

Corruption in Spain

Abstract

This article tries to show the main characteristics of one of the most important problems that suffers Spain: corruption. According to our research, Spain does not suffer a problem of systemic corruption, but it has a lot of political corruption. This kind of corruption is frequently highlighted by the media and linked to the economic problems of the country, mainly unemployment, creating a big problem of disaffection and distrust in our political institutions. Nevertheless, the activism of civil society against corruption is having political effects, generating institutional improvements and impeding the country to fall in systemic corruption.

Keywords

Corruption. Corruption perception. Social services. Legal process. Victimization. Civil society.

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Resumen

El artículo que se presenta intenta exponer las características fundamentales de uno de los problemas más importantes de nuestro país: la corrupción. De acuerdo con nuestras investigaciones, España no sufre un problema de corrupción sistémica, pero sí tiene una alta corrupción política. Este tipo de corrupción es resaltada a menudo por los medios de comunicación y conectada a los problemas económicos del país, sobre todo al desempleo, creando un grave problema de desafección y de desconfianza en nuestras instituciones políticas. Sin embargo, el activismo de la sociedad civil contra la corrupción está generando efectos políticos que están dando lugar a reformas institucionales importantes impidiendo al país caer en la corrupción sistémica.

Palabras clave

Corrupción. Servicios sociales. Percepción. Procesos judiciales. Victimización. Sociedad civil.

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Introduction¹

In this text presented we will conduct an analysis of the characteristics and causes of corruption in Spain, including a brief section on the problem of “legal” corruption, so far little studied. Indeed, a detailed study of the phenomenon would lead to a very long text for a magazine limits of these characteristics allows; so we develop a succinct analysis of the fundamental characteristics of the phenomenon and some of its causes.

The emergence of numerous corruption scandals and the corresponding concern about this phenomenon, essentially measured by surveys of perception and victimization, has added to the increase of the existing institutional distrust in Spain, resulting from the economic crisis and the feeling of lack of response from the authorities to the demands of the Spaniards. The present text is to use all existing theoretical and conceptual apparatus so far on corruption to explain the phenomenon in Spain. Based on the so far studied we can establish some hypotheses that try to show in the text and highlight the following: 1. Spain **has not a problem of systemic corruption**. 2. In Spain **the corruption of public officials, especially in the areas of social services, is low**. 3. But nevertheless, **there is a serious problem of political corruption**. Corruption, which is least studied and will generate more problems in the future, is called capture of policies and decisions, or the ability of powerful groups to unduly influence the decision making, so that they are harmfully benefited against public interest. 4. Probably now there is less corruption than there was when we were growing up. 5. Corruption **occurs mainly at the local level of government**. 6. The **perception of public**

corruption is high. 7. The root causes of corruption have had or have to do with **serious institutional flaws and very little protected risk areas**. 8. The reaction of **civil society is creating major institutional and political changes facing the fight against corruption**.

Let us analyze them, but before we are making a brief reference to the concept of corruption. In this article we will essentially use the concept of corruption understood as an abuse of power in public sector for private gain, whether direct or indirect, in breach of legal standards; that is why we will not make here reference to corruption in the private sector or public corruption that not involve clear breach of legal standards, as with the capture of policies. We continue with a consolidated line, because studies on political scandals and corruption in Spain in the last 15 years have focused primarily on the punishable legally public corruption (Nieto, 1997; Díez Ripollés, et al, 2004; Iglesias, 2008; Jimenez, 2007, 2008, 2009a, 2009b; Lapuente, 2009; Villoria, 2006, 2007a, 2007b and 2010; Urquiza, 2006; among others)².

However, in the end, we will provide a reflection on the importance of “legal” corruption. The “legal” corruption refers to all practices that violate the basic principles that delineate the boundaries between politics and economics fields, through means that may be legal, used to create policies and laws designed to promote private economic interests and damaging the public interest (Seldes, 2014³). For this, we will incorporate some recent research data (Villoria, 2015⁴). It is essential that more research on this phenomenon are investigated in the future and the lobbies and relations between politicians and interest groups are better regulate to reduce risks.

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1. Spain has not a problem of systemic corruption

Measuring corruption is difficult. We are witnessing a crime and, therefore, performances that are hidden to avoid punishment. Knowing how much "real" corruption is in a certain country is almost impossible, but there are approaches that allow us to place countries into general categories such as systemic corruption, high corruption, moderate corruption or low corruption. Measuring corruption has become an increasingly important topic of research (Sampford et al., 2006, Andersson and Heywood, 2009)⁵. In general, it can be done in three ways (Solimano, 2008)⁶. First, it can be done objectively, based on allegations of corruption and open researches by the public prosecutor or investigating judges investigations; or through *proxies*, as the price of contracts for a series of homogenous goods. Secondly, through corruption perception surveys to national and foreign investors, experts or the general public. Finally, through surveys (victimization surveys) in which citizens are asked for their direct experiences with the payment of bribes or with the extortions that they are suffering from state officials. There are now over fifteen measurement instruments, either globally or regionally, and many of them have fairly sophisticated (UNDP and Global Integrity, 2008)⁷. None of the instruments used internationally to measure corruption indicates that Spain has levels of systemic corruption.

If when you go out to the street, there is a good chance that any police stop you and ask for a bribe, if obtained a place at a school or good grades of your children depend on bribes, if your acceptance in a hospital and your treatment also depend on accepting bribes, and if judges decide cases according to what they receive from politicians

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¹ This article has been developed thanks to CSO2012-32661 project, corresponding to the call 2012 for the program of Research & Development & Innovation (in Spanish, I+D+i) Projects of the Spanish Ministry of Economy and Competitiveness.

² See: Díez Ripollés, J.L.; Prieto del Pino, A.M.; Gómez Céspedes, A.; Stangeland, P.; y Vera Jurado, D. 2004: *Prácticas ilícitas en la actividad urbanística. Un estudio de la Costa del Sol*. Valencia, Tirant lo Blanc. Iglesias, F. (ed.) (2007): *Urbanismo y democracia. Alternativas para evitar la corrupción*. Fundación Alternativas, Madrid. Jiménez, F. (2007): "El impacto de la corrupción en la democracia", en J. Estefanía (ed.) *Informe sobre la democracia en España/2007*. Fundación Alternativas, Madrid, 201-229. You can read it online in: <http://www.falternativas.org/laboratorio/libros-e-informes>. Jiménez, F. (2008): "Un balance la lucha contra la corrupción política", en J. Estefanía (ed.) *Informe sobre la democracia en España/2008*. Fundación Alternativas, Madrid, 185-238. In: <http://www.falternativas.org/laboratorio/libros-e-informes>. Jiménez, F. (2009a): "Building Boom and Political Corruption in Spain", *South European Society and Politics*, Volume 14 Issue 3: 255-272. Jiménez, F. (2009b): "Spain", en *Global Corruption Report 2009*, Cambridge University Press, Cambridge. Lapuente, V. (2009): "Problemas institucionales y corrupción" en Estefanía, J. (ed.) *Informe sobre la democracia en España*. Fundación Alternativas, Madrid. Nieto, Alejandro (1997): *Corrupción en la España Democrática*. Barcelona: Ariel. Urquiza, J.M. (2006): *Corrupción municipal. Por qué se produce y cómo evitarla*. Almuzara, Córdoba. Villoria, M. (2006b): *La corrupción política*. Síntesis, Madrid. Villoria, M. (2007a): "Spain" en *Informe Global de la Corrupción 2007. Corrupción en sistemas judiciales*, Ediciones del Puerto, Buenos Aires. Villoria, M. (2007b). Las nuevas medidas al servicio de la transparencia, la participación y el control en el gobierno local en la ley del suelo. *Ciudad y Territorio* Nº 152-153: 493-516. Villoria, M. (2010). "Corrupción: la amarga verdad" en Joaquín Estefanía (coord.) *Informe sobre la democracia en España 2010*. Contra la desafección: 81-105. Fundación Alternativas, Madrid.

³ Seldes, B. (2014) The Shifting Landscape of Corruption in the United States: Legal Corruption, Systemic Corruption or a New Norm?. In Mendilow, J. and I. Peleg Corruption in the Contemporary World. Lexington Books, London.

⁴ Villoria, M. (dir) y Revuelta, A. (coord.) (2015) Una evaluación del lobby en España: Análisis y propuestas. Transparencia Internacional España.

⁵ Andersson, P.S. y Heywood, P. (2009): "The Politics of Perception: Use and Abuse of Transparency International's Approach to Measuring Corruption". *Political Studies*, VOL 57, 746-767. Sampford, C. et al. (eds.) (2006) *Measuring corruption*. Aldershot: Ashgate. ►

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YEAR	POINTS	VARIATION *	RANKING POSITION	No. COUNTRIES	EU POSITION 15	EU POSITION 25	No. STUDIES
2014	60	45-71	37	180	13	15	7
2013	59	41-73	40	176	13	16	7
2012	65	52 - 73	30-31	176	12	13	7
2011	6.2	4.5 - 7.3	31	182	12	14	9
2010	6.1	5.3 - 6.8	30	178	12	15	6
2009	6.1	5.5 - 6.6	32	180	12	15	6
2008	6.5	5.7 - 6.9	28	180	12	14	6
2007	6.7	6.2 - 7.0	25	179	12	12	6
2006	6.8	6.3 - 7.2	23	163	12	12	7
2005	7.0	6.6 - 7.4	23	159	12	12	10
2004	7.1	6.7 - 7.4	22	146	11	11	11
2003	6.9	5.2 - 7.8	23	133	11	11	11
2002	7.1	5.2 - 8.9	20	102	9	9	10
2001	7.0	5.8 - 8.1	22	91	10	10	8
2000	7.0	5.9 - 8.0	20	90	10	10	8
1999	6.6	sd 0.7	22	99	11	11	10
1998	6.1	sd 1.3	23	85	12	12	10
1997	5.9	sd 1.82	24	52	12	12	6
1996	4.31	sd 2.48	32	54	14	17	6
1995	4.35	sd 2.57	26	41	13	13	4

Table 1: Spain in the CPI of Transparency International from 1995 to 2013 .

and prosecuted, then you live in a country of systemic corruption. In the last three Corruption Perceptions Index of Transparency International (an index comprised of various surveys of experts and businessmen) 175-176 countries are scored in an order that goes from low (100 points) to most corrupt (0 points); in 2012, Denmark, Finland and New Zealand had 90 points, Somalia, North Korea and Afghanistan had 8 points: Spain, in 2012 (see Table 1), was in the 20% higher (rank number 30), with a score of 65 points. Italy, for example, was rank number 71 and had 42 points. In 2013 the

situation of Spain worsened notably. It dropped to 59 points, rank position 40 and within Europe least corrupt countries, as Portugal and Poland, ahead of us in the ranking. In any case, we still have more than 130 countries behind. This leads us to an optimistic conclusion, we are not so bad. And a pessimistic, if we are the 40, the world is a mess. In addition, in 2013 we have lowered the rate to levels of 15 years ago and this has effects on the image of Spain and sustainable investments in our territory. Worry about the perception of experts is important. Finally, in 2014 there has not been

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almost unchanged, although it can be to record a minimal improvement.

Until 1999 the variation in the scores of the various used studies was measured in standard deviation. Since 2000 the range appears. Source: IPC, Transparency International.

In any case, systemic corruption begins to occur when Spain drops slightly on the scale and victimization surveys join expert perception surveys together and a strong correlation between high awareness and high victimization is observed.

2. In Spain the corruption of public officials is low

This statement is based on repeated victimization surveys for seven waves through the Global Corruption Barometer of Transparency International. In these surveys, which have been made citizens directly, it is asked, among other things, whether “you or someone in your family has had to pay, somehow, a bribe in the last twelve months” to access many different utilities, from education to the granting of planning permission. Well, data from Spain are very similar to those in Germany, Switzerland, Norway and even Finland (see tables below). Not more than 2% of respondents recognized that payment, while in Romania this is 17% and Greece at 22%. This low victimization measures corruption of officials and, as we see, this is low in Spain and not very different in the least corrupt countries in the world. The shadow is in local government, which rises more than the rest, but overall it seems that the Weberian meritocratic model, where it is necessary, reduces the opportunities for corruption significantly. Therefore, its strengthening (especially in local government and public enterprises), its

improvement (for example, eliminating the free appointment⁸ in appointments to official posts and introducing performance evaluation for officials) and its protection (with an independent body ad hoc) are key in the fight against corruption.

Data from the latest Eurobarometer (2013)⁹ reaffirm all the above here. When it's asked if “you know someone who accept bribes”, the average in the European Union is 12% and in Spain data give 11% of positive answers, with such interesting facts as that in Italy the result is 9 %, but 15% in the Netherlands, 18% in Sweden and 16% in France. When it's asked if you have been witnessed or asked for a bribe in the last 12 months, the European average is 8%, which coincides with the positive responses in Spain: 8%. And finally, when it's asked if “you have been asked for a bribe in the last 12 months”, the European average of affirmative responses is 4% and in Spain the data is 2%.

Analyzing in more detail, we can see that Spanish officials, that work in social areas, act, at least in this respect, with great honesty. For

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⁶ Solimano, A. (2008): “La corrupción: motivaciones individuales, fallas del Estado y desarrollo” in Andrés Solimano, Vito Tanzi y Felipe del Solar, Las Termitas del estado, Fondo de Cultura Económica-CIGLOB, Chile.

⁷ UNDP (United Nations Development Program) and Global Integrity (2008): *A User's Guide to Measuring Corruption*. Oslo, UNDP Oslo Governance Center. In: www.lulu.com/content/2523351.

⁸ Free designation allows the minister or the mayor (depending on territory) appoint and dismiss an official for a position that already meets requirements defined in the standard. Once the official is ceased, they have to reposition in a vacant post in his category.

⁹ Eurobarometer (2013) *Special Eurobarometer 397, “Corruption”*. European Union. Brussels. Eurobarometer (2014) *Special Eurobarometer 374, Businesses' attitudes towards corruption in the EU*. European Union. Brussels.

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Social security and social services	Local or regional politicians	Political parties	Those responsible for awarding contracts	Those responsible for granting building permits	Health	Education	Police	Judges
24	72	84	44	54	2.3	18	41	38

Table 2. Belief in receiving bribes. (Is the reception bribes extended in these areas in Spain?). Source: Eurobarometer 397, 2013.

example, relations with the social security and social services exist between Spanish citizens with great diligence, due to the current economic crisis and its influence on the weak (the European average in relation to these services is 18 % but in Spain and Greece it is 30%). There is also high relative to health services (55% of respondents acknowledged having used them in the past year). Education services have been used 22%, police 10%, courts 4%, politicians 6% and parties 4%.

Spaniards have been asked if they believe there are bribes in these areas, the response is as follows, see Table 2.

But then, they have been asked if they have demanded a bribe when they have interacted with these services. The answer is very different, see Table 3.

This allows us to see how bribes are a very strange practice in the relationship between citizens and officials in our country, especially in areas where relationships are multiple and constant. Another thing is that there may be other activities that, without falling into corruption in the strict sense, may not be ethical. For example, the request payment for privileged treatment, practical gifts after treatment, referral to hospitals and private practice (in the latter case, 31% of Spaniards say that this practice happens).

3. In Spain, however, there is a serious problem of political corruption

To support this statement let me turn to objective data of judicial statistics. On November 18, 2009, the previous State Attorney General, Cándido

Social security and social services	Local or regional politicians	Political parties	Those responsible for awarding contracts	Those responsible for granting building permits	Health	Education	Police	Judges
0	0	0	0	0	0	0	0	0

Table 3. Experience of bribery. And in the last 12 months how many times have you asked for a bribe in these areas?. Source: Eurobarometer 397, 2013.

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Conde-Pumpido, speaking of political corruption, revealed in Congress that 730 cases were being investigated in the Prosecutor at the time, data obtained from a sample of relevant issues, that affecting elected or politically appointed officials for crimes committed in the exercise of their public functions. Since then, some of these cases have been closed, but many are open. And numerous annexes cases have emerged from these major ongoing cases, that have resulted in separate pieces of extraordinary political and social importance. On April 15, 2013, the president of the *General Council of the Judiciary*, Gonzalo Moliner, presented a report in which, requesting more tools to fight corruption, and said 64 judges would be needed to help the 798 courts in 2.173 complex cases, which they were working at present; of these, 1.661 were related to corruption or economic crimes. Obviously, the most important cases have been widely discussed by the media. Many others have gone unnoticed, however, they concern officials and haven't major economic impact.

Another important fact is that, according to press reports, over 600 Spanish municipalities were been investigated by a corruption scandal and in some communities this is impressed, for example, almost 60% of municipalities in Murcia and 40% of the Canary Islands. Moreover, based on an analysis of court statistics, even in 2012 and during the property sector crisis, there were 1,000 cases concerning urban prevarication¹⁰. The sum of all indicates that there are more than 1.000 political investigated for corruption.

But to complicate all this process, Barcenas case puts the entire leadership of the PP on suspicion and Urdangarin case to the Royal House. It seems obvious that our politicians, especially mayors, have too much monopoly in decision-making,

much discretion and very little control, and to reduce corruption they will have to accept self-imposed controls, reduce their levels and reduce discretionary powers monopoly in decision-making, as it have been done with planning agreements in the last law of the land (they aren't a mayor's decision, but they're a City Council's decision).

And it doesn't enter into an analysis of called legal corruption or state capture, which we discussed earlier. Friedrich (1989)¹¹ said that corruption exists when a public responsible, with defined roles and responsibilities, is induced, by monetary means or otherwise, to betray their duties and act favoring the provider of the benefit and, therefore, it is damaging the public and their interests. This definition would include all public policy or program that is adopted or implemented only considering the interests of an affected party, given the extra benefits that can provide politicians or officials responsible for the decision. Drawing on this approach, one of the forms of most influential, profitable and harmful corruption is the "policy capture", ie control by major stakeholders of policy areas within a state, so that governments can not -or nor want- formulate policies autonomously in this area (see, among others, Shafer, 1994, Benink and Schmidt, 2004¹²).

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¹⁰ To issue a decision knowing that it is illegal.

¹¹ Friedrich, CJ (1989), "Corruption Concepts in Historical Perspective", in Heidenheimer, AJ et al. (eds.), *Political Corruption*, Transaction Publishers, New Brunswick.

¹² Benink, H. Schmidt, R. (2004): "Europe's single market for financial services: Views by the European Shadow Financial Regulatory Committee", *Journal of Financial Stability*, No. 1, pp. 157-198. Shafer, M. (1994) *Winners and Losers. How Sectors Shape the Developmental Prospects of States*. Cornell University Press, Ithaca.

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The risks of corruption or malpractices related stakeholders are in all phases of the process of developing public policies¹³, from formulation, decision-making and policy implementation. Examples of practices and activities that could pose risks of corruption or unethical practices are:

1. Financing of political parties for beneficial regulations once the funded parties access to government
2. Revolving doors
3. Regulatory and technical capture (eg through control panels, unbiased research funding, or funding for conferences and professional meetings in exchange for diffuse to the interests of the funders support)
4. Adoption of standards that generate voluntarily gaps or *loopholes* to avoid the real checks (*diluting regulation*)
5. Adoption of standards that weaken the restrictions to make certain laws in a true example of facade or *window dressing* (*debilitating restrictions*)
6. Undermining controls and law enforcement in the regulatory phase (*Weakened enforcement*)
7. Impeding of sanctions through pressure on decision makers (*weakened penalties*)
8. Fraudulent drafting of reference terms in a public contract to ensure that a privileged subject obtains it

In all these cases, the regulator or responsible for implementing the policy abuses his power to favor

specific private interests, damaging the public interest or, at least, passing over it.

In Spain, there are very few studies, even, about cases of state capture, although some have been able to demonstrate that, in large part, the Spanish urban policy in recent years has been captured by developers and builders in some Spanish areas. There are also some data about the capture of regulatory policies, especially in the banking, telecommunications, health and energy sectors. A proper regulation of lobbying activities, together with the transparency law -in which should have been included the obligation of elected officials and senior politicians to publish their agenda meetings-could prevent new cases for the future or, at least allow us to know. Let's see an example of the implications of this type of corruption.

3.1.- The influence of the energy companies¹⁴

Energy is one of the strategic sectors for most countries, because of its economic and corporate, social and geopolitical importance. According to the CNE, in 2012 the energy sector in Spain represented 3.6% of GDP, 1.4% of total employment and nearly a quarter of goods imports. But beyond these data, the characteristic of the energy sector is its essential contribution to the functioning of the entire production system. Therefore, it has been one of the most controlled and / or regulated sectors since the twentieth century. The EU energy policy is based on achieving four main aims that were agreed in the Treaty of Lisbon: i) ensure the functioning of the energy market; ii) ensure security of energy supply in the Union; iii) promote energy efficiency and energy saving and the development of new and renewable forms of energy; iv) promote the interconnection of energy networks.

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However, the vulnerability of the sector in Spain, with a 73.3% degree of dependence on foreign energy, compared to a European average around 53%, is an added complexity for properly regulate to achieve these aims. Thus, numerous laws and regulations have been adopted by successive governments, unpredictably and discontinuous, putting successive patches and generating a regulatory tangle. In this context, to communicate with the Administration, industry has traditionally opted for a direct dialogue with high levels of political decision. To do this, it has opted for the strategy of hiring high-level officials, hoping to streamline its relations with the government and obtain legal stability. In this regard, the report published by the Group of States against Corruption of the Council of Europe (GRECO) in January 2014 mentions with special reference the cases of corruption in Spain as a result of the transfer of members of the executive to business sector, "severely attacking the credibility of their institutions"¹⁵. The report cites specific cases in which prominent politicians join board in large business groups, usually regulated sectors, whose business depends largely on public administration. This is an expression of the phenomenon known as "revolving doors". For example, the former Prime Minister Felipe González came in as advisor of Gas Natural¹⁶, the former Prime Minister José María Aznar was hired by Endesa as external advisor and exercises counselor in other 5 multinationals, including KPMG in Spain¹⁷; Pedro Solbes was signed by Enel, Elena Salgado signed by Endesa in Chile (both former vice presidents of the government of Rodríguez Zapatero); José Folgado, former Secretary of State of Energy in the VII legislature and mayor of Tres Cantos, which he resigned to accept the presidency of Red Eléctrica¹⁸. Making a general balance, in the boards of companies which listed on the IBEX 35, about 40 counselors have

a remarkable political past, according to published information in the newspaper ABC¹⁹.

A major problem in the Spanish electricity system is called **tariff deficit**. This controversial figure is based essentially on the gap between the costs of the regulated activities recognized incomes and fee charged to consumers²⁰. Energy companies have financed the deficit until 2010, which has been computed as long-term debt of the state to transfer the deficit to financial institutions. In this regard, it is noteworthy that there is a matching

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¹³ See, with respect to the phases of public policy, for example: J. Subirats, P. Knoepfel, C. Larrue, F. Varone (2008), *Análisis y gestión de políticas públicas*, Barcelona: Ariel.

¹⁴ This is a case prepared for the project by Esteban Arribas Reyes, University of Alcalá and Jorge Fernandez-Rua, Cariotipo MH5.

¹⁵ Vox Populi, "The Council of Europe reviewed the revolving doors, by which politicians sign by large companies", 01/15/2014.

¹⁶ The Confidential, "Felipe González is advisor of Gas Natural for another year by 126,500 euros", 04/11/2014.

¹⁷ J. Rodríguez (El País), Special: "Aznar: The reinvention of a president" in <http://elpais.com/especiales/2014/aznar-la-reinencion-de-un-presidente/>

¹⁸ EFE, "José Folgado, former Secretary of State of Economy, new president of Red Eléctrica of Spain", 08/03/2012

¹⁹ E. Montañes, "How many salaries can charge a politician?", ABC, 09.12.2013.

²⁰ Total electricity costs are comprised of regulated costs (to compensate the transport, distribution, premiums for wind and solar renewable energy, raw coal, the mainland costs, nuclear moratorium, the late payment of own accumulated deficit rate, etc.) and unregulated cost or market costs (power generation and fuels). The final prices for consumers consist of the access fee (which pays the costs covered) and a variable payment (to cover the generation of electricity, this is not regulated costs). The deficit existed since the early 2000 and has been increasing, especially since 2007. Until 2010, the deficit is assumed major energy companies (in recognition of the State debt). In 2010 the fund FADE was created to place energy debt with financial institutions. At present the tariff deficit impacts only in regulated costs.

criterion between different agents about when and how the debt will be repayed to major companies in the sector. The result is that the price of electricity in Spain is one of the highest in the European Union, which affects families and the competitiveness of the Spanish industry. Indeed the existence of the tariff deficit has caused that different ways are explored to tackle it. One of them was to raise rates to consumers. Another was to stop the use of renewable energy, more expensive, although they are the ones that produce less environmental pollution. Another way was to reduce costs also covered such as remuneration transportation and distribution. For some authors, in the sector a *“widespread existence of over-compensation, which must be trimmed to allow price reductions to improve business competitiveness and the economy of families”* occurs²¹. The return on assets of the five largest energy companies in Spain was 4.1% in 2010, while in the other European companies was: 3.3% RWE, 2.6% EON, 2.2% EDF, 2% GDF-Suez, 1.9% ENEL. The profitability of these companies comes essentially *“of their activities in Spain”*; this profitability may explain why *“three of five Spanish electricity companies have become foreign-owned electric and the other two has been a significant investment of Spanish construction”*²².

The existence of the deficit is compounded by the current overcapacity installed to produce energy in Spain, and the consequence is that over the next decade no new power plants of any kind are needed. Indeed, since the sector was liberalized, 67 combined cycle plants are installed that use natural gas, with more than 13,000 million euros investment, which now abound over half²³. Now redundant over half²⁴. In this situation, on January 27, 2012, just one month after his arrival at the Ministry of Industry, Energy and Tourism, José

Manuel Soria announced²⁵ a Royal Decree²⁶ by which temporarily suspended bonuses to new facilities of the special regime, among are wind, solar thermal, photovoltaic and biomass. This measure, described as Solomonic by various media, was justified by the minister Soria due to *“the economic and electrical system situation, which carries a high tariff deficit”*. The tariff deficit then was around 28,000 million euros²⁷. The measure could be taken by surprise to renewable energy sector, which had not been consulted according to media industry²⁸, while it seemed to satisfy energy companies: the president of the employers in the sector, UNESA, called the reform *“brave”*²⁹. This battle was won by electricity versus renewables, despite the fact in Spain solar energy can be one way to avoid our over-dependence on the outside.

Another sector that has lost the battle against energy companies is the self-consumption, that is, *“the consumption of electricity from generation plants connected within a network of a consumer or through a direct line of energy associated electrical consumers”*³⁰. From the point of view of competition, the self-consumption is *“a source of competitive pressure for the rest of conventional supplies, helping to enhance effective competition in this sector”*³¹. In addition to foster competition, to various regulators, the self-consumption has other significant advantages as contributing to energy independence at the micro level, providing a more secure local supply, or reducing electricity losses in transport³². However, the promotion of this type of energy, if it extends between the Spanish population, had a negative impact on the income statement of the main companies of the electricity sector, because it would reduce their incomes without just cut their expenses by having to maintain support for the selfproducer / selfconsumer.

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In May 2012 the first media reactions began to publish in shaping the position of the electrical industry³³: electrical highlighted that extended consumption, the system costs would be borne by fewer consumers. Given this, they defended a model of efficient tariff *“that strictly reflects the correspondence between costs and tariff concepts to prevent subsidies from other consumers to self consumers”*³⁴. Some companies argued that a toll back must be established to selfconsumers to prevent uncontrolled growth and compensate for the drop in electricity demand³⁵. The truth is that, after various vicissitudes and covert pressures, despite all the benefits of the development of self-consumption, Article 9 of the Electricity Act established the *toll* to consumers subject to any form of consumption. In June 2015, the draft of Royal Decree regulating the selfconsumption has been approved and incorporates some new features, while maintaining the toll; for example, it allows ownership of consumption and generation facilities is different, and it opens the door for companies to owning such facilities and not the customers who use them³⁶.

In sum, given the logic conflict of interests, the impression of some people is that the Executive regulates the selfconsumption activity for discouraging it, in response to electric companies requests and against regulation that other European countries like Germany are promoting³⁷. The lack of respond to the arguments in favor of selfconsumption and numerous claims³⁸ and amendments to the Draft Law on the Electricity Sector, and the short-term direction of the measures taken by the government seem to indicate that the decision of the Executive was more political than technical and all parties with an interest in developing these standards didn't heard or responde equally. It indicates that **the processes**

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²¹ Martín Gallego, Martín Gallego, “La electricidad, clave de la política energética”, Temas para el Debate 236, July 2014 (pp.21-24).

²² M. Gallego, “Electricidad renovable y política energética”, Nuevatribuna.es, 8/17/2014.

²³ M. Gallego, “La electricidad, clave de la política energética”, Temas para el Debate 236, July 2014. (pp.21-24).

²⁴ M. Gallego, “La electricidad, clave de la política energética”, Temas para el Debate 236, July 2014. (pp.21-24).

²⁵ Ministry of the Presidency, refer the Council of Ministers of January 27, 2012: <http://www.lamoncloa.gob.es/consejodeministros/referencias/Paginas/2012/refc20120127.aspx>

²⁶ Royal Decree-Law 1/2012 of 27 January, about proceeds to the suspension of pre-allocation procedures and the removal of economic incentives for new installations producing electricity energy from cogeneration, renewable energy sources and waste. Published in the BOE on January 28, 2012.

²⁷ RTVE / Agencies, “The electricity tariff deficit exceeded 28,000 million euros until 2012, according to the CNE,” 4/19/2013.

²⁸ AM Velez, “Soria fulminates future renewable raw plants,” Publico, 28/01/2012; and L. Lopez and R. Esteller, “Industry proposes to put premiums on demand for renewable”, The Economist, 30/01/2012.

²⁹ L. Lopez and R. Esteller, “Interview with Eduardo Montes, President of UNESA”, The Economist, 15/05/2012.

³⁰ The self-consumption patterns fall into three categories: i) supply with self-consumption; ii) production to self-consumption; and iii) production with self-consumption of a consumer connected through a direct line of production facility.

³¹ Prescriptive Report 103/13 on the Draft Law on the Electricity Sector. CNC, September 9, 2013, p.15.

³² Report of the CNC, IPN 103/2013, September 9, 2013 (p.15) and Report 19/2013 of the CNE, September 4, 2013 (p.13).

³³ L. López and R. Esteller, “The consumption must also pay the cost of the networks, as power”, The Economist, 05/21/2012.

³⁴ Ibid.

³⁵ G. Sáenz de Miera (Director of Regulatory Foresight in Iberdrola), “Analysis of selfconsumption within the Spanish electricity sector.” Seminar on selfconsumption and net balance in the Community of Madrid. April 12, 2012. ►

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used are not perceived as sufficiently clear or transparent, or as processes that provide opportunity for participation by different interests, often conflicting, of employers, social organizations and the general public. Probably, if there was more transparency, these impressions could be countered with strong arguments of the executive, but to the opacity, the appearance of bias is undeniable.

3.2.- Financing of parties and infrastructure.

Most of the companies listed as illegal donors in the PP's accounting met a good business in the **awarding of government led by Partido Popular (PP)**. This is reflected in the report of the Unit for Economic and Fiscal Crime of the Spanish Police (UDEP) on the analysis of the contracts to which they agreed, at the hands of the PP and between 2004 and 2009, the imputed businessmen in the Barcenas case and their comparison with the total public awards that they achieved, regardless of the Administration granted them. The report notes that for a quarter of the 16 companies investigated, the PP rulers' awards accounted for over 50% of capital obtained from the Administration. In two cases, more than eight of every 10 euros, that the commercials entered, came from governments led by the Partido Popular.

After analyzing these and other cases, we can see that one of the characteristics of the Spanish system is the huge opacity and apparent imbalances between different stakeholders in public policy. Are our laws sufficient to meet the opacity and imbalances between actors? Could they contain the legal corruption and undue influence? The answer is rather negative. In Spain there are no records of lobbyists, or reports on their meetings and activities of influence, there

are no enforceable ethical rules or sanctions for breach of ethical rules or supervisory bodies that monitor the activity of influence... There are also gaps in legislation on conflicts of interest, party financing, transparency, *accountability* or criminal legislation (we refer to the study "An Assessment of lobby in Spain: Analysis and Proposals"³⁹ to justify in detail these statements). Neither there is a sufficiently strong and effective regulation that protects corruption whistleblowers. These regulatory defects are probably more important than the lack of specific legislation on lobbying to control corruption and malpractices. Faced the void, in Catalonia they have chosen to develop a specific law regulating lobbyists, but its legislation on public sector control still has enough flaws.

Meanwhile, the perception of corruption that Spaniards have of politicians and parties is overwhelming. In the latest Eurobarometer of 2013 we have the dubious honor of being the Europeans that perceive more corruption between the parties (84%) and politicians (72%), ahead of Italy (68%) and (63%) respectively.

4. Probably now there is less corruption than there was when we were growing up

Any minimally rigorous analysis about investigated cases of corruption currently may show that the majority comes from those years that, in Spain, presumably corruption was reduced and the country grew without foreseeable limits. Then nobody just talked about it and a lot of citizens voted for the corrupts (see Costas-Pérez *et al*, 2011;. Gómez, B. *et al*, 2011;. Muñoz *et al*, 2012) and implicitly assumed that corruption was necessary for the system. In short, when the

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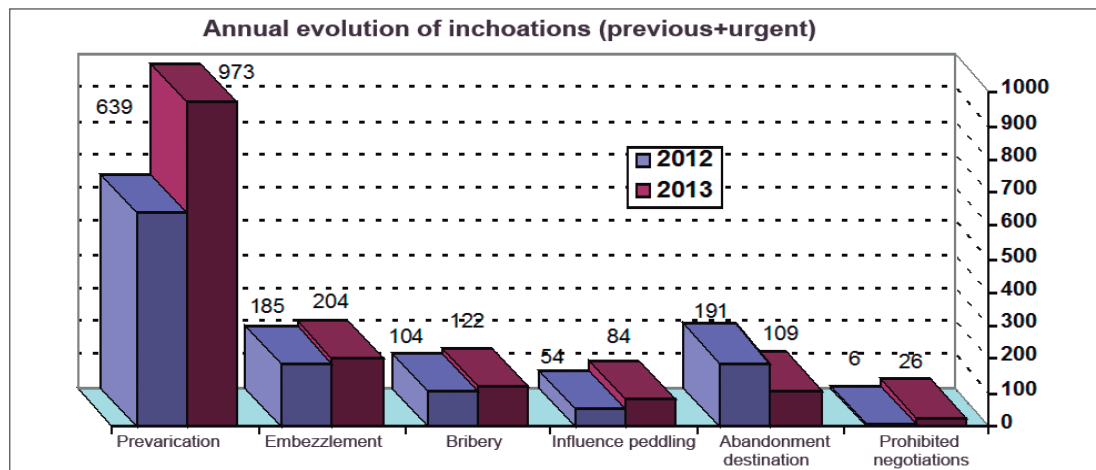


Figure 1. Source: Own elaboration.

economic situation in Spain was positive and well perceived by most Spaniards, the perception of corruption down to the point that between 2001 and 2006, the years of speculation and urban bubble are the years in the historical series of ASEP⁴⁰, which runs from 1994-2011, where more Spaniards believe that corruption has declined much (34.6% in 2002 and 34% in 2006). However, the analysis of the discovered cases later shows that this was one of the most corrupt periods in the recent history of Spain.

Indeed, in 2005, the size of the Marbella case triggered alarms and the Zapatero government initiated the first steps of combat as with the case Gürtel and the beginning of the economic crisis, generated the first changes in public opinion (see Table 4) and strengthening of the researches. It has come a long way in the fight, but there are still huge problems to judge quickly and exemplary. We do not know if, when the crisis is over, our moral judgments again will be so lax, but this moment of moral indignation should seize to adopt the legal, organizational and procedural reforms that the country needs. In any case, it seems clear that

the perception of experts at that time was overly optimistic, but another thing is whether the current perception really expresses the comparative situation of Spain. Today, in any case, corruption is investigated more and better and prosecutors and investigating judges know better how to combat it. For this reason, although police investigations for corruption cases have not increased since the advent of the crisis, they have recently been issued

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³⁶ Read more: Industry approves the electrical consumption and maintains the toll backup. [elEconomista.es](http://www.eleconomista.es/interstitial/volver/283488982/energia/noticias/6769251/06/15/Industria-aprueba-el-autoconsumo-y-mantiene-el-peaje-de-respaldo.html#Kku8Nt7RrsYmBXHx) <http://www.eleconomista.es/interstitial/volver/283488982/energia/noticias/6769251/06/15/Industria-aprueba-el-autoconsumo-y-mantiene-el-peaje-de-respaldo.html#Kku8Nt7RrsYmBXHx>

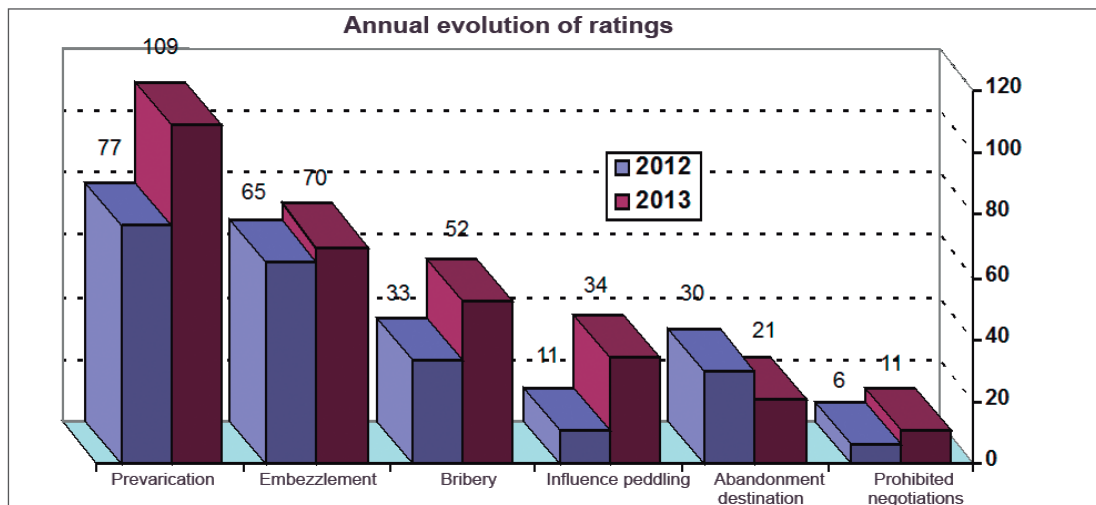
³⁷ R. Sword, "Selfconsumption, net balance, Germany, California" Renewable energy, 05/23/2012: <http://www.energias-renovables.com/articulo/autoconsumo-balance-net-germany-california>.

³⁸ V. Martínez, "Broadening the tax case against the sun discriminatory", *El Mundo*, 03/06/2014.

³⁹ Villoria, M. (ed) and Revuelta, A. (Coordinator) (2015) **Una evaluación del lobby en España: Análisis y propuestas**. Transparencia Internacional España.

⁴⁰ ASP / JDS, 1987, XI.

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Source: Own elaboration.

more indictments by prosecutors and there have been more judgments against corruption cases in previous years (300 condemnatory sentences for corruption in 2013). See Figures 1 and 2.

5. Corruption occurs mainly at the local level of government and, to some extent, on the regional level

The study corruption has been developed primarily in the local level of government and has been linked to the construction boom. The Autonomous Communities corruption has also been high and has a lot of responsibility on local corruption. But in the last ten years there has been no cases of corruption in the national government that affect senior government members (other thing is catching policy, as stated above). At the local level, 40 of the 110 municipalities with more inhabitants and/or provincial capitals, has had investigated cases in recent years. To them, more than 550 medium and small municipalities with cases are been also investigated. We cannot forget, moreover, that

90% of Spanish municipalities have fewer than 10,000 inhabitants. In short, we are probably talking about almost 300 municipalities with some open cause of a total number of municipalities with the potential for highly profitable corruption not over 1000 (750 are over 10,000 inhabitants and other coastal). And a total of over 600 Spanish municipalities have or have had any investigated scandal of corruption; this phenomenon in some communities is overwhelming, for example, almost 60% of municipalities in Murcia and almost 40% of the Canary Islands (Jerez *et al*, 2012).

The fundamental cause of this phenomenon has been the urban planning. In fact, if we connect this data with perception surveys, we find that the 35.6% of respondents believe corruption is "widespread" among the authorities, which grant permits and building permits; it is, and the 12.1% think it is "widespread" among the security forces (2009). In the last Eurobarómetro 2013 Spain is the EU country where there is greater perception of corruption among officials / politicians, who give building permits (54%). This is also reflected in

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Country	Year	Local	Regional	National
Spain	2005	74%	73%	74%
Spain	2009	89%	90%	91%
Spain	2013	91%	91%	95%
Comparison 2005-2013		+ 17%	+ 19%	+ 21%
Italy	2005	81%	81%	84%
Italy	2009	89%	86%	89%
Italy	2013	92%	92%	93%
Comparison 2005-2013		+ 11%	+ 11%	+ 19%
France	2005	71%	73%	81%
France	2009	79%	80%	83%
France	2013	75%	75%	76%
Comparison 2005-2013		+ 4%	+ 2%	-5%

Table 4. Perception of corruption in local, regional and national institutions. Sum of which they agree with the existence of corruption in each of the institutions. Source: Eurobarometer 325, 2009, Eurobarometer 245, 2005 and Eurobarometer 397, 2013.

victimization, because in those areas of urbanism is where most bribes are recognized. Moreover, an analysis of court statistics says that in 2012, in the real estate sector crisis, there were 1,000 cases concerning urban crime linked to corruption.

All this explains the high level of general perception of corruption in local governments in Spain. A comparison with Italy and France allows us to see the existing impairment (see Table 5). However, in general, the national government is accused of corruption for reasons of remoteness and ideological as well as give responsible for the whole problem. In any case, respondents in southern Europe are more inclined now than in 2005 to believe in widespread corruption of local and regional governments; but Spain is in the top of three countries of the South, which the image deterioration has been greater. Furthermore, the Spaniards of all Europeans give a higher score, together with Greece and Italy, to the question of what percentage of their local and regional politicians are involved in corrupt activities.

6. Perception of public corruption is high

Although polls show that, on every continent, the individual experience of paying bribes is less than the perception of public corruption (Rose and Peiffer, 2012), the perception of corruption in Spain is peculiar. Of all the countries of the European Union, in the last three years, Spain has undergone major changes in the perception of corruption and taking corruption as one of the most important problems of the country (Villoria and Jimenez, 2012)⁴¹. As seen in Table 4, in 2013 95% of Spaniards believed there was corruption in national institutions. You can also be seen in the table that Spain is the country where the difference between personal experience of

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⁴¹ According to the Eurobarometer 2013, at the national level, Spain is the country in which respondents perceive that there has been a further increase of corruption (77%), with 63% of respondents saying it had greatly increased. Then Slovenia (76% and 50%), Italy (74% and 45%), Portugal (72% and 39%) and Romania (65% and 55%).

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In the past 12 months have you or anyone living in your household paid a bribe in any form to public institutions / or-ganisations?	2004	2009	2013 (IT Barometer and eurobarometer)	Scores CPI 2013	Eurobarometers 2009/2011/2013. Agree with: "there is corruption in the National Institutions of my country"	Difference between victimization and perception on Eurobarometer 2013
Austria (1)	1%	2%	9% / 5%	69	66% / 85% / 73%	73-5 = 68
Czech Republic	21%	Eleven%	15% / 8%	48	96% / 95% / 94%	94-8 = 86
Denmark	2%	1%	Eleven%	91	35% / 25% / 38%	38-1 = 37
Finland	3%	2%	Eleven%	89	68% / 50% / 51%	51-1 = 50
France (1)	2%	2%	7% / 2%	71	83% / 80% / 76%	76-2 = 74
Germany (1)	1%	2%	21%	78	80% / 70% / 74%	74-1 = 73
Greece	11%	18%	22% / 7%	40	98% / 99% / 97%	97-7 = 90
Hungary	nd	14%	12% / 13%	54	98% / 86% / 72%	72-13 = 59
Holland (1)	2%	2%	2% / 2%	83	56% / 39% / 57%	57-2 = 55
Italy 1	2%	10%	5% / 2%	43	89% / 95% / 93%	93-2 = 91
Poland (1)	5%	4%	15% / 15%	60	86% / 73% / 78%	78-15 = 63
Portugal	2%	2%	3% / 1%	62	91% / 91% / 86%	86-1 = 85
Romania	25%	14%	17% / 25%	43	87% / 89% / 82%	82-25 = 57
UK	1%	3%	5% / 1%	76	76% / 73% / 72%	72-1 = 71
Spain	2%	2%	2% / 2%	59	91% / 93% / 95%	95-2 = 9

Table 5. Percentage of people who admit having paid a bribe in the past 12 months in Spain and other countries of the European Union and their relationship with perceptions of corruption (CPI: 100 = Least corrupt; 0 = most corrupt) (1) The data on Italy is for 2007 Were Because no data available for 2009. The data on Austria, France, Germany, Holland and Poland are from 2010 (no data available for 2013). In 2013 the data are from the Global Corruption Barometer and form Eurobarometer 397. Sources: Transparency International's (TI) Global Corruption Barometer and Corruption Perception Index; Eurobarometers 72.2; 374; 397.

corruption, as measured by victimization rates -have had to pay a bribe-, and perceptions -measured by the Eurobarometer 2013- is the highest. If these data are checked with Hungary, Poland, Romania and Italy, for example, you can check the data of victimization are higher in these countries, but the public perception is lower than in Spain. If perception depended entirely on the direct experience of corruption in Spain, perception might not be very different from Germany or Holland. But the reality is that perception is a complex phenomenon. Thus,

the perceived corruption does not only refer to bribes, also it is but a way to make policy based on the constant intrusion of private interests in the political decision making and vice versa, ultimately with very perverse effects for the collective welfare. According to the Eurobarometer of 2013, the 77% of Spaniards believe that corruption is part of the business culture in the country (the European average is 67%); the 84% believe that bribery and connections are the way easier to obtain public services (EU average 73%); the 67% believe that

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the only way to succeed in business are the political connections (European average 59%). This partly explains the difference shown above, the Spaniards see the continuous and perverse connection between money and politics.

But also the perception is the result of exogenous variables to the corrupt phenomenon in itself considered, as we shall see. Some argue that media attention helps increase perceptions of corruption by creating an effect of “echo chamber”, because the most media stories about corruption are repeated again and again, leading to reinforce beliefs and desensitizing people about the actual level of corruption, especially when convictions are rare and the perception of impunity is high (Villoria and Jiménez, 2012, Vanucci, 2009). Various factors contribute to this perception of impunity, including especially two: pardons and the slow macro-criminal proceedings. Between 2000 and 2012, there have been 132 pardons to convicted political by corruption; moreover, the average time of the macro-processes to issue a judgment is in almost 10 years. Obviously, public opinion on the subject is affected by this phenomenon. In a recent survey of Metroscopia (January 2013), the 95% of respondents thought that the system favored the impunity of corrupts in Spain⁴². Another study⁴³ further reinforces this idea because a large majority considers that there will be no penalty for corrupts in the two media cases of recent times (About Case Gurtel and Case Urdangarin, in March 2013 the 78% and 77% of respondents, respectively, believed that there will be convictions). In addition, several cases of political corruption, many of them highly mediated, generate a high perception of corruption that, coupled with the slow pace of proceedings, they cause a sense of impunity, strengthening institutional distrust, especially in times of deep economic crisis, as we shall see.

In mid-2006, corruption cases began to figure prominently in the headers of the most important newspapers, and in 2009 they had already been a constant topic of conversation even in the most sensationalist television programs. Furthermore, between September 2008 and July 2010, nearly the 50% of the news in national and regional newspapers were focused on corruption, economic crisis and partisan tensions (Villoria and Jimenez, 2012). According to Palau and Davesa (2013), between 1996 and 2009, considering only the two most important newspapers in Spain -*El País* y *El Mundo*-, there have been 4,126 news about political corruption in the header pages. Therefore, a differentiating factor of perceptions is regarded the impact of the media (eg, Villoria and Jimenez, 2012; Van de Walle, 2008; Heywood, 2007). In short, the media spotlight makes the perception of corruption especially increases towards this group of political actors, who are generating news. Palau and Davesa (2013) have found a strong positive correlation -762- between the attention that the two most important newspapers in the country have been in corruption from 1988-2009 and the view that political corruption is a major problem in Spain. Therefore, the more people read newspapers, the greater perception is about corruption at the political level (Lancer and Villoria, 2013).

Cultural factors also influence the perception. The perception of corruption has been high in Spain in recent decades. Since 1994 (first

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⁴² El País (2013) Metroscopia survey shows 95-percent mistrust in courts' grip on corruption. Available from: http://elpais.com/elpais/2013/01/14/inenglish/1358166491_974110.html [Accessed on 03.02.2013].

⁴³ Metroscopia 03/03/2013. <http://elpais.com/elpais/2013> [Accessed on 03.04.2013].

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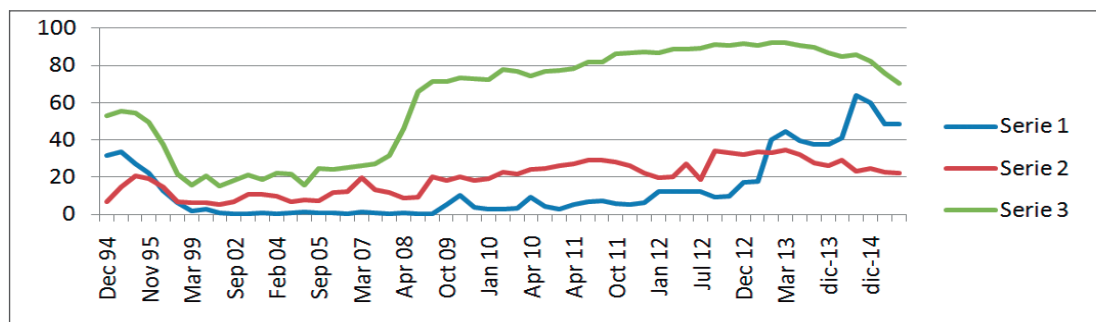


Figure 4: % of people who believe that corruption (Series 1) and political (Series 2) are one of the three most important problems of the country. And % of people who believe that the economic situation is bad or very bad. Source: Barometers of CIS

available data), the majority of Spaniards believed that political corruption had increased or remained the same during the previous year (Díez Nicolás, 2013). The high perception of corruption is related to historical factors of institutional distrust solidly entrenched (Torcal and Magalhaes, 2010), which has been reinforced by the continued presence of political corruption news, especially from late 1980, depending on the arrival of new scandals (Jimenez and Villoria, 2012; Della Porta, 2000). While corruption is a phenomenon that exists in certain gaze of the recipient, a pre-existing sense of mistrust of politicians affects the answers about the immorality of them, predisposing citizens to ascribe corrupt motives to their acts (Wroe et al, 2013, p. 176). Institutional trust also has a strong relationship with both interpersonal trust and corruption (Rothstein and Stolle, 2003; Rothsein and Eek, 2009; Della Porta and Vanucci, 1999). Therefore, there is positive correlation between low levels of inter-confidence and the perception of corruption (Villoria et al. 2013), so that the low level of trust among citizens, established in Spain since this variable is measured, could affect the perception of corruption and vice versa.

Other studies have shown that economic performance has a strong impact on citizens'

perceptions of the government (eg, Morris and Klessner, 2008; Melgar *et al* 2010). Specifically, citizens, who believe that the economy is not doing well, either generally or in what affects them personally, tend to think more than the government is corrupt those who have an optimistic view of the national economy or personally. In the case of Spain (see Figure 4), in repeated analysis of the barometers of CIS, it can be seen that there has always been a correlation between the perception of economic performance and consideration of corruption as one of the three most important problems of the country ($r = 0.44$). But this correlation is remarkably increased when the percentage of people, who believe that the economic situation is bad or very bad, exceeds 50% ($r = 0.63$). There is also a strong correlation between the perceptions that the economy is bad or very bad and the perception of politicians as one of the three most important problems of the country ($r = 0.87$). Therefore: those with negative assessments of the economic situation of the country and their own economic situation perceived political and public employees as more corrupt than those with positive views (see Eurobarometer 2013). In short, the perception of corruption is also blended elements of government performance subtle but persistent.

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7. The root causes of corruption have had or have to do with serious institutional flaws and very little protected risk areas

The defended hypothesis is that corruption in Spain in the historical moment studied is explained mainly by the conjunction of two variables and its mutually reinforcing effects. The first is the construction boom, coupled with problems with public procurement and the second is the existing institutional deficit in the planning regulations and the system of local integrity, especially, but also the overall defects of accountability system in Spain.

In general, national or regional governments have had little role when a mayor fails to meet his obligations in this urban area. Although the Law on Local Government (LBRL, 1985) allows the autonomous government will supply the mayors in these tasks of planning discipline when those clearly fail these duties, very rarely this has occurred in practice. As a Deputy Minister of Planning of an autonomous government said “no case is known in Spain where this has happened”⁴⁴. Thus, the regional governments have been limited, and even quite late, to use only ordinary control mechanism that it allowed them the 1985 Law: the appeal of Contentious-Administrative Jurisdiction.

The importance of clientelism in the functioning of many of our local governments and the consequent partiality in its performance also contributed changes in the role of officials of national qualification (FHN). Until the entry into force in 1985 of the LBRL, the FHN, especially secretaries and auditors, played an important role in internal control of the municipalities. Even today, the technical reports of these officials are necessary for a significant number of decisions of

urban nature. However, its relevance as a control mechanism has been reduced dramatically. The Court of Auditors has lamented the situation in many of its reports on local authorities. According to the Court, the integration of these officials in the local civil service has generated a phenomenon of organizational unit so that the “controlled” (municipal authorities) are the ones who set wages and working conditions of the “controllers”. This situation is not the most advisable if we are to ensure the effectiveness of such monitoring⁴⁵.

Finally, the LBRL (1985) also strengthened municipal autonomy and removed controls and guardianships that the national government had traditionally been exerting on the municipalities. Under the new law, the autonomous communities or the central government can not cancel in advance the decisions of municipalities by very suspicious of partiality or illegality that they may seem, however they can only resort to contentious-administrative jurisdiction to ask the judge to suspend the municipal decision. However, the extreme slowness of the administration of justice has become the mechanism of external control in a very ineffective instrument.

In connection with public procurement, the Eurobarometer 374 data on business attitudes about corruption in the EU in 2014, are illustrative. In general, companies in the construction area have higher perceptions of corruption across Europe,

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⁴⁴ Interview conducted on October 15, 2011.

⁴⁵ See Court of Auditors (2006), a motion in which the organ of financial supervision of public entities analyzed in depth the main problems of organization explaining the increasing difficulty for FHN carry out the tasks of control they have entrusted.

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but especially in Spain, where the construction of infrastructure and waste management are well known spaces of corruption. The 54% of Spanish companies believe that corruption is a problem in doing business (European average 43%); also the patronage is for the 46% (EU average 41%). Spain is the leading country in Europe in the belief on the part of our companies in the extent of corruption in the hiring: 83% nationally and 90% to regional and local levels (European average 56% and 60% respectively). Spanish companies have the European record of perception of corruption, together with the Greek: 97% (the EU average is 75%). The bad practices of our companies are encouraging friends and family to do business, nepotism and patronage in the administration, and the opaque financing of parties. The 91% of our companies are excessive links between money and politics (European average 80%); the 93% believe that corruption and favoritism hurts businesses (European average 73%); and the 78% believe that bribes and connections are the simplest way to get public services (EU average 69%).

Perhaps all this, Spanish companies, together with the Cypriot, involved least in public procurement: the 11% of them in the last three years (29% in the EU). The 42%, among those which have participated, believe that corruption has prevented it from winning contests, compared

with a European average of 32%. The problems, in relation to recruitment, which have been found, are as follows (see Table 6).

In sum, there are obvious areas of risk and institutional designs to prevent corruption are very poor as we have shown in previous studies. To begin, Spain still has not anti-corruption holistic and integrated; there are not evaluations of the programs that have been launched in this area; ways of social participation are not given to combat this scourge and, the worst of all, there are not enough independent institutions to combat the problem fairly. In fact, in the latest Eurobarometer on corruption in 2013, only the 27% of Spaniards believed in fight impartially against corruption.

In recruitment it is clear that more transparency is needed, but with reusable data and interoperability, allowing effective control by the civil society. Strengthened electronic trading and create a permanent and independent authorities on daily monitoring system will be necessary (apart from the Court of Auditors, which acts too slowly), authorities to create a model of “red flags” to detect obvious risk situations, and homogeneous indicators that will control costs deviations. Listings of corrupt companies and their interoperability are essential, and it must prohibit to contract corrupts with the government. Finally, promote integrity pacts between businesses and governments

Issues	Contracts drone	Conflict of interest	Previous arrangements / collusion	Unclear selection criteria	Design by the contractor	Abuse of negotiation process	Modified	Emergency abuse
EU	57	54	52	51	46	47	44	46
Spain	80	79	71	72	56	72	69	64

Table 6. Main problems of public procurement according to the companies. % of companies that consider the proposed item as a problem. Source: Eurobarometer 374.

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and strengthen control of the post-award phase would also quite useful measures.

The disregard for preventive mechanisms and the expansion of the penal strategy are generating constant arrests. But the penal strategy does not bear all fruit. Slowness, lack of resources, weak whistleblower protection, difficult asset recovery, the absence of crime of illicit enrichment applied to this area, prescriptions,... are very important hindrances to get revenues to the efforts of many prosecutors and judges dedicated to these cases. Obviously, outcrops and pardons do not help to success in the cause. And finally, not boring, the lack of independence of the public prosecution in this field and the possible political pressure on judges, especially those who want to move up, make difficulties are often extraordinary. The last change in the composition of the General Council of the Judiciary does not give much encouragement; some may think that the strengthening of political control by the government on this body, aims to control, through promotions and disciplinary system, judges who act in full independence. Hopefully not.

8. Conclusions

When Spain begins its difficult and threatened democratic transition, people with responsibility for designing the institutional model, that would govern our political system decided, so probably right for the time, the rules should encourage governance and discourage instability. The experience of our two previous republics had been disappointing, precisely because they could not resolved their instability and conflicts. The nineteenth-century experience of the Restoration gave some key, but also it opened large shadow of doubt by the consolidation of despotism and its democratic deficit. In any case,

the British experience coupled with certain features of the German model could complete a good frame of reference for this new stage in Spanish history. The result has been good in terms of prosperity, coexistence and justice. But it has come quite possibly to the point of exhaustion. The generated institutions hinder control and *accountability* excessively, are little incentive of the representativeness and favor opacity and abuse of power and corruption. Spain's image internationally has broken down, our economy has collapsed, the social fabric suffers because mistrust, like termites, is sinuously demolishing the system. Now it is the time to take a historical leap and, based on sensible and reasonable learning, to improve the institutional foundations of our democracy. The data from surveys of corruption perceptions are sounding the alert. According to theories such as the framework of Social Accountability active and empowered civil society is an essential condition for the effective implementation of institutions to control corruption. This is the Spanish case, largely, the sum of a free press, development of new information and communication technologies, and the perceived injustice of the generated system by the economic crisis and government responses have led to the emergence of a movement that: 1. It has located the problem of corruption in the center of the political agenda; 2. It has led to the creation of new legislation that begins to have positive consequences (transparency law, political parties law reforms and the Court of Auditors, the senior status, new penal code,...); 3. It has created a political party (Podemos) and has influenced other relatively new (Ciudadanos), which have set the goal of fighting corruption as one of their main banners. Finally, this citizen movement has had great success in the local elections in May 2015, winning the mayors of the three major cities of the country and influencing government programs in a huge amount of local and regional governments. After rigorous analysis, we could say that for the first time

in Spanish democracy the corruption has clearly been punished in some local and regional elections. May 2015 could be the beginning of a path of significant reduction of corruption in our country. We'll see.

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