Is the Spanish Constitutional Court an instrument of the central government against the Autonomous Communities?

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Abstract: This work applies various probit/logit models to a database constructed by the authors, consisting of rulings by the Spanish Constitutional Court (Tribunal Constitucional, TC) resolving positive conflicts of competence between the Central Government and the Autonomous Communities from 1981 to 2014. Our goal is to contrast empirically whether the decisions of the Court respond strictly to legal criteria (the legalist or formalist viewpoint) or if they are determined by political motivations, so that we can state that the TC constitutes an extension, in the jurisdictional milieu, of the central executive power (the realist viewpoint). According to the results of our estimations, we can state that the approach which appears to predominate in the behaviour of the TC is the legalistic one.

Keywords: decentralisation, competences, conflict, realism, legalism.

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1. Introduction

One of the most conflictive aspects of the design and functioning of the Spanish "State of Autonomies" is the distribution of competences between the Central Government (hereafter CG) and the Autonomous Communities (Spanish political regions, hereafter ACs). On one hand, it is claimed there is a need to finalize the process of attributing competences to the regions; on the other, the CG is criticized for interfering in regional competences. And all sides agree that the assignment of competences arising from the Constitution is confusing and unwieldy (Aja, 2014; García Roca, ed., 2014), which in the end also affects how citizens understand and value the State of Autonomies (López Laborda and Rodrigo, 2015).

These shortcomings have given rise to numerous conflicts between the CG and the ACs.[1] When they could not be resolved politically (or the will to do so was lacking), these conflicts were referred to the Constitutional Court (Tribunal Constitucional, hereafter the TC), the competent body according both to the Constitution and to the Organic Law 2/1979, of 3 October (hereafter the LOTC). This leads to the question underlying this research - whether the rulings of the Court respond strictly to legal criteria (the viewpoint identified in the literature as "legalist" or "formalist") or if they are determined by political motivations (a "realist" viewpoint). In this latter case, as TC members are appointed by central institutions, one would expect this body to be predisposed to rule in favour of those institutions.

This work hopes to provide an empirical answer to this question. To keep it within manageable limits, the research focuses on "conflicts of competence" in the strict sense, and in particular, on the "positive vertical conflicts" governed by Articles 60 - 67 of the LOTC, formalized before the TC when the central (autonomic) government considered that a regulation, resolution or act by an AC (the State) did not respect the order of competences established in the Constitution, the Statutes of Autonomy, and the law.[2] If the controversial competence should be attributed by a law, or a regulation with the force of law, the conflict of competences is processed as established for an action of unconstitutionality.[3]

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[1] On the "regulatoy inflation" of the Autonomous Communities, see Marcos et al. (2010). López-Laborda and Vallés (2010) analyze the determinants of the regulatory activity of the Autonomous Communities between 1989 and 2001 and show the relevance of some variables, such as the existence of nationalist political parties in regional governments.

[2] The "negative conflict of competence" occurs when the CG (the AC) declines jurisdiction to resolve any claim, considering that the competence corresponds to an AC (to the CG or another AC): See Articles 68 – 72 LOTC.

[3] For the definition of conflicts of competence and actions of unconstitutionality, see Muñoz Machado (2007: 377 et seq.).

After this introduction, the second section of the paper briefly reviews the scarce available literature. Next, the third section presents the database created specifically for this research, containing all the positive conflicts of competence between the CG and the ACs resolved from 1981 to 2014. The fourth and fifth sections specify and estimate various probit/logit models based on the database mentioned above, in order to determine whether the decisions of the TC are better explained from a legal or a political perspective. Our conclusion is that we cannot dismiss the legal criteria as the best explanation of the behaviour of the TC, and so we should give a negative answer to the question in the title of this paper: no, the Spanish Constitutional Court does not appear to be an instrument used by Central Government against the Autonomous Communities.

2. Review of the literature

The literature of other countries has examined in depth all the factors (legal, but also personal, economic, ideological, etc.) which influence the behaviour, and thus the rulings, of judges and courts. The work of reference is undoubtedly Epstein, Landes and Posner (2013). In Spain, there have been cultivators of the economic analysis of justice for a long time (e.g., Pastor, 1993; Cabrillo and Fitzpatrick, 2008; Mora-Sanguinetti, 2009), but the specific subject we research here has hardly been treated. The works relating most directly to ours are those by Del Castillo (1987), Sala (2010, 2011) and Garoupa et al. (2013), for Spain, and Dalla Pellegrina and Garoupa (2013), for Italy.

The seminal work of Del Castillo (1987) offers the first evidence of the behaviour of TC judges. The article analyses their particular opinions in relation to the rulings of the Plenary, from the creation of the Court until December 1985. Based on a descriptive approach, the results suggest the existence of two ideological voting patterns (conservative against progressive judges), allowing the author to "presume the existence of a certain regularity in the behavioural model of the two groups of judges, in terms of their opinions" (Del Castillo, 1987: 184-185).

The works of Sala (2010, 2011) study the decisions of the TC in relation to territorial disputes between the CG and the ACs, based on the classification of these disputes offered by the Ministry of Public Administrations (2008). The earlier of these works analyses, for the 1981-2003 period, and in descriptive terms, the success rate of the CG and the ACs in relation to the controversies in which they were involved. According to the main result of the work, in general terms, regions whose legal attitude was more belligerent were attributed a lower success rate.

Sala (2011), again starting with the exploitation of the classification of territorial disputes provided by the Ministry, and for the period 1980-2008, econometrically estimates the factors affecting the probability of the decision favouring the CG or the ACs. Based on the results obtained by Sala (2011), if the CG is the plaintiff, its previous success rate in preceding conflicts and a lower regional sensitivity of judges increase the probability of the CG being favoured by the ruling. The author concludes that the individual preferences of the judges would emerge more strongly when the basis for the ruling cannot rest on firm precedents.

Garoupa et al. (2013), for the period 1980-2006, use econometrics to study the factors determining whether a judge votes in line with the political party that backed their nomination. To do this, they analyse the votes of the judges in a sample of rulings created with the most outstanding cases resolving actions of unconstitutionality. According to the results, the probability of a judge voting in line with the interests of the party which appointed him increases if that party instigated the legal controversy – at the national or regional level – or the case was brought by a nationalist government. However, the authors conclude that party interests cannot fully explain judges' behaviour.

Finally, although it deals with Italy, the research closest to our work is the study by Dalla Peregrina and Garoupa (2013), who estimate econometrically, for the 1998-2009 period, variables relating to the legalist and realist perspectives, which modulate judgements in favour of the CG in conflicts of competence with the Italian regions. The authors find evidence that if the CG brings the suit or the judge presiding is in line ideologically with the party of the prime minister (and there is an ideological majority in the Court in this vein) there is a greater probability of the ruling favouring the CG.

As Bednar (2004) and Sala (2014) show, the identification of determinants which can predict to some degree the result of legal rulings contains clear incentives for modulating the strategic behaviour of agents, especially those of territorial administrations in the case of federal States.

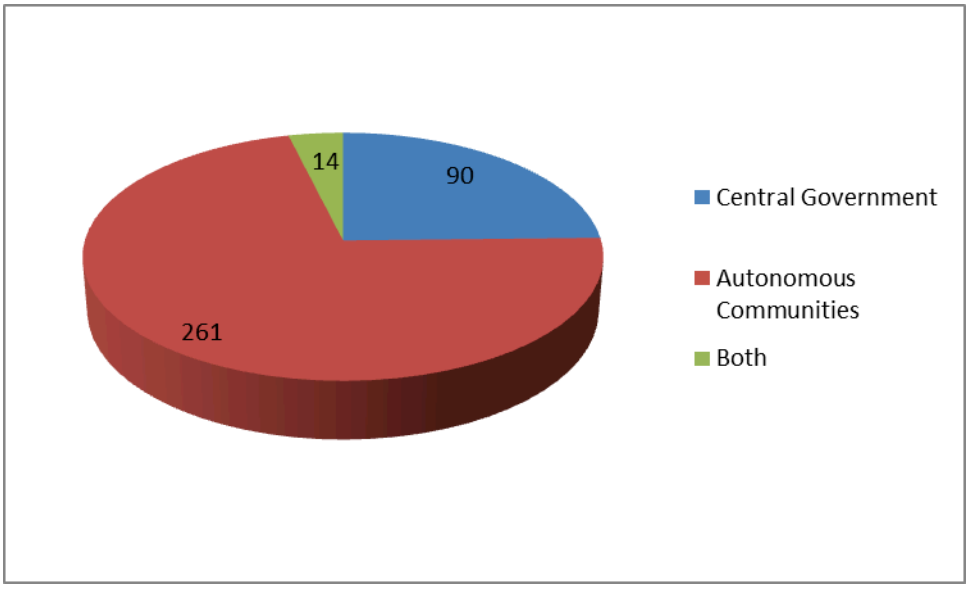
3. Database. Descriptive analysis

The database consists of the 365 rulings on positive conflicts of competence between the CG and the ACs from 1981 to 2014. As Figure 1 shows, the regions present nearly three times as many conflicts as the CG.[4] Figure 2 shows many conflicts were brought by the CG at the start of

[4] Conflicts shown as brought by "both" correspond to appeals brought independently by the State and the Autonomous Communities and accrued by the TC.

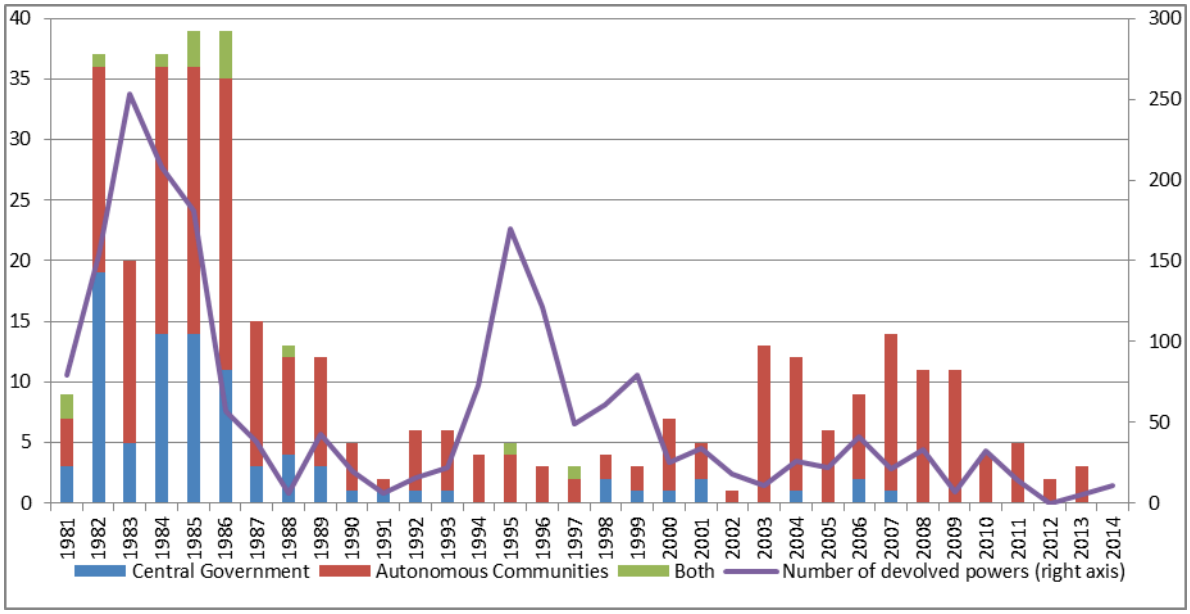
the decentralisation process, but the number decreases until the early 90s. In the 80s, the ACs presented even more conflicts than the CG. They gradually decreased until 2003, when another period of conflict began.

Figure 1. Conflicts brought by each level of government, resolved in the 1981-2014 period. Total



Source: Own elaboration.

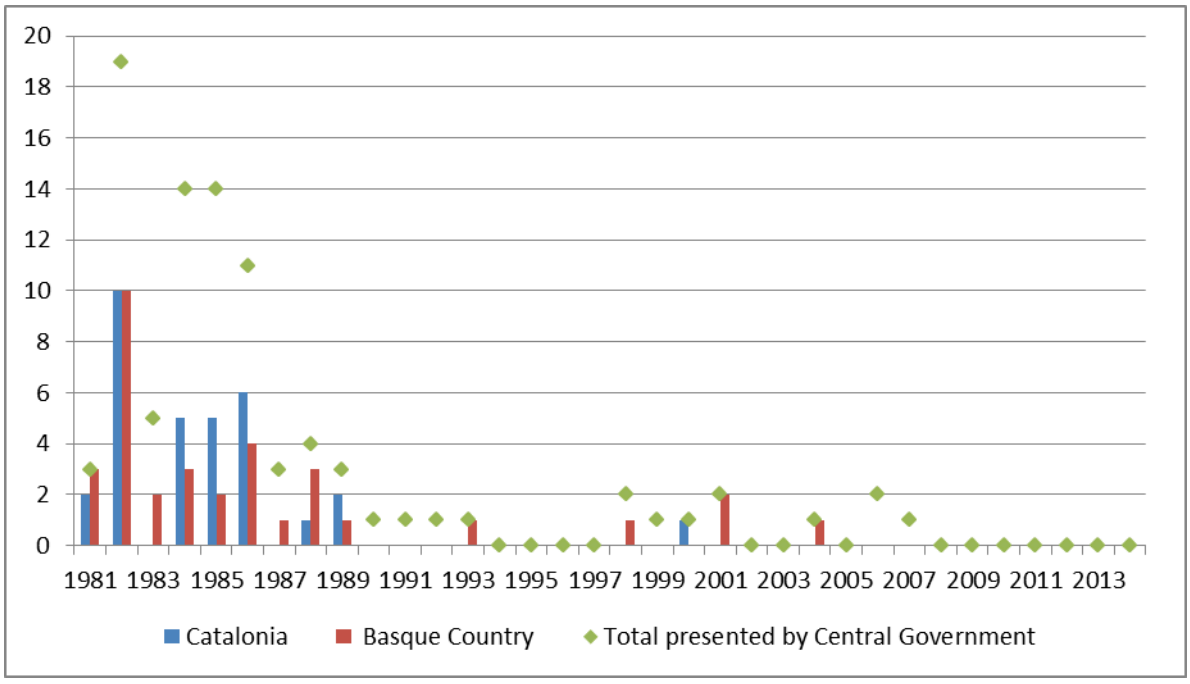
Figure 2. Conflicts brought by each level of government, resolved in the 1981-2014 period



Source: Own elaboration and State Secretariat for Public Administrations (statistics on devolution).

Figure 3 shows that the CG presented conflicts of competence, above all, against Catalonia and the Basque Country. And in Figure 4 we see that, while the Basque Country, like the CG, instigates its conflicts in the 80s,[5] Catalonia does so during the entire period analysed. The conflicts presented by the other Communities evolve in a very similar way as those brought forward by Catalonia. Most positive conflicts of competence against the CG were presented by this region.

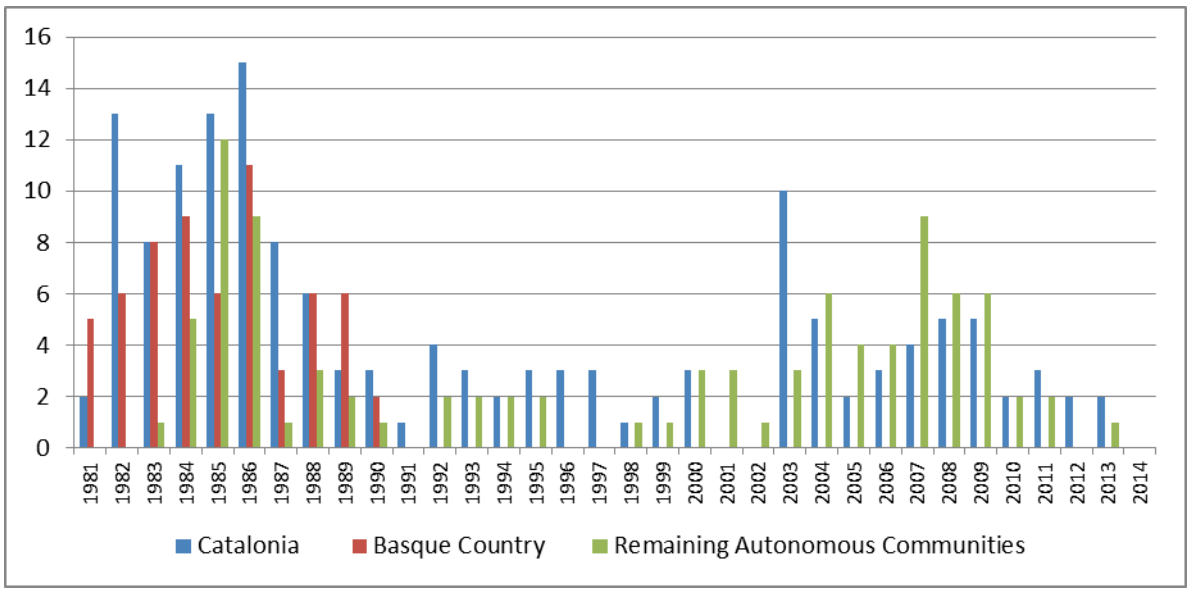
Figure 3. Conflicts brought by the Central Government against Catalonia or the Basque Country, resolved in the 1981-2014 period



Source: Own elaboration.

[5] The Basque government decided not to go to the Constitutional Court from 1990 to 2002. See García Roca (2004: 45).

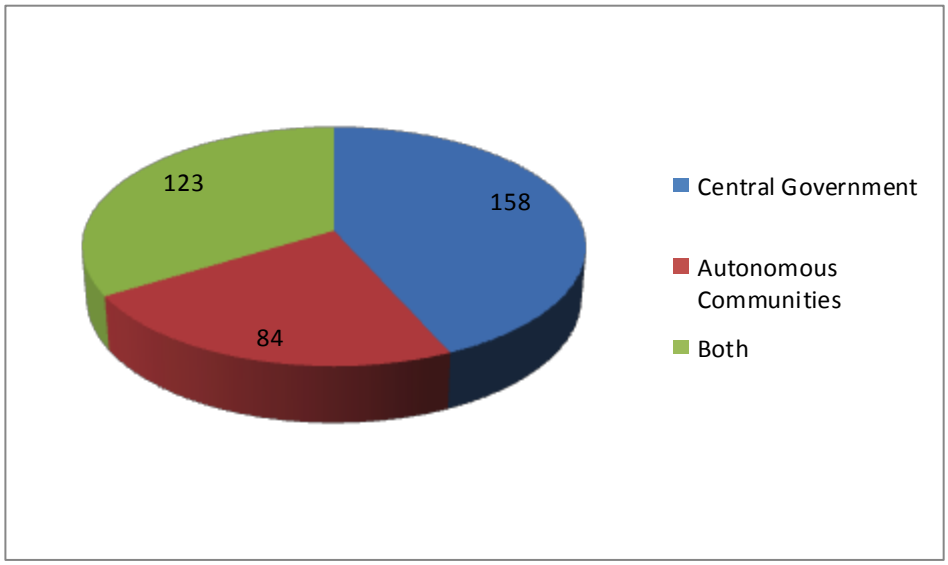
Figure 4. Conflicts brought by Catalonia, the Basque Country and the rest of the regions, resolved in the 1981-2014 period



Source: Own elaboration.

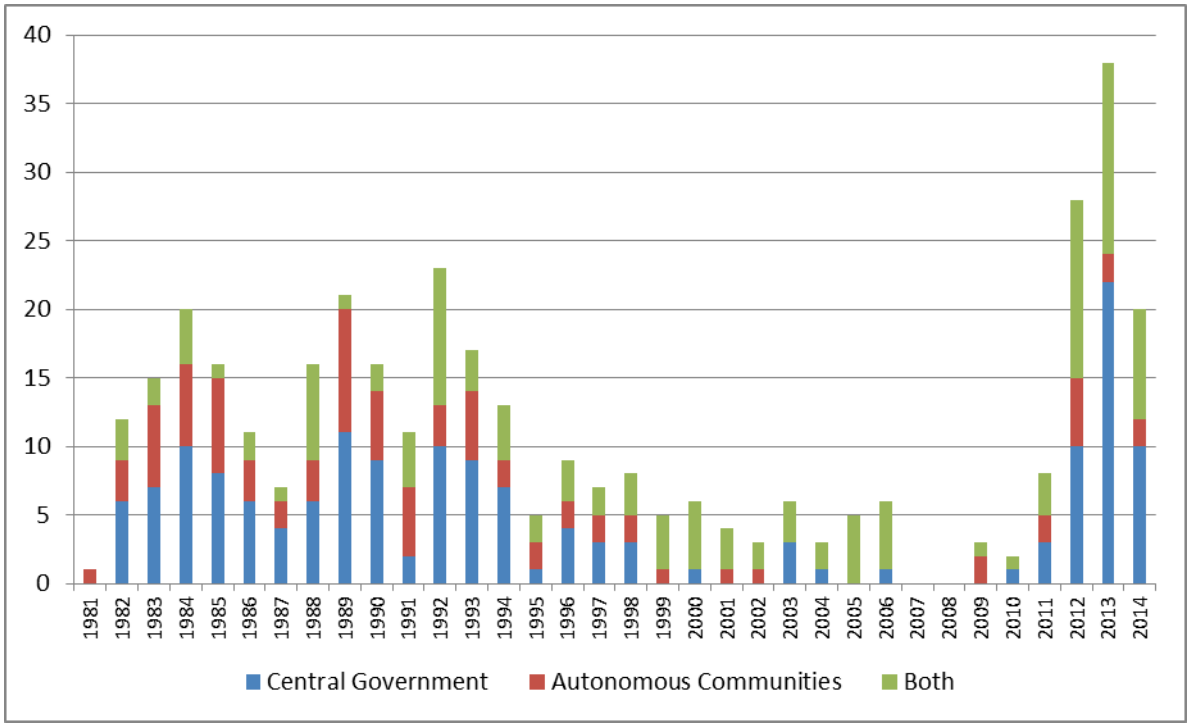
As summarized in Figure 5, most of the rulings are favourable to the CG and to both levels of administration (i.e., a partially favourable decision). The TC rules in favour of the CG nearly twice as much as for the ACs. Also, as can be seen in Figure 6, over time there are fewer rulings in favour of the ACs (correlation time-favourable ruling: -0.54) and more in favour of both governments (+0.33).

Figure 5. Rulings in favour of each level of government, 1981-2014. Total



Source: Own elaboration.

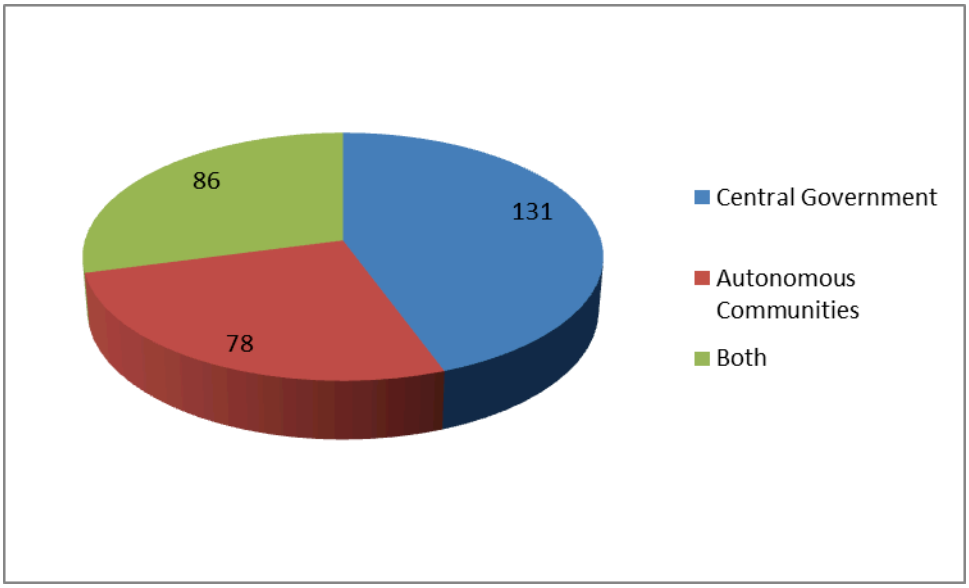
Figure 6. Rulings in favour of each level of government, 1981-2014



Source: Own elaboration.

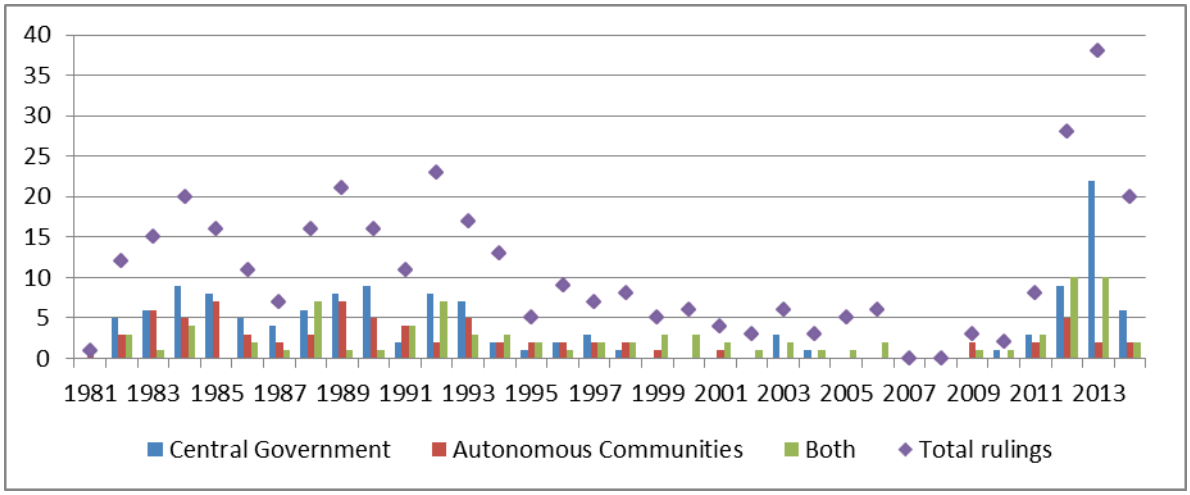
As seen in Figure 7, the TC rules unanimously in favour of the CG nearly 70% more than in favour of ACs. Over time (Figure 8), there are fewer unanimous rulings in favour of the regions (correlation time-favourable ruling: -0.54) and more in favour of both governments (+0.17).

Figure 7. Conflicts resolved by unanimous ruling, 1981-2014. Total



Source: Own elaboration.

Figure 8. Conflicts resolved by unanimous ruling, 1981-2014



Source: Own elaboration.

Table 1 combines the information provided by the database on the government presenting the conflicts and the government which is favoured by the rulings of the TC. An examination of the table allows us to extend and refine the conclusions drawn from analysing the previous figures.

Table 1. Conflicts presented by, and resolved in favour of, each level of government, 1981-2014 (In brackets, unanimous rulings)

		FAVOURABLE TO			
		CENTRAL GOVERNMENT	AUTONOMOUS COMMUNITIES	BOTH	TOTAL
BROUGHT BY	CENTRAL GOVERNMENT	40 (38)	36 (33)	14 (9)	90 (80)
	AUTONOMOUS COMMUNITIES	114 (90)	46 (43)	101 (70)	261 (203)
	BOTH	4 (3)	2 (2)	8 (7)	14 (12)
	TOTAL	158 (131)	84 (78)	123 (86)	365 (295)

Source: Own elaboration.

If the CG presents the conflict, most rulings are in favour of that government: in 95% of cases, unanimously. However, there is not much difference from the rulings in favour of the ACs: 36 compared to 40, and 92% unanimously. And there are fewer rulings in favour of the CG than those in favour of the ACs or both administrations: 40 compared to 50.

If an AC presents the conflict, most rulings are also in favour of the CG: in 79% of cases, unanimously. Here there is a marked difference from the rulings in favour of the ACs: 46

compared to 114, although there are more unanimous judgements: 93%. It appears that when the regions present a conflict, it is clearer for the TC when they are right, than when the CG or both governments are. There are also fewer rulings in favour of CG than to the ACs or both administrations: 114 compared to 147.

The cases in which conflicts brought by each administration are accrued are not statistically important. But the ones where the ruling is in favour of both governments are important, which happens more when the ACs brought the conflict.

In total, 89% of the conflicts presented by the CG are resolved unanimously. For conflicts presented by the ACs, it is 78%.

Conflicts ruled in favour of the CG are resolved unanimously in 83% of the cases. For conflicts in favour of the ACs, it is 93%. 81% of all conflicts are resolved unanimously.

Table 2 reproduces Table 1, but only for conflicts between the CG and Catalonia which, as we have seen above, are quantitatively the most important. As can be seen, the results do not differ from those shown in Table 1. It is remarkable that when the CG presents the conflict of jurisdiction, the TC rules more in favour of Catalonia.

Table 2. Conflicts presented by, and resolved in favour of, central government and Catalonia, 1981-2014 (In brackets, unanimous rulings)

		FAVOURABLE TO			
		CENTRAL GOVERNMENT	CATALONIA	BOTH	TOTAL
BROUGHT BY	CENTRAL GOVERNMENT	12 (12)	14 (13)	6 (4)	32 (29)
	CATALONIA	52 (35)	29 (27)	69 (49)	150 (111)
	BOTH	1 (1)	1 (1)	1 (1)	3 (3)
	TOTAL	65 (48)	44 (41)	76 (54)	185 (143)

Source: Own elaboration.

Without a more rigorous analysis, these results could be interpreted as supporting the legalist behaviour as well as the realist on the part of the TC. In general, the conflicts brought by the CG are more likely to be ruled in its favour, and almost always unanimously. Those brought by the regions are also mostly ruled in favour of the CG (and also, many are in favour of both levels of government). Does this mean the TC is predisposed to support the positions of the CG (in accordance with the realist hypothesis) or that the CG does bring cases with more legal basis than

the regions (according to the legalist hypothesis)? In the following sections we will try to give an econometric answer to this question.

4. Specifications

Our goal is to determine empirically whether the behaviour of the TC in the resolution of positive conflicts of competence between the CG and the ACs is better explained by legal or political criteria. If the realist viewpoint dominates, as the TC is a body whose members are appointed by central institutions, we would expect a predisposition of the Court to rule in favour of the CG. The differences within the TC, if any, would appear when the party in national government is different to the party governing the AC.

To reach our goal, we have specified and estimated three probit/logit models in turn, in which we construct the dependent variable differently each time, according to whether the ruling of the TC favours the CG exclusively or even partially. The three endogenous variables are as follows:

1. *FAVCG1*: A dichotomous variable which takes the value 1 if the TC rules in favour of the CG, in all or part of the claim, and 0 if not.

2. *FAVCG2*: A dichotomous variable which takes the value 1 if the TC rules totally in favour of the CG, and 0 if it rules partly or totally in favour of the AC.

3. *FAVECG3*: A discrete variable which takes three values: 0, if the ruling is in favour of the AC; 1, if it favours both governments; and 2, if it is in favour of the CG.

The choice of the independent variables and the interpretation of their sign are particularly difficult. Let us suppose that we construct- as indeed we do - a variable which takes the value 1 if the conflict is brought by the CG and is resolved unanimously, and zero otherwise. A positive sign in the estimated coefficient of this variable does not let us discern whether the TC is behaving according to the realist or the legalist approach. It might mean that the judges of the Court support the CG for political reasons, or because its side of the conflict is legally correct. However, the interpretation of a negative sign is clearer. If the fact that the TC unanimously resolves a conflict presented by the CG reduces the probability that the ruling is favourable to this government, this result means we cannot accept the hypothesis that the behaviour of the TC corresponds to the realist viewpoint. Or to put it another way, we cannot reject the legalist hypothesis.

With this word of caution, we present below all the exogenous variables we have constructed. It was not possible to know how each judge voted in each ruling; only when they cast a particular opinion. In the fifth section, we explain the variables that have been included in the final specifications. All the signs correspond to the legalism hypothesis:

- *PRESCG*: A variable that takes the value 1 if the CG presents the conflict alone, and 0 otherwise. If the CG presenting the conflict reduces the probability of a ruling in its favour, we cannot reject the legalism hypothesis: negative sign (-).
- *UNAN*: A variable which takes the value 1 if the conflict is resolved unanimously, and 0 otherwise. If the fact the conflict was resolved unanimously reduces the probability of the ruling being favourable to CG, this means we cannot reject the legalist behaviour of the Court (-).
- *PRESCG*UNAN*: A variable resulting from the interaction of the previous two variables (-).
- *DIFF*UNAN*: A variable resulting from the interaction of *DIFF* and *UNAN*, the former being a variable which takes the value 1 if the conflict affects an AC with a different ideology than the CG at the time of the ruling, and 0 otherwise. If the probability of ruling in favour of the CG is reduced when a conflict is presented by or against an AC of a different party than the CG, and it is resolved unanimously by judges with a different ideology, the formalism hypothesis cannot be rejected (-).
- *AGAINSTCAT/AGAINSTBC*: Variables which take the value 1 if the CG presented the conflict against Catalonia or the Basque Country, respectively, and 0 otherwise for each of the two cases (-).
- *PRESCAT/PRESBC*: Variables which take the value 1 if the conflict is presented by Catalonia or the Basque Country against the State, respectively, and 0 otherwise for each of the two cases (-).
- *TIME*: A variable introduced as a model trend. The passage of time favours having a body of doctrine on the Autonomic State and increasing regional sensitivity by the part of the TC. If the passage of time reduces rulings favourable to the CG, the legalism hypothesis cannot be rejected (-).
- *IDEOPRESTC*: A variable which takes the value 1 if the president of the TC (or the vice-president, if the president does not participate in the ruling) has the same ideology as the national government at the time of the ruling, and 0 otherwise (-).
- *IDEORAP*: A variable which takes the value 1 if the rapporteur has the same ideology as the national government at the time of the ruling, and 0 otherwise (-).

- *IDEOTC*: A variable which shows the majority ideology of the judges making up the Court at the time of issuing each ruling, regardless of which ones effectively took part in the deliberations over that ruling. This variable takes the value 1 if the majority is left-wing, and 0 if it is right-wing. We can assume greater awareness and sensitivity to the regions in left-wing judges, so if the TC rules more in favour of the ACs when the majority of the TC is right-wing, we cannot reject the legalism hypothesis (+).[6]
- *CGMIN:* A variable which takes the value 1 if at the time of the ruling the national government did not have a majority of votes in Parliament and was supported by a nationalist party. This was the case in the 5th, 6th, 8th and 9th terms of the Spanish Parliament. If these periods increase the probability of the TC ruling in favour of the CG, we understand that the legalism hypothesis cannot be rejected (+).
- *DUMMIES*: We have constructed some additional dichotomic variables which take the value 1 from the dates described below:
    - According to our data (Figure 2), there is a high rate of conflicts in two periods: 1981-1989 (*CONFL11*) and 2003-2009 (*CONFL21*). The former corresponds with the launch of the Autonomic State (and could be extended until 1992, *CONFL12*, when the two major national parties reach an agreement ("Acuerdos Autonómicos") to assign the same responsibilities to all ACs); the latter period corresponds with Aznar´s second term (right-wing), and the first Zapatero´s (left-wing) first one (this period could alternatively start in 2000, *CONFL22*). If in these periods the rulings are more favourable to the ACs, the legalism hypothesis cannot be rejected (-).
    - *VAL/CRISIS/CAT*: Correspond, respectively, to the ruling of the TC on the Statute of Autonomy of the Autonomous Community of Valencia (12 December 2007), the start of the economic crisis (second quarter of 2008) and the TC ruling on the Statute of Catalonia (27 June 2010). These events are usually associated with a greater pull towards centralisation by the CG. Consequently, if the rulings are more favourable to the ACs after these dates, the legalism hypothesis cannot be rejected (-).
    - *REFLOTC*UNAN*: In 2007 the Organic Law of the TC (LOTC) was reformed, incorporating intervention of the ACs in the nominations of TC judges proposed by the Senate. The first appointment took place in late December 2010. If after that date

[6] The ideology of the president and judges of the TC, until 2006, were taken from Garoupa et al. (2013); from that date, from the assessments of political commentators in the press.

there are more unanimous rulings in favour of the CG, the legalism hypothesis cannot be rejected (+).

- *REFFIN**: Reforms of the regional financing system. We have constructed five dummies (*REFFIN1* to *REFFIN5*), which take the value of 1 during the three years before the approval of the successive reforms of the regional financing system (passed, respectively, on 7 November 1986, 20 January 1992, 23 September 1996, 27 July 2001 and 15 June 2009), and 0 otherwise. We assume that regional financial reforms would have a dampening effect on the demands of the ACs and their conflicts with the CG, but this effect would be expected to weaken over time. Consequently, if in the years before a new reform the TC ruled more against the CG, the legalism hypothesis cannot be rejected (-).

5. Estimation and results

First, we performed an analysis of the correlation between the variables described above. These correlations are shown in Table 3. As can be seen in the table, the correlation between some of the explanatory variables is high enough for us not to accept the complete list in the specification of the different models. Our criterion for selection was to eliminate one of the two presenting a positive or negative correlation with an absolute value over 0.5. The descriptive statistics of the selected variables are shown in table 4.

[TABLE 3 ABOUT HERE]

[TABLE 4 ABOUT HERE]

Thus, for each of the three proposed endogenous variables, the initial specification was as follows:

[1]

$$FAVCGX_i = f\begin{pmatrix} PRESCG_i, DIFF*UNAN_i, AGAINSTCAT_i, AGAINSTBC_i, PRESCAT_i, PRESBC_i, IDEOPRESTC_i, \\ IDEOREP_i, IDEOTC_i, REFLOTC*UNAN_i, CGMIN_i, CONFL12_i, CONFL22_i, REFFIN1...5_i, u_i \end{pmatrix}$$

Where *FAVCGX* represents, alternatively, each of the three selected endogenous variables: *FAVCG1*, *FAVCG2* and *FAVCG3*. Since these three variables are discrete, we opted to estimate [1] using probit/logit models, selecting the model with the highest value of the log-likelihood function. Also, the hierarchical nature of the values of *FAVCG3* recommends the use of an ordered probit/logit model for estimate this variable. Subindex *i* corresponds to each ruling resolving a conflict of competence.

The estimations with each of the three endogenous variables, are presented in Tables 5 (*FAVCG1* and *FAVCG2*) and 6 (*FAVCG3*). Together with the estimated value of the coefficient, the value of the marginal effects is offered in case the explanatory variable proves to be significant.

For each endogenous variable, we also present an estimation corresponding to a much more stylized model, resulting from a process in which the variables least satisfactory in terms of significance are successively pulled out of the specification described in [1]. We identify these estimations in Tables 5 and 6 as *FAVCG1(2)*, *FAVCG(2)* and *FAVCG 3(2)*.

[TABLE 5 ABOUT HERE]

[TABLE 6 ABOUT HERE]

Simplified models have lower values in the Akaike (AIC) and Bayesian (BIC) information criteria than complete models. Therefore, we will describe the results achieved focusing exclusively on these abbreviated models. In the estimation of the variable *FAVCG1*, where the value 1 shows rulings totally or partly favourable to the CG, there are three variables which are found to be significant, with the negative sign supporting the hypothesis of legalism: *PRESCG, DIFF*UNAN* and *CONFL12*. So if the conflict is brought by the CG (unlike the results obtained by Sala, 2011 and Dalla Peregrina and Garoupa, 2013), the ruling is unanimous and affects an AC with a political colour other than that of the CG, or is issued before the approval of the autonomic pacts of 1992, this reduces the probability of the ruling being at least partly favourable to the CG.

If the conflict is against the Basque Country (*AGAINSTBC*), this increases the probability that the ruling favours the CG (with a level of significance very close to 10%). As we remarked above while explaining the construction of the independent variables, this positive sign does not let us conclude whether the TC is guided more by political or legal criteria. The most we can say is that this result does not support unambiguously the legalism hypothesis.

Regarding the estimation of the variable *FAVCG2*, which takes the value 1 only for rulings that are strictly favourable to the CG (but not, therefore, to those that say both sides are right), three significant variables have the sign associated with the legalist viewpoint: the conflict was presented by Catalonia (*PRESCAT*) or was resolved in the period of conflict between the CG and the ACs which began at the turn of the century (*CONFL22*) or the years before the 2001 reform of the regional financing system (*REFFIN4*). The same negative sign favouring the formalist hypothesis (although again with a significance slightly over 10%) has the variable that

reflects whether the conflicts are instigated against the Autonomous Community of Catalonia (*AGAINSTCAT*).

In the last estimation, the dependent variable is *FAVCG3,* which as we explain above, takes the value 0 if the ruling is in favour of the AC; 1, if it favours both governments; and 2, if it is in favour of the CG. In this estimation the significant variables, with the sign associated with the legalist hypothesis, are *PRESCG*, *PRESCAT*, *CONFL12* and *REFFIN4*, the last two with significance a little over 10%. With the same caution regarding the level of confidence, the variable *CGMIN* is also significant, but with a negative sign that does not allow us to support the legalism hypothesis.

6. Concluding remarks

This paper applies various probit/logit models to a self-constructed database, consisting of the 365 rulings by the Spanish Constitutional Court resolving positive conflicts of competence between the Central Government and the Autonomous Communities from 1981 to 2014. Our goal was to contrast empirically whether the decisions of the Court basically respond to legal criteria (the legalist or formalist viewpoint) or if they are determined by political motivations, so that we can state that the TC constitutes an extension, in the jurisdictional milieu, of the central executive power (the realist viewpoint). According to the results of our three estimations, we can state that the approach which appears to predominate in the behaviour of the TC is the legalist one.

Conflicts of competence represent only a small part of the disputes between the national government and the Autonomous Communities that end up being judged by the TC (Aja, 2014), and they share some characteristics that should be noted. First, they have a very specific objective: to decide on the ownership or exercise of a competence. Second, as explained in the introduction, conflicts affect regulations, resolutions and acts, but not laws: competence conflicts affecting laws should be treated as acts of unconstitutionality. Although we do not think that these unique features justify differentiated behaviour by the Constitutional Court, we cannot be sure that the results found in this research can be extrapolated to any dispute between the Central Government and the Autonomous Communities. Testing this hypothesis constitutes a logical extension of this work.

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Table 3. Correlations among the different variables of the specification

	FAVECG1	FAVECG2	FAVECG3	PRESCG	PRESCG*UNAN	DIFF*UNAN	AGAINSTCAT	AGAINSTBC	PRESCAT	PRESBC	TIME	CGMIN	REFLOTC*UNAN	IDEOPRESTC	IDEORAP	IDEOTC	CAT	CRISIS	CONFL11	CONFL12	CONFL21	CONFL22	REFFIN1	REFFIN2	REFFIN3	REFFIN4	REFFIN5
FAVECG1	1,00																										
FAVECG2	0,83	1,00																									
FAVECG3	0,88	0,48	1,00																								
PRESCG	-0,11	-0,23	0,01	1,00																							
PRESCG*UNAN	-0,09	-0,23	0,05	0,93	1,00																						
DIFF*UNAN	-0,05	-0,13	0,03	0,11	0,20	1,00																					
AGAINSTCAT	-0,10	-0,15	-0,04	0,47	0,44	0,18	1,00																				
AGAINSTBC	-0,02	-0,03	-0,01	0,39	0,38	0,21	-0,07	1,00																			
PRESCAT	-0,05	0,07	-0,15	-0,48	-0,44	0,09	-0,20	-0,21	1,00																		
PRESBC	0,06	0,06	0,05	-0,26	-0,24	0,15	-0,11	0,03	-0,10	1,00																	
TIME	0,09	0,22	-0,04	-0,33	-0,34	-0,29	-0,25	-0,22	0,15	-0,27	1,00																
CGMIN	-0,06	0,01	-0,10	-0,03	-0,04	-0,09	-0,02	0,12	0,03	0,06	0,07	1,00															
REFLOTC*UNAN	0,12	0,10	0,10	-0,22	-0,19	0,00	-0,14	-0,14	0,05	-0,23	0,64	-0,20	1,00														
IDEOPRESTC	-0,04	0,07	-0,12	-0,15	-0,13	-0,13	-0,12	-0,04	0,04	-0,09	0,47	0,14	0,35	1,00													
IDEORAP	-0,04	0,05	-0,10	-0,18	-0,16	-0,11	-0,10	-0,08	0,07	-0,11	0,55	0,05	0,37	0,66	1,00												
IDEOTC	-0,04	0,01	-0,08	0,01	0,00	-0,08	0,06	-0,06	-0,01	0,03	0,00	0,31	-0,07	0,20	0,16	1,00											
CAT	0,12	0,16	0,06	-0,27	-0,24	-0,14	-0,16	-0,17	0,07	-0,27	0,76	-0,23	0,86	0,36	0,45	-0,14	1,00										
CRISIS	0,10	0,14	0,04	-0,28	-0,25	-0,15	-0,17	-0,17	0,05	-0,28	0,77	-0,19	0,84	0,35	0,43	-0,13	0,98	1,00									
CONFL11	-0,05	-0,18	0,08	0,24	0,25	0,21	0,16	0,16	-0,15	0,17	-0,81	-0,24	-0,36	-0,39	-0,47	-0,22	-0,42	-0,42	1,00								
CONFL12	-0,08	-0,22	0,07	0,25	0,26	0,25	0,18	0,14	-0,16	0,20	-0,85	-0,31	-0,42	-0,45	-0,48	-0,13	-0,49	-0,50	0,85	1,00							
CONFL21	-0,02	0,09	-0,11	-0,07	-0,11	-0,15	-0,08	0,03	0,06	-0,12	0,18	0,30	-0,13	-0,01	-0,09	-0,04	-0,15	-0,08	-0,18	-0,21	1,00						
CONFL22	-0,06	0,09	-0,18	-0,06	-0,11	-0,20	-0,10	-0,01	0,08	-0,15	0,22	0,17	-0,17	0,15	0,03	-0,03	-0,20	-0,14	-0,23	-0,27	0,78	1,00					
REFFIN1	0,00	-0,08	0,07	0,14	0,15	0,18	0,06	0,08	-0,04	0,10	-0,47	-0,21	-0,19	-0,37	-0,39	-0,56	-0,22	-0,23	0,53	0,45	-0,10	-0,12	1,00				
REFFIN2	-0,07	-0,15	0,02	0,04	0,01	0,00	0,02	-0,07	-0,06	0,04	-0,22	-0,22	-0,20	-0,20	-0,10	0,22	-0,23	-0,24	0,09	0,48	-0,10	-0,13	-0,14	1,00			
REFFIN3	-0,02	-0,02	-0,02	-0,07	-0,06	-0,01	-0,08	0,03	0,15	0,03	0,04	0,45	-0,13	-0,05	-0,06	0,15	-0,15	-0,16	-0,18	-0,21	-0,07	-0,09	-0,10	-0,10	1,00		
REFFIN4	-0,07	0,04	-0,15	-0,05	-0,04	-0,08	-0,06	-0,06	0,04	-0,01	0,10	0,05	-0,10	0,27	0,11	0,11	-0,12	-0,12	-0,14	-0,16	-0,05	0,36	-0,07	-0,08	-0,05	1,00	
REFFIN5	-0,06	-0,01	-0,09	0,00	-0,08	-0,19	-0,05	0,08	-0,01	-0,07	0,12	0,26	-0,08	-0,08	-0,10	0,08	-0,09	-0,01	-0,10	-0,12	0,58	0,45	-0,06	-0,06	-0,04	-0,03	1,00

Table 4. Basic descriptive statistics of the variables finally used in the specifications of the different models

A) Endogenous variables

VARIABLE	*FAVCG1*	*FAVCG2*	*FAVCG3*
Average	0.77	0.43	1.20
Median	1	0	1
Maximum value	1	1	2
Minimum value	0	0	0
Standard deviation	0.42	0.50	0.79
Coefficient of skewness	-1.28	0.27	-0.37
Coefficient of kurtosis	2.64	1.07	1.70

B) Exogenous variables

VARIABLE	*PRESCG*	*DIFF* UNAN*	*AGAINSTCAT*	*AGAINSTBC*	*PRESCAT*	*PRESBC*	*IDEOPRESTC*	*IDEORAP*	*IDEOTC*	*CGMIN*	*CONFL12*	*CONFL22*	*REFLOTC*	*REFFIN1*	*REFFIN2*	*REFFIN3*	*REFFIN4*	*REFFIN5*
Average	0.25	0.63	0.09	0.09	0.41	0.17	0.63	0.57	0.76	0.25	0.4	0.10	0.26	0.12	0.13	0.06	0.04	0.02
Median	0	1	0	0	0	0	1	1	1	0	0	0	0	0	0	0	0	0
Maximum value	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
Minimum value	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Standard deviation	0.43	0.48	0.28	0.29	0.49	0.38	0.48	0.50	0.43	0.43	0.49	0.30	0.44	0.33	0.34	0.24	0.19	0.15
Coefficient of skewness	1.18	-0.53	2.92	2.80	0.36	1.76	-0.53	-0.29	-1.21	1.18	0.41	2.69	1.11	2.33	0.45	3.60	4.81	6.53
Coefficient of kurtosis	2.38	1.28	9.50	8.84	1.13	4.09	1.28	1.09	2.47	2.38	1.17	8.25	2.23	6.43	2.31	13.94	24.11	43.65

Table 5. Results of the *probit/logit*[a] estimations for the endogenous variables *FAVECG1* and *FAVECG2*

	FAVCG1		*FAVCG1(2)*		*FAVCG2*		*FAVCG2(2)*	
	coefficient	$\partial P(Y=1)/\partial X_j$	coefficient	$\partial P(Y=1)/\partial X_j$	coefficient	$\partial P(Y=1)/\partial X_j$	coefficient	$\partial P(Y=1)/\partial X_j$
PRESCG	-0.76***	-0.24	-0.65***	-0.21	-0.15			
*DIFF*UNAN*	-0.34*	-0.09	-0.29*	-0.08	0.15			
AGAINSTCAT	0.07				-0.60		-0.64(p>|z|=0.103)	-0.15
AGAINSTBC	0.54*	0.12	0.45 (p>|z|=0.103)	0.11	-0.38			
PRESCAT	-0.10				-0.82***	-0.20	-0.65***	-0.15
PRESBC	0.15				-0.03			
IDEOPRESTC	-0.09				-0.17			
IDEORAP	-0.12				-0.29			
IDEOTC	0.45				0.30			
*REFLOTC*UNAN*	-0.08				0.33			
CGMIN	-0.25				-0.17			
CONFL12	-0.42		-0.45**	-0.13	0.03			
CONFL22	0.56				-0.81		-1.21**	-0.25
REFFIN1	-0.01				0.28			
REFFIN2	-0.41				-0.06			
REFFIN3	-0.35				0.05			
REFFIN4	-0.31				-1.76		-1.87*	-0.33
REFFIN5	-0.96				-0.77			
INTERCEPT	1.33**		1.28***		0.01		0.18	
No. observations	365		365		365		365	
LR χ^2	43.08		32.90		32.91		26.46	
Prob > χ^2	0.0008		0.0000		0.0171		0.0000	
Log-likelihood function	-175.3552		-180.4455		-233.2471		-236.4715	
Pseudo R^2 of prediction	0.1094		0.0836		0.0659		0.0530	
Percentage of correct predictions by the model	78.63%		77.53%		61.92%		61.64%	
AIC / BIC	388.711/462.8091		370.891/390.3905		504.4943/578.5923		482.943/502.4425	

[a] The table shows, in the columns, the value of the estimated coefficient of each variable and the marginal effect of the significant variables over the probability that the endogenous variables take the value 1. The results correspond to a *probit* or *logit* model, attending to the conventional choice of whichever of the two which presents the greater estimated value of the log-likelihood function.

*** Significant coefficient at 1%, ** significant coefficient at 5%, * significant coefficient at 10%. The p-value is also given when the significance is very close to 10%.

Table 6. Results of the estimations of the ordered *probit* model[a] for the endogenous variable *FAVECG3*

	FAVCG3				*FAVCG3(2)*			
	coefficient	$\partial P(Y=0)/\partial X_j$	$\partial P(Y=1)/\partial X_j$	$\partial P(Y=2)/\partial X_j$	coefficient	$\partial P(Y=0)/\partial X_j$	$\partial P(Y=1)/\partial X_j$	$\partial P(Y=2)/\partial X_j$
PRESCG	-0.37(p>|z|=0.101)	0.12	0.02	-0.14	-0.44***	0.14	0.03	-0.17
*DIFF*UNAN*	-0.07							
AGAINSTCAT	-0.21							
AGAINSTBC	0.09							
PRESCAT	-0.32**	0.10	0.03	-0.13	-0.35**	0.11	0.03	-0.13
PRESBC	0.06							
IDEOPRESTC	0.04							
IDEORAP	-0.14							
IDEOTC	0.38							
*REFLOTC*UNAN*	0.15							
CGMIN	-0.15				-0.23(p>|z|=0.106)	0.07	0.02	-0.09
CONFL12	-0.15				-0.22(p>|z|=0.108)	0.07	0.02	-0.08
CONFL22	-0.07							
REFFIN1	0.14							
REFFIN2	-0.21							
REFFIN3	-0.12							
REFFIN4	-0.38				-0.48(p>|z|=0.106)	0.16	0.01	-0.17
REFFIN5	-0.39							
c_1 (first threshold)	-0.97				-1.17			
c_2 (second threshold)	-0.03				-0.24			
No. observations	365				365			
LR χ^2	21.97				16.27			
Prob > χ^2	0.2335				0.0061			
Log-likelihood function	-378.50189				-381.34924			
Pseudo R^2 of prediction	0.0282				0.0209			
AIC / BIC	797.0038/875.0017				776.6985/803.9978			

[a] The Table shows, in the columns, the value of the estimated coefficient of each variable and the marginal effect of the significant variables over the probability that the endogenous variable *FAVECG3* takes each one of its possible values (0, 1, 2).

*** Significant coefficient at 1%, ** significant coefficient at 5%, * significant coefficient at 10%. The p-value is also given when the significance is very close to 10%.