



A General Approach to Spanish Law on Youth Policies

Una aproximación general al Derecho español sobre las políticas de juventud

Uma abordagem geral do Direito espanhol sobre políticas para a juventude

Enrique Hernández-Diez
Universidad de Extremadura, ehernandezdiez@unex.es

Recibido_Received_Recebido 11/01/2020

Aceptado_Accepted_Aceito 17/01/2020

Publicación online_Available online_Publicação online 31/01/2020

Keywords

Law;
youth rights;
youth policies;
young people;
Spain.

Abstract

The purpose of this paper is to provide a general description of the main rules applicable to youth policy in Spain. The study contains a synthesis of Spanish legal doctrine on Youth law, demonstrating the absence of a doctrinal system to classify the norms on the sector and the scarcity of analysis regarding their content. Subsequently, the majority of this paper intends to systematically order the main norms that are applicable to Spanish youth policy while creating categories that distinguish them. This is done so in accordance to the powers that approve them (constituents, supranational, and constituted national, regional or local), the different forms of approving them (according to the range of the norms and according to the legislative technique) and the general content of the most relevant norms produced within the autonomous communities.

Palabras clave	Resumen
Derecho; derechos de los jóvenes; políticas de juventud; jóvenes; España.	El autor realiza una descripción general de las principales normas aplicables a la política de juventud en España. El estudio contiene una síntesis de la doctrina jurídica española sobre el Derecho de la juventud, comprobando la ausencia de un sistema de clasificación de las normas sobre el sector, y la escasez de análisis sobre el contenido de las mismas. La mayor parte del artículo pretende ordenar de forma sistemática las principales normas que son aplicables sobre la política de juventud, creando categorías que las distingan según los poderes que las aprueban (constituyentes, supranacionales, nacionales constituidas, regionales y locales), las distintas formas de aprobarlas (según el rango de las normas y según la técnica legislativa) y el contenido general de las más relevantes (producidas en el ámbito de las comunidades autónomas).

Palavras-chave	Resumo
Direito; direito dos jovens; políticas para a juventude; Espanha.	O autor fornece uma descrição geral das principais regras aplicáveis à política de juventude na Espanha. O presente estudo contém uma síntese da doutrina jurídica espanhola sobre o Direito da juventude, verificando a ausência de um sistema de classificação das normas do setor e a escassez de análises sobre o conteúdo do mesmo. A maior parte do artigo pretende ordenar sistematicamente as principais normas aplicáveis à política para a juventude, criando categorias que as distingam de acordo com os poderes que as aprovam (constituintes, supranacionais, nacionais, regionais e locais constituídos), as diferentes formas de aprová-las (de acordo com a abrangência das normas e com a técnica legislativa) e o conteúdo geral das mais relevantes (elaboradas no âmbito das comunidades autónomas).

SUMARIO

► Introduction ► Method ► State of the issue ► References of the spanish constitution about youth policy ► Supranational law applicable to spanish youth policy ► The general types of youth policy norms approved by spanish public authorities ► Land organization of youth policy in Spain ► Law on youth policy in the spanish autonomous communities ► Main outcomes ► References

I INTRODUCTION

The main objective of this study is to undertake a simple and structured description of the most important legal norms established for the development of youth public policy in Spain. A secondary objective is to propose a descriptive model that could be useful for future comparative studies with other national legal systems.

The hypothesis of this research is that there is a wide range of legal norms that regulate youth policy in Spain which, for the time being, have not been comprehensively systematized and are thus not beneficial for other social or legal studies.

This study is not intended to clarify a legal concept of youth policies, nor to analyse the rationality or quality of existing norms. For this reason, the study does not perform an in-depth analysis of the rules, but rather attempts to broadly examine their identification, what legal form they have, who approves them, how they relate to each other and what they deal with.

This document is intended for professionals from the academic world specialized in the field of youth policy, regardless of whether they are thoroughly familiar with the Spanish legal system or not. Therefore, the following pages begin with a synthesis of the key ideas about the legal methodology used in this study. Subsequently, the results of the research, organized into six main thematic blocks, will be explored.

First, a synthesis is made of the state of the issue (section III), from a doctrinal point of view along with the main studies that have dealt with adjoining subjects, to demonstrate the validity of the hypothesis that gives rise to the rest of this work.

The second of the thematic blocks (section IV) presents a description of the Spanish constitutional norms that deal with youth, due to the fact that these types of norms are the most important in qualitative terms of the Spanish legal system (in this and on any other front).

The Spanish Constitution allows for the incorporation of norms produced by supranational organizations into Spanish Law, provided they respect the content of the Constitution itself. This means that is essential to identify, thirdly (section V), which supranational institutions have produced norms on youth policy that must be applied in Spain.

Fourthly (section VI), Spanish public authorities adopt a plurality of general types of norms, whose basic description is necessary in order to understand the following sections. This presents a synthesis of the

general system applied to youth policy, thus clarifying the nomenclature of the norms that are mentioned in the following pages.

The fifth block of results (section VII) contains a summary of the rules that assign specific responsibilities on youth policy to the different Spanish territorial administrations, and clarifies the main consequences of the competences system on this sector.

In the sixth and last place, and thanks to the previous clarifications, it is possible to succinctly describe what kinds of regulations exist in the field of the main territorial administration responsible for youth policy in Spain: the autonomous communities (section VIII).

Finally, as a result of the study, the author includes the most prominent conclusions of the analysis (section IX).

2 METHOD

The object of study is the normative situation on the subject, and not the analysis of the content of the norms. Therefore, among the possible levels of depth of any legal study, the present is limited to the identification, description and systematization of the norms. In addition, for reasons of time and space for the execution of the study, this is limited to dealing with positive law, which means ignoring other possible normative sources of Spanish Law (although they are true sources of law, according to article 1.1 of the Civil Code, such as customary law or general principles that have not been included in written rules). As the objective is to organize and give unity to the dispersion, it is also not necessary to delve into the following stages of the legal scientific method. This also means that the analysis or explanation of the correctness of the norms are excluded, along with the reasons that justify them or the effects they produce (neither hermeneutics nor exegesis on norms are applied in this study). If the interpretation and the effects of these norms are not the object of this study, case law on the matter is not relevant in this case either.

The procedure of the research conducted can be summarized in the following phases.

First, the key concepts of the object of study (youth policy) and their basic meaning in the Spanish context have been delimited, to the point of being able to use them in the search and differentiation of the sources of study. Starting from the natural central word (youth, in Spanish "juventud", and its derivatives "joven", "jóvenes", "juvenil", etc.), it is easy to find the first generic rules on the sector, and similarities with the notions of other European countries (Williamson, 2002; Lavchan & Williamson, 2019). The study contains vocabulary that has been compared and cross-referenced with other non-Spanish sources, such as the 'Glossary on youth' prepared by the Youth Partnership of the Council of Europe and the European Union¹.

This, for example, has allowed us to verify that the concept of young people most frequently included in Spanish law (14-30 years of age) is very similar to the common European range (13-30), as accredited by B. Perovic (2016: 3). Consequently, the norms that do not use words related to “juventud” (youth) but allude to ranges similar to the one described above make it possible that they may be considered as typical of youth policy.

Secondly, legal doctrinal sources that broach the study of norms on youth policy have been examined to see if they include proposals for the systematization of norms. For this, the above conceptual consensuses have been used. This phase is what sustains the "state of the issue" (section III).

Thirdly, given the intuition about the areas of substantive regulation offered by the first two phases, a more exhaustive search of legal sources has been carried out. For this purpose, it has been particularly useful to consult the Code of Public Law of Youth (“Código de Derecho Público de la Juventud”), published in 2019 by the Official Gazette of Spain (it is unofficial, but also an academic legal compilation) ². However, it should be noted that this work only includes some of the sources (the main ones, but not all), and for example excludes, on the one hand, all government regulations carried out by the executive branch in the autonomous communities, and on the other hand, the Code also excludes many of legal clauses dispersed in statutory laws that deal with matters other than youth policy. A source that does include a broader range of written rules of all types (of content and form) is the report for the European Union Youth Wiki National Description on the Spanish youth policy in 2017³, although it is a compilation that only records the legal rules as basis for political systematics. Therefore, the heuristic procedure has necessitated the inclusion of a search for more norms in the different databases of State legislation and of each autonomous community.

Fourthly, an inductive reasoning has been carried out on the norms found, identifying common basic elements and principal differences, in order to propose a logical system that explains and, above all, logically classifies or typifies the norms. This procedure has revealed that it could be particularly useful to classify these standards according to their characteristics of form and content.

As a result of the previous phases, a descriptive text has been prepared, with some systematizing proposals of the existing Spanish law regarding youth policies.

3 STATE OF THE ISSUE

The hypothesis that can be derived from this study is that Spanish norms on youth policy are scattered and have not been systematized by policy makers who create them or by the legal doctrine that studies them.

Therefore, it is crucial to propose categories that facilitate their location and regrouping, at least theoretical or doctrinal, so that future studies can more effectively deepen the analysis of each norm.

A quick look at the Spanish legal libraries reveals that the youth issue has not been the subject of excessive attention. It first began to gain attention due to the risk approach that identifies youth as a conflictive group for society, and the work of Mendizábal Oses (1977) is an example of this. Whatever the case, his work opened the door to juvenile criminal law and the doctrinal treatment of juvenile justice in Spain. Nevertheless, this is a very specific and limited part of Spanish youth policy.

Any regulation of public policies is largely formed by the rules of Administrative Law. This is because public policy is carried out by the Public Administration, which in Spain is under the direction of the Government (Article 97 CE). The characteristics of the Law on Administration (due to the special prerogatives and powers that distinguish it from other private actors) lead to part of this regulation to be characterized by its special mobility, for example, by the speed of organizational changes that are at the mercy of the Government's political priorities. These rules are, therefore, distinct from common law. This causes a probable lack of coding and makes it difficult to create abstract or general categories.

In this case, when dealing with youth policy, the norms have distinct special protagonists, apart from the Public Administration. There are public policies whose distinctive purpose is a general object or legal asset, which does not refer directly to a specific subject (for example, policies on health, environment, energy, etc.). Conversely, youth policy is, by definition, subject-oriented (to young people). These subjects are holders of fundamental rights, some included in norms that are not usually considered part of Administrative Law (for example, the right of association). This combination makes it difficult to define which norms are directly influential in the organization of youth policy, because it is obvious that there are norms that are not explicitly oriented to such a policy, yet that have a direct effect on what the Administration can do or cannot do when it performs the youth policy.

No proposals of this kind have been found applicable to all Spanish law on youth policy. That said, there are useful specific studies to clarify future delimitation problems.

Frequently, jurists have approached the matter at the request of other actors, such as Entrena Cuesta (1985) at the request of the Youth Council of Spain, or Goig & Núñez (2011) at the invitation of Comas Arnau. In fact, Comas Arnau himself (2011: 8), a master of political science on youth policy, confused the jurists' first attention to the issue (he presumed that it was such of Goig & Núñez, *op. cit.*), ignoring those that had occurred much earlier. Indeed, the first studies on the issue happened almost 'by accident', when some authors dealt with it in the multiple systematic doctrinal comments on the entire content of the Spanish Constitution of 1978 (CE). Of course, they could not ignore Article 48 CE among the other legal

precepts. Examples of these 'accidental' comments on Article 48 CE, which, in any case, provide the foundations for the first analyzes of this constitutional principle, are Ruiz-Rico & Contreras (1996) and Buisán García (2008), who were followed by Trayter (2018) and Zelaia Garagarza (2018), among others. None of these works systematizes the Law on youth policies as a whole, but only analyzes the content of a part of it.

Occasional initiatives that compile essays of different natures and focuses have occurred relatively frequently. The work coordinated by Cánovas et al. (1984) about Public Administration and youth policy, thought without a legal focus, deserves mention, if only for its historical value. There are others included in interdisciplinary works, such as the study by Álvarez Vélez & Grande Arana (2003), or the book coordinated by Del Barco Perianes & Manzano Silva (2013), in addition to other more specific administrative approaches, such as the one coordinated by Miranda Gonçalves (2016) or the study of Arias Aparicio (2016). With a constitutional approach, the work coordinated by Dueñas Castrillo et al. (2018) and the relevant study by Rallo Lombarte (1992) were both outstanding. None of the above-mentioned approaches include a systematic proposal that encompasses all the positive law in force in Spain on youth policy.

In recent years, the study by Mestre Delgado & Álvarez García (2018), which was also undertaken at the request of the Youth Council of Spain, approached something close to a systematic proposal. This study traced a transnational, constitutional and legal context on regulatory development of the supposed central axis of the Spanish youth policy (youth participation, thereunder Article 48 CE). Their work served as a basis for the subsequent analysis of Álvarez García et al. (2018). Whatever the case, these studies have only dealt with the content of the norms referred to the Youth Council of Spain, just as Álvarez García (2018) did shortly after. In any event, some of its elements do serve to identify possible general categories on extremely meaningful parts of the sector, as is the case with regard to the youth movement and general youth associations, in Álvarez García et al. (2018: 163-198). The works of Hernández-Diez (2017) and Gabriel Carranza (2018) also include an incipient systematics, but essentially limited to the Statutes of Autonomous Communities (a very specific category of statutory laws).

Apart from the studies on Public Law, authors such as Reverte Martínez (2015) have shed light on the general legal development in the field of youth associations. It is also essential make reference to the studies of political science, which serve as justification for some of the content categories of the subsequent pages, such as the work of Comas Arnau (2007; 2011) or, anteriorly, the proposals of Casanovas i Berdaguer et al. (2002), which continue debates that return to the aforementioned work of Cánovas et al. (1984).

The reports on the state of youth policy in Spain, made or commissioned by the Council of Europe (1999; 2000; 2008; 2009; 2011)⁴, equally do not collect systematic proposals on the regulations of the sector.

Ultimately, none of the works mentioned, nor those mentioned by these authors, has solved the question of how to classify the norms about youth policies. Instead, there have been theories about the policies themselves. No study, therefore, seems to have faced the task of describing the general set of norms, and ordering them comprehensively, based on the actual content of the written Law and its statutory forms.

4 REFERENCES OF THE SPANISH CONSTITUTION ABOUT YOUTH POLICY

The current Spanish Constitution (CE) was approved in 1978. As in most European countries, it is the supreme and most important norm of the entire legal system of the country. Its content serves to decide, or not, the validity of all other rules and the Constitutional Court (TC) is responsible for its interpretation.

The Spanish Constitution of 1978 is a constitutional norm of the type which was adopted in the period after World War II. This Basic Law, therefore, not only includes norms on the organization of the powers of the State and the essential principles of the political system, but also adds fundamental rights while including programmatic norms on economic and social policy. These are namely, guidelines on how public authorities should act in various matters (for example, on the right to housing, care for the elderly and, among others, the so-called ‘youth promotion policy’ –this is what the Spanish Constitutional Court calls it, for example, in Judgment No. 13/1992, of February 6–). De facto, it is possible to identify constitutional norms with direct effects on youth within all types described, as will be demonstrated below, even if not all of them are equally significant for the design of the country's youth policy.

The Spanish Constitution contains some original items, distinguishing it from other constitutional norms, while including others clearly inspired by the legal experience of countries near to the Spanish cultural and political environment during the second half of the 20th century. This statement also applies to the references of the Constitution towards young citizens. As an example, Article 5 of the Basic Law for the Federal Republic of Germany of 23 May 1949 (German Constitution) includes the protection of youth as a limit on the freedom of expression, artistic diffusion and communication; and this mandate was very similarly incorporated into the constitutional texts of Greece (1974) and Portugal (1976), and subsequently in Spain in 1978 (as Article 20.4 CE). This stated, the Constitutions of Greece and Portugal were innovative by including a specific precept on the youth policy or the participation of young people, which possibly provided the inspiration for the existence of Article 48 of the Spanish Constitution of 1978, even if the latter was reflected with a completely different content.

4.1. Main constitutional mandate on youth policy

The cornerstone of the Law on public policy of youth in Spain is Article 48 of the Constitution:

‘The public authorities shall promote conditions directed towards the free and effective participation of young people in political, social, economic and cultural development.’

Article 48 CE is one of the commonly named ‘Governing Principles of Economic and Social Policy’. Therefore, it is one of the so-called programmatic norms, which serve to guide the actions of public authorities in different material fields. They do not constitute constitutional rights of direct application. That is to say that these guiding principles, such as Article 48 CE, must be improved and complimented by subsequent rules (mainly, statutory laws) so that they can have real effects on citizens. In any case, and even if there are no norms that develop and complement them, no public power can act against the constitutional mandate.

The authors who have tried to analyse the content of Article 48 CE and unravel the real consequences of its inclusion in the constitutional text have previously been mentioned (i.e., see Mestre Delgado & Álvarez García, 2018: 38-43; Trayter, 2018). As a summary, based on legal doctrine, political science and the analysis of the historical origin of the text, what this article seems to include are two main ideas: firstly, on what the role of young people in Spanish society (protagonists of general development) should be, and secondly, on the political priority of public authorities when they address youth (which is the promotion of their participation, meaning, their position as active citizens, as opposed to similar normative or even constitutional texts of our surrounding political environment, which focus on emancipation or mere protection-oriented youth policies) –see Cánovas et al. (1984: 18-20); Comas Arnau (2007: 13-14); Hernández-Diez (2017)–.

4.2. Important complementary mandates

In addition to Article 48 EC, there are other constitutional precepts that have a direct effect on the public policy of youth in Spain, all of which complement the main Article. Without going into exhaustive detail, four are mentioned because of their special importance, and this in no way serves as a closed or complete list.

First, the aforementioned Article 20.4 CE, which provides that the protection of youth may be a reason to limit the rights to freedom of expression, dissemination of thoughts or information, or of artistic creation, among others, is exemplary due to its explicit allusion to “youth”.

Secondly, Article 12 CE stipulates a general ‘age of majority’ of Spaniards at eighteen years old. This means that the full capacity to act, public and private, of any person from that age is presumed, except in exceptional cases. This rule may have favoured that in Spain there is no age of passive suffrage other than active suffrage since the 1978 Constitution. However, the provision of Article 12 CE does not prevent a lower age (for example, sixteen years of age) for certain active voting rights in some electoral processes (local, regional, national or European).

Thirdly, article 27 CE is another of the fundamental rights (as in as article 20.4 CE). In this case, Article 27 CE regulates the right to education and several basic rules on this matter. It should be noted that it recognizes, with constitutional status, the right of students to participate in the design of the nation’s education system and in the management of educational establishments. Likewise, it provides that the provision of essential contents such as civic education and for active citizenship as part of the right to education. This reference to education for participation clearly connects with the content of Article 48 CE, abovementioned.

Finally, Article 39.4 CE provides a special clause on the protection of children, stating that this must not be solely covered by the Constitution, but also includes whatever results from international treaties ratified by Spain about this topic. Therefore, the Constitution makes an implicit and special appeal to consider the 1989 Convention on the Rights of the Child (ratified by Spain in 1990) as part of the Spanish constitutional protection of citizens under 18 years of age.

5 SUPRANATIONAL LAW APPLICABLE TO SPANISH YOUTH POLICY

Article 39.4 CE, explicit on children's rights, is not the only article that contains constitutional rules on international treaties and supranational rules. Article 10.2 CE recalls that fundamental rights (for example, articles 20.4 and 27 CE) must also be understood (likewise by the Constitutional Court, when judging the validity of any Law) in accordance with international human rights treaties ratified by Spain. Furthermore, in addition to the previous two, there are other constitutional precepts with profound consequences on supranational law applicable to youth policies in Spain. Articles 95 and 96 EC indicate the value of international standards, which can only be ratified if they are in accordance with the Constitution. Once

ratified, these treaties become part of domestic Law, and the three constituted powers or branches (legislative, executive and judicial) are bound to their contents.

The Spanish State is a member of several supranational institutions. In four of them, a concrete Law on youth policies exists, with varying degrees of binding or soft-law force for the powers of the State with faculty to dictate further rules regarding youth policy. Without dwelling on the specific content of each institution, it is necessary to succinctly mention its specific importance for the Spanish law of youth policies.

5.1. Main European Union Law on youth policy

The most relevant supranational institution of which Spain is a part, due to its impact on Spanish law, is the European Union (EU). The treaties which gave birth to this institution do not foresee that the EU has the capacity to force the Member States to adopt one or another youth policy. Nevertheless, there are mentions about the role of young people in European policy and society, which provoke a concrete youth policy of the EU, and which serve to 'support, coordinate or supplement' the actions of the Member States on this matter. Examples of these mentions are articles 6, 165 and 166 of the Treaty on the Functioning of the European Union, on whose meanings Mestre Delgado & Álvarez García (2018: 66-76) and Hernández-Diez (2019) have spoken, among others. Eberhard Harribey (2002) is particularly significant for her work on the historical description of the evolution of European youth policy, both of the Council of Europe and the European Union.

The most relevant aspect of European Union Law on youth policy, in any case, is not the direct impact of the precepts of the constitutive treaties, but the important development of an EU soft-law. This gives rise to an authentic driving force of inspiration and support (economic, especially) for public authorities in Spain: much of the political initiatives on youth in recent years have to do with the European Union's youth policy (Erasmus+ Youth, the EU Youth Dialogue –previous 'Structured Dialogue'– or the Youth Guarantee, among other salient initiatives). This policy is sustained and contained in different norms, especially of soft law, that is, in a set of true Law, but whose compliance is not binding for the Member States (however, budgetary rules of the programs are mandatory, when someone participates in them). Among the current soft law of this type, a notable example is the Resolution of the Council of the European Union and the Representatives of the Governments of the Member States meeting within the Council on a framework for European cooperation in the youth field: The European Union Youth Strategy 2019-2027 (published in DOUE No. 61 of December 18, 2018).

5.2. Soft-law of the Council of Europe on youth policy

From a legal point of view, the classic aphorism of European youth policy seems true: the Council of Europe (CoE) provides the 'head' where the European Union (sometimes) provides the 'strength'. The intellectual development of the European soft law on youth is, to a large extent, gestated more within the Council of Europe than in the European Union, although both institutions cooperate through a specific Partnership on Youth. The Council of Europe may lack the legal and economic strength of the European Union, but its Department of Youth is an important tool for the development of the soft law along with the scientific monitoring on the reality of the sector in Europe. Its work is essential for building evidence-based strategies. There are several autonomous communities that legislate, somewhat implicitly and perhaps unconsciously, following the guidelines offered by the Council of Europe, through Recommendations of its Committee of Ministers, in matters such as information and youth advice, youth work, youth political participation, etc.

The Spanish public authorities should consider as programmatic referents the soft law of the Council of Europe, such as Revised European Charter for Youth Participation, or the new general framework offered by the Youth Sector Strategy 2030 (approved on January 23, 2020).

5.3. Membership of Spain in the Ibero-American Youth Organization and the obligations of the Ibero-American Convention on the Rights of Young People

Regardless of the multiple weaknesses of the process of cooperation or integration of the Ibero-American System (in particular with respect to other initiatives of similar claims, such as those of the European continent or The Commonwealth), two elements cannot go unnoticed in youth Fundamental: Spain is a State party of the Organización Iberoamericana de Juventud, or Ibero-American Youth Organization, and a very relevant Party, in political and financial terms. This organization developed and promoted the Ibero-American Convention on the Rights of Young People. This international treaty, signed in 2005 and in force in Spain since 2008, is the first binding text of specific public international law on human rights of young people in history, closely followed by the African Youth Charter (signed in 2006, although it is not directly relevant to Spain).

If the Ibero-American Space stands out for this instrument of binding law, this is contrasted with the almost non-existent soft law or of guidelines that have had an effective impact on Spanish law on youth policies. In any case, one of the most relevant elements of the Ibero-American Convention is that it clarifies what is the minimum age range, which allows the target population to be recognized for youth policies: from 15 to 24 years old, notwithstanding that States Parties may set wider ranges.

Despite being a mandatory international treaty, and that these treaties in Spain are directly applicable as part of domestic law⁵, most public authorities have ignored the existence of the Convention when they have proceeded to formulate other legal rules, and there are hardly any references to it. This source and its consequences have been analysed by Urbaneja Cillán (2013), among others.

5.4. Influence in Spain of United Nations Law on youth

The United Nations System has not successfully promoted, thus far, a specific international treaty on the human rights of young people. This contrasts with, for example, with the human rights of children (through the Convention of the Rights of the Child, in 1989). As youth and children partially overlap in Spanish law, and in most legal systems at least for a few years (usually from 12 or 14 to 17 or 18), this International Law on the Rights of Children also serves as support for a less developed international youth policy law. In short, almost all of the United Nations Law on youth policy (soft law) is based on the Convention on the Rights of the Child (CRC, that is binding law). The exception is Resolution 2250 (2015) of the UN Security Council, of December 9, where the Security Council Urges Member States to Engage Youth in Promoting Peace and Countering Extremism, thus dealing with the participation of young people in peace processes and in global security. This Resolution is incompatible with the age range of the CRC, and it addresses specific matters whose practical significance in Spanish law remains to be seen, if indeed it occurs.

The development of the United Nations System in the field of youth policy that has had an impact in Spain has been minimally explained in Hernández-Diez (2018). On a historical level, the impact of the International Year of Youth of 1985 was very relevant, because it provided an excuse to favour the first wave of legislation of the autonomous communities on youth, creating 'youth councils' in their respective territories. More recently, the impact seems to be less important, seeing as Spain does not even participate in programs such as Youth Delegates, and only does so irregularly in similar ones, so far, without the support of a specific national legal development.

6 THE GENERAL TYPES OF YOUTH POLICY NORMS APPROVED BY SPANISH PUBLIC AUTHORITIES

The norms produced by the Spanish public authorities under the Constitution can be classified in different ways. A synthetic scheme on the political organization and formal sources of Spanish law can be found in Álvarez García & Arias Aparicio (2018).

For the purposes of this study, it is appropriate to refer at least two: 1) by their status or level in the hierarchy of norms (that is, the force to subdue the validity of other lower rules); and 2) by the public authorities that adopt them. All of these legal norms must comply with the Constitution. This Basic Law foresees that the people's will is represented by the Parliament (Congress and Senate, together known as *Cortes Generales*) and allows it to pass statutory laws, which all the powers of the State must respect while they are in force. If questioned, the validity of these statutory laws is assessed by the Constitutional Court. Governments cannot approve rules contrary to these laws, but can create rules that supplement and develop acts, or that regulate aspects not prohibited by statutory laws or the Constitution. These government rules are generically called regulations. In Spanish law, there are many types of government regulations, and they have different hierarchical levels depending on who approves them. For example, in case of conflict, a regulation approved by the Government as a whole (collegiate body) would prevail over a regulation approved by a single member of the Government (a minister).

Regarding youth policy, in Spain it is possible to find several types of rules according to the hierarchy: both statutory laws and government regulations. Spain is a politically decentralized country, with three main territorial levels (Central State, autonomous communities or regions, and local administration). The regions (seventeen autonomous communities) and the central State have their respective parliaments with legislative authority (they approve statutory laws). These same parliamentary chambers elect the heads of government, and these lead the collegiate bodies with executive power (approving regulations and conducting their respective territorial Administration). Spanish local authorities do not have legislative power, but they do regulate some aspects on youth policies. It is a matter in which competences of the three territorial powers converge, and this results in the fact that, on this issue, there are regional and state Acts (statutory laws), as well as state, regional and local regulations.

If statutory laws are adopted by the State Parliament, they can be: a) organic laws [*leyes orgánicas*], on certain matters, for example, on fundamental rights (Article 81.1 CE); or b) ordinary laws [*leyes ordinarias*], the most frequent. They are a form of organic laws of an extremely specific nature: the so-called Statutes of autonomy, which are the constituent and basic norm of the seventeen autonomous communities (they are passed by both State and regional legislature). The Statutes of autonomy include the jurisdiction, powers or competencies assumed by the different autonomous communities, and the subject of 'youth' has been included (explicitly or implicitly) in all the Statutes.

Autonomous communities can pass statutory laws on youth policy, as will be seen later. These norms of the autonomous communities are exclusively ordinary laws, and cannot deal with matters reserved for organic law. As young people are holders of fundamental rights, just like any other citizen, it is possible to find some specific rules on the exercise of fundamental rights by young citizens in some (always national)

organic laws. However, most of the legal norms on youth are ordinary laws, and these rarely proceed from the State (in most cases, they are approved in the autonomous communities, according to the matter they regulate).

In a reduced manner, some norms (for example, at times on youth employment policies) are contained in an exceptional type of norms with the hierarchical level of law but which are not formal statutory laws. These norms are adopted by governmental bodies (usually called ‘decrees-laws’ [*decretos-leyes*] in the case of the autonomous communities, or ‘royal decrees-laws’ [*reales decretos-leyes*] in the case of the national government).

In order to supplement the statutory laws and to develop them, the executive branches in Spain have been able to adopt regulations, which can be in many distinct ways. Regarding youth policy, it will be seen that the so-called ‘royal decrees’ [*reales decretos*] are important at the State level and which are, in addition, the regulations of greater hierarchical status, superior to others such as ‘ministerial orders’ [*órdenes ministeriales*] or ‘circulars’ [*circulares*]. Within the scope of the autonomous communities, the so-called ‘decrees’ [*decretos*] (similar to the ‘royal decrees’) have played a fundamental role in the regulation of youth policy, before the existence of many laws, or to develop these once they are passed.

7 LAND ORGANIZATION OF YOUTH POLICY IN SPAIN

As has been seen, the main Administrations responsible for youth policy in Spain are the autonomous communities (regional powers). The Constitution allows the autonomous communities to assume the ‘exclusive’ jurisdiction in matters of youth. This has all been foreseen in their Statutes of autonomy (Hernández-Diez, 2017; Gonzalo Carranza, 2018). The word ‘exclusive’, however, has been conflicting, because it is not a true exclusivity, which implies the impossibility of other territorial administrations (State or local authorities) to take action with their own youth policies. Without intending to solve the difficult Spanish conflicts over areas of competence here, it suffices to say now that the most accepted conclusion by the legal doctrine is that the allocation of responsibilities on youth policy is ‘concurrent’ or ‘parallel’ (Rallo Lombarte, 1992: 116; Hernández-Diez, 2017: 20; Mestre Delgado & Álvarez García, 2018: 43; Zelaia Garagarza, 2018: 890; Gabriel Carranza, 2018: 342). Consequently, there are aspects in which the State can intervene, and others (the majority) that are autonomous responsibility. It is similarly possible for local Administrations (municipalities, provinces or other entities) to take action. This idea was taken up by the Spanish Constitutional Court, when it ruled on a conflict of competences in matters of youth policy (Judgment no. 13/1992, of February 6, Legal Foundation no. 13). Therefore, the exclusivity of the

autonomous communities converts them into the main actors, though not the only public actors validly capable of designing a public youth policy.

7.1. Responsibility of the central state administration

There are two main areas of the State in which true regulation of youth policy has been carried out.

There is a first block of dispersed norms in organic laws on fundamental rights of young people. Because of its importance regarding youth policy, it may suffice to mention the right of young people (from fourteen years old) to create, lead and be part of non-profit associations (without adults guardianship). This right is expressly included in two organic laws (Organic Law 1/2002, of March 22, regulating the Right of Association [LODA], and Organic Law 1/1996, of January 15, on the Legal Protection of Minors). Notwithstanding, the State has had to supplement these by government regulations that clarify the possible existence of specific types of youth organizations of national scope, and regulate administrative aspects (for example, Royal Decree 397/1988, of April 22, which regulates the registration of youth associations).

The second ensemble is comprised of organizational norms, which prepare the powers of the State to carry out a national youth policy, or to channel the participation of young people in the formation of national policies, whether or not they are related to the field of youth itself. This ensemble has two main examples.

The first example of a state or national organizational norm is the set of rules on the Youth Council of Spain (CJE, *Consejo de la Juventud de España*). On the one hand, it is the legal provision that creates an institution that is frequently found in Europe and that acts as a channel of participation for young people through youth organizations, but it is unique in the Spanish form. On the other hand, this legal provision (included in article 21 of Act 15/2014, of September 16, on the rationalization of the Public Sector and other administrative reform measures) is completed by a regulation approved by the Government of Spain: the Royal Decree 999/2018, of August 3, which regulates the composition and operation of the Youth Council of Spain. The Spanish legal system on the CJE is particularly creative because it has been created as a mixed institution that is both public and private (similar to the chambers of commerce or professional bodies). Formerly it was a public body (between 1983 and 2018), similar to a government agency (QUANGO), but endowed with special political independence. Its current independence is the same as it had until 2018 in political terms, but is now greater in legal terms, although it entails a more complicated situation in economic terms. Regarding its past status and the present and future legal uncertainties about the CJE, see Mestre Delgado & Álvarez García (2018), Álvarez García et al. (2018) and Álvarez García (2018).

The second example is the organization of the Youth Administration at the national level, that is, the government institution that coordinates and manages the youth policy of the central state administration: Royal Decree 486/2005, of May 4, which approves the Statute of the autonomous agency (as an autonomous public body) Youth Institute [*Instituto de la Juventud*]. This institution also exercises certain functions of territorial coordination with the autonomous communities and of external representation of the Government of Spain, in matters of youth policy. Despite the different historical precedents and certain recently failed attempts, at present there are no neither binding nor soft law norms that regulate a possible planning on national youth policy. The interventions carried out are dispersed and are subject to the planning of other non-youth departments (for example, youth employment, prevention of substance abuse, etc.). Perhaps this situation in Spain will change in the coming months or years, given the expectation of the European Union that Member States share their ‘National Plans for Future Actions’, provided for in the EU Youth Strategy 2019-2027.

7.2. Responsibility of autonomous communities

As has already been stressed, the autonomous communities are the public actors mainly responsible for the development of youth policy in their respective territorial areas. This means that there are seventeen different ways of dealing with youth policy. Naturally, common elements exist, but there are many very different ones.

The autonomous communities in Spain are, in order of historical creation: 1) Basque Country, 2) Catalonia [*Cataluña*], 3) Galicia, 4) Andalusia [*Andalucía*], 5) Principality of Asturias [*Principado de Asturias*], 6) Cantabria, 7) La Rioja, 8) Region of Murcia [*Región de Murcia*], 9) Valencian Community [*Comunidad Valenciana*], 10) Aragon [*Aragón*], 11) Castilla-La Mancha, 12) Canary Islands [*Canarias*], 13) Foral Community of Navarra [*Comunidad Foral de Navarra*], 14) Extremadura, 15) Illes Balears, 16) Community of Madrid [*Comunidad de Madrid*], and 17) Castilla y León. There are also two cities with a special statute, which makes them the so-called “autonomous cities” (Ceuta and Melilla, both in North Africa), with a regime similar to the other seventeen communities, but which lack the ability to approve norms with the hierarchical level of law. In the following pages, when dealing with the named autonomous law, we will refer only to the seventeen communities of a regional nature, which have the capacity to legislate. All autonomous communities are composed of one or more provinces (which are a type of local entity that will later be focused on).

In accordance with the rules set forth in the Statutes of Autonomy, youth policy of the autonomous communities can be understood as a marginal part of social policy in communities such as, La Rioja, Basque Country, Cantabria and the Principality of Asturias. It can also be understood as an autonomous policy for

purposes of civic or political inclusion (in line with Article 48 CE, for example in Extremadura or Valencian Community), or for purposes that give greater prominence to social inclusion, in terms of emancipation, access to employment, or transition policies between youth and adulthood life (for example, in Andalusia and Castilla-La Mancha).

The areas of autonomous responsibility are especially clear when youth policy connects with other matters that are also an autonomous competence. This happens, for example, in terms of educational policy, employment policy, housing policy, which means a significant part of the policies related to economic, social and cultural rights. Thus, for all these reasons, it is not surprising that the autonomous communities play a fundamental role in the legal ordering of youth policy. Because of this, a subsequent section (VII) of this study is dedicated to its specific norms.

7.3. Responsibility of local powers

There are different types of local entities in Spain. The most common are municipalities [*municipios*] and provinces [*provincias*].

Municipalities are the basic unit of the territorial organization of the State. In Spain there are a total of 8,131 municipalities, with their respective municipalities governed by a representative collegiate body (the municipal council, *corporación municipal*), chaired by an *alcalde* or president of the municipality. The members of the municipal corporation (often called *concejales*) are elected by direct suffrage every four years.

There are fifty Spanish provinces in geographical terms which are all integrated into an autonomous community (no province belongs to two autonomous communities at the same time). Notwithstanding, only certain provinces have their own provincial Administration (an intermediate administration between the municipalities and the autonomous community), called *diputaciones provinciales*. In the uniprovincial autonomous communities (that is, if the autonomous community is composed of a single province, such as the Region of Murcia, La Rioja, or the Community of Madrid, among others) there is no *diputación provincial*, and the functions of this provincial local administration is exercised by the autonomous community. In the two autonomous communities that are archipelagos there are no provincial councils. Instead, these have island councils, *Cabildos insulares* (in the Canary Islands) or *Consejos Insulares* (Illes Balears), which exercise supramunicipal administrative functions in the area of one or more of the islands of the archipelago. Apart from these general provisions, each of the autonomous communities may undertake the creation of other types of local supramunicipal entities (associations of municipalities, metropolitan areas, shires or *comarcas*, groups of municipalities, etc.).

Both the majority of the municipalities and almost all provincial Administrations (or equivalent local entities) exercise some kind of youth policy of their own. Less frequently, youth policy is the subject of the counties or other intermediate local entities. However, not all municipalities in Spain, nor all provincial councils, can exercise the same functions on youth policy.

The local regime of youth policy in Spain is complex. This is because the entire legal system of the Spanish local entities is of a *bifronte* character (Álvarez García, 2013), that is to say, there are two higher territorial powers capable of regulating the local legal regime. In summary, the State exercises its own capacity to regulate by ordinary Law the 'basic aspects' of the organization of the main local authorities (the municipalities and their respective councils, and the provincial councils, among others). This state-wide norm is found in Act 7/1985, of April 2, Regulating the Bases of the Local Regime (LRBRL). Likewise, in addition to the State, the autonomous communities can complement the LRBRL with their own ordinary laws, expanding the powers of local authorities and regulating non-basic aspects of their organization. It is not easy to distinguish what is typical of the basic regime, and what can be regulated by the autonomous communities regardless of state regulation, but that is not the subject of this study.

In the specific field of youth policy, the LRBRL does not include any competence of specific functions or capacities on youth policy. Yet it does so on other adjoining issues that are frequently integrated into traditional Spanish youth policy (for example, leisure, sport, and some very specific responsibilities in terms of schooling and educational establishments). Nevertheless, all the autonomous communities have established rules in their statutory laws that allow local authorities to carry out some kind of youth policy. This being said, an enormous variety of content depth levels in stipulations exists, passing from being substantially complete to being quite basic. Therefore, the responsibilities of the Spanish local authorities in matters of youth policy mainly depend on the autonomous community in which they are located, even though they may exercise some indirect functions on related matters provided by the State Base Law.

The local youth policy has been set in norms that are always of regulatory status (bearing in mind that local authorities can only approve regulatory norms and never legal norms). The regulations that are approved in the municipalities or the provinces are usually called *ordenanzas*. These can deal with any aspect that falls within their competence in accordance to the laws of the State or those of their respective autonomous community. Therefore, in some autonomous communities it is common to find more rules on youth policy than in others: effective development is asymmetric.

The youth policy *ordenanzas* have been used to regulate the areas that the autonomous communities have entrusted to local authorities. On occasions, they use *ordenanzas* to create specific local public departments on youth policies, or to recognise participatory structures (local youth councils, especially), or even to

adopt measures on local political planning on youth. When no clear regional expectancies have been foreseen by law, the municipalities have also created their specialized departments and have recognized participatory structures. Frequently, especially in larger municipalities, the local Administration has developed norms on associative development, for example through public grants, or through providing public spaces. The existence of a strong local youth policy is not linked to the existence of abundant or clear rules and the converse is also true (on this disconnection between the amount and types of norms and the efficiency of political intervention, see, i.e., Rodríguez, 2016: 39-40).

8 LAW ON YOUTH POLICY IN THE SPANISH AUTONOMOUS COMMUNITIES

The majority of legal norms that govern the organization and development of public youth policies in Spain have their origin in the decisions of the autonomous public authorities; either from legislators or government cabinets. The rules of the autonomous community serve to guide regional or autonomic youth policy, but also serve to force local authorities to adopt certain minimum measures.

Depending on the regulatory range, and consequent effects on the remaining rules, we two main types can be identified: the 'legal norms', included in statutory laws approved by the parliament of each autonomous community, and the 'regulatory norms', included in 'decrees' or 'orders' approved by the governments of autonomous communities. Regulatory norms do not always occurs as a result of the development of a previous legal norm: in the youth policy sector it has been common for governments to pass regulations on different specific matters that, only after several years, have been collected within statutory laws approved by parliaments, in their basic elements. This means that the governments, at times, regulate faster than parliaments.

The increasing approval of more statutory laws, and broader or deeper laws, gives rise to two obvious effects on the normative activity of governments: reducing their margin of discretion, because the parliament sets limits, guarantees and objectives that are imposed on the will of the government and the regulations that it approves. At the same time, legislative development may result in greater political prominence to the youth sector, forcing measures or respecting guarantees that, if no statutory law exists, governments would not consider.

8.1. Types of statutory laws

In general, the laws on youth policy emerged in the autonomous communities, at first, to create or regulate youth councils. This was widespread between 1983 and 1986, coinciding with the first years and initial steps of the autonomous parliaments.

In the 1990s, very few regional legislators passed bills that included the basic content of other previous regulations of a governmental status and nature. An example of this practice is Act 38/1991, of December 30, on Facilities for Activities with Children and Youth (of Catalonia), or the broader Act 8/1995, of April 24, on Youth Promotion and Participation (from the Region of Murcia). In the 1990s, another trend was also initiated, which consisted of including rules on youth policy in the bills on non-juvenile matters (for example, Act 9/1996, of December 26, which approves tax measures on public treasury, public procurement, public estate, public service and legal assistance to public Law entities –of the autonomous community of Andalusia, which, through a clause of this Act, created a specialized autonomous public body or agency, the Andalusian Youth Institute [*Instituto Andaluz de la Juventud*]–).

It was not until the 2000s when, perhaps as a result of the political prominence given by the European Commission White Paper on Youth, of November 21, 2001 – ‘A new impetus for European youth’, the parliaments of the autonomous communities began addressing some general rules in greater detail on youth policy in their respective territories. These new statutory laws forced autonomous governments to deal with legal rules on matters that, until then, had been subject of government regulations, with an enormous scope of discretion. This legislative attention provoked the so-called ‘general laws on youth’ in many autonomous communities, though with distinctly different titles. These are characterized by regulating the general aspects on all youth policy that is to be carried out by the public authorities of that autonomous community (at the regional level and also, normally, at the local level in this territory).

The regulatory activity of the autonomous parliaments has intensified since the early 2000’s. Different types of the aforementioned youth laws have been mixed, crossing contents that contain a certain amount of legal expertise, with reforms of little or doubtful rational justification. The weakness of the rationality behind these reforms, especially those undertaken after the financial crisis of 2008 and justified by the need to restrain public expenditure, has been widely exposed by Mestre Delgado & Álvarez García (2018) and Álvarez García et al. (2018). These are related to the national model that inspired the reforms on youth policies conducted by many of the autonomous public authorities, between 2013 and 2018.

In short, the manner of adopting legal norms on youth can lead to the following classification of norms: 1) general laws on youth; 2) statutory laws with partial regulation of youth policy; 3) rules dispersed in statutory laws dealing with other matters.

General laws on youth are the easiest to identify, specifically because they have names that expressly refer to youth policy. These general laws contain the basic rules that regulate most or all of the youth policy carried out in said autonomous community. Even if they are general laws, this does not mean that additional, more specific rules (legal or regulatory ones) are not needed to complete the general regulation.

Nevertheless, if it is general, it is because most of the sector is regulated in said law. There are general laws that detail very specific aspects, and others that are very brief and which only contain generalities. That is to say, there is no single model of general law on youth, although all parliaments tend to copy certain elements of laws from other autonomous communities that precede them in the approval of these norms. In any case, it is obvious that the general laws represent a codification trend that is expanding among the autonomous communities: there are more and more adopting these types of laws. Currently, there are general laws in twelve of the seventeen autonomous communities:

- 1) *Ley 11/2002, de 10 de julio, de Juventud de Castilla y León* (Act on Youth in Castilla y León).
- 2) *Ley 8/2002, de 27 de noviembre, de Juventud de la Comunidad de Madrid* (Act on Youth in the Community of Madrid).
- 3) *Ley 7/2005, de 30 de junio, de Juventud de La Rioja* (Act on Youth in La Rioja).
- 4) *Ley 10/2006, de 26 de julio, integral de juventud [de las Illes Balears]* ('Comprehensive' Act on Youth in Illes Balears).
- 5) *Ley 6/2007, de 4 de abril, de Juventud de la Región de Murcia* (Act on Youth in Region of Murcia).
- 6) *Ley 7/2007, de 13 de abril, Canaria de Juventud* (Act on Youth in Canary Islands).
- 7) *Ley 33/2010, de 1 de octubre, de políticas de juventud [de Cataluña]* (Act on Youth Policies in Catalonia).
- 8) *Ley Foral 11/2011, de 1 de abril, de Juventud [de Navarra]* (Act on Youth in Navarra).
- 9) *Ley 6/2012, de 19 de junio, de juventud de Galicia* (Act on Youth in Galicia).
- 10) *Ley 6/2015, de 25 de marzo, de Juventud de Aragón* (Act on Youth in Aragón).
- 11) *Ley 15/2017, de 10 de noviembre, de políticas integrales de juventud [de la Comunidad Valenciana]* (Act on comprehensive youth policies in Valencian Community).
- 12) *Ley 6/2019, 29 de marzo, de Participación y Promoción Juvenil [del Principado de Asturias]* (Act on youth participation and youth promotion in the Principality of Asturias)⁶.

The laws of partial regulation of youth policy are similar to general laws, in the sense that its content is entirely oriented to youth policy, yet not all youth policy is regulated by these laws. Some parliaments have chosen to solely approve this type of partial laws, leaving the government wide discretionary powers to adopt regulations without legal limits on the rest of the areas that fall outside this legal regulation. Other parliaments, however, have made the existence of general laws compatible with others that are clearly partial laws, passing them prior to or subsequent to the general law. This compatibility of the two types of norms has produced, in particular, a separate regulation for certain aspects of the administrative organization on youth (specialized agencies and public autonomous bodies, or youth councils). The variety of specific issues that may be subject to partial regulation makes it extremely difficult to delimit a complete

inventory of partial laws. An open and non-exhaustive list of these types of laws, currently in force, is the following:

- 1) In Aragon: *Ley 19/2001, de 4 de diciembre, del Instituto Aragonés de la Juventud* (Act of Aragonese Youth Institute).
- 2) In the Region de Murcia: *Ley 13/2002, de 4 de diciembre, de creación del Instituto de la Juventud de la Región de Murcia* (Act of creation the Youth Institute in the Region of Murcia).
- 3) In Illes Balears: *Ley 21/2006, de 15 de diciembre, de atribución de competencias a los consejos insulares de Menorca y de Ibiza y Formentera en materia de juventud y ocio* (Act of allocation of responsibilities to the Island Councils of Menorca and Ibiza and Formentera in matters of youth and leisure).
- 4) In Cantabria: a) *Ley 4/2010, de 6 de julio, de educación en el tiempo libre* (Act on free time education), and b) *Ley 1/2019, de 14 de febrero, de creación del Consejo de la Juventud de Cantabria* (Act creating the Youth Council of Cantabria).
- 5) In Castilla-La Mancha: *Ley 1/2005, de 7 de abril, de los Consejos de la Juventud de Castilla-La Mancha* (Act on youth councils in Castilla-La Mancha).
- 6) In Catalonia: a) *Ley 14/1985, de 28 de junio, por la que se regula el Consejo Nacional de la Juventud de Cataluña* (Act regulating the National Youth Council of Catalonia); b) *Ley 38/1991, de 30 de diciembre, de Instalaciones Destinadas a Actividades con Niños y Jóvenes* (Act on facilities for activities with children and young people); and c) *Ley 6/2006, de 26 de mayo, de creación de la Agencia Catalana de la Juventud* (Act creating the Catalan Agency on Youth).
- 7) In Extremadura: a) *Ley 13/2010, de 24 de noviembre, del Consejo de la Juventud de Extremadura* (Act of the Youth Council of Extremadura), and b) *Ley 1/2007, de 20 de marzo, de creación del Instituto de la Juventud de Extremadura* (Act creating Extremadura's Youth Institute).
- 8) In the Community of Madrid: *Ley 8/2017, de 27 de junio, de creación del Consejo de la Juventud de la Comunidad* (Act creating the Youth Council of the Community of Madrid).
- 9) In La Rioja: *Ley 2/1986, de 5 de marzo, del Consejo de la Juventud de la Rioja* (Act of the Youth Council of La Rioja).
- 10) In Basque Country: *Ley 6/1986, de 27 de mayo, del Consejo de la Juventud de Euskadi-Euskadiko Gazteriaren Kontseilua* (Act of the Youth Council of Basque Country).

The sum of the general laws and the obvious inventory of partial laws reveal that the autonomous communities have adopted twenty-six laws focused on regulating all or part of youth policy in their respective territories. To these norms, which reflect a minimum number (partial laws may be more, depending on the flexibility of the concept of youth policy), it will be necessary to add others.

The dispersed norms that have been included in statutory laws on other non-juvenile matters are the legal norms of the sector that are the most difficult to inventory. This is because the title of the laws does not allow for anticipating whether or not it contains one of these rules. Therefore, it is necessary to conduct exhaustive and methodical searches through the sites of the seventeen official gazettes of each of the autonomous communities⁷. It is reasonable that these legal provisions on youth exist and are useful to specialize public intervention (for reasons of age) on other relevant sectors: education laws, housing laws, employment policy laws, association laws, etc. However, it would be appropriate for these dispersed clauses to be included as partial reforms of the general laws, if they exist, to preserve the codifying style of the general laws, and facilitate homogeneous knowledge about the sector from a single statutory law which is updated over time. This is not the case, and it is impossible to include in this article, for obvious reasons of space, an even broader inventory of these norms. To illustrate the variety of sectorial laws where these standards can be included, the following examples can be mentioned:

- 1) In laws on employment policy: Title I of Act 2/2015, of December 29, on urgent measures to promote labour insertion, job stability, return of talent and the promotion of autonomous work (from the autonomous community of Andalucía). It mentions several public youth promotion programs.
- 2) In laws on educational policy: Article 5.f) of Act 17/2007, of December 10, on Education in Andalusia. It includes specific educational objectives related to young students, differentiated from the rest of the students of the educational system due to their age.
- 3) In laws on health policy: several clauses of Act 5/2018, of May 3, on the prevention of child and adolescent consumption of alcoholic drinks (of the autonomous community of Extremadura). It also provides for applicable measures beyond the general minority age.
- 4) In laws on housing policy: Articles 5.d) and 45 of Act 9/2010, of August 30, on the right to housing of the [Autonomous] Community of Castilla y León. It includes special protection measures for young people's access to housing.
- 5) In laws on territorial organization within the autonomous communities: Article 7.c) 2 of Act 27/1983, of November 25, on Relations between the Common Institutions of the Autonomous Community and the Foral Bodies of their Historical Territories (from the Basque Country). Entrusted to the Provincial Councils competences on youth policy.
- 6) In laws of administrative reorganization that annually accompany the approval of the general budgets: Articles 143 to 157 of Act 18/2003, of December 29, which approves fiscal and administrative measures (of the autonomous community of Andalusia). It regulates the Andalusian Youth Council as an advisory body of the Administration, eliminating its own separate legal personality provided for in a previous Act of 1985.

Just the names of the different laws mentioned above reflect a wide diversity of matters discussed, and a diversity of political approaches towards public intervention aimed at young citizens. Without conducting a thorough analysis of the content of the laws, it is possible to deduce some general characteristics of the subjects they deal with.

According to the content of these norms, a possible classification of the stipulations of the autonomous legislators is proposed: 1) rules that define technical concepts of youth policy; 2) rules that collect principles, goals or objectives, creating a political program with the hierarchical level of statutory law on youth policy; 3) rules that organize how the Public Administration interacts with the young population; 4) norms that regulate youth social participation, in a broad sense; 5) rules that seek to protect the young population, through declaring subjective rights or other guarantees for citizens based on their (young) age.

The rules on concepts allow for the clarification of the subjective and objective scope of youth policies. For example, they are useful to know that the majority of autonomous communities define young people as being citizens between fourteen and thirty. They also clarify what public authorities understand by youth policies, youth participation, youth information or youth work. These types of norms are more frequent in general laws on youth than in any other type of autonomous community norm (either acts or governmental regulations).

The rules that include goals and principles are very frequent, and are intended to guide the actions of the Government and the Public Administration, although they do not require specific measures. Among these types of rules can be found, for example: a) general principles of Spanish administrative law applied to youth policy (proximity to citizens, coordination and cooperation between public administrations, etc.); b) specific principles of youth policy, elevated to the hierarchical level of statutory law (call for transversality of policies, so that young persons are beneficiaries of the intervention of all departments of Public Administrations, or the invitation for public authorities to take into account youth participation in policy design, among others principles); and c) sectorial goals that define mandatory areas of intervention (what are the Administration's priorities in youth employment, or youth access to housing, or the general obligation to foster associations or unions among students, etc.).

The organizational rules of the Youth Administration can be of many differing, specific types. Some examples of these rules serve the following: a) creation of government departments or agencies (QUANGOs) for the specialized management of youth policy; b) creation of collegiate coordinating bodies between different government departments to guarantee the real transversality of youth policy; c) provision for the participation of different public authorities (local and regional) in collegiate bodies to promote cooperation between different territorial levels; d) creation of catalogues of responsibilities that the

autonomous community commissions the local authorities; e) creation or recognition of specific institutions to channel plural youth participation (youth councils or similar ones); and f) oblige Public Administrations to follow the specific multiannual planning rules for youth policies, and coordinate the plans between different territorial Administrations.

These examples do not imply that there are other types of organizational norms that are not included in this catalogue, but have been highlighted due to the fact that they are the most frequent.

Perhaps for historical reasons, youth social participation is one of the areas where youth policies in Spain have been developed most. This sector promotes and regulates the administrative aspects (not of the fundamental right) of association, as NGOs, the organization of non-formal education activities, or youth volunteering, among other dimensions. The importance of this matter can be appreciated when you consider the existence of a great number of this type of norms, both included in partial laws on youth policy and in general laws. An example of specialized partial law on this matter is Act 4/2010, of July 6, on free time education (of Cantabria).

What the author defines as 'protective' rules are those that include specific obligations of the public authorities in relation to the vulnerable position of certain young people, either because of their age or due to a sum of alternate causes. These rules can be genuine subjective rights (in very few cases), which would mean that young people would have 'legal titles' with which to go to a court or a judge, in the event that public authorities violated or did not recognize such right. Alternately, they could be intermediate guarantees (more frequent than subjective rights), which provide for some minimum expectations: a) by enabling specific channels to defend the position of young people in cases of specific violations of fundamental rights (for example, regulating and convening public support against inequality in access to education, employment or housing; b) by designating bodies for the defence of these rights; or c) by creating interpretative clauses on the protection of rights, i.e. the concept of the "best interests of the child" against any other legal interest, in specific matters of young people under 18).

8.2. Government regulations

For reasons of time and space, this study does not include an analysis of the regulatory techniques used by the governments of the autonomous communities for the approval of regulations with an impact on youth policy. However, a general review of the matters contained in these regulations has been carried out. This search allows us to suggest, for future studies, the hypothesis that the regulatory techniques used could be synthesized into three types of regulatory norms: 1) regulations that develop the provisions of a statutory law on a specific area of youth policy; 2) norms that regulate a certain aspect of youth policy, without explicit legal provision; 3) very specific norms, scattered in regulations on general organization of Public

Administration, or on matters other than youth policy. Notwithstanding, this is a hypothesis that should be confirmed or discarded through more profound studies on the subject.

Admittedly in any field, not only in youth policy, where there exists a lesser level of the legislator, a greater margin of discretion is allowed for the executive branch. This may favour more flexible regulations, and that they can be more agilely reformed. Nevertheless, it also reduces the legal protection of young people and weakens certain guarantees, which can be unilaterally eliminated by the government without the control of parliament. In other words, a lesser amount of legislation on youth policy leaves certain areas exposed to a public authority (the Government) that is less plural and balanced, in terms of political forces, than parliamentary spaces usually are. This has been especially prominent when it comes to regulating the political participation of young people, and preserving the existence of plural channels, sometimes critical, opposite public authorities (Mestre Delgado & Álvarez García, 2018).

Be that as it may, it is obvious that government regulations on youth policy address, in most autonomous communities, the same types of content as the aforementioned statutory laws and other legal rules. In addition to the issues referred to when dealing with laws, the number of regional regulations that address the following matters can be highlighted:

- a) Creation of administrative registers or directories, which register the different associations and other non-profit youth organizations, and rules for the Administration to recognize these private organizations and grant them some type of public help or support.
- b) Creation and regulation of official qualifications for the development of free time activities with children and youth, and for administrative authorizations for organizing the necessary training for such diplomas.
- c) Recognition of youth facilities, in line with the generalized practices in Europe regarding youth hostelling, development of summer camps or volunteer work camps for young people.
- d) Regulation of conditions and ways in which different types of cards can be requested by young citizens, especially the so-called European Youth Card, issued in Spain by the autonomous communities.
- e) General regulation of stable systems of government grants, aids or subsidies, that are periodically called for to promote: 1st) associations and volunteering among young people; 2nd) cultural initiatives and competitions for young people; 3rd) youth employment and self-employment; and 4th) aids to residential emancipation; among other areas.

The different political theories of public intervention on youth can be best appreciated in the field of governmental regulation. Following the scheme of Comas Arnau (2007: 19), we can distinguish between

'transition policies', which seek to contribute to young people becoming adults in conditions of equity; in contrast to 'affirmative policies', often exercised by specialized departments, focused on reinforcing the identity of the young person as such (Casanovas i Berdaguer, 2002); and both the abovementioned are different in turn from the 'selective policies', oriented towards especially vulnerable groups of young people. The latter being especially weak in the Spanish legal system, even though they are amply covered by expert European politicians (Williamson, 2002).

9 MAIN OUTCOMES

The study carried out and exposed in the previous pages allows for the establishment of six main conclusions, which can be refuted or further developed in future studies on the subject:

First. There is a lack of legal studies that organise and analyse the Spanish law on youth policy. There are articles and books that offer specific studies on particular constitutional articles, on national norms (especially on the regulation of the Youth Council of Spain), and on the Statutes of autonomy, but no studies have been found on the normative set, on transversal matters included in different state, regional or local norms, or on specific norms, beyond some isolated cases.

Second. Most of the direct regulation of effective youth policy is carried out in Spain by the autonomous communities. Regional powers should take into account the constitutional priority (which places young people as strategic development actors), this combined with a set of supra-state norms (at European, Ibero-American and international levels).

Third. National public authorities have limited their regulations on youth policy, in recent years, to aspects of administrative organization. However, different rules of special protection for young people exist, which regulate the exercise of certain fundamental rights, and oblige public authorities to respect differentiated forms of exercising civil, political, social, economic and cultural rights. Education and association rights can be highlighted among the latter mentioned.

Fourth. The manner of adopting legal norms on youth can generate the following classification of norms: 1) general laws on youth; 2) laws of partial regulation of youth policy; 3) rules on youth policy scattered in statutory laws dealing with other matters. The Spanish State has only produced legal norms of the third type, the autonomous communities have produced norms of the three types, and local authorities cannot enact statutory laws.

Fifth. The content of the autonomic norms on youth policy (either legal and regulatory) makes it possible to distinguish, in synthesis: a) conceptual rules that favour legal certainty and reduce the indeterminacy of

technical terms in the sector; b) programmatic norms, which convert some political priorities into binding statutory law for public authorities; c) organizational rules, which create specialized departments and agencies for youth policy, coordination bodies, and institutional channels for youth participation; and d) protective rules, which include rights and guarantees in favour of greater intergenerational equity and towards the most vulnerable youth. There are other residual types of rules that may not fit into any of the above categories, and a more detailed study would allow more precise classifications to be established, specifically, on governmental regulation.

Sixth. It seems easier to find organizational and programmatic legal norms, leaving aside the regulatory (governmental) norms for the creation of protective norms (institutional guarantees, public grants, etc.), which are easier to suppress or reform in times of crisis, or according to the change of political criteria.

In summary, the Law on youth policy in Spain is an area in which a deeper and more detailed legal study can be developed. One which would contribute to an improvement in the quality of regulatory provisions, or their application by the public authorities, benefiting, ultimately, the young citizens of the country.

* This work was supported by the European Union and Junta de Extremadura (Government of Extremadura, Spain) under Grant no. IB16097 (Fondo Europeo de Desarrollo Regional – Una manera de hacer Europa).

REFERENCES

Álvarez García, Vicente (2018). Las certidumbres e incertidumbres jurídicas del actual régimen legal del Consejo de la Juventud de España, *Revista General de Derecho Administrativo*, no. 49.

Álvarez García, Vicente & Arias Aparicio, Flor (2018). *Lecciones de Derecho público autonómico, estatal y europeo (Conceptos fundamentales, sistema de fuentes y organización)*. Madrid: Tecnos, pp. 175-185.

Álvarez García, Vicente, Arias Aparicio, Flor, & Hernández-Diez, Enrique (2018). *Participación juvenil organizada y racionalización administrativa (La compleja situación jurídica actual del Consejo de la Juventud de España)*. Cáceres: Universidad de Extremadura, pp. 163-198.

Álvarez García, Vicente (2013). Las reglas constitucionales sobre la interiorización del régimen local en los Estatutos de Autonomía de segunda generación y la problemática naturaleza jurídica de la Ley reguladora de las Bases de Régimen Local, *Revista española de derecho constitucional*, no. 99, pp. 61-97.

Álvarez Vélez, María Isabel & Grande Arana, Juan Ignacio (2003). La juventud en la Constitución española de 1978, *Revista de Estudios de Juventud (Edición Especial: ejemplar dedicado a: Jóvenes, Constitución y Cultura Democrática)*, pp. 11-24.

Antonino de la Cámara, Mar (2018). “Juventud y participación. El valor de su reconocimiento constitucional”, in Dueñas Castrillo, A. I., Fernández Cañueto, D., & Moreno González, G. (coords.),

Juventud y Constitución (Un estudio de la Constitución española por los jóvenes en su cuarenta aniversario). Zaragoza: Fundación Manuel Jiménez Abad de Estudios Parlamentarios y del Estado Autonómico, pp. 57-78.

Arias Aparicio, Flor (2016). Los jóvenes y su posición jurídico-pública, *Cuadernos de Investigación en Juventud*, no. 1, pp. 45-62.

Benedicto, Jorge & Ramos, María (2018). Young People's Critical Politicization in Spain in the Great Recession: A Generational Reconfiguration?, *Youth Studies: Values, Practices and Discourses on Generations*, no. 89, pp. 2-30.

Buisán García, Nieves (2008). "Artículo 48", en Casas Baamonde, M. E. & Rodríguez Piñero, M. (dirs.), *Comentarios a la Constitución Española*. Madrid: Wolters Kluwer, pp. 1113-1118.

Cánovas, Francisco et al. (1984). *Políticas de Juventud y Administraciones Públicas*, Madrid: Centro Nacional de Información y Documentación de Juventud de la Dirección General de Juventud y Promoción Sociocultural.

Casanovas i Berdaguer, Jordi, Coll i Amargós, Joaquim & Montes i Sala, Pep (2002). Razones y tópicos de las políticas de juventud. Qué quieren ser las políticas afirmativas, *Revista de Estudios de Juventud*, no. 59, pp. 11-22.

Cazorla Prieto, Luis María (1985). "Artículo 48", en Garrido Falla, F. (dir.), *Comentarios a la Constitución española de 1978*. Madrid: Civitas, pp. 834-836.

Comas Arnau, Domingo (coord.) (2011). Las políticas públicas de juventud, *Revista de Estudios de Juventud*, no. 94 (monog.).

Comas Arnau, Domingo (2007). *Las políticas de juventud en la España democrática*. Madrid: Instituto de la Juventud.

Del Barco Perianes, F.J. & Manzano Silva, M.E. (dirs.) (2013), *Jóvenes, economía y derecho*. Cáceres: Universidad de Extremadura, pp. 123-139.

Eberhard Harribey, Laurence (2002). *L'Europe et la jeunesse (Comprendre une politique européenne au regard de la dualité institutionnelle Conseil de l'Europe-Union européenne)*. Paris: L'Harmattan.

Entrena Cuesta, Rafael (1985). DICTAMEN (Acerca de la naturaleza y régimen jurídico del Consejo de la Juventud de España). Barcelona: Consejo de la Juventud de España.

Gabriel Carranza, Gonzalo (2018). "La juventud en el seno del Estado autonómico", en Dueñas Castrillo, A. I., Fernández Cañueto, D., & Moreno González, G. (coords.), *Juventud y Constitución (Un estudio de la Constitución española por los jóvenes en su cuarenta aniversario)*. Zaragoza: Fundación Manuel Jiménez Abad de Estudios Parlamentarios y del Estado Autonómico, pp. 335-358.

García Pérez-Blanco, R. (2017). Análisis sobre la naturaleza jurídica del Consejo de la Juventud de Extremadura y la perspectiva comparada con otras Comunidades Autónomas, *Cuadernos de Investigación en Juventud*, 2, pp. 1-30.

Hernández-Diez, Enrique (2020). La legislación autonómica sobre la política pública de juventud, *Revista General de Derecho Administrativo*, no. 53, pp. 1-39.

Hernández-Diez, Enrique (2019). "La participación juvenil en el Derecho de la Unión Europea: construcción de presente y futuro de la ciudadanía europea", en VV.AA., *Paz y valores europeos como posible modelo de integración y progreso en un mundo global / Peace and European values as a potential model for integration and progress in a global world*. Bruxelles: Peter Lang, pp. 181-204.

Hernández-Diez, Enrique (2018). “La participación juvenil en el fortalecimiento de las instituciones y el establecimiento de la paz. Programas de participación juvenil del Sistema de Naciones Unidas”, in Díaz Barrado, C. & Fernández Liesa, C. R. (dirs.). *Objetivos de Desarrollo Sostenible y Derechos Humanos: Paz, Justicia e Instituciones Sólidas / Derechos Humanos y Empresas*. Madrid: Instituto de Estudios Internacionales y Europeos Francisco de Vitoria de la Universidad Carlos III de Madrid, pp. 137-160.

Hernández-Diez, Enrique (2017). El bloque de constitucionalidad español sobre la Administración en materia de juventud, *Cuadernos de Investigación en Juventud*, no. 2, pp. 1-32.

Huteau, Gilles (2015). Les jeunes au prisme du Droit des politiques sociales: un effet «kaléidoscope», *EN3S-École nationale supérieure de Sécurité sociale -«Regards»*, no. 48, pp. 103-110.

Lavchyan, Zara & Williamson, Howard (rev. 2019). *Youth policy essentials*. Bruxelles: Youth Partnership EU-CoE.

Mestre Delgado, Juan F., & Álvarez García, Vicente (2018). *Las vicisitudes histórico-jurídicas del Consejo de la Juventud de España (Desde su Ley de creación hasta el Informe CORA)*. Cáceres: Universidad de Extremadura.

Miranda Gonçalves, Rubén (coord.) (2016). *Administración Pública, Juventud y Democracia Participativa*. Santiago de Compostela: Xunta de Galicia.

Muñoz Fernández, Luis Bernardo (2002). Políticas integrales de juventud versus políticas afirmativas. Presupuestos para un debate, *Revista de Estudios de Juventud*, no. 59, pp. 1-8.

Perovic, Bojana (2016). *Defining youth in contemporary national legal and policy frameworks across Europe (report)*. Strasbourg: Youth Partnership EU-CoE.

Rallo Lombarte, Artemi (1992). La juventud como sujeto titular de derechos constitucionales, *Cuadernos de la Cátedra Fadrique Furió Cerrol*, no. 1, pp. 106-118.

Reverte Martínez, Francisco Manuel (2015). *El derecho fundamental de asociación como instrumento de cambio social: las asociaciones juveniles*. Murcia: Universidad de Murcia (PhD thesis).

Rodríguez, Ernesto (2016). *Políticas de juventud, Administración pública y reforma del Estado en Iberoamérica: experiencias acumuladas y desafíos a encarar* (Texto presentado en la “XVII Conferencia Iberoamericana de Ministras y Ministros de Administración Pública y Reforma del Estado: Oportunidades para la Juventud, un Desafío de Política Pública”, Bogotá, 7 y 8 de julio de 2016, organizada por el Gobierno de Colombia, en su calidad de Secretaria Pro Tempore de la XXV Cumbre Iberoamericana de Jefes de Estado y de Gobierno), pp. 39-47.

Rodríguez, Ernesto (2005). Juventud, desarrollo y democracia en América Latina, *Nueva Sociedad-NUSO*, no. 200 (noviembre-diciembre 2005), pp. 52-69.

Ruiz-Rico, José Juan & Contreras, Manuel (1996). “Participación de la juventud: artículo 48”, en Alzaga Villaamil, Óscar (dir.), *Comentarios a la Constitución española de 1978 (vol. IV)*. Madrid: Cortes Generales – EDERSA, pp. 343-353.

Serban, Adina Marina & Terry Barber (2018). *Insights into youth policy governance*. Strasbourg: Youth Partnership EU-CoE.

Trayter, Joan Manuel (2018). “Artículo 48”, en Muñoz Machado, S., *Comentario mínimo a la Constitución española*, Barcelona: Crítica (Editorial Planeta), Cortes Generales y Tribunal Constitucional, pp. 198-200.

Urbaneja Cillán, Jorge (2013). “La protección de la juventud por el Derecho internacional. Especial referencia a la Convención Iberoamericana de los derechos de los jóvenes”, en Durán Ruiz, F. J., *I Congreso sobre retos sociales y jurídicos para los menores y jóvenes del siglo XXI*, pp. 794-813.

Williamson, Howard (2002). Abordando el alejamiento. Jóvenes con Estatus Cer0: de la investigación a las políticas públicas y la práctica en el Reino Unido, *Revista de Estudios de Juventud*, no. 52 (ejemplar dedicado a: Discurso y Debates en Políticas de Juventud), pp. 86-101.

Williamson, Howard (2016), Complex Knowledge, Coherent Policy? Understanding and Responding to Young People’s Needs in Times of Austerity and Crisis, *Italian Journal of Sociology of Education*, vol. 8, no. 2, pp.213-224.

¹ Available at the website (22th December 2020):

<https://pjp-eu.coe.int/en/web/youth-partnership/glossary>.

² Available at the website (7th January 2020):

https://www.boe.es/biblioteca_juridica/codigos/codigo.php?id=324_Codigo_de_Derecho_Publico_de_la_Juventud&modo=I.

³ Available at the website (5th January 2020):

<https://eacea.ec.europa.eu/national-policies/en/content/youthwiki/overview-spain>.

⁴ It is possible to access the various reports mentioned, and others on specific issues of Spanish youth policy, through the following web link (available January 10, 2020):

<https://pjp-eu.coe.int/en/web/youth-partnership/spain>.

⁵ See ‘Ley 25/2014, de 27 de noviembre, de Tratados y otros Acuerdos Internacionales’, or [Spanish] Act 25/2014, of November 27, on Treaties and other International Agreements, available in the Spanish Official Gazette no. 288, November 28.

⁶ The denomination of the Asturian Law could make suspect that it could be a ‘subsector’ or partial law, but the content corresponds, in fact, with that of the general laws on youth.

⁷ The Official State Gazette (*Boletín Oficial del Estado*, www.boe.es) does not publish all the autonomous norms. It publishes all the statutory laws (acts passed by parliaments) of the autonomous communities, for informational purposes only, but it does not publish any norms adopted by the autonomous executive branch, nor those exceptional ones with legal status and hierarchical level (decrees-laws and legislative-decrees, or *decretos-leyes* and *decretos legislativos*) nor the governmental regulations.