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Corruption in Spain and Catalonia after 2008

Introduction

The economic crisis of 2008 caused many political changes both in the world, as well as on the European continent. These changes were particularly observable in the Central European countries¹.

One of the main reasons of initiating the processes transforming the existing political systems was disclosure of corruptive phenomena in the particular states. The disclosure of the cases of undue use of public money in a situation when many people and families were fighting to satisfy their basic life needs caused a radical loss of trust to entities functioning in the public space. It particularly concerned the level of trust to governments and political parties. The disclosure of subsequent corruption scandals at each level of the functioning of official authorities – from local to national – caused collapses of governments in many states (both national as well as local) and the decomposition of party scenes. It also caused the intensity of decentralist tendencies in the states, in which the conflict – the centre-peripheries was already clearly observable before 2008. We can even assume that the corruptive phenomena disclosed during the economic crisis had similar political results, such as lack of trust of the citizens to governments, which to save national economies were more loyal towards international financial institutions than to their own citizens

Contemporary Spain may be included in the aforementioned cases. Corruptive crimes disclosed in this state after 2008 caused a considerable loss of trust of its citizens to public authorities and became the reason of the decomposition of both central political scene,

¹ T. Kubin, M. Lorencka, M. Myśliwiec, *Impact of Economic Crisis on the Functioning of Political Systems. A Case Study of Greece, Spain, and Italy*, Katowice 2017.

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as well as regional party systems. Undoubtedly these processes also contributed to the intensity of decentralist tendencies, which was particularly reflected in the Catalan crisis.

The main objective of this publication will be the attempt to answer three questions:

- 1) What is the corruptive phenomenon based on and why a public space is endangered with it to such a degree?
- 2) How did the Spanish citizens react to corruptive processes after 2008?
- 3) Did Catalonia, whose politicians regard this region as definitely separate from Spain, differ considerably from a political centre and other regions of the country within intensity of the occurrence of corruptive phenomena after 2008?

The concept of corruption

The concept of corruption is not expressly understood. It is used in an informal language, as well as it is defined by the representative of diverse academic fields.

In the first case, the use of miscellaneous terms referring to corruptive phenomena is usually culturally marked and results from the history of particular communities. It yields in a vast range of terms, which is particularly rich in an informal language.

The thing is very different in view of science. The corruptive phenomena are the subject of the studies of the representatives of different academic fields and it is difficult to indicate one definition, which would entirely describe corruption. It is worth demonstrating at least several ways of defining corruptive phenomena in view of science.

And thus in accordance with John T. Noonan “a bribe is an incentive, inappropriately affecting the performance of the public function with the intention of its unjustified overuse”².

Samuel P. Huntington, definitely earlier, while discussing the issue of our interest, wrote that corruption is the behaviour of public officers diverging from the accepted norms due to carry out their private business. The three following elements occur here: (1) embezzlement, (2) illegal use of power and (3) obtaining benefits from it³.

Daniel H. Lowenstein also presented an interesting definition in American view. He pointed out that corruption to take place:

- 1) a government official must be involved in it,
- 2) the accused must have the intentions of corrupting,
- 3) any profits must be attributed to an official,
- 4) the discussed dependence must concern the very intention or the real influence on the official actions performer by the official⁴.

² J.T. Noonan, *Bribes*, Los Angeles 1984, [quoted after:] M. Tyimiński, P. Koryś, *Korupcja. Przegląd wybranych koncepcji*, “Ekonomia” 2002, No. 6, p. 166.

³ S.P. Huntington, *Political order in changing societies*, New Heaven 1968, [quoted after:] M. Tyimiński, P. Koryś, *op. cit.*, p. 168.

⁴ D.H. Lowenstein, *Political bribery and the intermediate theory of politics*, “UCLA Law Review” 1985, No. 37, [quoted after:] M. Tyimiński, P. Koryś, *op. cit.*, p. 169.

The approach presented straightforwardly describes the course of the corruption process and suggest that this phenomenon is a violation of a legal norm.

Antoni Z. Kamiński proposed a wide approach to the investigated problem. According to him, corruption comprises each action of the entity holding a position in any institution, which is non-compliant with the business of this institution, caused by the willingness to obtain private profits⁵.

The citation of only several definitions of corruption expressly demonstrates that most frequently they are related to a public sphere and the performance of public functions. Such a conclusion prompts us to ask a subsequent question about why at this level the corruptive phenomena evince so intensively.

The analysis of the concept of legal-administrative relation may provide appropriate explanation. It occurs on the basis of administrative law and is characterized by non-equivalence of entities. It results from the fact that one of the parties of this relation may be a natural person, a legal person or other entity, which does not have a legal personality, but as a result of the administrative procedure they may obtain specific rights or specific duties may be imposed on them. However, the other party is always represented by public administration body. This body disposes administrative authority, which means that being one of the parties of this relation decides about its solution. In other words, public administration body within legal-administrative relation decides in a case in which it is a party itself. We need to emphasize that in accordance with the concept of administrative authority it simultaneously disposes the right to impose coercion to make previously prepared decisions.

The presentation of the concept of legal-administrative relation makes us aware how strong the position of public administration bodies is with reference to a single citizen or even the entities consociating their bigger number (e.g. political parties, social organizations, enterprises, etc.). The aforementioned bodies are obliged to decide in any cases, which comprise their competences (and there are many of them in the contemporary realities of a given state) and they become subject of proceedings within legal-administrative relations. Even in case of reaching an administrative settlement by the parties having disputed business, an administrative proceeding is terminated by the body issuing a relevant decision confirming this settlement.

The considerations made enjoin to pose a question about what should be done so that public administration bodies (and in a more informal interpretation: clerks, who act on their behalf) could not overuse their authoritative position, resulting from the nature of a legal-administrative relation. The study of administrative law points to a simple solution: these bodies should be bound by regulations of law. This concept is legitimate in all respects, although as it is illustrated below, totally insufficient.

⁵ A.Z. Kamiński, B. Kamiński, *Korupcja rządów. Państwa komunistyczne w dobie globalizacji*, Warszawa 2004, p. 25.

Regulations of law should, first of all, clearly define a material jurisdiction of a given public administration body so that any misuse could not take place. It occurs as a rule, and, in case of the occurrence of a competence dispute between two bodies, regulations of law expressly define what entity should solve it. In addition, regulations of law should expressly define the regulations of an administrative proceeding, specifying what a public administrative body can do and what is definitely prohibited. These kinds of regulations also comprise the regulations related to corruptive crimes, which definitely forbid to make decisions related to the acceptance of undue material or personal profits by public administration officials. We may pose a question, however, if the very institution of a legal prohibition to make certain decisions may efficiently counteract the occurrence of pathological phenomena, including also the corruptive phenomena in administration. In this case, the response must be negative.

What can increase the efficiency of law enforcement by public body officials? The most efficient way seems to be the provision of institutional and legal protection for the citizen by the state against any kind of misuse. The existence of independent institutions, which may take actions aiming at bringing a corrupted official to justice, constitutes a kind of counterweight for their privileged position within a legal-administrative relation. Only the restriction of freedom and independence of the functioning of this kind of institutions (e.g. common and administrative courts, the ombudsman or the Constitutional Tribunal) and subjugating the bodies using the authority privilege in the state to their political will put the citizens at a disadvantage. In such a situation the inevitability of the necessity to institute a legal-administrative relation (even in occasional cases) repeatedly induces the entities or their organized groups to make illegal attempts at “arranging the case” by means of corruptive means. Any functioning institution in the inappropriately functioning, undemocratic political system, is not able to provide a legal protection for a citizen, or the entity not holding the privileged position within a legal-administrative relation⁶.

The reaction of Spanish citizens to the corruption phenomena after 2008

Interesting conclusions can also be drawn based on 2008 CIS research results on the most serious problems facing Spain. In 2008, the respondents were asked to identify several events that caused the most serious complications in the state. In first place, they mentioned unemployment (43%), economic problems (39.2%), terrorism (35.1%) and immigrants (23.7%). Relatively few responses included politicians and political parties (8.9%) or corruption (0.7%). The following years produced wholly different results. This is particularly evident in the survey conducted in 2015, 7 years after the economic crisis ensued. As previously, Spaniards also identified unemployment as one the

⁶ M. Myśliwiec, *O przyczynach korupcji w administracji publicznej*, [in:] *Korupcja w administracji*, edit. M. Myśliwiec, A. Turska-Kawa, Sławków 2016, pp. 16-18.

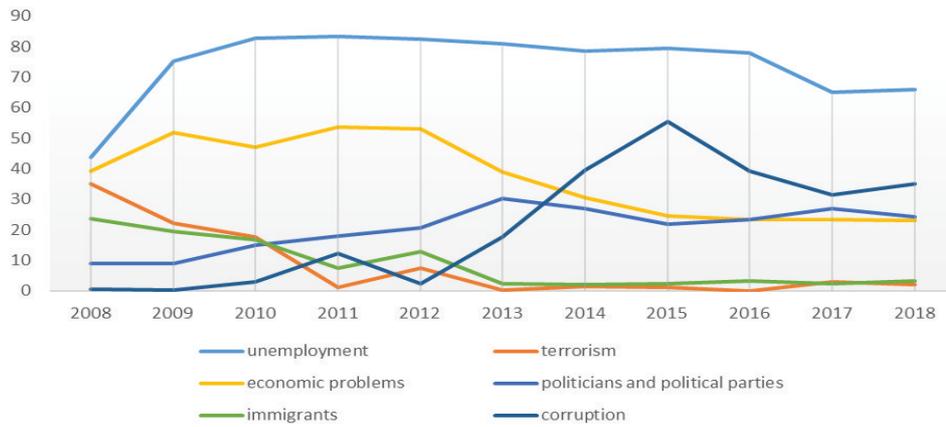


Chart 1. Results of research carried out by the CIS in the years 2008-2018 in answer to the question: What is the most serious problem in Spain according to you? Source: own elaboration based on <http://www.cis.es/> [access on: 10.04.2016].

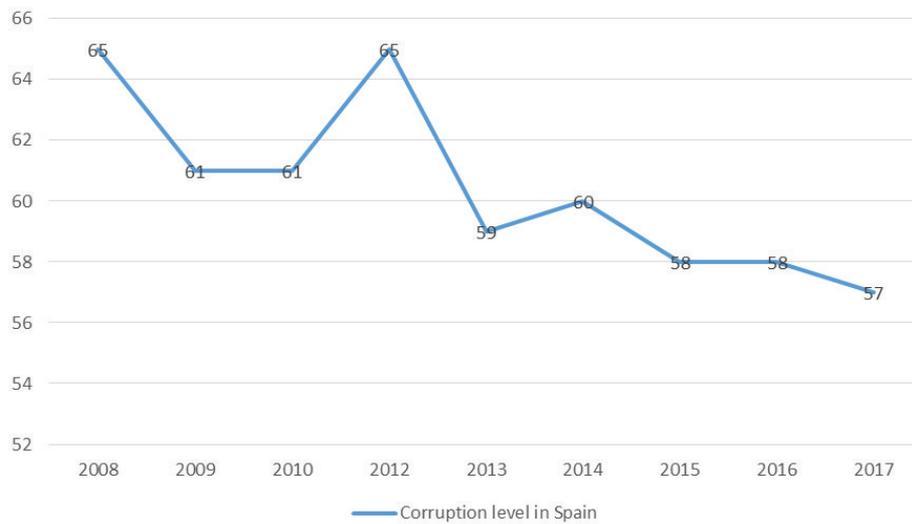


Chart 2. Corruption index in Spain in 2008-2017 Source: own elaboration based on <https://www.transparency.org/> [access on: 15.06.2018].

state's most serious problems. This time however, 79.4% of respondents provided such an answer. The second most serious problem was identified as corruption (55.5%), the third as economic issues (24.5%), while the fourth as politics and politicians (21.8%)⁷. The way to perceive these problems has not changed practically until today. Still 65.8% of Spaniards recognise unemployment as the most serious problem and the corruption with 35.1% of answers follows it on the second place.

The above results are not surprising, given the events that have taken place in the public realm since 2008. In conditions of a continuously deteriorating living and material situation of many Spanish families, the media, which had thus far been reluctant to speak about corruption scandals, began talking about them almost exclusively. The availability of various means of public communication made it impossible for conventional media to ignore this information. The amount and the quality of information being communicated to the public about public servants at different levels of state administration – local, regional, and central – literally inundated the average listener with information. What made matters worse was that the main actors behind the subsequent corruption scandals were mostly state servants connected with the country's political parties⁸.

And so, one of the most resounding scandals at the local level was that of the land sold in Torremolinos, in the famous Costa del Sol tourist resort, which was referred to as the Ciudad del Golf case, in which the People's Party's long-time mayor, Pedro Fernández Montes, was implicated (found innocent by the court)⁹. Another case was that of the Sayalonga case, in which José Luis Navas Camacho, the former mayor of the town from the PSOE party, was involved in. The irregularities concerning management of communal property that were revealed, were resolved by a court ruling that had sentenced him to a year in prison, a 9-year ban on holding public functions and a fine¹⁰. In turn, the United Left (IU) was implicated in the infamous Alzoaina case corruption scandal that was discovered on the local level. Antonio Blanco, member of the party and mayor of the town, was found guilty for irregularities in property sales, was sentenced to 20 years in prison and was banned from holding any public positions¹¹.

The regional level was not free from corruption scandals either. One of the most notorious scandals that involved this level of government was the Terra Natura Benidorm case connected with inappropriate usage of land in the autonomous Valencian Com-

⁷ T. Kubin, M. Lorencka, M. Myśliwiec, *op. cit.*, pp. 136-137.

⁸ *Ibidem*, p. 138.

⁹ N. Cenizo, *Imputado el alcalde de Torremolinos por presunta prevaricación urbanística*, January 8, 2014 "El Diario" January 8, 2014, http://www.eldiario.es/andalucia/enclave_rural/Imputado-Torremolinos-presunta-prevaricacion-urbanistica_0_215928896.html [access on: 15.06.2018].

¹⁰ F. Extremera, *El alcalde de Sayalonga, condenado a un año de cárcel*, "La Opinión de Málaga" November 12, 2009, <http://www.laopiniondemalaga.es/municipios/2009/11/12/alcalde-sayalonga-condenado-ano-carcel/301901.html> [access on: 15.06.2018].

¹¹ M. Martín, *El ex alcalde de Alzoaina acepta veinte años de inhabilitación por dos delitos urbanísticos*, "Diario Sur", September 16, 2010, <http://www.diariosur.es/v/20100916/interior/alcalde-alzoaina-acepta-veinte-20100916.html> [access on: 15.05.2016].

munity¹². However, as the events that will be presented subsequently gradually unfolded, it was ultimately central state level corruption scandals that inflicted the most damage on the political system of present-day Spain. Politicians of the two major political parties, PP and PSOE, were also implicated. One of the most serious accusations PSOE politicians faced was the AVE case¹³ and the Files case¹⁴. The People's Party was mostly affected by the Bankia¹⁵ and Gürtel¹⁶ cases.

In discussing the central government, public opinion was most outraged by the Nóos scandal, whose most prominent character was Iñaki Urdangarín Liebaert, the son-in-law of the king Juan Carlos I¹⁷.

As a result of these events, Spain began to be perceived as an increasingly more corrupt state from 2008 onwards. This was reflected in the results of research conducted each year by Transparency International. The corruption index assumes values from 1 to 100, with 1 signifying overwhelming corruption, while 100 meaning there is not corruption at all. In 2008, this index assumed a value of 65, positioning Spain among the group of countries with moderate corruption. In the following years, the index fell significantly (apart from 2012) and in 2017 it reached a value of 57, indicating a trend of increasing corruption in the state. Detailed information concerning corruption in Spain is presented in Chart 2.

The economic crisis that began in 2008 led to a significant loss of confidence of Spanish citizens in the institution of the state. The results of research conducted in the subsequent years shows a weakening of positive social sentiment towards state authorities and institutions, which were formed after 1975 in democratic conditions after the rule of General Franco. The most serious changes were noted with regard to the perception of the Spanish monarchy. The published results of the Centre for Sociological Research also showed that Spaniards trust more those governments that are close to them, i.e. at the autonomous level, than the central executive. The same regularity was evident in the level of trust in the central parliament and the parliaments of autonomous communities¹⁸.

¹² EFE, *El caso de Terra Natura es el primer gran escándalo de Fabra*, "Diario Informacion" September 5, 2011, <http://www.diarioinformacion.com/benidorm/2011/09/05/caso-terra-natura-primer-gran-escandalo-fabra/1164767.html> [access on: 15.06.2018].

¹³ El Mundo, *Absueltos el ex ministro Valverde, Aida Álvarez y otros cinco principales acusados del caso AVE*, <http://www.elmundo.es/elmundo/2006/06/28/espana/1151487765.html> [access on: 15.06.2018].

¹⁴ M. Ceberio Belaza, *De la corrupción de Filesa a la de Gürtel*, "El País" April 8, 2010, http://elpais.com/diario/2010/04/08/espana/1270677613_850215.html [access on: 15.06.2018].

¹⁵ I. De Barrón, *Así fue la caída del coloso*, "El País" May 13, 2012, http://economia.elpais.com/economia/2012/05/12/actualidad/1336851336_318553.html [access on: 15.06.2018].

¹⁶ Audiencia Nacional, Sala De Lo Penal, Sección Segunda, *Sentencia No 20/2018*, http://estaticos.elmundo.es/documentos/2018/05/24/sentencia_gurtel.pdf [access on: 15.06.2018].

¹⁷ *La Casa Real y el Caso Nóos*, "El País" June 18, 2018, <https://elpais.com/especiales/caso-noos/cronologia/> [access on: 15.06.2018].

¹⁸ T. Kubin, M. Lorencka, M. Myśliwiec, *op. cit.*, pp. 141-146.

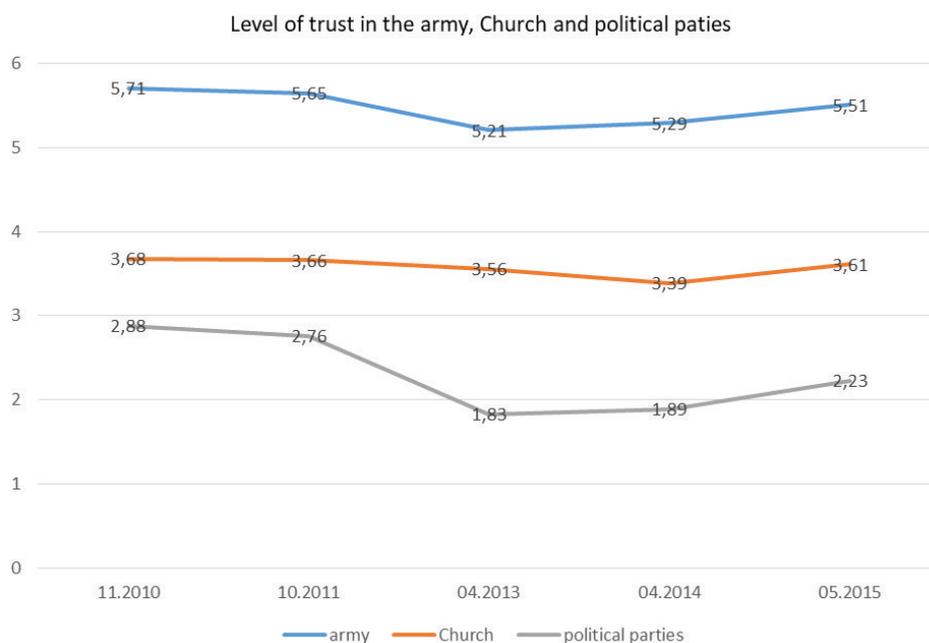


Chart 3. Confidence in the army, the Church and political parties in Spain in 2010-2015
Source: own elaboration based on <http://www.cis.es/> [access on: 15.06.2018].

In discussing the issue of decreased confidence in state institutions, one must also take into account an interesting study conducted by the Centre for Sociological Research showing Spaniards' confidence in three selected institutions – the army, the Church and political parties (Chart 3). It is worth noting that the study was carried out in 2010-2015 when the economic crisis was in full blow. Respondents expressed their level of confidence on a scale from 1 to 10, where 1 signified a complete lack of confidence, while 10 – the highest level of confidence. The results show that society, which had experienced the undemocratic rule of General Francisco Franco in the twentieth century, and which is secularising very intensively at present, has much greater confidence in the military and the Church than in the currently operating political parties. Undoubtedly, corruption scandals are one of the reasons for such a bad evaluation of political parties in Spain.

Corruption scandals in Catalonia after 2008

As it was mentioned above, the regional level in Spain after 2008 was not free from corruption scandals. This also refers to the case of Catalonia. One of the most notorious scandals that involved this level of government was the Millet case connected with the management of the Musical Palace in Barcelona (Siccardi 2010). The Democratic Con-

vergence of Catalonia party (CDC) was accused of mismanaging this institution¹⁹. The main figure of this scandal was Fèlix Millet i Tusell, the president of the foundation Orfeó Català-Palau de la Música, founded in 1990. Millet used his position to coordinate corruptive procedures for more than 20 years. They were based on transferring undue financial resources to the foundation in return for granting orders by the Catalan government within public procurements. The money obtained in this way was allocated by the main party ruling the region since the 1980s, Democratic Convergence of Catalonia, to its own activity. This scandal shocked the Catalans in a particular way, because Palace of Catalan Music is one of the most important cultural institutions in the region, which significantly influences the formation of a local identity.

In January 2018, the judgments were issued sentencing the people involved in corruptive crimes, with reference to this case. The very Fèlix Millet i Tusell, as the main defendant, was sentenced to 9 years of imprisonment²⁰.

“The case 3%” was other corruption scandal in a Catalan politics. It was related to bringing charged to many politicians of the coalition of *Convergència and Unió*, ruling Catalonia since 1980. The procedure was based on the fact that the entrepreneurs who won tenders for public procurements, realized by the regional government, were obliged to transfer 3% of the value of each contract illegally to the politicians of this group. Pasqual Maragall, deriving from Socialists’ Party of Catalonia, the president of Autonomous Community of Catalonia, was the first person to disclose this procedure in 2005²¹.

The public was extremely shocked by the fact of bringing corrupting charges to Jordi Pujol in the context of “the case 3%”. This politician, deriving from Democratic Convergence of Catalonia was holding the office of the president of Autonomous Community of Catalonia for 23 years and was regarded as the main author of Catalan political successes after the death of General Franco. He was very involved in the formation of a Catalan political movement at the beginning of 1970s and in the process of restoration of autonomy to the region, taken away from him after the civil war²². Admission by Pujol to have foreign bank accounts, where illegally obtained, considerable financial resources were kept, was a shock to many supporters of the coalition of *Convergència and Unió*²³. As the investigation revealed, illegally obtained financial resources were transferred not only to Pujol’s accounts, but also to the members of his numerous family²⁴.

¹⁹ J. García, *CDC sobre el ‘caso Palau’*: “Nadie ha visto al tesorero recibiendo sobres”, “El País” November 13, 2015, http://ccaa.elpais.com/ccaa/2015/11/13/catalunya/1447414341_094667.html [access on: 15.06.2018].

²⁰ I. Pardo Torregrosa, *Las penas del Caso Palau, una a una*, “La Vanguardia” January 15, 2018, <http://www.lavanguardia.com/politica/20180115/4436217183/caso-palau-condenas-penas-carcel.html> [access on: 15.06.2018].

²¹ El País, https://elpais.com/tag/caso_tres_por_ciento/a [access on: 15.06.2018].

²² M. Mysliwiec, *Katalonia na drodze do niepodległości?*, Bytom 2006.

²³ *Comunicado del señor Jordi Pujol y Soley*, “El Mundo” July 25, 2014, <http://www.elmundo.es/cataluna/2014/07/25/53d29132e2704eba1e8b459c.html> [access on: 16.06.2018].

²⁴ J. García, *Pujol reconoce que su familia tuvo en el extranjero una fortuna sin declarar*, “El País” July 26, 2014, https://elpais.com/ccaa/2014/07/25/catalunya/1406306705_109805.html [access on: 16.06.2018].

Corruption scandals in Catalonia, revealed after the outbreak of economic crisis in 2008, had very serious political consequences. Two issues are particularly worth indicating in this context. Firstly, the decomposition of a Catalan political scene. The coalition of *Convergència* and *Unió* was dissolved in 2015. The collapse of a political group, which was attributed all political successes and the functioning in the region which was a significant symbol of changes in the era of crisis for almost quarter of a century. Corruption scandals, whose main characters turned out to be the most important regional politicians, cause the termination of many political careers and the occurrence of new political parties.

Secondly, it is supposed that corruption scandals in Catalonia considerably influenced the intensification of independence processes in the region²⁵. The concealment of substantial amounts of unduly obtained financial resources on the accounts in Angora or in the Switzerland could be one of the reasons for the initiation of the procedures by the regional politicians, whose objective was the formation of their own state. In this situation it would give them a bigger chance to avoid criminal liability before Spanish justice.

Conclusions

Three research questions were posed in the introduction to this publication. After conducting the relevant analysis, we may provide the following responses to them:

- 1) First of all, the authors posed a question, what the corruption phenomenon is based on and why a public sphere is endangered with it to such a degree. The response to the first part of this question is not easy and it cannot be clear-cut. The notion of corruption is understood differently in view of an informal language, and differently in view of academic disciplines. We need to emphasize as well that regardless of an informal and empirical interpretation, presented in a given state, legal definitions should be included as well when analyzing corruptive phenomena, mandatory in the analyzed state. They demonstrate in a particular way what is regarded as a corruptive crime in a given state and what the gradation of their significance is in a given community. Undoubtedly, the realization of the significance of the notion of a legal-administrative relation is important for the explanation of the character of corruptive phenomena and their relation with public sphere.
- 2) Secondly, the authors posed the question, how the Spanish citizens reacted to corruption processes. Responding to this question, we need to state that their reaction was definitely negative. The disclosure of the subsequent corruption scandals caused a considerable loss of trust of the citizens to state authorities and to governments and political parties in particular. As a result, the current existing party system in

²⁵ *Quién roba a Cataluña*, "El País" March 10, 2017, https://elpais.com/elpais/2017/03/09/opinion/1489081336_061645.html [access on: 16.06.2018].

Spain collapsed. As a result of conducting the procedure of constructive vote of no confidence the central government collapsed on June 1, 2018. We need to emphasize that the subsequent sentencing judgments in the corruption trials for the politicians related to the ruling People's Party were the direct reasons for initiating this procedure. The conducted analysis demonstrated even that the contemporary Spaniards, despite difficult historical experiences, related to the position of the army and the Catholic church in the state of General Franco, trust these institutions more than the politicians and political parties.

- 3) In the third research questions the authors asked if Catalonia, whose politicians regard this region as definitely separate from Spain, profoundly differed from the political centre and other regions of the state within the intensity of the occurrence of corruptive phenomena after 2008. The analysis of such a posed problem allows to expressly state that despite the attempts of emphasising its own individuality, Catalonia did not basically differ from the political centre or from other regions of Spain in this respect. The corruptive crimes affected the public sphere of this region to the same extent and resulted in equally serious political consequences.

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Abstract: The authors decided to deal with the theme of the influence of corruption on the political processes in contemporary Spain and Catalonia. The investigation of this problem requires the reference to both: a political situation in entire state and in the peripheral region, included in the territorial range of Spain.

Therefore, the main objective of the article is the attempt to answer three questions: 1) What is the corruptive phenomenon based on and why a public sphere is endangered with it to such a degree?, 2) How did the Spanish citizens react to corruptive processes after 2008?, 3) Did Catalonia, whose politicians regard this region as definitely separate from Spain, differ considerably from a political centre and other regions of the country within intensity of the occurrence of corruptive phenomena after 2008?

Keywords: Catalonia, Spain, corruption, economic crisis of 2008

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