



SPECIAL REPORT

# Spain: legislative perspectives for the new Parliamentary Term

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**d+i** LLORENTE & CUENCA

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## 1. INTRODUCTION

The last year of the X term will be 2015. It is divided into two different periods of sessions. The first one goes from February to June and the second one from September until the compulsory dissolution of the Parliament with the call for new General Elections (due to take place in November).

In addition to the General Elections, this year we will also host other electing appointments. In March 22nd the early Elections of Andalusia, and in May 24th some Local Elections and elections in 13 autonomous communities. The third date will be the Autonomous elections in Catalonia in September 27th (although doubts still remain due to the break of the agreement between CIU and ERC after the Local Elections in May).

These electing appointments will establish the general rhythm of passing both, legislative and non-legislative initiatives. Parliamentary debates and polls will in general perform according to the parties' electoral interests (who will try to find a unique speech different from the others). The most important issues during this electoral period are: security, fighting corruption and the economic recovery. Indeed, these are the main topics in the legislative initiatives we are analyzing.

Regarding legislative perspectives, those bills on the parliamentary process will have enough time to be passed. They amount to 27 initiatives which the Government will have to decide whether to pass them or simply wait until the end of the term. The impact of electors will be more important than the Government's program when deciding which programs will be carried out until the end and which ones will not.

In the Appendix we have included other 13 projects which are not in the Parliament yet. The natural timing for a draft bill since the Council of Ministers reviews it until the Parliament passes it, is around seven months. For this reason, the announcement of new projects will depend on the Government's good will to finish their processing or just leave them as electoral announcements. The alternative for a certain approval is the formula of the Decree-Law.

Those projects whose processing are not finished by the dissolution of the Parliament (probably by the end of September) will be stopped. It is for the new Government to decide after the general elections whether they will go ahead with the projects or not.

**“The reform on the Criminal Code especially affects those chapters related to corruption”**

In this sense, the new term will have a divided Parliament. Thus, this is probably the last year we have an absolute majority Government that allows or denies initiatives from a unique parliamentary group. Next term, the parliamentary activity will be conditioned by the constant need of agreements and pacts. The period before the elections is the best time to establish institutional positions and build bridges with different political parties that may have decisive possibilities in 2016.

## 2. LEGISLATIVE AGENDA

### Democratic regeneration

The Parliamentary attention is focused on the **bill to regulate the State’s General Administration, the bill to regulate the economic and financial activities of political parties and the bill amending the Criminal Code**. These three bills define the amending package to fight against corruption proposed by the Government.

The two first bills increase the transparency and control requirements on funding, expenditure and behavior of those holding senior positions in political parties. Some parties agree that those requirements should have been more demanding. Consequently, they have not supported the initiatives.

The reform on the Criminal Code especially affects those chapters

related to corruption. Sentences are tougher, the limitation period is longer and the illegal funding crime of political parties is now classified. Moreover, it includes a wide classification reform of crimes and offences and the controversial figure of the revisable permanent prison (what has blocked further agreements regarding the bill). It establishes a new system of protection of intellectual property rights adapted to the digital sphere.

These three bills have just started their processing on the Senate and will be finally passed in March, on the cusp of the 2015 constant electoral campaign.

### Security

After the terrorist attacks in Paris the fight against terrorism has moved off from the reform of the Criminal Code and it is now debated and agreed by all political powers separately. The final text has been registered as a Parliamentary initiative signed by both Popular and Socialist Parties.

The **organic bill that modifies the Civil Procedure Act** sent to the Senate includes other issues related to the fight against terrorism. Among them, there is the controversial intervention in communications without prior court order in specific situations.

Another project within the same line of reforms which has just started its processing in the upper Chamber is the **bill on citizens’ safety**. Some

“There are currently several bills regarding economic issues that are being processed in the Parliament”

media and opposition groups have called this bill as the “gag law” since they consider that it will reduce the freedom of demonstration. In this bill may be included the also controversial passengers register through the amendment of the *Grupo Popular*. It is a measure that it is already being adopted in other European countries.

Finally, the Council of Ministers has announced the **draft bill on national security**. This draft bill defines national security as a State’s policy that involves all Public Administrations as well as the society in general. It includes new approaches such as the private and public collaboration, the promotion of a National Security culture involving citizens, and it defines the functions of the Parliament, the Government and the President, the Ministers and the National Security Council regarding security. Although it was announced after the abovementioned terrorist attacks, the text was already planned. The National Security Strategy passed in 2013 created a Council in charge of the drafting of the Law within six months.

The **bill on the national system of civil protection** and the **bill on National Police staff** regulation will start their proceedings in the Internal Commission of the Congress. Together with these bills we also find the amendment on the **military career law** from the Defense Committee and the **organic bill on the military penal code**.

### Bills on the economic sphere

There are currently several bills regarding economic issues that are being processed in the Parliament.

**The bill on business funding** which aims to improve the access to credit of the SMEs will be finished in this term. The bill, with some changes regarding the first version, is already in the Senate. One of the main changes is the obligations of banks to inform both SMEs and freelancers of possible credit cuts. This allows SMEs and freelancers to find new credit alternatives such as crowdfunding (which is also regulated in this law).

**The bill on the de-indexing of the Spanish economy** is starting its processing in the Senate. It will be finally passed in March after being stopped in the Congress during some months due to a period of amendments. Pending is still the announced and compulsory five-year reform on the autonomic funding. However, some days before the end of 2014, the Council of Ministers passed a partial reform through a Royal Decree and the **organic bill on autonomic funding**. The aim of these measures is to improve the autonomies’ financial situation and reduce costs thanks to three different tools compiled in the Autonomic Financing Fund: the Autonomic Liquidity Fund – FLA– which already exists in those communities with financial problems; the finance facility to reduce costs to access the market for those communities meeting the objectives of budgetary

“The Congress of Deputies decided to process as a bill the Decree of urgent measures on bankruptcy matters”

stability, public debt and deadlines for suppliers' payments; and the Social Fund which allows autonomies to finance their debts with local entities.

With the beginning of the new term the **bill to modify the law on the hydrocarbon sector** will also start its processing. This new measure promotes competition in the natural gas sector through the creation of an Iberian organized market; it also involves new tax regulations regarding exploration, research and exploitation of hydrocarbons.

By the end of 2014 the new **bill on patents** was registered. Its objective is to modernize law and adapt it to the international frame. One of the main changes involves the compulsory prior evaluation of the SPTO (Spanish Patents and Trademarks Office) in order to grant a patent. The technological sphere includes the possibility to patent known substances for its use as medicine or therapeutic applications.

In September, the Congress of Deputies decided to process as a bill the **Decree of urgent measures on bankruptcy matters** through the Economic Commission. This reform aims to reduce the high percentage of companies going through insolvency proceedings and liquidations. In order to achieve it, it makes easier agreements between creditors and guarantees the survival of companies going through tough situations but still viable.

The **bill amending the mortgage law** and the bill on the Estate cadaster law were presented in June. This initiative has been deeply criticized by the property registers themselves who warned about legal inconsistencies. The bill is still on its amendments period in the Congress.

The Government has announced several times its works on a **bill on second opportunities** for companies, freelancers and families which will enable entrepreneurs to restart in case of a failure. This measure will also reduce from fifteen years to five the deadline for banks to claim personal debts. Banks must notify on time when there is an overdraft in a current account or a credit card. This will help to better face debts.

The **Draft Bill on Auditing** is in the Council of State. In the coming weeks, the Council of Minister will revise and will send to Congress to begin processing.

#### Other legislative measures

There are other measures in the justice field such as the **bill for crime victims** which represents a catalogue of procedural and out-of-court rights of the victims and the **bill on free legal assistance** which includes benefits for associations of terrorism victims, consumer associations, disabled associations, trade unions, Red Cross, managing entities of the social security and Public Employment Service among other institutions. Another bill going through its amendment period is the **bill on administrative**

**“The bill on the protection of Intangible Cultural Heritage is currently under discussion in the Culture Commission”**

reforms in the field of justice administration and civil registration.

The bill on the protection of Intangible Cultural Heritage is currently under discussion in the Culture Commission. Meanwhile, Agricultural MEPs started in September the processing of the bill on designations of origin and protected geographical indications in the supra-autonomic sphere.

One of the news for the end of this term is the reform on Public Administrations through the announced draft bills on common administrative proceedings of Public Administrations and the legal system of the Public

Sector. The aim of both drafts is to achieve a completely electronic, interconnected and transparent Administration with much simpler structure.

The first draft bill concerns the external relations between the Administration and citizens and companies. The second one, the legal system of the Public Sector, concerns the organization and the internal relations within each Administration and between different Administrations. One of the news is the establishment of a very strict system to create public entities. Due to the needed processing period it is likely that none of these draft bills will be passed during this term.

## 3. APPENDIX I: LIST OF PENDING LEGISLATIVE INITIATIVES

## INITIATIVES IN PROCESS IN THE CONGRESS

Parliamentary Bill reforming the Organic Law 10/1995 of 23 November, of the Criminal Code concerning <b>crimes of terrorism</b> .	Pending initial general debate
Bill amending the Law 34/1998, of October 7th, on the hydrocarbons sector and which regulates certain tax and non-tax policies regarding hydrocarbons exploration, research and exploitation.	Amendment period
Bill amending the Law 43/2003, of November 21st, on <b>Mountains</b> .	Amendment period
Organic bill amending the organic law 8/1980 of September 22nd, on <b>Autonomic Communities funding</b> and the organic law 2/2012 of April 27th on budgetary stability and financial sustainability. Proposed: 12/29/2014.	Amendment period
Bill on the national system of <b>civil protection</b> . Proposed on December 12th 2014 and qualified on December 16 2014.	Amendment period
Bill amending the law 39/2007 of November 19th, regarding <b>military career</b> .	Amendment period
Bill amending the organic law on the <b>National Police</b> staff regulation.	Amendment period
Bill on <b>patents law</b> . Proposed 11/17/2014 and qualified 11/25/2014.	Amendment period
Bill to protect <b>Intangible Cultural Heritage</b> .	Amendment period
Bill to create the general council of <b>official colleges of pedagogues and educational psychologists</b> .	Amendment period
Bill on urgent measures on <b>insolvency issues</b> .	Amendment period. Coming from the Royal Decree 11/2014 on September 5th
Bill on <b>designations of origin</b> and protected geographical indications in the supra-autonomic sphere.	Amendment period
Bill on <b>voluntary jurisdiction</b> .	Amendment period
Organic Bill on the military penal code.	Amendment period
Bill on administrative reforms on <b>justice administration</b> and civil registry.	Amendment period
Bill amending the mortgage law.	Amendment period
Bill on granting <b>Spanish nationality to Sephardic Jews</b> originally from Spain that can justify their origin and their special bond to Spain.	Amendment period
Bill on <b>free legal assistance</b> .	Report by the Commission

#### INITIATIVES IN PROCESS IN THE SENATE

Bill on promoting business funding.	Amendment period
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Bill on crime victims.	Amendment period
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Organic bill amending the code of criminal procedures and the organic law 6/1985 of July 1st, of the judicial system.	Amendment period
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Bill regulating the Spanish national library.	Amendment period
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Organic bill on citizens' security protection.	Amendment period
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Bill regulating the work of high members of the Public Administration.	Amendment period
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Organic bill to control the economic and financial activities of political parties.	Amendment period
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Bill to de-index the Spanish economy.	Amendment period
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Organic bill amending the organic law 10/1995 of November 23rd of the criminal code.	Amendment period
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#### INITIATIVES STILL OUT OF THE PARLIAMENTARY PROCESSING

Draft Bill on Auditing.	Awaiting opinion of the Council of State. It aims to enhance the independence, transparency and supervision for improving the quality of audit firms and confidence in the economic and financial information they provide. The rotation is set in ten years, some fees are limited and a list is set with eleven incompatible services.
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Draft bill on National Security.	Revised by the Council of Ministers in January. The Government is preparing the bill to be sent to the Congress within the next months.
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Draft bill on General Administrative Procedures of Public Administrations.	Revised by the Council of Ministers in January. It concerns the simplification of the relations between the Administration and citizens and companies with the e-Administration.
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Draft bill on the legal system of the Public Sector.	Revised by the Council of Ministers in January. It regulates the organization and internal relations within each Administration and between different administrations.
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<p>Draft bill partially amending the law 58/2003 of December 17th of <b>General Taxation</b>.</p>	<p>Revised by the Council of Ministers. It seeks for a more precise, clear and systematic regulation of all procedures regarding the taxation system; promotes the compliance of tax obligations and a better use of the Administration tools.</p>
<p>Draft bill on <b>Children's protection</b>.</p>	<p>Revised by the Ministers Council in April. It contains measures to speed up and increase flexibility on adoption and foster care procedures. It strengthens the minor's rights to interact in their environment and protects them in cases of gender violence or sexual abuses.</p>
<p>Draft bill to establish basic legislation regarding trade and responsible ownership of <b>cats and dogs</b>.</p>	<p>Revised by the Council of Ministers in June. It promotes the responsible ownership of pets and aims to reduce animal abandonment. It sets selling criteria for pets shops.</p>
<p>Draft Bill reforming the Law 37/2007, of November 16th, on re-utilization of <b>public sector information</b>.</p>	<p>Revised by the Minister Council. It transposes a European Directive. Among the new highlights, it expand the re-use of public sector to libraries, archives and museums. It provides that if a fee for the re-use of documents is applied, this should be limited to the marginal costs incurred for reproduction, availability or dissemination.</p>
<p>Draft Bill on <b>restructuring and resolution of credit institutions</b> and investment services companies.</p>	<p>Revised by Minister Council. It design processes for resolving entities in their preventive phase, early action mechanisms and the final decision and the framework for action by the competent authorities.</p>
<p>Draft General Bill on <b>Third Sector</b> of Social Action.</p>	<p>Revised by Minister Council. It will give a legal framework for NGO action. NGOs are recognized an outstanding role as interlocutor for the Administration in the preparation and monitoring of public policies framed in the fight against poverty and exclusion.</p>
<p>Draft Bill in <b>Volunteering</b></p>	<p>Revised by Minister Council. It sets the legal framework for the volunteers and their relationships with voluntary organizations, provides the legal framework of the Administration, It covers other areas of volunteering and takes into account the activity on national soil and abroad.</p>



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**Draft bill on food quality.**

At the draft stage. Agricultural Minister has promised to take the draft to the Council of Ministers in January. It regulates a single market of food quality. It establishes organisms and mechanisms to control quality in the competent autonomies.

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**Draft bill on second chances for freelancers.**

At the draft stage. It is an initiative that has been announced several times by different government members. It will make it easier for freelancers to start a new project after a failure.

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