ISBN 978-92-64-00873-1
Linking Regions and Central Governments
Contracts for Regional Development

Chapter 5

The Case of Spain[1]

This chapter applies the analytic framework presented in Chapter 1 to the use of the Convenio de Colaboración *in Spain. The chapter begins with an overview of the decentralisation context, followed by a description of the contracting mechanism. Three detailed case studies demonstrate how the* Convenio de Colaboración *is applied in practice: the economic development of coal mining counties, the economic development of Teruel, and the control and management of the Synchrotron light laboratory. The chapter concludes with lessons learned from the Spanish case.*

1. Introduction

Over the last few decades Spain has undergone a process of decentralisation which transferred important powers from the central government to the regions, called Autonomous Communities (AC). While the early years of decentralisation were not characterised by co-operation between the layers of government, the tide has begun to change. In fact, the emergence of particular tools has facilitated the process of co-operation. These tools can be viewed in the context of inter-governmental contracts and are the subject of this case study. Specifically, after providing a general overview of Spanish federalism, the case study introduces the reader to the *Convenio de Colaboración*, a mechanism for collaborating between layers of government. Next, three examples illustrate how this contracting system is applied to regional development. The paper concludes with a discussion of lessons to be learned from the Spanish case and offers a set of recommendations.

2. The Spanish territorial organisation

2.1. Distribution of responsibilities

Strictly speaking, Spain does not qualify as a federal state. Article 2 of the Spanish Constitution declares the sovereignty and unity of the Spanish state and "recognises and guarantees the right to self-government of the nationalities and regions of which it is composed". However, Spain can be described as a politically decentralised country with three tiers of government (central, regional and local) in which the distribution of functions and the system of governance come very close to those of a federal state (see Moreno, 1997). Regional governments, called "Autonomous Communities" (ACs), have their own legislature and executive and thus possess state-like qualities. Moreover, the right of existence of ACs is derived not only from the Spanish Constitution but is also grounded in a basic law for each AC, called the "Statute of Autonomy".

Spain is comprised of 17 Autonomous Communities, which were established from 1978 to 1983. Today, the powers devolved to each one are very similar. However, this was not always the case. The ACs with a history of self-governance received all their responsibilities in the 1980s, while the rest of ACs received additional responsibilities (basically education and health) at the end of the 1990s. The Spanish Constitution specifies two different sets of

responsibilities. Article 148 specifies the responsibilities that may be adopted by the regions, while Article 149 specifies the responsibilities that are exclusive competence of the central government. Matters not enumerated in the constitution are the residual power of the central government as long as the region does not claim the competence in the "Statute of Autonomy". The constitution also specifies the intensity of responsibility on a continuum ranging from complete legislative and executive powers, to limited legislative but complete executive powers, to only executive powers.[2]

Table 5.1 presents the different responsibilities attributed to both tiers of government by the constitution. Note that, apart from these responsibilities,

Table 5.1. **Distribution of responsibilities between the central state and the ACs**

State	Autonomous Communities (AC)
S1) Exclusive legislative and executive competencies	AC1) Exclusive legislative and executive competencies
• Immigration and emigration • International affairs • Defence • Justice • Commercial, penal, labour, industrial and intellectual property and civil law (except matters regulated by traditional regional law) • Foreign trade • Monetary system, exchange regime, and state treasury and debt • Infrastructure of a national scope (*i.e.*, inter-regional roads, railroads and water transportation, and commercial ports and airports) • Sea fishing	• General organisation of self-government • Changes in municipal boundaries and creation of supra-municipal bodies • Land use planning and housing • Infrastructures of a regional scope (*i.e.*, intra-regional roads, railroads and water transportation, and non-commercial ports and airports) • Agriculture, forestry and river fishing • Domestic trade and fairs • Tourism • Culture (*i.e.*, museums, libraries, historical heritage, cultural promotion, etc.) and sports (*i.e.*, facilities and promotion) • Social services • Environmental policy • Other listed in the "Statute of Autonomy" and not included in S1
S2) Power to set basic legislation	AC2) Competencies subject to basic state legislation
• Banking and insurance activities • Health care • Social security • Education • Local self-government	• "Economic development within the national economic policy framework" • Other listed in the "Statute of Autonomy" but included in S.2 or S.3
S3) The central state also has the power for	AC3) In addition to this the ACs have competencies
• Co-ordinating and promoting scientific and technical research • "Setting the basis for and co-ordinating the general planning of economic activity" • "Guaranteeing the equality of all Spaniards in the exercise of their constitutional rights and duties"	• Any competence delegated by the state

Source: Spanish Constitution of 1978 and contributing author's elaboration.

the constitution (Article 150.2) also envisages the possibility of central government transfer or delegation of exclusive responsibilities. This requires a qualified majority in the national legislature and has been used to transfer new competences to the ACs. Although the constitution says the central government can specify the conditions of the delegation, these new responsibilities are usually attributed to the ACs without any special conditions.

2.2. Decentralisation process

The decentralisation process in Spain was very complex and difficult to manage administratively. Note that because the ACs were created from scratch, the very process of decentralisation demanded the co-operation of both layers of government. The national government and each AC had to bargain on the interpretation of the decentralised tasks and the physical and financial means related to implementing them. This bargaining procedure was institutionalised in bilateral co-operation forums (*Comisiones Mixtas de Valoraciones*). For each specific transfer of responsibilities an agreement (*Acuerdo de Traspaso*) was signed between the central government and the AC specifying the exact nature of the responsibility and the resources transferred. This process had to be bilateral because the decentralisation process was quite asymmetric, due both to the constitutional asymmetry in the level of competences and to bargaining delays and the difficulty in implementation, which resulted in a gradual approach. Although the process was not without problems, it was successful in decentralising a large amount of expenditures, personnel and assets in a short period of time.

In summary, the Spanish ACs have responsibilities in a wide range of policy areas: health care, education, social services, environment, housing, economic promotion, agriculture, tourism, etc. They have legislative competences in most of these areas, but the decisions of their parliaments are subject to the basic laws of the nation. As a result of decentralisation, the spending power of ACs is also considerable. This tier of government, created in the early 1980s, represented 42% of Spanish public expenditure in 2003 (excluding spending on pensions), as compared to the 41% for the central government and 17% for local governments. In addition, most of the funds received by the ACs are unconditional, so this spending is managed rather freely.

The transitory role of the transfer of some competences from the central government to the regions has to be underlined. The "autonomous agreements" were mainly used to transfer extra statutory competences to two regions (Canary islands and Comunidad Valenciana in 1982 and a larger set of regions in 1992) in order to reach the same assignment of competences as in Catalunya, Basque Country, Galicia and Andalusia, while waiting for a definitive transfer of competences due to statutory reform.

However, decentralisation in Spain is not without problems. For example, there is a general feeling by some ACs that, in some cases, the central government basic laws are too detailed, which limits the ability of ACs to develop substantial aspects of policy areas. Some ACs (especially Catalunya and the Basque Country) consider this behaviour to be an encroachment of the central government on regional competences. Moreover, the central government is starting to make use of its responsibility to guarantee social rights in order to pass new laws that impose spending mandates on the ACs in areas such as education, elder care, housing, etc. The ACs complaint about these "unfunded mandates" (requirements imposed on ACs by the central government with no corresponding financial assistance, which are based on Constitutional laws guaranteeing the basic equality of the citizens in the whole territory), have successfully forced the national government to partially finance the costs imposed by these laws. However, this procedure has also been criticised on the grounds that the central government is using its spending power to put strings on matters that are the exclusive competence of the ACs.

2.3. Financing arrangements

Spanish ACs are subject to two different financing regimes. On the one hand, there are the 15 ACs of the "common regime" whose services are financed by a mixture of taxes and tax-sharing arrangements and with an unconditional transfer with a strong equalisation component. The "common regime" financial system is devised by the central government but negotiated in a multilateral forum ("Council of Fiscal and Financial Policy"). On the other hand, the Basque Country and Navarra belong to the "foral regime". The constitution recognises a special status for these ACs on the basis of historical rights. Accordingly, both the Basque Country and Navarra collect all the taxes and then pay a quota to the central government to finance the services provided by the state to the citizens of these regions. The quota is negotiated bilaterally from time to time and, therefore, these two regions do not participate in the multilateral bargaining process. As a result of this separate procedure, these two ACs do not contribute to the equalisation fund and end up with a much higher level of resources per capita.

The ACs of the "common regime" have the following revenue sources: 1) own taxes, which are created by law of the AC but are restricted to tax domains not occupied by the central government and are, therefore, marginal in quantitative terms; 2) taxes ceded by the central government with full regional legal and collecting powers (*i.e.*, wealth tax, inheritance tax, wealth transmission tax); 3) a 33% share of the income tax, with substantial legal powers on the tax rates and deductions but without collecting responsibilities; 4) a 35% share of the VAT and excises, without any collecting responsibilities but with the possibility of placing a surcharge on gasoline taxes earmarked for

health financing; 5) an equalisation grant (called *Fondo de Suficiencia*) that covers the difference between estimated expenditure needs and resources obtained from items 1) to 4); 6) some specific transfers coming from national initiatives, from agreements between the central government and the ACs (*convenios*), or from regional policy funds, both at the European level (*e.g.*, FEDER, Cohesion Fund) and at the national level (*e.g.*, *Fondo de Compensación Interterritorial*); and 7) debt finance, which has been strongly restricted since 2001 (see, *e.g.*, Giorno and Joumard, 2005).

Until the beginning of the 1990s the degree of tax autonomy of "common regime" ACs was quite low. Beginning in 1994, the ACs were allowed to retain 15% of regional income tax revenues, but without the power to levy income tax. The amount increased most recently in 2001. Presently, the central government is considering a further increase in the tax share to 50% of income tax and 58% of VAT and excises. For the moment, the ACs have not used their power to modify the income tax rates, although they have introduced tax credits and deductions. The effect of these changes has been modest on average but substantial for some specific categories of taxpayers (Esteller and Durán, 2004). The central government is also considering the possibility of giving more tax powers on the excises and on the retail phase of the VAT to regions, although the latter option is subject to some problems which are both technical (no such a phase currently exists in Spain) and legal (it may be contrary to EU regulations). The equalisation grant is also currently under reform. Although expenditure needs were theoretically computed with objective data, the reality is that political considerations made the formula very redistributive during the 1980s and 1990s. The rich ACs (and specially Catalunya) claim that the equalisation grant mechanism is unfair and push to reform the system in the direction of a partial equalisation system like the German or Canadian schemes.

2.4. Conflict resolution and co-operation

The arbitrating role of the constitutional court is very important in Spain since the court has the capacity to resolve legal conflicts between the central government and the ACs, and conflicts between ACs. Most of the conflicts between the central government and the regions have been related to the delineation of the competences between one AC and the central government. The historically high degree of conflict experienced in the past is due to various factors: the vagueness of the constitution, the large proportion of concurrent and shared policy matters, and the existence of both centripetal (central government) and centrifugal forces (historical ACs) that try to influence the interpretation of the law. The constitutional court has decided in favour of the ACs as well as in favour of the central government. It has a great deal of authority and independence, due probably to the need for a compromise on the nomination of the candidates.

Clearly, during the last two decades, inter-governmental relations in Spain have been characterised by competition between layers of government. Some authors suggest that the Spanish system corresponds to the model of "dual" federalism (see, *e.g.*, Börzel, 2000), characterised by the institutional autonomy of the different layers of government. But the complex vertical distribution of powers, in combination with the permanent conflict with the historical ACs, has made the workings of the "dual" system very conflicted and dysfunctional. Since the mid-1990s things have improved a little with the promotion of new instruments for co-operation. In Spain there are both bilateral and multilateral co-operation forums. Bilateral forums (*Comisiones Mixtas*) are for bargaining between one AC and the central government on the transfers of financial resources and assets regarding concrete responsibilities. Multilateral forums (*Comisiones Sectoriales*, see MAP, 2002a) are for co-ordinating decision making on shared or concurrent policy areas. These multilateral forums were created by law in 1983 but remained largely ineffective through the mid-1990s because ACs remained sceptical regarding the motivations of the central government. Today there are 27 *Comisiones Sectoriales* and most are active. They meet various times a year, are chaired by the relevant State Minister, and all ACs Ministers usually attend.

The inception of this "co-operative federalism" in Spain is rooted in the past experience of conflict. Although it is true that the constitutional court has clarified many concerns, parties have learned that due to long delays in decision making and to the "relational capital" lost during the conflict, court imposed remedies should be a last resort. Moreover, the increasing lack of implementation capability of the central government (due to the transfers of assets and personnel) have made the central government more dependent on the executive powers of the ACs and, therefore, more prone to engage in co-operation.

3. Contracting between layers of government in Spain

This section is devoted to the analysis of contractual relations between central and regional levels. Contracts between central and local governments are also possible but scarce due to the low degree of overlapping responsibilities of these two layers of government. There is, however, widespread use of contracts between regional and local governments and between different local governments and with private partners, but this analysis focuses on the relationship between the central and regional governments.

3.1. "Convenios" as contracts

In addition to the permanent co-operation forums described previously, the central government and the ACs reach co-operative agreements to deal

with decision making regarding specific issues. The main type of agreement used is the *Convenio de Colaboración* (see MAP, 2002b). A *convenio* is a kind of contract that specifies the duties of the parties in developing a concrete activity or programme. Both parties, the central government and the AC, are free to decide if they wish to engage in this kind of contractual relationship. The regulation of *convenios* is very limited and only indicative of general rules of procedure (*Ley 30/1992 de Régimen Jurídico de las AAPP y del Procedimiento Administrativo Común*). Different legal types of *convenios* can be identified (see Table 5.2), but these categories are merely informative and help the parties to write concrete documents. However, *convenios* are legally binding contracts and the parties can rely on the courts for enforcement.

Table 5.2. **Legal types of *convenio***

Legal type	Description
Convenio	A document that specifies the duties of the parties in developing a concrete activity or programme
Protocolo general (also called *Convenio Marco*)	Similar to a *convenio* but it is very general and global; establishes the umbrella where the contractual relationship of the parties will evolve; further development is needed through the writing of additional contracts which specify the responsibilities of each party regarding the activities to be developed.
Convenio específico	Specifies and develops a *Protocolo general*
Acuerdos (also called *Addenda*)	Used to change some of the clauses specified in the contract: • Enlargement of the period of contracting (*Acuerdo de prórroga*) • Development of some aspects; *e.g.*, fixing the financial means (*Acuerdo de desarrollo*) • Change of elements of the contract (*Acuerdo de modificación*)

Source: MAP (2002b), *Los Convenios de Colaboración entre la Administración General del Estado y las Comunidades Autónomas*, Ministerio de Administraciones Públicas, Subdirección General de Cooperación Autonómica.

The number of *convenios* signed has increased enormously over time, from only 14 in 1980, to 116 in 1985, 209 in 1990, 285 in 1995, 461 in 2000 and approximately 800 in 2004 (as indicated by the "Registro Nacional de Convenios", Ministerio de Administraciones Públicas). The increased use of inter-governmental contracts during the 1990s is related to the reduction in inter-governmental conflict and to the impetus given to co-operation through multi-lateral forums, since many of the agreements reached in these forums are then operationalised through the signature of *convenios* with each of the participating ACs. These contracts can be new (60% in 2004) or the development, modification or enlargement of an existing one (*i.e.*, the *Acuerdos*, 40% in 2004). These *convenios* are used in most of the policy domains, with most signed in the areas of social assistance (26% of all *convenios* signed during 1980-2002), culture (13.5%), agriculture (8.5%) and public works (7.1%).

Most of *convenios* have a financial component (75% in 2004). This number is lower among new contracts (66%) and higher among *Acuerdos* (87%), reflecting the practice of not committing resources in the initial contract. The financial commitment of the national government is made, most of the time, in the form of inter-governmental transfers. However, in some cases it is also made by spending directly on some items or by providing personnel or assets. In 2002, the national government contributed an average of the 65% of the financial means to *convenios* while the ACs provided the 28%. The remaining funds were provided by local governments, the private sector, and the European Union (EU). While statistics indicate that the EU's share of financing to *convenios* via structural funds is low, the numbers can be misleading as the central government or the AC occasionally uses previously distributed EU structural funds to finance its share of the *convenio*.

Despite the high number of contracts signed each year, the amount of funds obtained by the ACs from *convenios* is rather small. In 2001, these resources represented just 2% of AC's overall revenue (both conditional and unconditional) and a 7% of conditional revenues (Ministerio de Economía y Hacienda, "Informe sobre la financiación de las CCAA", 2001). This is to be expected, however, since co-funding is only one of the purposes of these contracts. In fact, since cooperation is a broad concept, to judge the relevance of *convenios* only by their budgetary weight is not entirely fair.

Table 5.3 presents a typology of *convenios* elaborated by the Spanish central government (*Ministerio de Administraciones Públicas*). It demonstrates the types of matters dealt with by these contracts. As it will be shown, not all the relevant commitments are related to the funding of services. There are nine different types of *convenios* (see MAP, 2005). A brief description of the purposes and one example of each type are presented in the table.

3.2. Contract nature

The first characteristic of *convenios* that will be highlighted is its flexibility. Although *convenios* are not permanent agreements (the period of the contract is clearly specified in the text) many are renewed periodically, either by automatically extending the period or by signing a new contract. In any case, note that the legal typology of Table 5.2 allows for a very flexible and sustained contractual relationship, since contracts can be developed, enlarged and modified without the need of starting the process from scratch. In addition, when co-operation involves a very uncertain, complex and long-term project with one AC, the central government and the AC can create a permanent decision-making structure which may take the legal form of a *consorcio*, or a public corporation. Historically, *consorcios* have been reserved to organise the relationship with local governments (see, Font *et al.*, 1999), but there are recent

Table 5.3. **Types of *convenio* with examples**

	Type of *convenio*	Example of *convenio*	Responsibility of national government (NG)	Responsibility of the Autonomous Community (AC)
(1)	Supply or exchange of information	Database on drug surveillance	Fund the service with EUR 117 618.	Distribute cards to doctors to be used to notify drug effects. Collect the data and introduce it into the database
(2)	National funding of services specific to one AC	Special education for gifted students	Fund the programme with EUR 36 010.	Develop a special programme for gifted students. Fund it with EUR 56 456.
(3)	National funding of services of all the ACs	Shelter, integration and education support to immigrants	Fund the programme with EUR 130 000 000. Distribute the quantity among ACs. Approve specific projects jointly with each AC.	Present specific projects to be co-funded and implement them
(4)	Supply of technical advice	Advice offices for firm creation	Supplies the technical design of the offices and the software that allows for the web management of all the permits required to create a firm. No financial commitment for the NG.	Create the offices and use them to inform and advise on firm creation. No concrete financial commitment in the agreement.
(5)	Management assignment	Technical works to identify vegetable varieties	Pay EUR 95 000 in exchange of the work. The NG is the owner of the information and can use it for its own purposes (*e.g.*, managing subsidies).	A specialised entity of the AC will perform the works needed to identify the species, varieties and geographical location.
(6)	Pooling of resources to fulfil common objectives	Health services for the military	The NG supplies some specialised treatments in the military hospitals to the general population.	The AC supplies general treatments to the military in AC's hospitals. The cost of these mutual services will be evaluated and neted out from time to time.
(7)	Transfer of assets	Cession of the use of part of buildings of the Monastery of San Jerónimo de Yuste	Cede the use of part of the buildings that belong to state during a period of ten years. No financial commitment.	No financial commitment. The buildings are ceded without rent.
(8)	Creation of an inter-governmental administrative forum	Creation of a joint customs office	Co-operate on the tasks necessary to create a unique procedure to declare imports and exports and pay the specific indirect tax of the Canary Islands. Participate in a bilateral commission and working groups. No financial commitments.	Co-operate on the tasks necessary to create this joint customs office. No financial commitments.
(9)	Creation of a common management entity	Consorcio Casa Árabe	Representation in the *Consorcio Casa Árabe* created to improve the relationship with the arabic and muslim world. Fund the *Consorcio* yearly; the contribution for 2005 is EUR 833 753.	Representation in the *Consorcio Casa Árabe* according to the rules of its Statute, included in an annex to the *convenio*.

Note: The *convenios* selected aim to be representative of those signed during 2005 in each of these categories in that they represent quite well the traits of the *convenios* included in each category. However, this does not mean that they are the most relevant qualitatively or quantitatively.

Source: MAP (2005), *Convenios de Colaboración autorizados durante 2005, Análisis de contenidos*, Ministerio de Administraciones Públicas, Subdirección General de Cooperación Autonómica, and own elaboration.

proposals of co-operation via *consorcios* with some ACs in areas of large scientific infrastructure, airport management and tax administration.

Therefore, it is not possible to say if *convenios* are in general complete or incomplete contracts, transactional or relational. The flexibility of its design, the possibility to tie successive contracts, and the possibility to use this instrument to create decision-making bodies, allows both for very simple transactional *convenios* which specify very concrete tasks to be performed and for a complex and evolving relationship that is defined in a series of contracts, or that is institutionalised with the creation of a *consorcio*. As will be illustrated below with examples, this flexibility allows for the adjustment of the type of contract according to different coordination contexts.

The second trait that is worth mentioning in the case of *convenios* is the follow-up regarding the implementation of the contract. Law 30/92 specifies that each *convenio* should have a monitoring commission (*Comisión de Seguimiento*). This is a common institution of surveillance and control charged with solving the problems of interpretation and compliance with the clauses of the contract. In *consorcios*, conflicts are dealt first inside the institution, and if the conflict is not resolved, then secondarily within the monitoring commission of the *convenio* that created the institution. These are arbitration mechanisms typical of incomplete contracts.

Conflicts between the two layers of government not solved by the monitoring commission will be dealt by the administrative courts (*Jurisdicción Contencioso-Administrativa*), which is the branch of the judiciary charged with solving conflicts between different layers of government. The constitutional court will intervene only when the conflict is related to the competences of each layer of government. Although it is hard to obtain quantitative information, it seems that conflicts regarding the management of *convenios* have been kept to a minimum in the past. Two different reasons may help to explain why. First, the arbitration mechanisms described above may be enough to deal with potential conflicts, especially when the partners are engaged in a sustained co-operation process and try to avoid conflicts. Second, although the judiciary is not politically decentralised in Spain, it is independent from the national legislative and the executive branches and typically gives a fair treatment to the different layers of government.

The third trait of *convenios* is a high degree of transparency, since the text of the contract is available to third parties through its publication in the official bulletin of the central government. So, in a sense, the citizens are also able to monitor the implementation of the contract. In fact, the few known cases of legal action related to *convenios* were initiated by private actors or by opposition parties.

The final trait of Spanish inter-governmental contracting that is worth mentioning is the low use of performance indicators to assess the success of the *convenio*. The only information in this area relates to the field of education, but the delay in the evaluation reports cast some doubts about their real utility in improving the co-ordination process. This fact does not pose a problem for *convenios* that deal with very specific tasks, since the work completed by the monitoring commission and by the financial controller (which guarantees that financial payments have been made in exchange of the promised tasks) should suffice. However, in more complex matters, when the delegation refers also to policy design, it would be better to evaluate the performance of the contract instead of simply checking that financial resources have been employed as intended.

There are various reasons that explain this low use of performance evaluations. The first one is the fact that Spain is a politically decentralised country, implying that the assignment of responsibilities is made by the constitution and that the tasks of evaluating the performance are in the hands of the citizens. Any attempt by the central government to evaluate the performance of the ACs would be seen as a downgrading of the ACs' powers. As a result of this, in some cases, inter-governmental contracting in Spain is more an instrument of *ex ante* bargaining on the objectives of a policy than a method of *ex post* monitoring of its implementation. Recall that co-operation in Spain is voluntary, meaning that the only thing that forces the parties to contract is the realisation of potential mutual gains. The second explanation for the limited use of performance evaluations is that the lack of confidence in inter-governmental co-operation experienced in the past may have impeded the use of evaluations. If this is the case, contract assessment will improve in the future, following the increased co-operation impetus. The third reason for the low use of evaluation is the low development of performance auditing in the Spanish public sector (see Zapico, 2002).

3.3. Regional development contracts

A non-deniable portion of the *convenios* between the national government and the ACs deals with co-operation in economic development policies. Using a broad definition of economic development policies (see MAP, 2002), this category includes the following policy areas: 1) human capital (including, *e.g.*, education, vocational learning, active employment policies, etc.); 2) R&D and entrepreneurship; 3) road and railroad transportation networks; 4) water transportation networks; 5) renewable energy; 6) environmental protection; and 7) regional and local development. To gauge the relevance of the agreements in these areas, note that in 2002 they represented 62% of the total funding (see, *e.g.*, MAP, 2002). Most of these funds are used to finance investment and the financial size of each of these *convenios* is substantial. On average, the central

government finances 72% of spending and the ACs 24%. In some cases the monies contributed by the central government (and sometimes contributions from the AC) come from EU funds.

The justification for these agreements is the concurrence of responsibilities of both layers of government in all these areas. As has been already discussed, the central government has the ability to pass basic legislation in all of these policy areas. Moreover, it also has competences for "setting the basis for and co-ordinating the general planning of economic activity" and for "co-ordinating and promoting scientific and technical research" (see Table 5.1). However, the statutes of autonomy also indicate that the competences in promoting economic development in their jurisdictions and implementation in all the aforementioned policy areas are in the hands of the ACs. Thus co-operation is especially needed in the area of economic development in order to avoid duplication of planning efforts, to design coherent development strategies, and to exploit the possible synergies derived from the pooling of resources and capabilities.

A high share of the resources is devoted to the road and railroad transportation and water networks area (54%, see MAP, 2002), and to human capital, R&D and entrepreneurship (29%). The funds devoted specifically to regional and local development agreements in 2002 were also sizeable (14%), but only included two *convenios* – one dealing with economic development in coal mining counties and the other with a lagging Spanish department (Teruel). The central government has important role in regional policy such as setting the basis for and co-ordinating the general planning of economic activity, and building of general interest in ports and airports, roads and highways traversing more than one AC. Regional policy in Spain is also largely related to the management of EU Structural Funds and the smaller national investment fund, called *Fondo de Compensación Interterritorial*. The role of the central government in this case consists of allocating funds among regions (respecting EU criteria) and then among layers of government. This distribution among layers is the result of the decision of the central government, but is conditioned by EU criteria and by the distribution of responsibilities among layers of government. This is a tight constraint in Spain, since responsibilities for regional development policies and for the implementation in many economic development areas are on the hands of the ACs. Once the resources are allocated, each layer determines the concrete projects to be funded, respecting EU priorities. Of course, there is co-ordination among layers in order to present coherent planning documents to the EU. This co-ordination takes place in occasional workings groups organised by the Ministry of Finance. The national government is charged with the responsibility of elaborating these plans, but uses the lines of activity proposed by the ACs. As mentioned previously, sometimes the central government or the ACs use the EU funds to fulfil co-funding obligations derived from a specific voluntary

agreement. In these cases, however, co-operation does not arise from the implementation of a national planning framework, but from the realisation that this specific project will be best undertaken jointly.

4. Case studies

The following three case studies introduce the use of *convenios* as a manner of inter-governmental contracting for regional development. Each case is described and then analysed according to the framework suggested in this report. The three case studies are: 1) inter-governmental agreements reached each year to develop the "1998-2005 Plan for Coal Mining Restructuring and the Alternative Development of Coal Mining Counties"; 2) the economic development of Teruel; and 3) the construction and management of the Synchrotron light laboratory.

4.1. Economic development of coal mining counties

Coal mining counties are a real challenge for regional development policies. The level of specialisation in coal mining in these counties is very high, with no real alternative industrial activities. Unfortunately, the coal mining industry in Spain is highly inefficient, with very few profitable mines. This is a long-standing problem sustained by enormous subsidies for coal production paid by Spaniards through their electricity bills. Subsidisation has not solved the problems of the industry and, therefore, coal mining employment is continuously decreasing. As a result, coal mining regions face high levels of emigration, unemployment, and inactivity (early retirement and a high proportion of people receiving handicapped subsidies).

The Spanish central government and the ACs have devoted substantial efforts to develop these zones. This case study deals with the different inter-governmental agreements reached each year to develop the "1998-2005 Plan for Coal Mining Restructuring and the Alternative Development of Coal Mining Counties", created after a 1997 pact between the central government, the unions, and business associations. The plan channels financial resources from the European Regional Development Fund (ERDF) to these areas, with the purpose of contributing to restructuring and diversifying their economies. The plan has two main components: building infrastructures and subsidising employment creation. More than 50% of the infrastructure funds are spent on transportation projects and the remainder of the funds go to develop environmental infrastructure, industrial complexes, and education projects. An agency of the central government was created in 1997 to manage the plan, the "Institute for Coal Mining Restructuring and the Alternative Development of Coal Mining Counties". The purpose of the Institute is to deal comprehensively with the problems of coal mining counties, since, in addition to managing the

development plan, it deals with the strategy for restructuring coal mining by setting the levels of coal mining activity and subsidising coal production.

The interesting point is that the Institute has limited implementation capabilities and, therefore, must rely on other layers of government. Both the infrastructure projects and the aid for employment creation are implemented through *convenios* signed between each of the lagging coal mining counties (up to 115) and the ACs in which they reside (Andalucía, Aragón, Asturias, Castilla-León, Castilla-La Mancha, Catalunya and Galicia). In the case of infrastructure projects, a general agreement is usually signed with each AC. This agreement includes a list of eligible projects for a specific period of time. These projects are selected by the AC but they must be agreed upon by the central government. A more concrete agreement is then needed to develop each project. Each *convenio* includes a monitoring commission, with representation from both the central government and the AC, which is responsible for tracking implementation. In the case of aid for employment creation, agreements can also be signed with the AC's development agencies. These *convenios* are used to assign to the AC the responsibility of identifying the projects that merit the subsidy, based on criteria set by the Institute (*e.g.*, employment created) and the control over use of the subsidies by the firms. Regarding follow-up, the *convenio* includes clauses that require the AC to demonstrate how the subsidies have been used and its performance in terms of employment creation.

This co-ordination context is highly complex because many different instruments and variables interact in the design of the appropriate policy to deal with the problems of coal mining counties. Moreover, although the problems of mining industries are similar across Spain, the development policy must be different for each county. The co-ordination context is characterised also by a high level of vertical inter-dependencies. In particular, the success of the development policy will have an impact on various national policies. For example, it can reduce the need for unemployment and handicapped subsidies and for early retirement pensions, all paid for by the central government. Moreover, successful restructuring of the economy of coal mining counties will ease the process of mine closures, helping to reduce the enormous national subsidies for coal production. Regarding the distribution of knowledge, both layers of government face difficulties in ascertaining the best development strategy for the coal mining counties. As such, the situation is characterised by a low level of knowledge at both layers of government. At the same time, however, the AC may have superior knowledge on the needs of each coal mining county and greater ability to sustain co-operation with local actors. In this sense, the central government has low knowledge and the AC has greater knowledge along specific dimensions.

Based on the framework suggested in this report, the types of contracts needed in this co-ordination context range from incomplete contracts with audit to co-decision with arbitrage. The first type will be appropriate for the situation in which the AC has a high level of knowledge and the second type for the situation in which neither layer of government has a great deal of knowledge. The situation depicted above has elements of both types of contracts. On the one hand, the main goals and priorities of the plan are set by the central government and the implementation is delegated to the AC by signing separate agreements for the infrastructure projects and for the assistance for new business activity. The performance of the AC is then supervised by the central government, which demands certification of the activities carried out. All of this resembles an incomplete contract. On the other hand, it is true that the AC participates in decision making in the monitoring commission of the *convenios*, suggesting a situation of co-decision with arbitration. Note, however, that in the case of business subsidies, the workings of the commission are limited to bureaucratic tasks related to the follow-up for specific projects, while the general design of the subsidies are decided by the central government uniformly for all the coal mining zones.

It seems, therefore, that the type of contract used for coal mining counties is partially aligned with the suggestions of the theory. For a more comprehensive assessment, however, one must identify the goal of the policy, and this is a matter of judgement. If the goal is to implement a set of previously identified priority projects, then an incomplete contract used to delegate implementation to the AC would suffice. But if the goal is the development of the coal mining area, then this is a situation of low knowledge for both layers of government and co-decision should be increased. In the latter case, the central government could reduce its role in setting the priorities of the plan and the design of assistance to business, but continue to jointly decide the amount of funds allocated to each zone on the basis of objective criteria, in co-operation with the unions and the ACs. After all, transparency and objectivity in the allocation of funds is valuable. However, both the infrastructure projects and the design and management of business subsidies could be decided in partnership between both layers of government. The creation of a *consorcio* or a public corporation (*Sociedad Mixta*) for each coal mining county could be used in this case. The specific design of the policy for each zone is of paramount importance; actually it is not possible to fully adapt the policy mix to local needs because, although infrastructure projects are selected jointly by the central government and the AC, the design and amount allocated to infrastructure and to assistance for business, respectively, are decided by different institutions.

In fact, the solution suggested here already exists in some coal mining counties. For example, in the main coal mining AC, Asturias, there is a public

corporation called SODECO ("Society for the Development of Mining Counties") owned with equal shares by the central government and by the AC, and whose purpose is to aid in employment creation by giving advice and financial support to new business. Note, however, that this corporation is limited to dealing with business assistance and the design of the subsidy scheme is subject to the central government guidelines. In other coal mining zones there are examples of *consorcios* in which local governments take control of a wider list of development instruments.[3]

4.2. Economic development of Teruel

The second case study is the plan for the economic development of Teruel, a department in the autonomous region of Aragon. Aragon was not included among EU Objective 1 regions and, therefore, is not entitled to receive either EU Structural Funds or to participate in the *Fondo de Compensación Interterritorial*. Although Aragon is a relatively rich region, Teruel is a lagging province with an economy specialised in agriculture and mining and with a marked process of emigration. Therefore, an instrument was needed to promote the economic development of this department.

The plan for the economic development of Teruel was created in 1992 and has been renewed three times, most recently in 2005. The goals of the plan are to promote business activity, to improve infrastructure, and to foster quality of life in order to avoid emigration. To fulfil these objectives investment funds of EUR 30 million for 2006-2008 (*Fondo de inversiones para Teruel*) will be devoted to projects that aid new business initiatives, build industrial zones, and develop transportation, energy and environmental infrastructures. Importantly, agreements with the AC of Aragon are needed to develop the plan. The usual way to proceed is to sign a general *convenio* which specifies a list of eligible projects for a specific period of time and also creates a monitoring commission, where both the central government and the AC are represented, that is responsible for selecting the projects that will be funded each year. This commission is also responsible for following up on the implementation of projects that are the responsibility of the AC.

A second fund will be created to provide assistance to new business using preferential rate loans and capital shares. This fund will be managed by SEPIDES, a public corporation specialised in business promotion in lagging zones, which is part of the Spanish public industrial holding SEPI. This fund will amount to EUR 12 million for 2006-2008, with contributions equally divided among the central government, the AC of Aragon, and saving banks located in the region. Although the fund will be managed by SEPIDES, an agreement will be signed by all the partners involved, and an additional monitoring commission (with representation of the central government, the AC, and the savings banks) will be responsible for fixing the basic criteria for

distributing the funds and for following up on projects funded using periodic information supplied by SEPIDES. In fact, these partners are the owners of SODIAR, a public corporation whose purpose is business promotion in the AC of Aragon. The control of this corporation is in the hands of the central government, which owns the 51% of the capital through SEPIDES. The AC owns 6% of capital and the remaining portion is held by the saving banks.

The co-ordination context in Teruel is characterised by complexity, vertical inter-dependence, and low levels of knowledge for both layers of government. First, because of the very general policy goal in this case, many different instruments must be combined to find the appropriate development policy for Teruel. As a result the co-ordination context is extremely complex. Moreover, these different instruments are the responsibility of different layers of government and the success of the development policy will have an impact on various national policies, producing vertical inter-dependencies. If, for example, the ACs regional policy towards this province is successful, there will be less pressure for the central government to allocate development funds to Teruel, unemployment subsidies will decline, and tax receipts to the national budget will increase. Finally, both layers of government face difficulties in ascertaining which is the best development strategy for Teruel, as such the situation is characterised by low levels of knowledge for both the central government and the AC. However, when it comes to specific projects, the AC will have better knowledge of the specific needs within of its jurisdiction and, as the projects are not technically complex (*i.e.*, Spanish ACs know how to build a road), they have at least a similar level of expertise as the central government. In this sense, the central government has a low level of knowledge and that the AC has a higher degree of knowledge.

Like the case of the coal mining counties, the framework outlined in the first part of this report suggests that the type of contract needed in this context can vary, ranging from an incomplete contract with audit to co-decision with arbitrage. The case of Teruel has elements of both types of contracts. On the one hand, the main goals and priorities of the plan are set by the central government and then the implementation is delegated either to the AC or to the SEPIDES Corporation, whose performance can be audited by the central government (an incomplete contract). On the other hand, the AC participates in decision-making through the monitoring commission of the *convenios* with the central government and with SEPIDES. This resembles a co-decision mechanism with the arbitration role played by the monitoring commission. Thus, the type of contract used is more or less aligned with the suggestions of the theory.

Looking at the policy goals for Teruel, if the goal is to implement a set of priority projects, then an incomplete contract used to delegate its implementation to the AC would suffice. But if the goal is the development of

the department, and both layers of government possess low levels of knowledge, co-decision should be increased. In this case, the central government could reduce its role in setting alone the priorities and in implementing business assistance though a national agency (SEPIDES), and all the policy steps could be decided in partnership between both layers of government. The creation of a *consorcio* or a public corporation (*Sociedad Mixta*) with equal shares for each layer of government could be used in this case. The AC participation in SODIAR can be seen as one step in this direction, but as has been explained above, the control of this corporation is in the hands of the central government.

4.3. Construction and management of the Synchrotron light laboratory

The ALBA Synchrotron is a particle accelerator, a very large and expensive research facility, which is planned to be located in Cerdanyola, a site near Barcelona that also hosts a university and many technological firms (see *www.cells.es* for more details of the project). Obviously, this project provides benefits not only to the local and regional communities (by affecting both local technological firms and the local research community), but also to all Spanish researchers and firms. As a result of these spillover effects, the involvement of the central government is justified.

The agreement analysed is the 2002 *convenio* between the Ministry of Science and Technology and the AC that will host the facility, Catalunya. This agreement includes the financial promises to fund the construction of the facility. Each layer of government will fund the 50% of the investment, which amounts to EUR 164 million to be spent during the period 2003-2008. The agreement specifies the quantities to be spent each year. The agreement does not specify the obligation to contribute to operating expenses, since these costs are expected to be fully covered by user charges paid by the research teams that use the particle accelerator. However, the agreement says that if an operating deficit appears, the monitoring commission (*Comisión de Seguimiento*) could solve the problem by writing a new agreement (*Addenda*) which specifies the distribution of the burden.

The agreement also creates the partnership (*consorcio*) that will be responsible for managing the facility once built. The statutes of the *consorcio* are included in an annex to the *convenio*. The governance structure of the *consorcio* can be defined as follows. The *consorcio* will have a political decision-making body (*Consejo Rector*) and a management body (*Comisión Ejecutiva*). The *Consejo Rector* is formed by a president, which will rotate yearly from one layer of government to the other and have a qualified vote, and by eight representatives (four for each layer of government). Its responsibilities include providing general guidelines of activity, approving the annual budget and the plans of activity and projects, and specifying the rules of the relationship with

the users of the facility. The *Comision Ejecutiva* is formed by a manager and four members (two from each layer of government). Among its responsibilities are organising the services offered by the facility and setting the user charges.

The co-ordination context for the ALBA Synchrotron could be classified as being either low or high complexity. On the one hand, the building of this facility is technically complex, but this complexity should be dealt with easily by delegation of these tasks to the engineers and scientists. So, there is no complexity in the sense that there are not many different policy instruments interacting in the building and management of the Synchrotron. On the other hand, although the building of the facility is not complex, the design of the scientific policy is, in the sense that there are many instruments that will determine the success of scientific investments (*e.g.*, in terms of scientific outputs or economic impact on the industry).

The co-ordination context is also characterised by a high level of inter-dependencies. There are horizontal inter-dependencies derived from the fact that the facility would benefit all the Spanish scientific community, and vertical inter-dependencies derived from the fact that both layers of government have responsibilities on this matter. Moreover, the project's success could have an impact on future R&D programs that could be carried out by the central government and by the other regions since future programs will depend on access to the equipment and since all the partners will have to pay for maintenance in the future. Also, the clustering of researchers around the Synchrotron will help the national scientific community in general by fostering the development of scientific programmes in related fields of knowledge.

Regarding the level of knowledge, both layers of government have a low level of knowledge. Neither has previously built or managed such a facility and it is unlikely that another will be built in the future, so there are no chances to learn. Moreover, the project entails significant risks: the construction risk (*i.e.*, exact localisation, detailed design of the building, budgetary deviations), the scientific risk (*i.e.*, failures in identifying the most appropriate research policy for the facility, related to the number of light lines defined and to its assignment to research groups and firms), and the management risk (*i.e.*, optimisation of the financial returns and possible appearance of operating deficits in the future). Although a great part of these risks can (and should) be dealt with in advance, it is clear that a number of very complex decisions will have to be taken.

Following the framework suggested in this report, the type of contract needed for this co-ordination context is co-decision with arbitrage. In this case contracting should be completely relational, based on a permanent partnership between layers of government. This is, in fact, the case of the

Synchrotron since, as explained above, both the construction and the management of the facility depend on a *consorcio* where both layers of government and the scientific community are represented. The decision-making bodies of the *consorcio* play the needed arbitrating role. Thus, it seems that there is perfect alignment between the contractual solution and the prescription of the theory.

5. Conclusions

This section summarises the main conclusions of the chapter and makes some policy recommendations for Spain. It also highlights some of the lessons that can be learned from the Spanish case.

First, in Spain, inter-governmental contracts (called *convenios*) have played an important role in implementing co-operation efforts arising mainly from multi-lateral forums. Moreover, the very use of contracts has fostered the co-operation initiated at the beginning of the 1990s. Therefore, it appears that both the Spanish state and the ACs are learning to co-operate though the use of contracts. The main recommendation here is to continue to make efforts to foster the co-operative spirit of Spanish federalism by increasing the frequency of multi-lateral meetings and the scope of the issues to be dealt with. However, it is equally important to give incentives to the ACs to participate actively in these forums by increasing the relevance of the decisions taken and by avoiding the encroachment of these forums on matters of their exclusive competence. The purpose of these recommendations is the increase in the number of inter-governmental agreements.

Inter-governmental contracts in Spain are based on a set of legally enforceable instruments which is a flexible and appropriate way to deal with very different co-ordination contexts. For example, *convenios* are quite capable of dealing with contexts requiring incomplete contracts with arbitrage, either through the workings of the monitoring commission or through the creation of a permanent institution (a *consorcio* or a public society). However, the case studies presented here show that the contract solution chosen is not always clearly aligned with the coordination context. Although the solution to the "Synchrotron light laboratory" case was clearly appropriate, the same cannot be said in the other two cases. The coal mining counties and Teruel cases might be best dealt with the creation of a permanent institution (*i.e.*, a *consorcio*) for each local area. Moreover, while some aspects of the implementation of these programmes are dealt co-operatively, the most relevant aspects of their design are not delegated (*e.g.*, the design of assistance to business programs). This reveals a presumption that the level of knowledge of the regional government is low. However, this presumption is not always warranted given the high level of complexity and site-specificity of local

development programs. A recommendation is to involve the ACs and local actors (*e.g.*, local governments, private partners) in the design of the appropriate local development policy. This means that the central government has to accept that the co-ordination context is characterised by a low level of knowledge at all levels and that the contract solution should be relational and context specific.

Inter-governmental contracts in Spain are also quite transparent, since they are subject to publicity requirements. However, eligibility criteria are not always clear when *convenios* arise from a bilateral agreement. Moreover, the case studies reveal that in some cases the use of many different agreements and *convenios* and the involvement of different national agencies creates a complicated network of inter-governmental relations that is quite difficult for the interested public to follow. Recall, for example, the case of Teruel where the agreements are implemented either by the AC or by a central government business development agency which, in turn, may delegate to the AC's business development agency, and that a public society owned both by the central government and the AC also intervenes. The first recommendation in this regard is to use multi-lateral agreements when possible, distributing the resources with objective data, and introducing performance criteria and competitive tendering procedures when applicable. For this to be done, performance indicators and evaluation procedures should be improved. A notable development in this regard is the recent creation of a national agency for the evaluation of public policies and the quality of services (*La Agencia de Evaluación de las Políticas Públicas y la Calidad de los Servicios*). The agency will initially focus on some specific service areas. The second recommendation is to simplify the network of actors and contracts used at the implementation stage in order to make more clear who is responsible for the policy.

The main lesson that can be learned from the Spanish case is that inter-governmental contracts are useful even in a situation where co-operation is entirely voluntary and different tiers of government are fearful of losing their prerogatives. In this case, contracts are not a planning tool for the development of the central government's policies but a tool to solve the conflicts of interest between the central government and the AC. Thus, it is not surprising that contracts in Spain do not deal with the creation of macro-development policies, but rather address the implementation of concrete projects. Another lesson that can be derived from the Spanish case relates to the performance of different contract arrangements in different co-ordination contexts. Here, the case studies show that arbitrage mechanisms (*i.e.*, monitoring commissions) and permanent institutions (*i.e.*, *consorcios*) work quite well in some cases.

Notes

1. This chapter draws on the contribution of Albert Solé-Ollé, Departmento d'Hisenda Pública and Institut d'Economia de Barcelona (IEB), Universitat de Barcelona.
2. Some responsibilities are attributed by law to the municipalities. In Spain there are more than 8 000 municipalities, most of which are rather small (90% of them have less than 5 000 inhabitants). The responsibilities of Spanish municipalities are similar to the ones attribute elsewhere to local governments (*e.g.*, garbage collection, water supply, street paving and cleaning, parks and recreation) with the exception of education, which is a regional responsibility in Spain. In addition to municipalities, there is an upper-tier of local government called Diputación provincial, with the basic responsibility of giving technical and financial support to municipalities. There are also voluntary associations of municipalities (called *mancomunidades*) and a plenty of partnerships (between municipalities, with regional governments and with private actors) which are not analysed in this chapter (see Font *et al.*, 1999, for a survey).
3. A good example is the *consorcio* Cercs-Bergadà created in 1989 by the central government (through the state employment agency INEM, the AC of Catalunya, the municipality of Cercs and the county association of coal producers (see *www.cfi.es* for more details). The first goal of the *consorcio* was to aid in the restructuring process of mining and in finding new jobs for the people that lost the jobs in the mines, but when mines where definitively closed it moved to the fields of formation of the unemployed and aids to new business.

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