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RESEARCH ARTICLE

Judicial review and territorial conflicts: Evidence from Spain

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Abstract
Constitutional courts (CCs) in federal and quasi-federal systems are often expected to act as neutral arbiters in conflicts between levels of government. This article challenges that assumption by analysing the behavior of Spain's Constitutional Court over four decades of constitutional litigation. Drawing on an original dataset of 1,888 rulings on all challenges to national and regional legislation (1981–2023), we examine how judicial outcomes are shaped by political alignment, institutional design, and court ideology. Our analysis reveals a consistent pattern of deference to the central government, especially when the Court is ideologically conservative or aligned with the federal executive. These results support a strategic model of judicial behavior and raise broader questions about the role of CCs in multilevel systems. Rather than acting as counter-majoritarian forces, courts may reinforce central dominance in center–periphery conflicts, limiting their capacity to protect territorial pluralism in practice.

Keywords: courts; judicial review; federalism; counter-majoritarian institutions; territorial minorities

Introduction

In federal and quasi-federal democracies, constitutional courts (CCs) are expected to play a crucial role in mediating tensions between governments. The judiciary acts not only as an interpreter of constitutional texts but also as an institutional referee in center-periphery disputes (Dahl 1957; Landes and Posner 1975; Elazar 1987; Watts 1999; Popelier and Martens 2024). In such contexts, courts are frequently viewed as counter-majoritarian institutions: actors capable of protecting minority interests and upholding the constitutional balance of power between different levels of government (Kössler 2022). In this article, we use the concept of counter-majoritarianism in a specific and bounded sense, referring to the capacity of CCs to resist centralizing pressures from national political majorities in territorial or federal disputes. This usage differs from more general interpretations that emphasise the protection of civil liberties or marginalised social groups (Bickel 1968). Our focus is on territorial majoritarianism, situations in which the national political majority (usually concentrated in the capital and represented by state-wide political parties) overrides the preferences of territorially elected regional governments. While courts are often assumed to act as bulwarks against such central dominance, whether they perform this role remains an open and contested question, both empirically and theoretically.

The core mechanism through which CCs intervene in federal dynamics is judicial review. Yet CCs adjudicating center–periphery conflicts do so within the constraints of institutional design,

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judicial composition, and broader political context (Sala 2010; Aroney and Kincaid 2017; Delaney and Dixon 2018). On the one hand, courts can serve as bulwarks against federal encroachment, preventing the erosion of regional autonomy. On the other hand, CCs may become agents of central consolidation, especially when their preferences align with those of the national executive or governing coalition (Requejo and Sanjaume-Calvet 2022). In such cases, judicial review risks reinforcing central authority.

This article examines the role of CCs in adjudicating center-periphery conflicts, using Spain as a case study. Spain's constitutional design, often described as a quasi-federal system, lacks many of the formal guarantees found in federations (Grau-Creus 2000). This institutional incompleteness contributes to a high volume of litigation between the central government and autonomous communities. Despite formal independence, the Spanish Constitutional Court (SCC) has been subject to recurring allegations of political bias and centralist leanings (Harguindéguy, Sola-Rodríguez, and Cruz-Díaz 2020; Sanjaume-Calvet and Paneque 2023; Vallbé 2024), although some extant literature did not find empirical evidence of political motivations (López-Laborda, Rodrigo, and Sanz-Arceaga 2018, 2019). These debates raise important questions about the SCC's function: does it operate as a neutral arbiter between competing levels of government, or as a political actor reinforcing centralised control?

Using an original dataset of 1,888 rulings on legislative constitutional disputes involving the Spanish central government and regional entities, we analyse how judicial decisions vary across different political configurations. Our findings show a clear pattern: the SCC consistently rules in favour of the central government, a tendency that is amplified when it is dominated by conservative majorities. Regional governments led by territorially based parties are particularly likely to lose their cases. However, this bias is mitigated when the central government relies on minority nationalist parties for legislative support and shares political alignment with the SCC. Minority nationalist parties are characterised by the claim that a territorially concentrated group within a state constitutes a distinctive political community (Hepburn 2009). This finding suggests that judicial behavior is shaped not only by legal considerations but also by political incentives and coalition dynamics.

This article contributes to the literature on judicial behavior and federalism in two main ways. First, it develops a conceptual framework for understanding constitutional litigation in multilevel systems, distinguishing a set of political scenarios based on the alignment between the central government, regional government, and the CC. Second, it extends previous work on the SCC (Garoupa, Gómez-Pomar, and Grembi 2013; Garoupa and Magalhães 2020; López-Laborda, Rodrigo, and Sanz-Arceaga 2018, 2024; Muñoz and Rodilla-Lázaro 2024) by applying this framework to the largest dataset of court decisions compiled to date. The analysis provides new insights into how CCs mediate power struggles in federations and challenges the assumption that judicial review necessarily protects minority or regional autonomy.

Our findings are not only salient to the Spanish case but also resonate with broader federal experiences. In Belgium and Italy, for instance, recent studies highlight centralizing judicial trends, while in the United States, partisan and ideological factors shape federal–state disputes before the Supreme Court (Dalla Pellegrina et al. 2017; Popelier and Bielen 2019). Similar dynamics can be observed in Canada and India, where CCs have at times validated centralizing moves despite federal safeguards (Brouillet and Ryder 2017; Swenden and Saxena 2022). These parallels suggest that the Spanish case speaks to a wider pattern in which CCs may act less as neutral arbiters than as strategic political actors embedded in federal politics.

The remainder of the article is structured as follows. The next section, 'Courts, federalism, and judicial behavior', reviews former works on the relationship between federalism and CCs. Section 3, 'The case of Spain', introduces the Spanish case, focusing on both Spain's territorial model and the SCC's institutional characteristics and political role. Section 4, 'A strategic model of constitutional review in a decentralized polity', outlines our analytical model. Section 5, 'Case, data, and methods', presents the data and specific variables, and Section 6, 'Empirical results',

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shows the empirical results. We conclude, in Sections 7 and 8, 'Robustness checks' and 'Discussion', by discussing the implications for federal theory, judicial politics, and majority-minority relations in divided societies.

Courts, federalism, and judicial behavior

In federal and quasi-federal democracies, CCs are often expected to function as institutional referees in conflicts between levels of government. From Madison's vision in *Federalist* No. 51 to modern comparative constitutional theory, courts have been described as counter-majoritarian actors tasked with upholding constitutional principles against both popular majorities and centralizing tendencies. In this view, CCs help protect minority or subnational interests and maintain the federal balance by resolving jurisdictional disputes and reviewing legislation that may infringe on subnational autonomy (Halberstam 1998; Watts 1999; Kössler 2022). However, whether CCs actually fulfil this function in practice remains an open empirical and theoretical question. Courts may just as easily reinforce central dominance, depending on the political, institutional, and legal context in which they operate (Aroney and Kincaid 2017; Popelier 2017).

Scholars of judicial behavior typically distinguish three major explanatory models: legalist, attitudinal, and strategic (Segal and Spaeth 2002; Epstein, Landes, and Posner 2013). The legalist model treats judges as neutral interpreters of constitutional texts, relying on precedent and formal legal reasoning. While this model retains some explanatory power, especially in low-salience or technical cases (Hettinger, Lindquist, and Martinek 2006), it often fails to account for variation in politically charged or jurisdictional disputes, such as those involving center–periphery conflict.

By contrast, the attitudinal model emphasises the role of judges' ideological preferences. In federal systems, this model predicts that CCs will exhibit centralist or devolutionist tendencies depending on the ideological alignment of their members with national or regional elites. High courts often include judges who are selected by or socially embedded within the federal political class, especially in systems where appointments are controlled by national institutions (Segal and Spaeth 2002; Aroney and Kincaid 2017; Epstein, Landes, and Posner 2013). As a result, courts may disproportionately reflect the preferences of the political center or dominant federal parties.

The strategic model views judges as goal-oriented actors who pursue their preferences while navigating institutional constraints and political pressures. This framework suggests that courts may align with powerful actors, such as executives or governing coalitions, when doing so preserves their institutional legitimacy or avoids political backlash (Shapiro 1981; Epstein and Knight 2000; Carruba 2009; Staton 2010). Strategic considerations such as collegiality, dissent aversion, or reputational concerns may also guide behavior, particularly in high-stakes federal disputes where consensus is desirable or politically safer (Epstein, Landes, and Posner 2011).

In federal systems, these theoretical models help explain why CCs often exhibit a centralist bias (Bzdrea 1993; Aroney and Kincaid 2017; Filippetti, Rondinella, and Tuzi 2025). This tendency is especially visible in multinational or asymmetrical federations, where national political majorities may seek to constrain regional autonomy. In such contexts, courts may contribute to this centralization, whether due to ideological affinity, institutional design, or strategic calculation.

Popelier (2017) outlines four structural factors that help explain the centralist or non-centralist stance of courts: the extent of subnational representation at the federal level; judicial appointment procedures; the structure of the party system; and the degree of constitutional asymmetry. Later work focusing on Belgium also points to case salience, legal merit, and deliberation procedures as drivers of variation (Popelier and Bielen 2019). In Italy, empirical analyses show a marked trend toward recentralization after 2011, with decisions by the Italian Constitutional Court increasingly

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favouring federal over regional claims (Filippetti, Rondinella, and Tuzi 2025). Similarly, Dalla Pellegrina and Garoupa (2013) found that political congruence between the Prime Minister and the Judge-Rapporteur significantly increased the probability of a centralist ruling.

In the Belgian case, Dalla Pellegrina et al. (2017) found that, contrary to traditional views of legal neutrality, political and ideological variables did influence judicial outcomes, though less strongly than in presidential systems like the U.S. These studies support the broader view that CCs cannot be presumed neutral in federal disputes; instead, their decisions often reflect embedded political and institutional dynamics.

Turning to the Spanish case, the empirical literature presents mixed findings regarding the political behavior of the SCC. On the one hand, several studies suggest that political alignment plays a significant role in shaping judicial outcomes. For instance, Garoupa, Gómez-Pomar, and Grembi (2013) and Garoupa, Gili, and Gómez-Pomar (2021b) show that partisan and personal loyalties influence decisions, especially during periods of intense political polarization. Similarly, Dalla Pellegrina, Garoupa, and Gili (2020), using ideal point estimation, identify bi-dimensional ideological preferences among judges in a Court-like institution in Catalonia. Muñoz and Rodilla-Lázaro (2024) further contribute to this line of research by demonstrating that party alignments are key to understanding which regional laws are challenged before the SCC.

On the other hand, a series of studies focusing on conflicts of competence and *amparo* appeals (López-Laborda, Rodrigo, and Sanz-Arceaga 2018, 2019, 2024) find limited evidence of systematic political bias in SCC rulings. These authors conclude that legal and procedural variables, rather than ideological congruence, explain the Court's decisions in these domains. This divergence in findings may reflect differences in both the types of cases analysed and the unit of observation. While many studies treat entire Court decisions as homogenous outcomes, our approach disaggregates each decision into individual rulings and focuses specifically on legislation challenged by institutional actors, a subset of cases where political dynamics and intergovernmental tensions are most likely to manifest.

Building on this scholarship, our contribution systematically tests whether political alignment, court ideology, and parliamentary dynamics influence outcomes in center–periphery constitutional litigation. We do so by using a novel dataset of 1,888 rulings issued by the SCC between 1981 and 2023, coded by type of legislation, litigant, and political context. This granular design allows us to examine whether and how the SCC behaves as a politically responsive institution in disputes that directly involve the balance of territorial power in Spain.

To support our theoretical expectations, we draw on insights from recent literature on territorial politics and party systems. In the Spanish case, the two dominant state-wide parties (the center-left PSOE and the center-right PP) have historically converged in defending national cohesion, mainly during episodes of secessionist mobilisation (Maravall 2008; Amat 2012; Brown-Swan and Cetrà 2020; Amat and Rodon 2021). Ideologically, however, conservative parties tend to favour centralised authority, while culturally liberal and left-wing parties are more inclined toward decentralization and recognition of regional autonomy (Alonso, Cabeza, and Gómez 2013; Toubeau and Wagner 2016). These ideological divides are reflected not only in legislative preferences but also in judicial appointments and patterns of constitutional litigation. Moreover, a growing body of work has shown that minority nationalist parties can influence the territorial agenda when they are pivotal to forming or sustaining national governments (Meguid 2008; Field 2016; Ponce-Rodríguez et al. 2018). These dynamics shape both the strategic incentives of litigants and the broader political context in which the Court operates.

These literatures suggest that judicial decision-making in federal and quasi-federal systems, notably those marked by asymmetry and intergovernmental tensions, is likely to reflect patterns of political alignment, ideological commitments, and coalition dynamics. These are the factors we explicitly incorporate into our theoretical model and hypotheses, which we introduce in the next section.

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The case of Spain

Spain's territorial model, forged during the democratic transition, gave rise to the *Estado de las Autonomías*, an asymmetrical and evolving system of decentralization. Although the 1978 Constitution does not define Spain as a federation, it granted substantial autonomy to the regions (Autonomous Communities, ACs), notably through a fast-track route for Catalonia, the Basque Country, and Galicia (Article 151 SC), and a more gradual process for the remaining regions (Article 143 SC). The decentralization process was shaped by negotiated transfers of competencies and institutionalised through the *Pactos Autonómicos* of 1981 and 1992 (Bossacoma Busquets and Sanjaume-Calvet 2019). Some scholars describe this model as 'a federation in all but name' (Watts 1999), while others underscore its incomplete nature (Grau-Creus 2000) and the imbalance between high levels of self-rule and limited shared-rule mechanisms (Elazar 1987).

Within this framework, the SCC was established as the key institution for constitutional interpretation, under the 1979 Organic Law (LOTC). Based on the Kelsenian model of concentrated constitutional review, the Court comprises 12 justices appointed for non-renewable nine-year terms. Appointments are made by the Congreso de los Diputados, the Senado (partially based on regional parliaments' proposals), the government, and the General Council of the Judiciary, all requiring qualified majorities. While these procedures nominally uphold meritocratic standards, the process is ultimately controlled by central institutions, with only symbolic regional input. Compared to other European constitutional courts, the SCC handles a heavy caseload, which positions it not only as a legal authority but also as a key actor in mediating broader political and social conflicts (Vallbé 2024).

Despite its intended role as a neutral judicial body, the SCC's structure renders it susceptible to politicisation. The selection of justices by political institutions, the absence of regional vetoes in the appointment process, and the Court's involvement in high-stakes political disputes have all drawn criticism. While the Court has regularly included magistrates from Catalonia and the Basque Country, this has not translated into balanced territorial representation. Its jurisprudence has occasionally been perceived as favouring recentralization, deepening tensions in an already delicate territorial settlement. In regions with strong demands for self-government, the SCC's legitimacy as a neutral arbiter has often been contested in the political debate.

The SCC's functioning has been the subject of considerable empirical scrutiny. Garoupa, Gili, and Gómez-Pomar (2021a) found that judicial decisions were significantly shaped by judges' personal loyalty to the party leaders who appointed them, mostly under the PSOE government of Prime Minister Zapatero. Similarly, Dalla Pellegrina, Garoupa, and Gili (2020) identified the influence of ideological orientations, especially along the progressive-conservative axis, on rulings, particularly in the context of the Catalan territorial conflict. Rodilla-Lázaro (2025) further demonstrated that short-term partisan incentives influence which cases are brought before the SCC, while Muñoz and Rodilla-Lázaro (2024) found that the territorial dimension shaped state-wide parties' behavior initiating judicial review processes, with conservative central governments championing the challenge of regional laws before the Court. Nonetheless, debate persists regarding the Court's behavior in center-periphery disputes. While several studies point to a centralist bias rooted in political dynamics (Harguindéguy, Sola-Rodríguez, and Cruz-Díaz 2020; Sanjaume-Calvet and Paneque 2023; Vallbé 2024), other work finds limited or no empirical evidence of systematic favouritism towards the central government (López-Laborda, Rodrigo, and Sanz-Arceaga 2018, 2019).

Comparative evidence from other European constitutional courts further contextualises the Spanish case. In their analysis of the Belgian Constitutional Court, Dalla Pellegrina et al. (2017) conclude that 'our empirical results seem to be inconsistent with the view, generally held by legal scholars, that ideology or political variables play no role in explaining behavior at the Belgian Constitutional Court' (p. 345). That said, they caution that Belgian judges appear less politically motivated than their U.S. counterparts. In Italy, Filippetti, Rondinella, and Tuzi (2025) highlight a

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marked trend toward recentralization in CC rulings after 2011, driven largely by the central government. Earlier research by Dalla Pellegrina and Garoupa (2013) also found that political alignment between the case rapporteur and the Prime Minister significantly increased the likelihood of the Court supporting centralist positions.

A strategic model of constitutional review in a decentralized polity

The institutional structure, political composition, and contested legitimacy of the SCC described above raise important questions about how it behaves in practice when adjudicating center–periphery disputes. To address these questions, we develop a strategic framework that models the behavior of CCs in decentralized systems. Our goal is to explain how political alignments and institutional incentives shape judicial decision-making in cases involving national and regional legislation. This framework builds on the patterns identified in the Spanish case and draws from broader insights in the comparative literature.

Constitutional courts in federal and quasi-federal systems are often portrayed as neutral arbiters in conflicts between levels of government. However, their behavior is shaped by political alignments, institutional arrangements, and broader strategic considerations. In the Spanish context, where a strong central state coexists with asymmetrically empowered regional governments, the CC operates in a political environment shaped by intergovernmental tension and dominated by two state-wide parties. Its decisions, while legally framed, are made within a set of predictable political constraints and incentives.

We consider three types of actors: the central government, regional governments, and the CC. The central government typically seeks to assert the primacy of national legislation and maintain constitutional cohesion. Regional governments vary in their political orientation: some are led by state-wide parties, while others, usually in Catalonia and the Basque Country, are governed by region-based or minority nationalist parties that advocate for greater autonomy. The CC, although formally independent, is appointed through procedures dominated by national institutions, which means that it is often composed of members whose preferences reflect those of the central political system.

We assume that the Court behaves as a strategic actor, sensitive to both political alignment and institutional incentives. Its decisions, to strike down or uphold challenged legislation, are shaped by the political configuration of the case, the ideological profile of the Court, and the broader dynamics of parliamentary coalitions. Based on this logic, we derive four expectations.

First (H1), we expect a general centralist bias: the Court is more likely to annul legislation enacted by regional parliaments than by the national legislature. This expectation is consistent with studies showing that federal high courts often reinforce central authority (Aroney and Kincaid 2017; Popelier 2017; Woelk 2020), particularly when subnational units lack strong representation in judicial appointments (Popelier and Bielen 2019).

Second (H2), when the Court is politically aligned with the central government, meaning that both are controlled by the same party or ideological bloc, the likelihood of the Court supporting the federal government increases. Political congruence strengthens the Court's role as a majority-enforcing institution, a dynamic consistent with theories of judicial deference under alignment (Vanberg 2005; Garoupa, Gómez-Pomar, and Grembi 2013; Ginsburg 2019). This expectation stands in contrast to the findings of López-Laborda et al. (2018, 2019), who argue that the CC's decisions are largely insulated from political alignment or ideological bias. Our approach differs in both theoretical framing and empirical design. Theoretically, we conceive the Court not merely as an attitudinal body, but as an actor embedded in a wider strategic institutional setting. Empirically, we use a more granular unit of analysis (individual rulings within decisions) that allows us to capture variation often masked by aggregated decision-level coding. Most crucially, our focus is on judicial review of legislation (that is, the Court's role as a negative legislator),

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whereas López-Laborda et al. base their analyses primarily on conflicts of competence between the central and regional governments. These disputes often center on executive actions or jurisdictional procedures rather than the constitutionality of legislative content. As a result, our analysis better captures the high-stakes confrontations in which political alignment is most likely to influence judicial outcomes. In this light, we expect political congruence to systematically shape the likelihood of the Court striking down regional laws or upholding national legislation.

Third (H3), the ideological composition of the Court shapes its decisions. A conservative-majority Court is more likely to adopt a centralist stance when evaluating legislation originating from region-based parties. Prior work suggests that conservative parties in Spain and elsewhere tend to support recentralization and uniformity both in their political discourse (Maravall 2008; Alonso, Cabeza, and Gómez 2013; Toubeau and Wagner 2016) and in challenging regional legislation before the SCC (Muñoz and Rodilla-Lázaro 2024), while region-based or progressive parties advocate for decentralization.

Fourth (H4), the Court adjusts its stance when the central government relies on parliamentary support from region-based parties. In such scenarios, the political costs of conflict with minority partners may encourage the Court to moderate its centralist bias. The literature on party strategies in multilevel systems highlights how governing coalitions that include minority nationalist parties tend to constrain centralization efforts (Field 2016; Basile 2019), and how courts may strategically respond to avoid institutional backlash (Popelier and Bielen 2019; Krehbiel 2021).

These expectations guide our empirical analysis of the Court's rulings. In Section 5, 'Case, data, and methods', we test them using multilevel logistic regression models, treating the Court's decision to annul a provision as a function of key political and institutional variables. This modelling approach accounts for the hierarchical structure of our data (rulings nested within years) and allows us to estimate the probability of annulment based on legislation type, political alignment, court ideology, and parliamentary dynamics. By doing so, we interpret judicial decisions not merely as legal determinations, but as politically embedded outcomes shaped by the broader institutional and strategic context of Spain's *Estado de las Autonomías*.

Case, data, and methods

Scope of the analysis and case selection

The SCC adjudicates four main types of cases:

1. *A posteriori* reviews (*recursos de inconstitucionalidad*) filed against enacted laws by institutional actors (e.g., central government, regional executives or legislatures).
2. Constitutional complaints (*cuestiones de inconstitucionalidad*) raised by ordinary judges questioning the constitutionality of laws relevant to cases under their review.
3. Individual complaints (*recursos de amparo*) brought by private parties alleging violations of fundamental rights.
   Conflicts of competence (*conflictos de competencia*) regarding the allocation of powers between state and regional authorities.
4. Our analysis includes only the first two categories: *a posteriori* reviews and constitutional complaints by ordinary courts. These are the cases where the Court operates directly as a negative legislator, either upholding or annulling statutory norms. This focus aligns with our theoretical concern about how courts behave in the regulation of legislative authority in multi-level systems.

We exclude *recursos de amparo*, which typically involve private litigation and do not speak to institutional power struggles. We also exclude conflicts of competence, which primarily concern administrative actions and rarely involve the annulment of statutes. Our dependent variable

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requires cases where the Court has the power to invalidate or uphold legal norms; thus, these exclusions are not only justified but necessary for the research design.

Contrary to much of the existing literature, which tends to focus exclusively on *a posteriori* reviews (e.g., Garoupa, Gómez-Pomar, and Grembi 2013; Garoupa, Gili, and Gómez-Pomar 2021b) or conflicts of competence (e.g., López-Laborda, Rodrigo, and Sanz-Arceaga 2018, 2019), we also include *cuestiones de inconstitucionalidad* – i.e., constitutional complaints raised by ordinary judges. While often overlooked, these cases account for a large share of the Court's activity. Recent judicial politics literature argues that ordinary judges, like other actors, may behave strategically and be embedded in politically meaningful contexts (Ferejohn and Weingast 1992; Epstein, Landes, and Posner 2013; Krehbiel 2021). In Spain, evidence suggests that ordinary judges' decisions to raise constitutional complaints may also reflect ideological or institutional alignments (Garoupa, Gómez-Pomar, and Segura 2022; Vallbé 2024).

Also, we focus on rulings rather than individual votes because the SCC publishes collective decisions, not individual votes per ruling. While dissent data exists for some decisions, it would be hardly justifiable to use individual dissent (or lack thereof) as a proxy for individual voting in favour or against a Court decision. Focusing on rulings aligns with comparative literature on CCs (e.g., Italy, Belgium) and ensures consistency (Pócza 2024).

Finally, our analysis does not aim to assess the legal merits of each ruling or engage in doctrinal analysis. However, the consistent pattern of rulings favouring the central government, even after controlling for ideological composition, political alignment, and case type, suggests that legal reasoning alone is unlikely to account for the outcomes. While individual decisions may well reflect good-faith legal interpretation, the aggregated results point to structural regularities best explained by political and institutional incentives.

Dataset, variables, and units of analysis

We created a novel dataset by coding all rulings issued by the SCC between 1981 and 2023 in cases involving national or regional legislation. We depart from prior studies that treat the decision as the unit of analysis and instead follow Pócza (2019) in treating rulings (the Court's determinations on individual challenged provisions) as our unit of analysis. This avoids the distortion caused by treating internally inconsistent decisions as homogeneous outcomes.

Each ruling is coded with:

- the actor initiating the case,
- the type and origin of the legislation challenged,
- the political alignment between the Court and the relevant regional government(s),
- the ideological profile of the Court,
- whether the national government depended on regional nationalist party support in parliament, and
- the binary outcome: whether the Court annulled the provision (1) or upheld it (0).

To code the partisan identity of regional governments, we adopted a consistent rule centered on the party of the regional president and the relative dominance within coalition arrangements. When governments were formed by a single state-wide party or by coalitions clearly led by one (typically the PSOE or PP), we coded the regional government as being led by that state-wide party. Examples include the PSOE–IU coalition in Andalusia (2012–2015), the PSOE–regionalist coalition under Francesc Antich in the Balearic Islands, and the *Tripartit* government in Catalonia (2003–2006), all coded as PSOE-led. Conversely, when the head of government belonged to a regional party and this party either governed alone or was the dominant force in a coalition, even if supported by or in coalition with a state-wide party, we coded the government as *Regionalist* or

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Table 1. Frequencies of types of legislation and reporting actors

Characteristic	N = 1,888*
Type of legislation	
National	1,191 (63%)
Regional	697 (37%)
Reporting Actor	
Central government	319 (17%)
Ombudsperson	24 (1.3%)
Regional government	613 (33%)
National legislature	216 (11%)
Regional legislature	97 (5.1%)
Ordinary court	617 (33%)
Unknown	2

*n (%).

Nationalist depending on the party's ideology. For instance, the PAR–PP coalition in Aragón (1991–1993) is coded as Regionalist (PAR led the government), whereas the PP–PAR government of 1995–1999 is coded as state-wide (PP-led). Similarly, minority governments led by nationalist parties (e.g., in the Basque Country or Catalonia) but supported in parliament by state-wide parties were coded as *Nationalist*. This is the case, for instance, for the CiU government in Catalonia receiving parliamentary support from PP (1996-2000), or the instances when PSOE supported from parliament the PNV governments in the Basque Country. We classified the following parties as *Nationalist*: PNV, EA, Coalición Canaria, CiU, ERC, Junts per Catalunya, and Geroa Bai; and as *Regionalist*: PAR, Foro Asturias, Unión del Pueblo Navarro, Partido Regionalista de Cantabria, and Unión para el Progreso de Cantabria.

We do not classify other existing regionalist or nationalist parties in Spain (e.g., BNG, EH Bildu, Compromís, Partit Socialista de Mallorca) because, despite having been part of regional coalitions, they did not lead any government during the period covered by our data. While we recognise that this coding strategy may introduce some noise by grouping together, for instance, single-party governments and coalition governments involving regionalist or nationalist actors, it preserves internal consistency and emphasises the leadership and ideological orientation of the executive. Importantly, our empirical results remain robust despite this potential noise, reinforcing the strength of the findings. All our data and coding decisions will be made available in a public repository to ensure full transparency and reproducibility.

Table 1 displays the distribution of rulings by type of legislation and reporting actor. National legislation accounts for approximately two-thirds of rulings, with the remaining third concerning regional laws. Roughly one-third of cases are initiated by regional governments and another third by ordinary courts. The remainder comes primarily from the central government and national legislature. The Ombudsperson and regional legislatures are marginal actors.

Figure 1 shows the evolution of litigation over time. Litigation involving national laws rose sharply in the late 1980s and again after 2010, the latter due to the Court's backlog following the long deliberation over Catalonia's Statute. By contrast, challenges to regional laws have remained relatively stable, peaking during moments of institutional reform in the 1990s, 2000s, and 2010s.

Table 2 reports summary statistics for key variables. Unconstitutionality was declared in 43% of rulings. Regional laws were involved in 36% of cases. Conservative majorities dominated the Court in 34% of rulings. Court-government alignment occurred in 60% of cases, while Court-regional government alignment was present in 20%. In 39% of rulings, the national government depended on parliamentary support from region-based parties. Variables such as 'Court–Regional government congruence' and 'Regionalist party in region' can only be coded for rulings in which a specific Autonomous Community is clearly involved. This restricts the number of applicable cases to 754. This measurement strategy allows us to directly test the strategic logic laid

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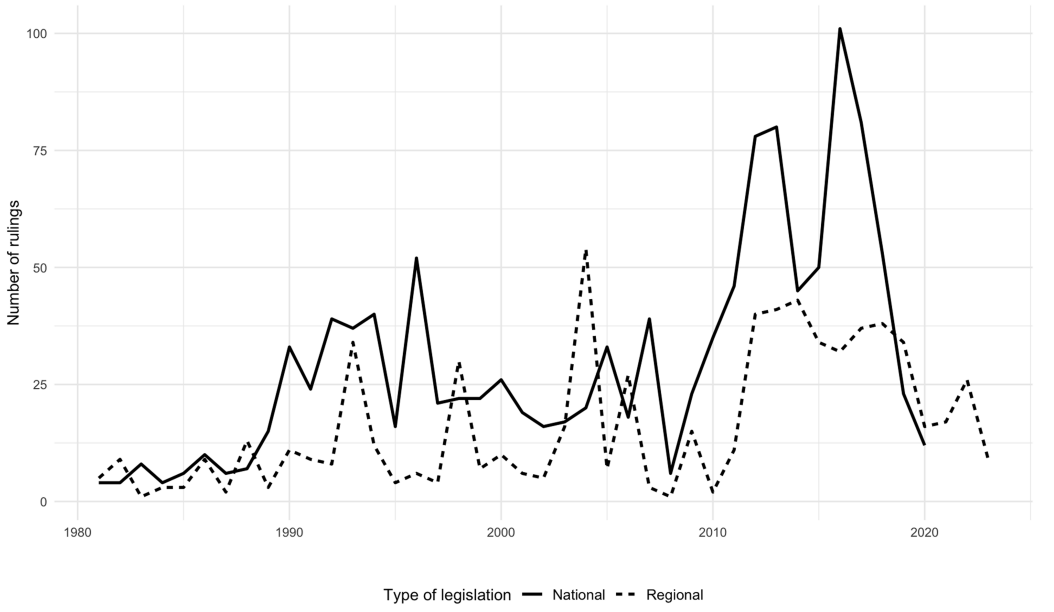


Figure 1. Evolution of constitutional litigation in Spain, by type of legislation.

Table 2. Descriptive statistics of the main variables

Statistic	N	Mean	St. Dev.	Min	Max
Court declares unconstitutionality	1,888	0.430	0.495	0	1
Regional legislation	1,888	0.369	0.483	0	1
Conservative court	1,888	0.340	0.474	0	1
Conservative national government	1,888	0.503	0.500	0	1
Court-Nat. government congruence	1,888	0.605	0.489	0	1
Court-Reg. government congruence	754	0.202	0.401	0	1
Regionalist party in region	754	0.618	0.486	0	1
Nationalist support to central govt.	1,888	0.390	0.488	0	1

out in the theoretical section, and to assess whether the SCC functions as a counter-majoritarian force or, conversely, reinforces central government dominance in legislative disputes.

While our analysis is primarily quantitative and does not include a doctrinal examination of the legal content of each ruling, the consistent patterns observed across more than four decades suggest that structural and political dynamics, rather than legal complexity alone, account for the differential treatment of national and regional legislation. Our approach is thus designed to identify systematic tendencies in judicial behavior, not to assess the legal merits of individual rulings.

To do so, we estimate multilevel logistic regression models with random intercepts by year, reflecting the fact that constitutional litigation is shaped by institutional cycles, shifts in Court composition, and broader political dynamics. We do not include region as a grouping variable, for both theoretical and empirical reasons. First, our unit of analysis is the ruling, not the region, and many decisions either involve national legislation or are initiated by non-regional actors (e.g., ordinary courts), making the attribution of a unique region problematic. Second, the relevant territorial variation is already captured through substantive covariates, such as the type of legislation, the identity of the reporting actor, and the political characteristics of the regional

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government. Third, the representation of regions is highly unbalanced, with Catalonia accounting for 26.7 percent of decisions involving a regional government, while others fall well below 10% (see Table A1 in the Appendix below), which would create small, unstable clusters if modelled as random effects.

We also chose not to include decision ID as a grouping variable. Although some decisions contain multiple rulings, our explanatory variables are constant within each decision, and most decisions contain only a single ruling. As such, including decision-level random effects would add little explanatory power, while unnecessarily increasing model complexity and standard errors. Our modelling strategy, therefore, accounts for temporal heterogeneity while avoiding overfitting or redundant clustering. Robustness checks deal with the overrepresentation of Catalonia and will be commented on in the empirical section.

Empirical results

The majoritarian bias of the constitutional court

The first model (see Table A2 in the Appendix below) includes two covariates: the type of legislation (regional or national) and the type of case (constitutional complaint issued by ordinary courts, conflict of competence, or a regular *a posteriori* review). The results show that the probability of the Court declaring unconstitutionality is significantly higher when dealing with legislation produced by regional legislatures, controlling for the case type. This effect remains robust across all subsequent specifications with additional controls (see Table A2), providing strong support for our first hypothesis: that the Court is more likely to align with the federal government than with regional governments (H1). The marginal effects presented in Figure 2 illustrate a stark contrast in the likelihood of the Court declaring laws unconstitutional depending on the source of legislation. When ruling on national legislation, the Court's predicted probability of annulment is just 0.23, while this jumps to 0.55 for regional legislation. This difference of 32 percentage points signals a strong and systematic majoritarian-centralist bias in the Court's decisions, supporting H1. Furthermore, the model reveals notable differences in the likelihood of declaring unconstitutionality between reviews and conflicts of competence, compared to complaints brought by ordinary judges. These results hold consistently over time, as confirmed by year-specific predicted probabilities (see Figure A1 in the Appendix).

We expected that cases brought to the Court by the central government would have a higher probability of being supported by the Court compared to those brought by regional actors. The second and third columns of Table A2 (Appendix below) test this by including a variable indicating the actor that brings the case to the Court. Since the type of case is entirely dependent on the actor bringing it (e.g., ordinary courts can only file constitutional complaints), we exclude the type of case from the model. The results provide two key findings that support our initial hypothesis. First, as shown in the second column of Table A2, when cases are brought by actors other than the central government (the reference category), the chances of the Court declaring unconstitutionality are consistently lower. Further disaggregation by reporting actor in Figure 3 adds nuance: the central government enjoys the most favourable treatment, with a 0.68 probability of success in its appeals. In contrast, regional governments face only a 0.31 probability, less than half that of the central government. This is a striking finding given that regional governments are frequent litigants. The ordinary courts, interestingly, receive even less favourable outcomes when they appeal national legislation, indicating the Court's additional deference to the legislature vis-à-vis the judiciary. These marginal effects emphasise that the Court not only defends the central government against regional challengers but also acts conservatively toward judicial review initiated from below the executive branch.

Our second hypothesis (that political congruence between the Court and the federal government will increase the likelihood of the Court upholding challenged national legislation and

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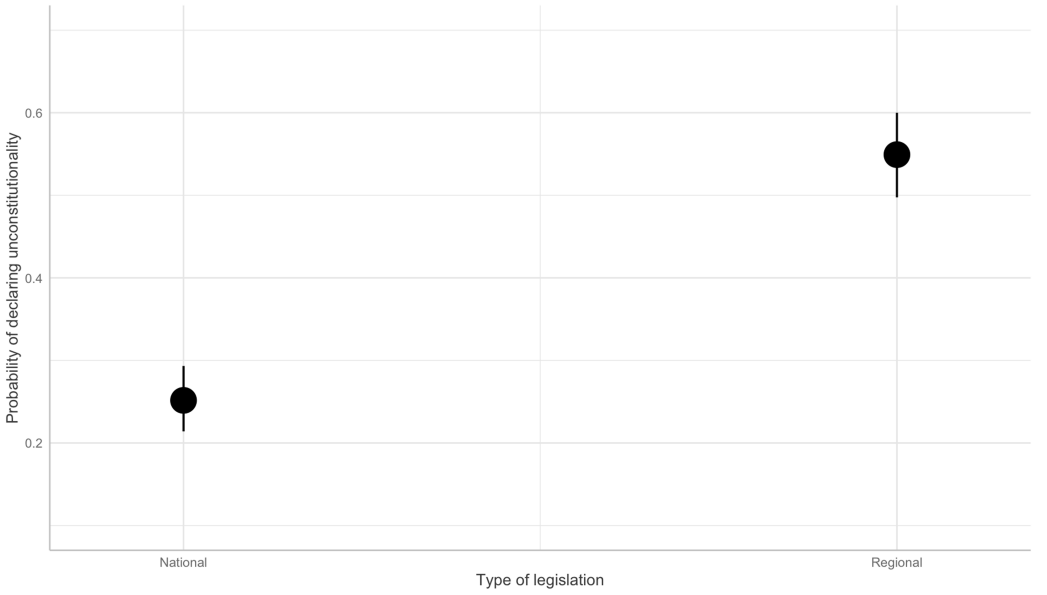


Figure 2. Predicted probabilities of the Court declaring unconstitutionality for regional and national legislation.

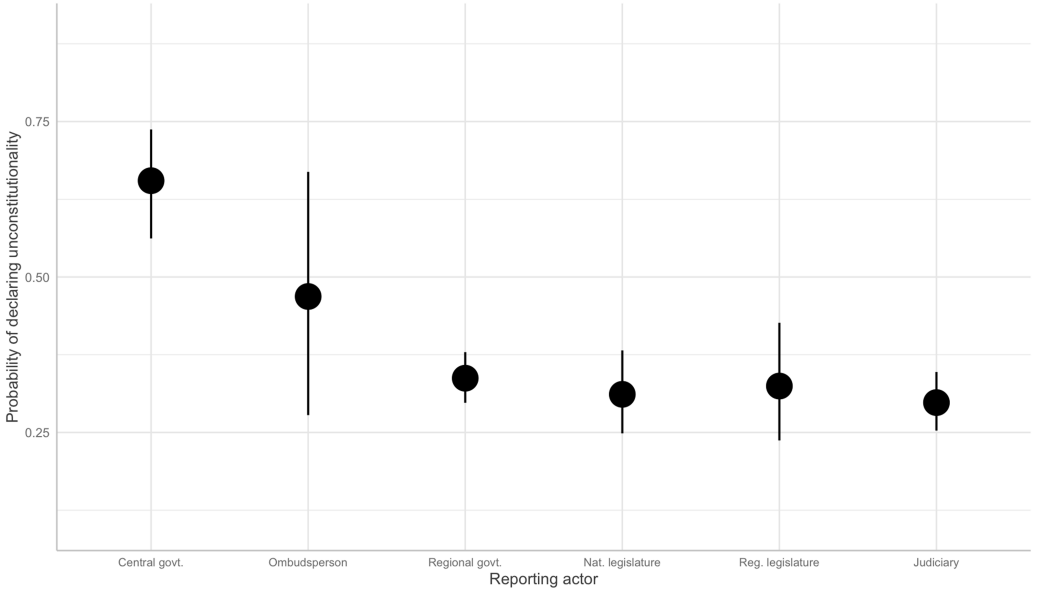


Figure 3. Predicted probabilities of the Court declaring unconstitutionality depending on who reports.

annulling appealed regional legislation) tests the impact of a Majority Front, or Court-Government political alignment. The results are presented in columns 4 and 5 of Table A2.

The marginal effects from models including Court-government congruence reveal that when the Court and the federal government are politically aligned, the Court is less likely to strike down legislation. This lower judicial assertiveness in scenarios of national-level congruence suggests a strategic behavior of institutional alignment: the Court appears more deferential to the legislature when both are controlled by the same party family.

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Importantly, this effect is not conditional on the identity of the reporting actor, and the interaction terms are not significant. That is, the reduction in judicial activism under congruence applies across the board: whether the case is brought by a regional government, a national institution, or an ordinary court, the Court's likelihood of declaring unconstitutionality falls when it is aligned with the central government. This gives support to the hypothesis that institutional alignment shapes judicial behavior at the systemic level.

In contrast, the last column of Table A2 in the Appendix below shows that there is no significant effect in a scenario where political alignment exists between the Court and a regional government that brings the case. In Section 1, 'Introduction', we raised concerns about whether the leverage held by territorialised minorities in the Court could offset the Court's inherent bias toward federal interests, stemming from the appointment mechanisms of its members. The findings suggest that the Court's bias toward the federal government typically outweighs any incentives to support regional governments, even when both the Court and the regional government are controlled by the same party.

The role of political ideologies and political majorities

To test our third hypothesis (H3) (the Court is less likely to oppose regional legislation when it is dominated by pro-decentralization parties than when it is dominated by federation-wide parties that oppose decentralization), we first need to assess whether there are differences between the two major Spanish parties in their stance on decentralization.

The alliance between leftist and minority nationalist parties was a defining feature of Spain's constitutional moment and has remained a recurring element, to varying degrees, in the country's territorial dynamics during its democratic period (Colino 2020; Moreno 2010). Moreover, evidence suggests that Spanish voters generally perceive the center-left PSOE, and even more so the leftist Podemos, as more supportive of decentralizing powers to the regions. In contrast, the center-right Partido Popular has traditionally advocated for the (re)centralization of political authority in Spain (Maravall 2008; Alonso, Cabeza, and Gómez 2013). This ideological divide is significant in the ongoing debates over regional fiscal flows among others (León 2007; Espasa and Bosch 2010). Consequently, we hypothesised that the Court's majoritarian bias would be especially pronounced when it operates under a conservative majority.

The results of these models (see Table A3 in the Appendix below) provide strong evidence supporting our H3. The first model includes the main covariates without interaction terms, showing that a conservative-majority Court is significantly more likely to strike down legislation, controlling for both the type of legislation and the actor bringing the case. The second model incorporates an interaction between the Court's ideological composition and the reporting actor, revealing that a conservative Court further decreases the likelihood of success for regional actors challenging national legislation. As shown in Figure 4, the marginal effects suggest that Court ideology matters significantly. Under a conservative-majority Court, the probability that a case brought by a regional government results in annulment rises sharply. Conversely, the probability of the Court ruling against central government positions falls.

The Court's majoritarian bias is not only institutional but also ideological: when the Court is dominated by conservative justices, it becomes more assertive in defending centralised authority. The marginal effect of a conservative Court is especially pronounced when cases involve legislation from regions governed by regionalist or nationalist parties. These findings corroborate the hypothesis (H3) that conservative majorities exacerbate centralist judicial tendencies.

The remaining results further illustrate the impact of a conservative-majority Court on judicial outcomes. When the Court is conservative, the probability of it declaring regional legislation unconstitutional rises significantly (third column). This likelihood increases even further when the reported region is governed by a region-based party (fourth column) and reaches its peak

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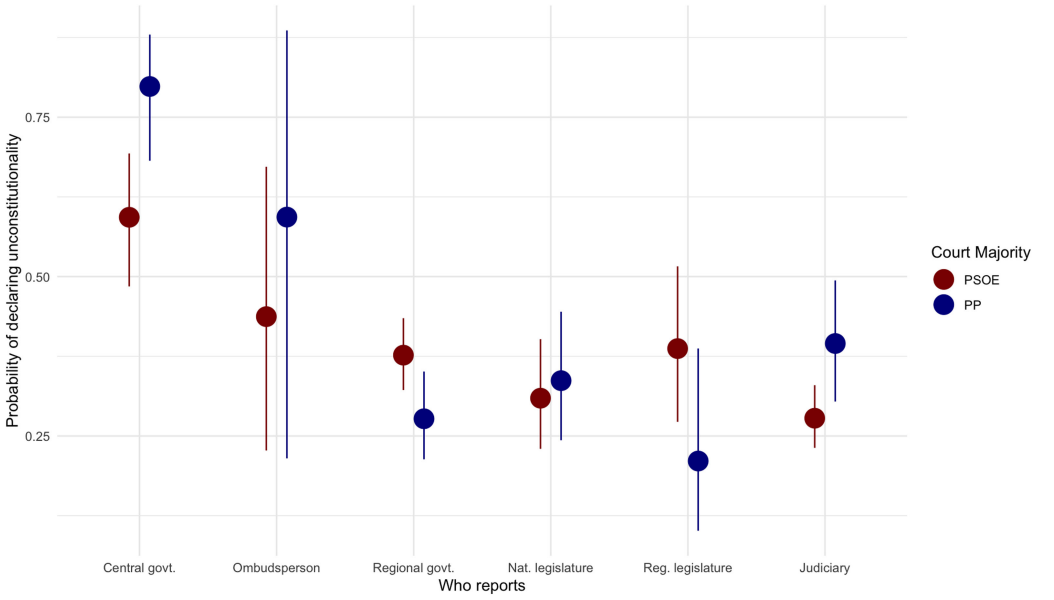


Figure 4. Predicted probabilities of the Court declaring unconstitutionality by reporting actor and court ideology.

when the regional government is controlled by a minority nationalist party (fifth column). These findings underscore the heightened majoritarian-centralist bias of the Court under conservative dominance, particularly in cases involving nationalist-led regional administrations.

The results for our fourth hypothesis (H4) (that the Court's opposition to regional legislation will be tempered when the federal government relies on parliamentary support from regional nationalist parties) are both surprising and illuminating. The first column of Table A4 (in the Appendix below) reveals that reliance on minority nationalist party support in the legislature is associated with a higher likelihood of the Court striking down regional legislation, contrary to expectations. However, introducing an interaction between minority support and the type of legislation (second column) aligns with our hypothesis. The interaction shows that the Court strategically calibrates its decisions in response to political dynamics: when the national government depends on minority nationalist parties, the Court is less likely to strike down regional legislation and more likely to invalidate national legislation. These findings reinforce the view of the Court as a highly strategic actor, balancing power dynamics by countering the central government's leverage when it is bolstered by minority nationalist parliamentary support.

The interaction plot in Figure 5 shows how the Court's behavior shifts in response to legislative coalitions. When the central government does not depend on minority nationalist support, the probability of the Court annulling regional legislation remains high. But when minority nationalist parties support the government in Parliament, this probability drops substantially, while the probability of invalidating national legislation rises.

This reversal of expected majoritarian outcomes gives support to H4: the Court adapts its rulings to reflect changes in political equilibrium when the central government's position depends on regionally based parties. This strategic adjustment suggests that the Court is sensitive not only to institutional alignment but also to parliamentary interdependence.

Robustness checks

Catalonia accounts for 26.7% of all CC decisions involving regional governments in our dataset, raising the question of whether our main results are disproportionately driven by this single case. To assess this possibility, we perform two complementary robustness checks.

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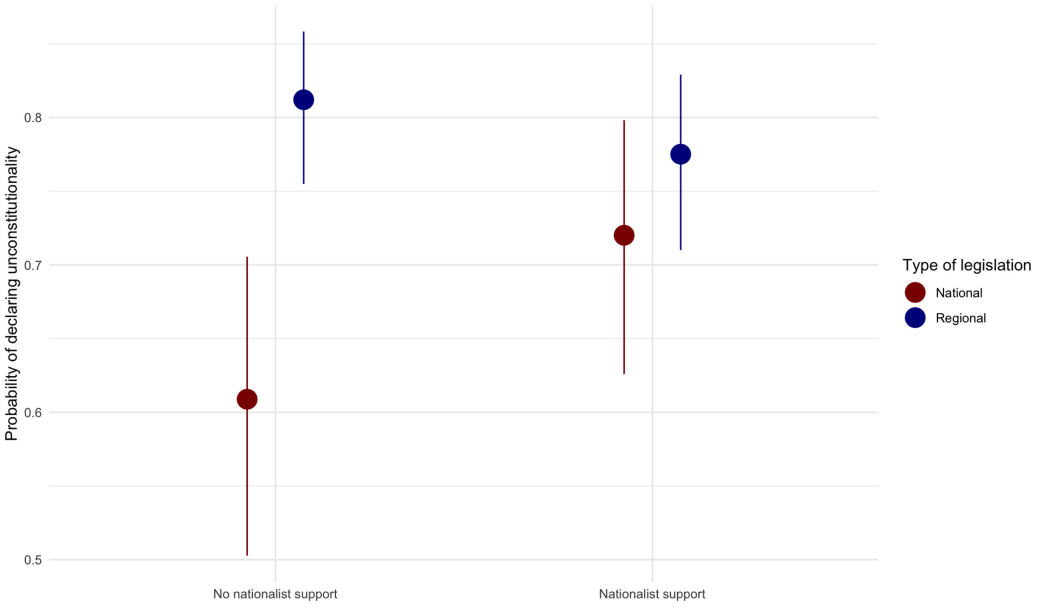


Figure 5. Predicted probabilities of the Court declaring unconstitutionality depending on the type of legislation and on the support of nationalist parties to the central government.

First, we re-estimate all models after excluding all rulings involving Catalonia. The results, reported in Tables A5, A6 and A7 in the Appendix below, remain broadly consistent with the full models. The baseline effects, including those linked to the political alignment between the Court and the federal government and the influence of conservative court majorities, are preserved. Although the effect of regional legislation loses statistical significance in some specifications, its direction remains substantively similar. Importantly, the hypothesised interaction between nationalist parliamentary support and reduced annulment of regional laws is still evident (see Table A7).

Second, we conduct a more targeted test, excluding only Catalonia between 2012 and 2021, a period of especially intense conflict between the regional and central governments. As shown in Tables A8, A9, and A10, A11, and A12 in the Appendix below, these results align even more closely with the full models than the complete exclusion of Catalonia. This suggests that our findings are not driven by the most politically charged episodes of Catalan politics but instead reflect broader institutional and partisan dynamics embedded in Spain's constitutional framework.

While the Basque Country is the second most represented region in our data (13% of decisions involving regions), its influence is substantially lower than that of Catalonia. However, we also replicated our analysis excluding all cases involving the Basque Country, and the results (see Appendix below, Table A11) remain virtually identical to those obtained when excluding Catalonia, confirming that our findings are not driven by any single region. Other regions, such as the Canary Islands and Andalusia, contribute roughly 8% each. Given this distribution, we judge it unnecessary to repeat the same exclusion tests for each individual region. Moreover, our modelling approach (using multilevel logistic regressions with year-level random effects) already offers a conservative structure that helps absorb potential regional clustering effects without resorting to arbitrary case deletion. As such, the robustness checks reinforce our conclusion that the CC's patterns of behavior are not driven by exceptional cases but reflect consistent strategic and institutional dynamics across time and space.

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Finally, given the four-decade span of our data, we also examine whether the probability of annulment varies systematically over time. Using year-level random intercepts from the multilevel model, we compute predicted probabilities of unconstitutionality for each year. As shown in Figure A1 in the Appendix, the trends remain remarkably stable throughout the period 1981–2023, with no visible structural shifts or temporal breakpoints. This suggests that the Court's behavior, although politically conditioned, does not exhibit major temporal discontinuities in its likelihood of annulling legislation.

Discussion

This study contributes to the empirical and theoretical understanding of CC behavior in multilevel political systems. Drawing on an original dataset of more than 1,800 rulings by the SCC, we examine how the Court resolves conflicts involving regional and national legislation. Our results reveal a consistent pattern of judicial deference to the central government, especially when political alignment exists between the Court and the national executive, and when the Court holds a conservative majority. These findings raise important questions about the role of CCs in maintaining, rather than checking, central state dominance in quasi-federal arrangements.

The evidence supports the view that judicial behavior in the SCC reflects both ideological predispositions and strategic calculations. Conservative majorities are particularly associated with significantly higher probabilities of striking down regional legislation, even when controlling for institutional and temporal factors. Yet this ideological effect is embedded within broader political dynamics. Political congruence between the national executive and the Court amplifies centralist rulings, especially when the central government initiates litigation. By contrast, regional governments, especially those led by region-based parties, are consistently disadvantaged in their legal challenges, even when there is shared ideological alignment with the Court. This suggests that political alignment matters most at the national level, where it combines with institutional control over appointments to shape judicial preferences.

These findings are consistent with the strategic model of judicial behavior, which posits that courts are not merely passive interpreters of law or ideological actors, but instead make decisions in anticipation of the political environment, reputational consequences, or the likelihood of compliance (Epstein and Knight 2000; Helmke 2005; Carruba 2009; Staton 2010). In this view, judges operate under institutional and political constraints and seek to preserve the Court's authority and effectiveness by aligning their rulings with powerful actors, especially in cases with high political salience. Our results suggest that the SCC acts strategically to maintain its legitimacy and institutional role within Spain's centralised legal order, notably when the central government is dominant and the political stakes of litigation are high.

While the attitudinal model (Segal and Spaeth 2002) explains part of the behavior we observe, particularly in the ideological leanings of conservative courts, it does not fully account for the variation in rulings based on actor alignment and case origin. This combination of attitudinal and strategic logics is most visible in one scenario: when the federal government relies on parliamentary support from region-based parties. In such cases, the Court adopts a more deferential stance. This reflects a broader responsiveness to coalition dynamics and intergovernmental bargaining, suggesting that judicial behavior is contingent not only on the preferences of individual justices but also on evolving political alignments and institutional power balances.

Yet, our findings are consistent with a broader strategic logic, whereby the CC acts not merely as an ideological or legal interpreter, but as an institution attentive to the political environment in which it operates. Although our empirical analysis does not directly measure compliance behavior or political backlash, the results suggest that the Court may anticipate the institutional risks associated with exacerbating center–periphery tensions. This is particularly salient in cases where the central government relies on minority nationalist parties for parliamentary support. In such

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scenarios, the Court's moderation may reflect a strategic calculation to avoid triggering conflict that could undermine compliance, legitimacy, or the stability of governing coalitions. This interpretation is consistent with theories of judicial behavior that emphasise the role of strategic adaptation in politically polarized or institutionally fragile contexts (Vanberg 2005; Staton 2010; Krehbiel 2021).

While some interaction terms, particularly those involving minority support and court-government alignment, are based on a limited number of observations and should therefore be interpreted with caution, the consistency of estimated effects across multiple model specifications lends credibility to the patterns observed. These results should be seen as suggestive rather than definitive, highlighting potential strategic behavior rather than offering conclusive proof.

These aggregate patterns are mirrored in high-profile cases such as STC 31/2010, in which the Court reviewed the revised Statute of Autonomy of Catalonia. The ruling annulled or reinterpreted key provisions related to language rights, national identity, and fiscal governance, despite the Statute's prior approval by both the Catalan and Spanish Parliaments and a regional referendum. Moreover, politically motivated strategic moves within the Court eventually changed the ideological composition of the Plenary that reached the decision (Vallbé 2024). Although we do not analyse this case doctrinally, it exemplifies how center–periphery disputes manifest in constitutional litigation and provides context for the broader trends identified in our dataset.

Our study contributes to and extends the empirical literature on the SCC. Unlike López-Laborda, Rodrigo, and Sanz-Arceaga (2018, 2019, 2024), who examine specific types of cases such as conflicts of competence or individual complaints, we focus on constitutional review of legislation: the domain where the Court most directly exercises its function as a negative legislator. Moreover, we disaggregate Court behavior to the level of rulings, not just decisions, capturing internal variation within judgments. This allows us to uncover patterns that would be obscured using coarser units of analysis, aligning our approach with best practices in the study of judicial decisions in multi-rule systems (Pócza 2019).

The results also provide support for the hypothesis, often advanced qualitatively, that SCC justices operate with bi-dimensional ideal points shaped by both ideological and territorial orientations. This aligns with previous work using ideal point estimation in high-salience cases involving Catalonia (Dalla Pellegrina, Garoupa, and Gili 2020). Our findings suggest that these preferences translate into systematic outcomes across time when political alignments and party-based appointments reinforce centralist institutional biases.

Finally, the Spanish case offers comparative insights into the behavior of CCs in other decentralized systems. In Italy, recent studies have identified a trend toward centralization in the CC's rulings since 2011, linked to political and fiscal pressures from the national government (Filippetti, Rondinella, and Tuzi 2025). In Belgium, while the court operates under a more power-sharing design, Dalla Pellegrina et al. (2017) still found traces of strategic behavior, particularly when ruling on federalism-related litigation. Spain stands out, however, for the consistency and strength of its centralist judicial pattern, likely reinforced by its asymmetric devolution model and the dominant role of national parties in judicial appointments.

In sum, our findings illustrate that the SCC behaves less as a territorial counter-majoritarian force and more as a centralizing agent within the broader architecture of Spanish multilevel governance. The Court's rulings reflect a blend of ideological preferences and strategic adaptation to national political alignments, reinforcing the role of the judiciary as an institutional actor embedded in (and responsive to) dominant political coalitions.

Conclusions

This article has examined the role of CCs in multilevel political systems through the lens of the SCC, a paradigmatic example of a judicial body operating in a quasi-federal, asymmetric territorial

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context. Based on an original dataset of over 1,800 rulings issued over four decades, we show that the SCC exhibits a consistent bias in favour of the central government. This bias is amplified when there is political alignment between the Court and the national executive, and when the Court is dominated by conservative majorities. Regional governments, especially those led by region-based parties, are systematically disadvantaged, and their legislation is more likely to be struck down.

These findings challenge the assumption that CCs in federal or decentralized systems operate as neutral arbiters or as institutional safeguards for territorial minorities. Instead, our analysis suggests that courts may reinforce national political majorities and central political dominance when judicial preferences align with those of central institutions. This insight adds nuance to the conventional view of judicial review as a territorial counter-majoritarian mechanism resisting centralizing pressures. Courts may indeed check legislative or executive power in some domains, but when it comes to territorial disputes in decentralized systems, their role is often shaped by the political and institutional conditions under which they operate.

While we do not evaluate the legal soundness of individual rulings, the consistency of our empirical results suggests that the SCC plays a centralizing role in intergovernmental litigation. This pattern, observable across various institutional configurations, underscores the importance of considering courts as political actors embedded within broader federal dynamics.

More broadly, this study contributes to ongoing debates about the relationship between judicial behavior, federalism, and intergovernmental dynamics. It highlights the need to consider courts not only as legal bodies but also as political actors embedded in multilevel systems. Judicial decisions do not occur in a vacuum; they are conditioned by appointment mechanisms, institutional alignments, and broader political incentives. While our findings are specific to Spain, they speak to wider questions faced by federal and quasi-federal systems: Under what conditions can CCs serve as genuine arbiters of intergovernmental conflict? Which institutional designs strengthen or undermine their capacity to protect territorial pluralism? And how do courts adapt to the partisan dynamics and coalition politics characteristic of fragmented polities?

Future research could extend this analysis by examining whether similar patterns of centralist bias exist in other decentralized or divided societies, and whether reforms, such as more regionally inclusive appointment procedures or stronger guarantees of territorial representation, can enhance the role of courts as safeguards of territorial pluralism. As comparative studies of Belgium, Italy, the United States, Canada, and India suggest, courts across diverse federations have, in certain contexts, tilted toward centralizing outcomes and been shaped by judicial ideology. Comparative inquiry along these lines would refine theories of judicial politics and clarify the conditions under which courts act as protectors of territorial diversity rather than as enforcers of central authority and national majorities.

Data availability statement. The data used in this paper has been made publicly available through the Zenodo public repository (DOI: 10.5281/zenodo.17295356).

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References

Alonso, S., Cabeza, L. and Gómez, B. (2013). 'Dicen los partidos estatales lo mismo en todas las Comunidades Autónomas? *Zoom Político*, **15**, 1–16.

Amat, F. (2012). 'Party competition and preferences for inter-regional redistribution in Spain.' *South European Society and Politics*, **17**(3), 449–65.

Amat, F. and Rodon, T. (2021). 'Negative shocks and political parties' territorial demands: the institutional roots of party competition.' *Frontiers in Political Science*, **3**, 1–13.

Aroney, N. and Kincaid, J. (2017). *Courts in Federal Countries: Federalists or Unitarists?* Toronto: University of Toronto Press.

Basile, L. (2019). *The Party Politics of Decentralization. The Territorial Dimension in Italian Party Agendas*. Cham (Switzerland): Palgrave Macmillan.

Bickel, A. M. (1968). *The Least Dangerous Branch. The Supreme Court at the Bar of Politics*. New Haven (CT): Yale University Press.

Bossacoma Busquets, P. and Sanjaume-Calvet, M. (2019). 'Asymmetry as a Device for Equal Recognition and Reasonable Accommodation of Majority and Minority Nations. A Country Study on Constitutional Asymmetry in Spain.' in P. Popelier and M. Sahadžić (Eds.), *Federalism and Internal Conflicts* (pp. 429–60). Cham: Springer International Publishing.

Brouillet, E. and Ryder, B. (2017). 'The Supreme Court of Canada: The Concept of Cooperative Federalism and Its Effect on the Balance of Power.' in N., Aroney and J., Kincaid (Eds.), *Courts in Federal Countries: Federalists or Unitarists?* (pp. 135–64). Toronto: University of Toronto Press.

Brown-Swan, C., and Cetrà, D. (2020). 'Why stay together? State nationalism and justifications for state unity in Spain and the UK.' *Nationalism and Ethnic Politics* **26**(1): 46–65.

Bzdrea, A. (1993). 'Comparative analysis of federal high courts: a political theory of judicial review.' *Canadian Journal of Political Science/Revue Canadienne de Science Politique* **26**(1): 3–29.

Carruba, C. (2009). 'A model of the endogenous development of judicial institutions in federal and international systems.' *The Journal of Politics* **71**(1): 55–59.

Colino, C. (2020). 'Decentralization in Spain: Federal Evolution and Performance of the Estado Autonómico.' in D. Muro and I. Lago (Eds.), *The Oxford Handbook of Spanish Politics* Oxford: Oxford University Press.

Dahl, R A. (1957). 'Decision making in a democracy: the supreme court as national policy-maker.' *Journal of Public Law* **6**, 279–95.

Dalla Pellegrina, L., De Mot, J., Faure, M. and Garoupa, N. (2017). 'Litigating federalism: an empirical analysis of decisions of the Belgian court.' *European Constitutional Law Review* **13**, 305–46.

Dalla Pellegrina, L. and Garoupa, N. (2013). 'Choosing between the government and the regions: an empirical analysis of the Italian constitutional court.' *European Journal of Political Research* **52**(4), 558–80.

Dalla Pellegrina, L., Garoupa, N. and Gili, M. (2020). 'Estimating judicial ideal points in bi-dimensional courts: evidence from Catalonia.' *Journal of Empirical Legal Studies* **17**(2): 383–415.

Delaney, E. F., and Dixon R. eds. (2018). *Comparative Judicial Review*. Edward Elgar Pub.

Elazar, D J. (1987). *Exploring Federalism*. Tuscaloosa (AL): The University of Alabama Press.

Epstein, L., Landes, W. M., and Posner, R. A. (2011). 'Why (and When) judges dissent: a theoretical and empirical analysis.' *Journal of Legal Analysis* **3**(1): 101–37.

Epstein, L., Landes, W. M. and Posner, R. A. (2013) *The Behavior of Federal Judges: A Theoretical and Empirical Study of Rational Choice*. Harvard University Press.

Epstein, L. and Knight, J. (2000) 'Toward a strategic revolution in judicial politics: a look back, a look ahead.' *Political Research Quarterly* **53**(3), 625–61.

Espasa, M., and Bosch, N. 2010. "Inter-regional Fiscal Flows: Methodologies, Results and their Determinant Factors for Spain." in N. Bosch, M. Espasa, and A., Solé-Ollé (Eds.), *The Political Economy of Inter-Regional Fiscal Flows Measurement, Determinants and Effects on Country Stability* (pp. 150–72). Edward Elgar.

Ferejohn, J. A., and Weingast, B. R. (1992) 'A positive theory of statutory interpretation.' *International Review of Law and Economics* **12**(2), 263–79.

Field, B. (2016). *Why Minority Governments Work: Multilevel Territorial Politics in Spain*. New York: Palgrave Macmillan.

Filippetti, A., Rondinella, S. and Tuzi, F. (2025). 'The Italian constitutional court and recentralization along the *Pendulum* of regionalism.' *Constitutional Political Economy* **36**(1), 95–121.

Garoupa, N., Gili, M., and Gómez-Pomar, F. (2021a). 'Loyalty to the party or loyalty to the party leader: evidence from the Spanish constitutional court.' *International Review of Law and Economics* **67**, 105999.

Garoupa, N., Gili, M. and Gómez-Pomar, F. (2021b). 'Mixed selection and constitutional review: evidence from Spain.' *European Constitutional Law Review* **17**, 287–313.

Garoupa, N., Gómez-Pomar, F. and Grembi, V. (2013). 'Judging under political pressure: an empirical analysis of constitutional review voting in the Spanish constitutional court.' *The Journal of Law, Economics, and Organization* **29**(3), 513–534.

https://doi.org/10.1017/S1475676525100455 Published online by Cambridge University Press

Garoupa, N., Gómez-Pomar, F. and Segura, A. (2022). 'Ideology and career judges: reviewing labor law in the Spanish supreme court.' *Journal of Institutional and Theoretical Economics* **178**, 1–21.

Garoupa, N., and Magalhães, P. C. (2020) 'Judicial Politics: The Constitutional Court.' in D. Muro and I. Lago (Eds.), *The Oxford Handbook of Spanish Politics* (pp. 258–75). Oxford, UK: Oxford University Press.

Ginsburg, T. (2019). 'Democratic backsliding and the rule of law.' *Ohio Northern University Law Review* **44**(3), 351–69.

Grau-Creus, M. (2000). 'Spain: Incomplete Federalism.' in U. Wachendorfer-Schmidt (ed.), *Federalism and Political Performance* London: Routledge.

Halberstam, D. (1998). 'Comparative Federalism and the Role of the Judiciary.' in K. Whittington, D. Kelemen, and G. Caldeira (Eds.), *The Oxford Handbook of Law and Politics* New, York (NY): Oxford University Press.

Harguindéguy, J.-B., Sola-Rodríguez, G. and Cruz-Díaz, J. (2020). 'Between justice and politics: the role of the Spanish constitutional court in the state of autonomies.' *Territory, Politics, Governance* **8**(2), 222–240.

Helmke, G. (2005). *Courts Under Constraints: Judges, Generals, and Presidents in Argentina*. Cambridge (UK): Cambridge University Press.

Hepburn, E. (2009). 'Introduction: re-conceptualizing sub-state mobilization.' *Regional & Federal Studies* **19**(4–5), 477–99.

Hettinger, V.A., Lindquist, S.A. and Martinek, W.L (2006). *Judging on a Collegial Court*. Charlottesville: University of Virginia Press.

Kössler, K. (2022). 'The Role of Constitutional Judges in Protecting Territorial Self-Government.' in F. Requejo and M. Sanjaume-Calvet (Eds.), *Defensive Federalism. Protecting Territorial Minorities from the 'Tyranny of the Majority'* London; New York: Routledge.

Krehbiel, J. N. (2021). 'Do voters punish noncompliance with high courts? A cross-national analysis.' *Political Studies* **41**(2), 156–172.

Landes, W.M and Posner, R.A. (1975). 'The independent judiciary in an interest-group perspective.' *Journal of Law and Economics* **18**(3): 875–901.

León, S. (2007). *The Political Economy of Fiscal Decentralization. Bringing Politics to the Study of Intergovernmental Transfers*. Barcelona: Institut d'Estudis Autonòmics/Generalitat de Catalunya.

López-Laborda, J., Rodrigo, F. and Sanz-Arceaga, E. (2018) 'Is the Spanish constitutional court an instrument of the central government against the autonomous communities?' *Constitutional Political Economy* **29**(3), 317–337.

López-Laborda, J., Rodrigo, F. and Sanz-Arceaga, E. (2019). 'Consensus and dissent in the resolution of conflicts of competence by the Spanish constitutional court: the role of federalism and ideology.' *European Journal of Law and Economics* **48**(3), 305–330.

López-Laborda, J., Rodrigo, F. and Sanz-Arceaga, E. (2024). 'No war of courts in the protection of fundamental rights: the case of *Amparo* appeals in Spain.' *International Review of Law and Economics* **79**, 106212.

Maravall, J. M. (2008). *La confrontación política*. Madrid: Taurus.

Meguid, B. (2008). *Party Competition Between Unequals: Strategies and Electoral Fortunes in Western Europe*. Cambridge: Cambridge University Press.

Moreno, L. 2010. "Federal democracy in plural Spain." in M. Burgess and A.-G. Gagnon (Eds.), *Federal Democracies* (pp. 160–77). London; New York: Routledge.

Muñoz, L., and Rodilla-Lázaro, A. (2024). 'A game of tug-of-war: regional laws before the Spanish constitutional court.' *Territory, Politics, Governance* **14**, 1–19.

Pócza, K., ed. (2019). *Constitutional Politics and the Judiciary. Decision-Making in Central and Eastern Europe*. Abingdon, Oxon; New York, NY: Routledge.

Pócza, K., ed. (2024). *Constitutional Review in Western Europe. Judicial-Legislative Relations in Comparative Perspective*. London; New York: Routledge.

Ponce-Rodríguez, R., Hankla, Ch., Martínez-Vázquez, J. and Heredia-Ortiz, E. (2018). 'Rethinking the political economy of decentralization. How elections and parties shape the provision of local public goods.' *Publius: The Journal of Federalism* **48**(4), 523–558.

Popelier, P. (2017). 'Federalism disputes and the behavior of courts: explaining variation in federal courts' support for centralization.' *Publius: The Journal of Federalism* **47**(1), 27–48.

Popelier, P., and Bielen, S. (2019). 'How courts decide federalism disputes: legal merit, attitudinal effects, and strategic considerations in the jurisprudence of the Belgian constitutional court.' *Publius: The Journal of Federalism* **49**(4), 587–616.

Popelier, P., and Martens, L. (2024). 'The belgian constitutional court. navigating between constitutional rights and consociational politics.' in K. Pócza (Ed.), *Constitutional Review in Western Europe. Judicial-Legislative Relations in Comparative Perspective* (pp. 52–76). London; New York: Routledge.

Requejo, F., and Sanjaume-Calvet, M. (2022). 'Defensive federalism: tackling the two faces of the territorial tyranny of the majority a revised federal institutional design.' in F. Requejo and M. Sanjaume-Calvet (Eds.), *Defensive Federalism. Protecting Territorial Minorities from the 'Tyranny of the Majority* (pp. 1–21). London: Routledge.

Rodilla-Lázaro, A. (2025). "Not just about the ruling: when does the opposition challenge a law in the Spanish constitutional court?" *South European Society and Politics* **30**(2), 195–225.

https://doi.org/10.1017/S1475676525100455 Published online by Cambridge University Press

Sala, G. (2010). Can Courts Make Federalism Work? The Impact of the Constitutional Court on Federal Conflict in Spain. PhD Thesis (unpublished), New Haven, CT: Yale University.
Sanjaume-Calvet, M. and Paneque, A. (2023). 'Shared or self-rule? Regional legislative initiatives in multi-level Spain, 1979–2021.' *South European Society and Politics* **28**(1), 75100.
Segal, J. A. and Spaeth, H. J. (2002). *The Supreme Court and the Attitudinal Model Revisited*. Cambridge: Cambridge University Press.
Shapiro, M. (1981). *Courts: A Comparative and Political Analysis*. Chicago (IL): The University of Chicago Press.
Staton, J. K. (2010). *Why Do Judges Go Public? Constitutional Review and Judicial Public Relations in Mexico*. New York (NY): Cambridge University Press.
Swenden, W. and Saxena, R. (2022). 'Policing the federation: the Supreme Court and judicial federalism in India.' *Territory, Politics, Governance* **10**(1), 12–31.
Toubeau, S. and Wagner, M. (2016). 'Party competition over decentralisation: the influence of ideology and electoral incentives on issue emphasis.' *European Journal of Political Research* **55**(2), 340–57.
Vallbé, J.-J. (2024). 'The Spanish Constitutional Court: The Judicial Politics of Constitutional Review and Interpretation.' in K., Pócza (Ed.), *Constitutional Review in Western Europe. Judicial-Legislative Relations in Comparative Perspective* (pp. 241–263). London; New York: Routledge.
Vanberg, G. (2005). *The Politics of Constitutional Review in Germany*. Cambridge, UK: Cambridge University Press.
Watts, R L. (1999). *Comparing federal systems*. McGill-Queen's University Press.
Woelk, J. (2020). 'Jurisdiction and pluralisms: judicial functions and organisation in federal systems.' *Perspectives on Federalism* **12**(2), 14–27.

Appendix

Data descriptives

Table A1. Number of Court decisions involving each of Spain's autonomous communities

Autonomous communities	Decisions	Coding notes
Catalunya	288	All governments led by CiU coded as Nationalist, even when informally supported by PP in parliament (1996–2000); governments led by PSC-PSOE (e.g., the two Tripartit in 2003-2010 coded as State-wide).
Euskadi	145	All governments led by PNV or EAJ coded as Nationalist even when informally supported by PSOE in parliament; all governments led by state-wide parties (PSE-PSOE) coded as State-wide.
Islas Canarias	90	All governments led by Coalición Canaria coded as Nationalist even if supported informally by state-wide parties; all governments led by state-wide parties (CDS or PSOE) coded as State-wide.
Andalucía	84	All governments coded as State-wide
Navarra	61	All governments led by state-wide parties (UCD, PSOE) coded as State-wide; all governments led by regionalist (UPN) or nationalist (EH Bildu) coded as Regionalist and Nationalist, respectively.
Galicia	54	All governments coded as State-wide
Aragón	51	All governments led by regionalist parties (PAR) coded as Regionalist; all governments led by state-wide parties (PSOE, PP) coded as State-wide
Comunitat Valenciana	47	All governments coded as State-wide
Madrid	40	All governments coded as State-wide
Extremadura	38	All governments coded as State-wide
Illes Balears	37	All governments coded as State-wide
Asturias	32	All governments led by regionalist parties (FAC) coded as Regionalist; all governments led by state-wide parties (PSOE, PP) coded as State-wide
Castilla-La Mancha	32	All governments coded as State-wide
Castilla y León	25	All governments coded as State-wide

(*Continued*)

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Table A1. (*Continued*)

Autonomous communities	Decisions	Coding notes
Murcia	22	All governments coded as State-wide
Cantabria	18	All governments led by regionalist parties (UPCA, PRC) coded as Regionalist; all governments led by state-wide parties (PSOE, PP) coded as State-wide
La Rioja	11	All governments coded as State-wide
Ceuta	1	All governments coded as State-wide
Melilla	1	All governments coded as State-wide

Main models of the paper

Table A2. Multilevel logistic regression results of political congruence between Constitutional Court and political actors

	Dependent variable:					
	Ruling declares unconstitutionality					
	(1)	(2)	(3)	(4)	(5)	(6)
Regional legislation	1.288***	0.703***	0.188	0.665***	0.680***	
	(0.107)	(0.144)	(1.168)	(0.196)	(0.145)	
Conflict of competence	0.555***					
	(0.199)					
A posteriori Review	0.481***					
	(0.112)					
Reporter-Ombudsperson		−0.766*	−1.137	−0.778*	−0.641	−13.535
		(0.450)	(1.278)	(0.450)	(0.656)	(271.546)
Reporter-Regional govt.		−1.316***	−1.823	−1.329***	−1.191***	−1.004**
		(0.216)	(1.163)	(0.216)	(0.279)	(0.436)
Reporter-Nat.legislature		−1.435***	−1.867	−1.438***	−1.293***	−1.583
		(0.214)	(1.175)	(0.214)	(0.312)	(0.984)
Reporter-Reg.legislature		−1.373***	−1.880	−1.379***	−1.261***	−1.012**
		(0.296)	(1.180)	(0.296)	(0.447)	(0.496)
Reporter-Courts		−1.497***	−2.048*	−1.496***	−1.281***	−20.026
		(0.178)	(1.165)	(0.178)	(0.254)	(264.987)
Reg.leg.*Ombudsperson			0.176			
			(1.440)			
Reg.leg.*Regional govt.			0.474			
			(1.844)			
Reg.leg.*Nat.legislature			0.345			
			(1.202)			
Reg.leg.*Courts			0.604			
			(1.181)			
National Congruence				−0.125	0.163	
				(0.146)	(0.284)	
Reg.leg.*National Congruence				0.045		
				(0.216)		
N.Congruence*Ombudsperson					−0.255	
					(0.885)	
N.Congruence*Reg. govt.					−0.269	
					(0.328)	
N.Congruence*Nat.legislature					−0.272	
					(0.403)	
N.Congruence*Reg.legislature					−0.241	
					(0.539)	
N.Congruence*Courts					−0.387	
					(0.333)	
Regional Congruence						−0.782

(*Continued*)

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Table A2. (*Continued*)

	Dependent variable:					
	Ruling declares unconstitutionality					
	(1)	(2)	(3)	(4)	(5)	(6)
						(0.903)
Reg. Congruence*Reg. govt.						0.823
						(0.945)
Reg. Congruence*Reg.legislature						−15.599
						(96.875)
Reg. Congruence*Nat.legislature						0.839
						(1.072)
Reg. Congruence*Courts						3.240
						(265.303)
Constant	−1.090***	0.641***	1.148	0.725***	0.576**	0.483
	(0.109)	(0.200)	(1.160)	(0.223)	(0.252)	(0.418)
Observations	1,888	1,886	1,886	1,886	1,886	754
Log Likelihood	−1,201.518	−1,168.672	−1,168.178	−1,168.248	−1,167.596	−464.401
Akaike Inf. Crit.	2,413.035	2,353.345	2,360.357	2,356.497	2,363.191	952.802
Bayesian Inf. Crit.	2,440.752	2,397.682	2,426.863	2,411.919	2,440.782	1,008.307

Note: *p<0.1; **p<0.05; ***p<0.01

Table A3. Multilevel logistic regression results of the effect of political majorities in the Constitutional Court

	Dependent variable:				
	Ruling declares unconstitutionality				
	(1)	(2)	(3)	(4)	(5)
Regional legislation	0.688***	0.630***	0.458***		
	(0.145)	(0.146)	(0.162)		
Reporter-Ombudsperson	−0.761*	−0.629	−0.820*	−14.375	−15.589
	(0.450)	(0.530)	(0.453)	(1,222.548)	(2,321.360)
Reporter-Regional govt.	−1.323***	−0.880***	−1.285***	−0.822**	−0.836**
	(0.216)	(0.242)	(0.218)	(0.376)	(0.376)
Reporter-Nat.legislature	−1.447***	−1.180***	−1.450***	−2.086**	−2.072**
	(0.214)	(0.270)	(0.216)	(0.874)	(0.874)
Reporter-Reg.legislature	−1.379***	−0.836**	−1.351***	−0.869**	−0.844*
	(0.296)	(0.340)	(0.297)	(0.431)	(0.440)
Reporter-Courts	−1.497***	−1.332***	−1.494***	−16.299	−15.423
	(0.178)	(0.208)	(0.179)	(1,297.450)	(829.008)
Conservative Court	0.114	0.998***	−0.181	−0.763**	−0.259
	(0.128)	(0.317)	(0.157)	(0.389)	(0.606)
Conservative national govt.	−0.035	−0.025	−0.010		
	(0.122)	(0.115)	(0.120)		
Cons. Court*Ombudsperson		−0.368			
		(1.029)			
Cons. Court*Regional govt.		−1.454***			
		(0.364)			
Cons. Court*Nat.legislature		−0.873**			
		(0.425)			
Cons. Court*Reg.legislature		−1.859***			
		(0.591)			
Cons. Court*Courts		−0.469			
		(0.371)			
Reg.legislation*Cons. Court			0.724***		
			(0.226)		

(*Continued*)

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Table A3. (*Continued*)

	Dependent variable:				
	Ruling declares unconstitutionality				
	(1)	(2)	(3)	(4)	(5)
Region-based party				0.191	
				(0.215)	
Reg.-based party*Cons. Court				0.257	
				(0.399)	
Reg. Nationalist party					0.082
					(0.292)
Reg. Socialist party					−0.162
					(0.330)
Reg. Regionalist party					0.222
					(0.533)
Nationalist*Cons. Court					−0.206
					(0.624)
Socialist*Cons. Court					−0.688
					(0.703)
Regionalist*Cons. Court					−1.454
					(1.289)
Constant	0.629***	0.377*	0.680***	0.318	0.422
	(0.207)	(0.224)	(0.207)	(0.384)	(0.428)
Observations	1,886	1,886	1,886	754	754
Log Likelihood	−1,168.288	−1,154.880	−1,163.079	−462.880	−461.112
Akaike Inf. Crit.	2,356.576	2,339.759	2,348.158	945.760	950.223
Bayesian Inf. Crit.	2,411.998	2,422.892	2,409.122	992.014	1,014.979

Note: *p<0.1; **p<0.05; ***p<0.01

Table A4. Multilevel logistic regression results of the effect of region-based nationalist parties supporting the government in decisions by the Constitutional Court

	Dependent variable:	
	Ruling declares unconstitutionality	
	(1)	(2)
Regional legislation	0.675***	1.021***
	(0.144)	(0.175)
Reporter-Ombudsperson	−0.754*	−0.694
	(0.448)	(0.451)
Reporter-Regional govt.	−1.331***	−1.266***
	(0.215)	(0.215)
Reporter-Nat.legislature	−1.441***	−1.391***
	(0.214)	(0.214)
Reporter-Reg.legislature	−1.384***	−1.306***
	(0.294)	(0.295)
Reporter-Courts	−1.536***	−1.496***
	(0.179)	(0.177)
Court-Government congruence	−0.052	−0.049
	(0.113)	(0.111)
Nationalist parliamentary support	0.226**	0.503***
	(0.113)	(0.135)

(*Continued*)

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Table A4. (*Continued*)

	Dependent variable:	
	Ruling declares unconstitutionality	
	(1)	(2)
Nationalist support*Regional legislation		−0.729***
		(0.212)
Constant	0.604***	0.442**
	(0.217)	(0.222)
Observations	1,886	1,886
Log Likelihood	−1,166.478	−1,160.584
Akaike Inf. Crit.	2,352.955	2,343.169
Bayesian Inf. Crit.	2,408.378	2,404.133

Note: *p<0.1; **p<0.05; ***p<0.01

Checking for time trends

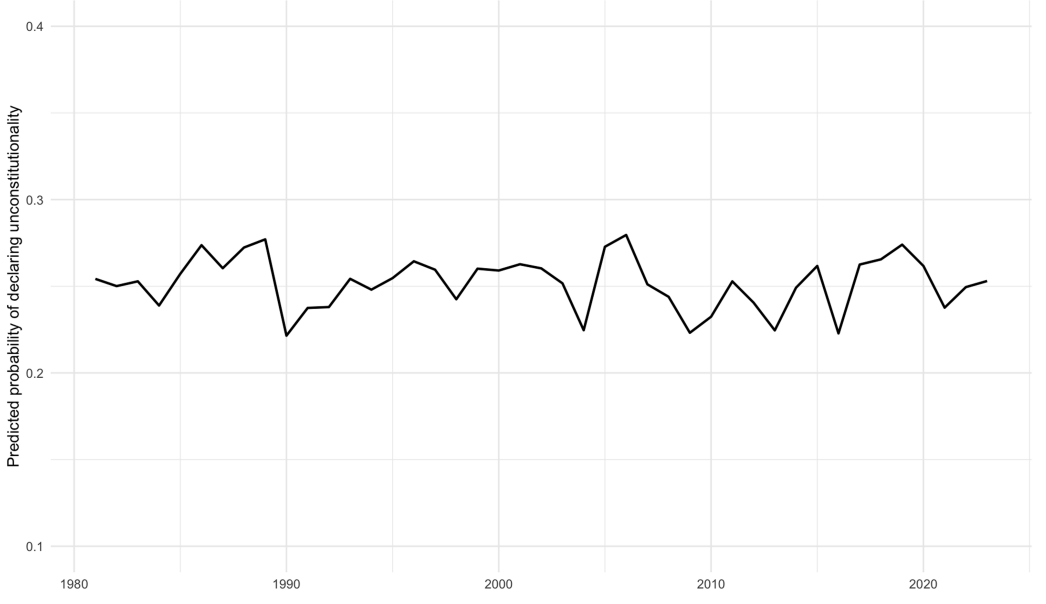


Figure A1. Predicted probabilities of the Court declaring unconstitutionality through time.

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Robustness for catalonia bias

Table A5. Multilevel logistic regression results of political congruence between Constitutional Court and political actors, without Catalonia

	Dependent variable:					
	Ruling declares unconstitutionality					
	(1)	(2)	(3)	(4)	(5)	(6)
Regional legislation	1.748***	15.765	14.271	15.836	15.018	
	(0.182)	(60.340)	(35.005)	(1,301.279)	(27.974)	
Conflict of competence	0.631*					
	(0.370)					
A posteriori Review	0.786***					
	(0.190)					
Reporter-Ombudsperson		−1.909**	−1.909**	−1.929**	−1.449	−15.563
		(0.803)	(0.803)	(0.796)	(1.053)	(2,733.784)
Reporter-Regional govt.		13.235	11.741	13.295	12.669	−1.162**
		(60.340)	(35.005)	(1,301.279)	(27.974)	(0.587)
Reporter-Nat.legislature		−1.879***	−1.879***	−1.877***	−1.223***	−21.044
		(0.301)	(0.301)	(0.299)	(0.440)	(13,074.780)
Reporter-Reg.legislature		13.579	12.085	13.644	13.385	−0.844
		(60.340)	(35.005)	(1,301.279)	(27.978)	(0.666)
Reporter-Courts		−1.620***	−1.620***	−1.617***	−1.351***	−18.087
		(0.229)	(0.229)	(0.228)	(0.333)	(4,031.621)
Reg.leg.*Ombudsperson			4.080			
			(256.037)			
Reg.leg.*Regional govt.				−0.165	0.277	
				(0.271)	(0.382)	
Reg.leg.*Nat.legislature				−0.030		
				(0.313)		
Reg.leg.*Courts					−1.053	
					(1.656)	
National Congruence					−0.355	
					(0.439)	
N.Congruence*Ombudsperson					−1.215**	
					(0.611)	
N.Congruence*Reg. govt.					−0.916	
					(0.711)	
N.Congruence*Nat.legislature					−0.504	
					(0.460)	
N.Congruence*Reg.legislature						−0.711
						(1.011)
N.Congruence*Courts						0.948
						(1.061)
Regional Congruence						3.493
						(13,454.370)
Reg. Congruence*Ombudsperson						1.045
						(1.218)
Reg. Congruence*Reg. govt.						0.718
						(5,692.316)
Reg. Congruence*Nat.legislature	−1.663***	−14.182	−12.687	−14.143	−13.571	0.389
	(0.235)	(60.340)	(35.005)	(1,301.279)	(27.974)	(0.568)
Observations	944	942	942	942	942	432
Log Likelihood	−587.443	−556.752	−556.752	−556.343	−553.896	−247.098
Akaike Inf. Crit.	1,184.887	1,129.505	1,131.505	1,132.686	1,135.792	518.197
Bayesian Inf. Crit.	1,209.138	1,168.289	1,175.137	1,181.166	1,203.664	567.018

Note: *p<0.1; **p<0.05; ***p<0.01

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Table A6. Multilevel logistic regression results of the effect of political majorities in the Constitutional Court, without Catalonia

	Dependent variable:				
	Ruling declares unconstitutionality				
	(1)	(2)	(3)	(4)	(5)
Regional legislation	15.848	15.688	15.621		
	(1,309.832)	(1,311.371)	(1,307.112)		
Reporter-Ombudsperson	−1.904**	−1.381	−1.933**	−16.441	−16.583
	(0.796)	(1.038)	(0.796)	(3,076.458)	(3,488.438)
Reporter-Regional govt.	13.300	13.644	13.481	−0.872*	−0.900*
	(1,309.832)	(1,311.371)	(1,307.112)	(0.482)	(0.483)
Reporter-Nat.legislature	−1.851***	−1.692***	−1.928***	−17.844	−18.472
	(0.300)	(0.417)	(0.304)	(2,023.853)	(2,801.445)
Reporter-Reg.legislature	13.637	14.075	13.828	−0.546	−0.529
	(1,309.832)	(1,311.371)	(1,307.112)	(0.558)	(0.577)
Reporter-Courts	−1.609***	−1.473***	−1.617***	−17.146	−16.926
	(0.228)	(0.277)	(0.228)	(1,831.339)	(1,624.724)
Conservative Court	−0.124	0.718*	−0.912***	−1.030**	−0.468
	(0.217)	(0.422)	(0.302)	(0.455)	(0.640)
Conservative national govt.	0.190	0.244	0.241		
	(0.206)	(0.195)	(0.194)		
Cons. Court*Ombudsperson		−1.398			
		(1.651)			
Cons. Court*Regional govt.		−1.580***			
		(0.496)			
Cons. Court*Nat.legislature		−0.589			
		(0.628)			
Cons. Court*Reg.legislature		−1.886**			
		(0.781)			
Cons. Court*Courts		−0.453			
		(0.496)			
Reg.legislation*Cons. Court			1.265***		
			(0.342)		
Region-based party				−0.066	
				(0.287)	
Reg.-based party*Cons. Court				0.152	
				(0.531)	
Reg. Nationalist party					−0.213
					(0.354)
Reg. Socialist party					−0.229
					(0.363)
Reg. Regionalist party					−0.096
					(0.560)
Nationalist*Cons. Court					−0.296
					(0.731)
Socialist*Cons. Court					−0.887
					(0.792)
Regionalist*Cons. Court					−1.412
					(1.306)
Constant	−14.308	−14.471	−14.293	0.392	0.532
	(1,309.832)	(1,311.371)	(1,307.112)	(0.475)	(0.515)
Observations	942	942	942	432	432
Log Likelihood	−556.243	−548.343	−549.232	−244.437	−242.442
Akaike Inf. Crit.	1,132.485	1,126.687	1,120.464	508.873	512.883
Bayesian Inf. Crit.	1,180.965	1,199.407	1,173.792	549.557	569.841

Note: *p<0.1; **p<0.05; ***p<0.01

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Table A7. Multilevel logistic regression results of the effect of region-based nationalist parties supporting the government in decisions by the Constitutional Court, without Catalonia

	Dependent variable:	
	Ruling declares unconstitutionality	
	(1)	(2)
Regional legislation	15.837	16.003
	(63.506)	(42.087)
Reporter-Ombudsperson	−1.942**	−1.859**
	(0.804)	(0.795)
Reporter-Regional govt.	13.324	13.127
	(63.506)	(42.086)
Reporter-Nat.legislature	−1.889***	−1.868***
	(0.301)	(0.299)
Reporter-Reg.legislature	13.670	13.473
	(63.507)	(42.087)
Reporter-Courts	−1.633***	−1.622***
	(0.229)	(0.226)
Court-Government congruence	−0.133	−0.126
	(0.204)	(0.188)
Nationalist parliamentary support	0.237	0.864***
	(0.204)	(0.265)
Nationalist support*Regional legislation		−1.067***
		(0.319)
Constant	−14.284	−14.287
	(63.506)	(42.087)
Observations	942	942
Log Likelihood	−555.674	−550.269
Akaike Inf. Crit.	1,131.348	1,122.539
Bayesian Inf. Crit.	1,179.828	1,175.867

Note: *p<0.1; **p<0.05; ***p<0.01

Table A8. Multilevel logistic regression results of political congruence between Constitutional Court and political actors, without Catalonia between 2012 and 2021

	Dependent variable:					
	Ruling declares unconstitutionality					
	(1)	(2)	(3)	(4)	(5)	(6)
Regional legislation	1.273***	0.760***	−13.220	0.833***	0.720***	
	(0.119)	(0.165)	(791.118)	(0.235)	(0.168)	
Conflict of competence	0.567**					
	(0.241)					
A posteriori Review	0.525***					
	(0.123)					
Reporter-Ombudsperson		−1.021**	−14.648	−1.026**	−0.833	−13.999
		(0.496)	(791.118)	(0.498)	(0.691)	(1,461.412)
Reporter-Regional govt.		−1.280***	−15.234	−1.279***	−1.330***	−1.049**
		(0.241)	(791.118)	(0.243)	(0.317)	(0.442)
Reporter-Nat.legislature		−1.456***	−15.256	−1.454***	−1.214***	−1.643*
		(0.239)	(791.118)	(0.239)	(0.366)	(0.982)
Reporter-Reg.legislature		−1.072***	−15.026	−1.072***	−0.833	−0.875*
		(0.333)	(791.118)	(0.333)	(0.526)	(0.516)
Reporter-Courts		−1.483***	−15.519	−1.482***	−1.318***	−16.521
		(0.191)	(791.118)	(0.191)	(0.279)	(1,917.194)
Reg.leg.*Ombudsperson			13.063			
			(791.118)			

(*Continued*)

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Table A8. (*Continued*)

	Dependent variable:					
	Ruling declares unconstitutionality					
	(1)	(2)	(3)	(4)	(5)	(6)
Reg.leg.*Regional govt.			13.918			
			(791.119)			
Reg.leg.*Nat.legislature			13.720			
			(791.118)			
Reg.leg.*Courts			14.130			
			(791.118)			
National Congruence				−0.028	0.080	
				(0.179)	(0.309)	
N.Congruence*Reg.leg.				−0.129		
				(0.247)		
N.Congruence*Ombudsperson					−0.413	
					(0.976)	
N.Congruence*Reg. govt.					0.016	
					(0.363)	
N.Congruence*Nat.legislature					−0.413	
					(0.471)	
N.Congruence*Reg.legislature					−0.421	
					(0.620)	
N.Congruence*Courts					−0.291	
					(0.364)	
Regional Congruence						−0.869
						(0.897)
Reg. Congruence*Reg. govt.						1.021
						(0.946)
Reg. Congruence*Nat.legislature						−14.429
						(1,488.244)
Reg. Congruence*Reg.legislature						1.227
						(1.111)
Reg. Congruence*Courts						−0.018
						(3,549.388)
Constant	−1.149***	0.556**	14.509	0.572**	0.550*	0.412
	(0.122)	(0.222)	(791.118)	(0.259)	(0.282)	(0.426)
Observations	1,513	1,511	1,511	1,511	1,511	586
Log Likelihood	−961.501	−932.976	−930.480	−932.658	−931.694	−355.864
Akaike Inf. Crit.	1,933.002	1,881.951	1,884.961	1,885.315	1,891.387	735.728
Bayesian Inf. Crit.	1,959.612	1,924.515	1,948.807	1,938.520	1,965.875	788.208

Note: *p<0.1; **p<0.05; ***p<0.01.

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Table A9. Multilevel logistic regression results of the effect of political majorities in the Constitutional Court, without Catalonia between 2012 and 2021

	Dependent variable:				
	Ruling declares unconstitutionality				
	(1)	(2)	(3)	(4)	(5)
Regional legislation	0.786***	0.638***	0.571***		
	(0.172)	(0.182)	(0.177)		
Reporter-Ombudsperson	−1.021**	−0.681	−1.058**	−15.217	−16.159
	(0.496)	(0.541)	(0.496)	(1,871.435)	(3,144.542)
Reporter-Regional govt.	−1.266***	−0.944***	−1.106***	−0.837**	−0.842**
	(0.244)	(0.271)	(0.246)	(0.381)	(0.382)
Reporter-Nat.legislature	−1.445***	−1.242***	−1.503***	−2.108**	−2.089**
	(0.239)	(0.289)	(0.242)	(0.877)	(0.878)
Reporter-Reg.legislature	−1.057***	−0.684*	−0.877***	−0.661	−0.648
	(0.335)	(0.377)	(0.339)	(0.453)	(0.467)
Reporter-Courts	−1.482***	−1.356***	−1.489***	−16.155	−14.241
	(0.191)	(0.223)	(0.191)	(1,208.887)	(462.312)
Conservative Court	−0.110	0.852**	−1.029***	−0.995**	−0.398
	(0.169)	(0.362)	(0.262)	(0.437)	(0.624)
Conservative national govt.	0.036	0.096	0.100		
	(0.142)	(0.136)	(0.136)		
Cons. Court*Ombudsperson		−1.937			
		(1.381)			
Cons. Court*Regional govt.		−1.855***			
		(0.445)			
Cons. Court*Nat.legislature		−0.829			
		(0.529)			
Cons. Court*Reg.legislature		−2.005***			
		(0.729)			
Cons. Court*Courts		−0.410			
		(0.443)			
Reg.legislation*Cons. Court			1.486***		
			(0.314)		
Region-based party				0.136	
				(0.232)	
Reg.-based party*Cons. Court				−0.045	
				(0.502)	
Reg. Nationalist party					0.020
					(0.302)
Reg. Socialist party					−0.191
					(0.350)
Reg. Regionalist party					0.110
					(0.543)
Nationalist*Cons. Court					−0.565
					(0.695)
Socialist*Cons. Court					−0.951
					(0.779)
Regionalist*Cons. Court					−1.515
					(1.299)
Constant	0.548**	0.378	0.544**	0.335	0.445
	(0.226)	(0.252)	(0.225)	(0.392)	(0.436)
Observations	1,511	1,511	1,511	586	586
Log Likelihood	−932.754	−918.872	−920.846	−353.366	−351.485
Akaike Inf. Crit.	1,885.508	1,867.744	1,863.692	726.731	730.970
Bayesian Inf. Crit.	1,938.713	1,947.552	1,922.218	770.465	792.196

Note: *p<0.1; **p<0.05; ***p<0.01

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Table A10. Multilevel logistic regression results of the effect of region-based nationalist parties supporting the government in decisions by the Constitutional Court, without Catalonia between 2012 and 2021

	Dependent variable:	
	Ruling declares unconstitutionality	
	(1)	(2)
Regional legislation	0.737***	1.102***
	(0.165)	(0.201)
Reporter-Ombudsperson	−1.017**	−0.917*
	(0.497)	(0.499)
Reporter-Regional govt.	−1.290***	−1.222***
	(0.241)	(0.241)
Reporter-Nat.legislature	−1.460***	−1.427***
	(0.239)	(0.239)
Reporter-Reg.legislature	−1.085***	−1.015***
	(0.332)	(0.333)
Reporter-Courts	−1.506***	−1.475***
	(0.191)	(0.190)
Court-Government congruence	−0.051	−0.063
	(0.137)	(0.133)
Nationalist parliamentary support	0.190	0.506***
	(0.135)	(0.163)
Nationalist support*Regional legislation		−0.745***
		(0.235)
Constant	0.525**	0.350
	(0.249)	(0.255)
Observations	1,511	1,511
Log Likelihood	−931.856	−926.864
Akaike Inf. Crit.	1,883.712	1,875.728
Bayesian Inf. Crit.	1,936.917	1,934.254

Note: *p<0.1; **p<0.05; ***p<0.01

Robustness for basque country bias

Table A11. Multilevel logistic regression results of political congruence between CC and political actors, without the Basque Country

	Dependent variable:					
	Ruling declares unconstitutionality					
	(1)	(2)	(3)	(4)	(5)	(6)
Regional legislation	1.692***	1.439	14.376	1.376	1.560	
	(0.155)	(1.187)	(1,001.003)	(1.198)	(1.182)	
Conflict of competence	1.074***					
	(0.273)					
A posteriori Review	0.851***					
	(0.176)					
Reporter-Ombudsperson		−1.151*	−1.150*	−1.150*	−1.288	−13.835
		(0.693)	(0.691)	(0.693)	(1.031)	(1,294.490)
Reporter-Regional govt.		−0.651	12.290	−0.671	−0.436	−1.374***
		(1.195)	(1,001.003)	(1.196)	(1.210)	(0.527)
Reporter-Nat.legislature		−1.468***	−1.451***	−1.468***	−1.086***	−1.133
		(0.272)	(0.271)	(0.271)	(0.401)	(1.159)

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Table A11. (*Continued*)

	Dependent variable:					
	Ruling declares unconstitutionality					
	(1)	(2)	(3)	(4)	(5)	(6)
Reporter-Reg.legislature		−0.677	12.260	−0.697	−0.476	−1.308**
		(1.220)	(1,001.003)	(1.222)	(1.277)	(0.589)
Reporter-Courts		−1.347***	−1.347***	−1.344***	−1.379***	−16.852
		(0.201)	(0.201)	(0.201)	(0.289)	(1,829.298)
Reg.leg.*Ombudsperson			−13.662			
			(1,001.004)			
Reg.leg.*Regional govt.				0.004	0.162	
				(0.199)	(0.311)	
Reg.leg.*Nat.legislature				0.077		
				(0.258)		
Reg.leg.*Courts					0.244	
					(1.398)	
National Congruence					−0.172	
					(0.357)	
N.Congruence*Ombudsperson					−0.707	
					(0.548)	
N.Congruence*Reg. govt.					−0.149	
					(0.602)	
N.Congruence*Nat.legislature					0.077	
					(0.403)	
N.Congruence*Reg.legislature						−1.173
						(0.936)
N.Congruence*Courts						1.243
						(0.975)
Regional Congruence						−17.740
						(5,810.482)
Reg. Congruence*Ombudsperson						1.168
						(1.101)
Reg. Congruence*Reg. govt.						0.655
						(2,993.404)
Reg. Congruence*Nat.legislature	−1.607***	−0.048	−12.986	−0.031	−0.258	0.830
	(0.207)	(1.198)	(1,001.003)	(1.200)	(1.203)	(0.511)
Observations	1,214	1,212	1,212	1,212	1,212	636
Log Likelihood	−766.902	−747.939	−747.437	−747.854	−746.647	−387.088
Akaike Inf. Crit.	1,543.803	1,511.879	1,512.875	1,515.708	1,521.293	798.177
Bayesian Inf. Crit.	1,569.312	1,552.679	1,558.775	1,566.708	1,592.693	851.639

Note: *p<0.1; **p<0.05; ***p<0.01

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