Speaker's resolution. It is so relevant because it always has the support of the Bureau and of the Board of Spokesmen. A second step that consolidates the change is a modification of the standing orders, it is only taken if it is necessary. As a result the principal mechanism of change has been an interpretation and a complementation of the standing orders by the main authorities. It means that the goal of the change is reducing ambiguity of rules, in particular some very transcendent aspects of them. A good example is the change of regulation related to the conflict of interests of MPs. The low number of modifications on the Standing Orders shows high stability, legitimacy and, finally, institutionalization of the parliament.

The reforms of parliamentary rules has produced a change towards more efficient institutions. The tendency of the change is not of zero sum but all gain. It has been an efficient change, though minorities and opposition parties always have claimed for more opportunities of overseeing the executive. We can consider all the changes in the way of building redistributive institutions. There was a first moment when it was necessary to develop and complement the standing rules issued in 1982. Just one year after the standing rules were approved it was necessary to regulate question time, urgent interpellations, and

oral questions in committee and in the committee on RTVE. The problem was that standing orders were not complete enough in the field of oversight. They lack a good regulation of it. Even nowadays those rules should be improved by giving more time to debates on control of the executive in the House. It should be underlined that questions in committee are very relevant in the Congress.

Another relevant field in which changes have been adopted gradually and in an efficient way (in terms of change) is transparency. Step by step MPs have been submitted to more control in order to eliminate illegal pressure from interest groups. Fighting adverse selection of MPs has become one of the most important aspects of parliamentary reform since corruption of politicians and parties has been denounced by protest movements in the two last parliaments. It is a fact that Spanish parties are strong and disciplined organizations and have a rigid control of their MPs, especially the ones from the left; however there has been a high level of corruption among politicians do to a fast and uncontrolled urban development of towns and cities. In the last legislature rules on transparency have been very relevant.

Another gradual reform has been the development of new technologies in parliament, with the aim of publicizing his activity and his financial and economic resources. Now it is possible for MPs to vote from home in case of illness but yet it is not possible to put a question. So more development is needed in computing. Finally another relevant gradual change is the creation of the Budgetary Office of the Cortes to have control on its economic activities, though according to experts it should be improved. It is also linked to the process of increasing transparency.

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