

The Catalan law on cooperation: creation and objectives

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Il·lustració: [Hansel Obando](#)

On 17 December 2001, the Catalan Parliament unanimously passed Law 26/2001 on Development Cooperation. Looking beyond its content, the fact that it has a legally binding regulatory framework and that it involves the creation of new instruments and structures, as well as a clear commitment towards a substantial and sustained increase in resources, was a reflection of both social demand and political consensus.

Through this article, I would like firstly to put the process through which the law was created into context and, secondly, highlight the most innovative and significant aspects of the legal text. As regards its implementation and validity more than twenty years after it came into force, I will make only brief mention. In fact, apart from a short period in Barcelona City Council from 2011 to 2013, I have not had any public responsibilities in this area since 2004, and so my analysis of its long-term effects will be less detailed.

Introduction: decentralised cooperation in the context of the Catalan Government's Foreign Action (1990 to 2003)

Decentralised cooperation includes public resources earmarked for development from sub-state and local entities. In recent decades it has grown and flourished, which has

sometimes led to coordination problems and criticism of its effectiveness. But the truth is that it has been consolidated through local administrations (and regional ones, where they exist) that manage the provision of basic services to people and that can transfer their experience and financial resources to poorer countries; specifically, to their local (and regional, where appropriate) authorities and structures.

Such activities are analysed on a periodic basis by the OECD and receive explicit and growing acknowledgment and attention from the United Nations, which classifies the contributions of sub-state, regional and local entities to international governance into two areas: sustainability, and development cooperation. In both of these areas, it acknowledges the role of these administrations within the structures and multilateral decisions. The concept of “glocal” has come to the fore as it demonstrates the role of local actors in global governance [1].

The drafting and approval of the 2001 law must be situated within this context of decentralised cooperation. However, we must also situate it within the context of Catalonia’s foreign policy as something which, from the outset, was proposed as an instrument to be used for specific purposes, involving the investment of public resources with returns and good public acceptance, as occurs with more traditional policies related to public services or to the promotion and support of economic activities.

Therefore, when constructing this new policy - whose legal basis is underpinned not so much by the concept of powers, but by the concept of defending interests and responding to social demands, alongside international awareness of Catalonia and consideration of its image - it was necessary, firstly, to place the emphasis on foreign activities within different sectors: economy, culture, education, research, infrastructures; actions that are useful for our economic and cultural agents, for research bodies and academia. And secondly, it was necessary to respond to a growing social demand: solidarity with countries and people in a disadvantaged situation. In short, to contribute, to the best of our abilities, and in the areas where we had the most knowledge and experience, to the ethical dimension of globalisation [2].

Cooperation policy has, from the outset, been closely tied in with the rest of Catalonia’s foreign action and has helped to achieve the main objective of such international efforts: that Catalonia should contribute to the network of international relations and to building ongoing relations - political, economic, social, solidary and cultural - with both neighbouring regions and those further afield. The implementation of a cooperation policy has played a key role in the evolution of Catalan political thought. To put it another way: while a continuous question of 20th-century thought was that of what Catalonia could do to modernise Spain, from the end of the last century to the present day, our challenge has been to determine what we can do globally. And solidarity is one of the areas where our contribution can and must be highlighted.

The drafting of the law responded to a social and political demand and also to the Government’s experience in planning and managing cooperation projects, with no clear structure, with no legal basis, but with the will, as far back as the nineties, to be active in

this field.

Until 1979, the World Bank considered Spain to be a “developing country” and, therefore, a potential recipient of aid. The first years after the establishment of the Catalan Government coincided with the structuring of Spanish development policy, with the creation of the State Secretariat for International Cooperation and Latin America in 1985, and the Spanish Agency for International Development Cooperation (AECID) in 1988. It also coincided with the emergence of NGOs, with a strong public impact (1995 saw the creation of the Catalan Federation of Non-Governmental Organisations for Development Cooperation - the FCONGD), and with the first attempts to structure cooperation from Catalan municipalities.

This is not the place for an in-depth analysis of the measures carried out between 1980 and the year 2000, or to provide precise figures, but I will make brief reference to some relevant points:

- More than cooperation, we should talk about humanitarian aid. The Catalan Government participated in and provided material resources and funding for humanitarian campaigns launched as a public reaction to the devastating effects of natural disasters and crises caused by human action.
- To list just a few, and in a certain chronological order: campaigns to combat famine in Ethiopia and Somalia, campaigns in the Great Lakes area of Africa, and the humanitarian disaster in the former Yugoslavia, the campaign to rebuild after the devastation of Hurricane Mitch [\[3\]](#), etc.
- In most of these cases, administrations were acting in response to public movements, either spontaneous or channelled through NGOs. A number of public demonstrations brought together hundreds of thousands of people calling for solidarity.

The new cooperation policy consisted of contributing to the ethical dimension of globalisation

At this stage, therefore, we cannot talk about a structured Cooperation policy, but rather a series of one-off, although ever more frequent actions, and a certain alliance, not exempt from criticism, between the sector and the Government. In any case, without these precedents, the 2001 law would not have been possible. In fact, the activities that preceded the creation of the law generated a body of experience that made it possible to consolidate certain principles that were later reflected in the law itself.

Drafting, negotiation and approval of the Law on Cooperation

As mentioned above, from the second half of the 1990s onwards, this series of more or less discontinuous and even disorganised activities gained continuity and greater organisation in terms of objectives and priorities, shifting towards systematic efforts that would make it possible to:

- Align objectives in order to create real impact.
- Set real, achievable geographic and sectoral priorities.
- Connect cooperation with immigration.
- Work together with multilateral UN bodies.
- Strengthen NGOs, introducing flexible methods adapted to projects.

In short, the aim was to turn this policy into a consensual State policy. As part of this more strategic approach, a Catalan law on cooperation was an ever more pressing need in the medium term. As the preamble to the law says:

We have learned that planning and strategy were necessary in the action of the administrations and that the operational capacities of both administrative action and cooperation agents could be improved; that more coordination and collaboration is needed between administrations and with civil society; that the effectiveness of the aid given and consistency with other Catalan public policies must be guaranteed; that the resources allocated to this purpose must be substantially and progressively increased.

Law 26/2001, of 31 December, on development cooperation.

It would only be possible to achieve this by approving a law with the highest possible level of consensus.

The precedents that led to the drafting of the law involve a series of factors, some of which we have already looked at. Firstly, the legal framework was clarified through the approval of Law 23/1998 of 7 July on “International Development Cooperation”, the preamble to which makes mention of the situation and contribution to cooperation of the Autonomous Communities and Municipalities, while Article 20 states that the actions of these bodies are

inspired by the principles, objectives and priorities established by the Law. As such, it left room for the development of substantive legislation by Catalonia. The preamble to the Catalan Law points to the approval of the State Law as a factor that makes it advisable to “organise, revitalise and strengthen” the sector by means of a legislative instrument. In order to avoid any conflict, the same preamble makes explicit mention of respect for the principles, objectives and priorities established by the Spanish Law [4]. On the other hand, the fact that Statute of Autonomy of Catalonia does not specify who shall be competent in this area (neither does the Constitution grant competence in favour of the State), did not constitute a major problem [5] [6] .

Secondly, the strong social demand for a Catalan law on cooperation was channelled through the Cooperation Advisory Council of the Generalitat de Catalunya, created in 1995, the composition of which guaranteed significant participation on the part of the Catalan Federation of NGOs.

As a decisive precedent for the law, mention should also be made of motion 101/V of the Catalan Parliament on Cooperation and Development policy of 13 May 1998, which, among other things, urged the Government to “Present, during the current legislature, a Catalan cooperation bill”.

During the drafting phase of the bill, a social and political consensus was worked out between the institutional agents, the NGOs and the new cooperation agents

It is worth noting that both during the drafting phase of the bill by the Government and during the parliamentary process, a social and political consensus was reached, with continuous consultations with institutional agents (the Government and the entities under it, and local entities), NGOs, and what were then referred to as the new cooperation agents: universities, trade unions, professional associations and business associations.

The political consensus was generated through a negotiation process dominated by a strong sense of institutionalism, both on the part of the Government and the opposition, which allowed the law to obtain the unanimous vote of the entire Catalan Chamber on 17 December 2001 [7].

Aspects of the Law

The Law, as expressed by the segment of preamble included above, was designed to be an instrument that would make it possible to build a policy in this area, to give it a legal basis and avoid subsequent cutbacks; the aim, therefore, was to legally safeguard the Development Cooperation carried out by the Generalitat. A second effect, also purposely created, was to guarantee a significant, ongoing increase in resources [8]. Not so much

because this was what was established by the legal text, but as a logical effect of approving a legally binding rule, as this was a clear step forward that merited a change of budget.

The Law introduced numerous innovations in response to multiple objectives. These include two I mentioned in the preceding paragraph and other more sectoral ones: organisational, instrumental and conceptual. Some had specific and immediate results, such as the creation of the Catalan Agency for Development Cooperation and the approval of the First Master Plan (and subsequent versions).

If I look back and recall from memory, and try to form some kind of schematic summary, I might be so bold as to say that those of us who worked on and negotiated the Law had three main objectives in mind (the order in which I mention them here does not indicate their importance):

1. Firstly, to provide the Catalan Government with the appropriate instruments for developing a cooperation policy with a strategic perspective and a forecast of increasing resources. From the organisational point of view, the most important thing was undoubtedly the creation of an instrument with all the guarantees of the public sector, but which would be more agile and allow greater interaction with the sector. This idea took shape in the form of the Agency, defined as a publicly owned organisation with its own legal status and which operates in accordance with private law, following the model that had been adopted by the majority of bilateral cooperation agencies [\[9\]](#).

After the creation of the Agency, the second objective was to guarantee transversality and coherence, and thus the involvement of all the relevant departments and bodies in the activities and objectives of Catalan cooperation. Lastly, it was necessary to clearly define where the political responsibility and management would be within the Government. Furthermore, the Law established the direct involvement of the Parliament itself, beyond its role as a body for control and debate, by highlighting cooperation as a state policy [\[10\]](#).

2. To focus cooperation on the achievement of identifiable and relevant results. Even though the law implicitly required that the Government spend more resources on cooperation, Catalan institutions assumed that the money, despite the fact that this was to be increased and even multiplied, would always be limited, with the risk that Catalan cooperation policy would become irrelevant if efforts and projects were spread too thinly. Therefore, the law established two principles that would act as the cornerstone of an effective cooperation system with a lasting impact. Firstly, concentration. Efforts should be focused on specific areas and regions considered as priorities. The vast majority of resources would be spent in the priority countries and in the designated sectors. Article 5 of the Law established the priority countries and peoples and also the sectoral priorities. The second principle was strategic planning. These priorities should be set out in an implementation document and, in order to achieve the greatest effectiveness, the time scale should be longer than that established in a call for proposals or an annual work programme.

With this purpose in mind, Article 8 of the Law regulates the four-yearly Master Plan, which establishes geographical and sectoral priorities linked to the budget forecast. The annual plans must then be in accordance with the Master Plan [\[11\]](#). The provision that the Master Plan should be approved by Parliament helped to ensure it would be a strategic plan distanced from political options and positions, and guaranteed that changes between Master Plans would mark an evolution, but not a break, in the priorities established for cooperation.

3. The Law was passed in a country with a strong sense of solidarity and a long tradition of associations. In fact, as I have already said, it was partly an appropriate institutional response to a widespread and deeply rooted social demand. From this starting point, Development Cooperation could not be established as simply another public policy, decided and implemented by the Government, either directly or through private organisations, but with the role of these being merely to implement the policy. The Law assumes that the role taken on by the public sector must be one of complementing while at the same time promoting and supporting the solidarity of society, giving an important role to NGOs, not only as the recipients of subsidies and executors of projects, but also in the planning stage, in the choice of priorities and actions.

With its own specific characteristics that differ significantly from what is normally understood nowadays as public-private partnership, which refers more to financial or business projects, the objective of the Law was clearly to promote joint work by the administrations, the Catalan Government and also local Catalan organisations, either individually or grouped together within the Catalan Fund for Development Cooperation, and the private actors involved in Cooperation. That is to say, the sector, in other words NGOs, and what were then considered to be new actors.

Certainly the Law contains other equally innovative and also important aspects. Among others, the consecration of the principle of coherence, the detail of the instruments of Cooperation, the implication of the Catalan Cooperation in the global policy of Cooperation, the promotion of the volunteering and at the same time the professionalisation of the sector through the training.

The law set out two principles to ensure an effective system of cooperation with a lasting impact: concentration and strategic planning

Other analysts might highlight other aspects above those I have mentioned here, but the fact is that, based on what were then my responsibilities in this Law, these appear to me to

be the three main challenges that needed to be addressed through the creation of a Law.

The Law twenty years later

The envisaged pace of development of Catalan public Cooperation was severely curtailed by the financial crisis at the end of the 2000s and the subsequent cuts in public spending. This even cast doubt on the need for the instruments for implementing Development Cooperation and, above all, on the size and scope they had taken on, and it was some years before the figures recovered. With some exceptions, such shrinkage was the general trend in Europe, which further distanced itself from the objective of devoting 0.7% of the wealth of developed countries to poorer nations.

Meanwhile, multilateral organisations have linked development much more clearly to economic growth and the creation of local economic activities that guarantee the eradication of poverty and avoid mass migration due to economic causes. They envisage growth under the paradigm of sustainability, something that is essential in the context of the climate emergency. It will be a very difficult balance to achieve: the less developed countries must climb out of poverty while at the same time tackling the ecological, climate and energy transition.

The major challenge faced by Catalan Cooperation is to maintain its effectiveness and continue contributing to development within this new context. The main objectives of the Law are still fully relevant, but it may be necessary to bring it up to date, adapting the instruments and priorities and giving a clearer role in the design and implementation of Cooperation to organisations and structures that did not yet exist twenty years ago.

REFERENCES

- 1 — See the report by the OECD Department of Statistics entitled “Aid extended by Local and State Governments”. (Dac Journal 2005, Volume 6, no. 4). In relation to the United Nations, see, “The Role of Local and Regional Authorities in the UN Development Agenda Post-2015” (David Satterthwaite et al., CGLU, 2013). See also the “New Urban Agenda”, approved in Quito in October 2016, by the Habitat III conference.
- 2 — Catalonia has an international solidarity movement with a broad social base and NGOs with a strong international presence. Its role was undoubtedly prominent in the innovations introduced through the 2001 Cooperation Act.
- 3 — The response to Hurricane Mitch was probably the first action of a certain size that, together with the provision of humanitarian aid, also had a focus on development. The Government sent emergency aid and also built four schools in Nicaragua, Honduras and Guatemala.
- 4 — In fact, the acceptance of these principles, objectives and priorities did not pose any problems, as they are widely accepted as the basis for cooperation.

- 5 — Development cooperation is not affected by the fact that international relations are reserved in favour of the Spanish State under Article 149.1.3 of the Constitution, which the Constitutional Court has limited to *ius contrahendi* and *ius legationis*, stating that it does not prevent the Autonomous Communities from carrying out activities with international relevance.
- 6 — Article 51, point 2 of the Statute of Autonomy of Catalonia of 2006, on Cooperation for Promotion of Peace and Cooperation for Development, states that: “*The Generalitat shall promote cooperation actions and policies for the development of peoples and shall establish emergency humanitarian aid programmes*”.
- 7 — In the 6th legislature, the Parliament was constituted by 56 members from the CIU party, 52 from the PSC, 12 from ERC, 12 from the PP and 3 from Iniciativa per Catalunya Verds.
- 8 — The budgetary cutbacks implemented after the 2008 crisis turned around the trend of earmarking a growing amount of funds from Catalonia’s budget for cooperation, and it has taken years for the trend to become re-established. The cutbacks were so significant that they cast doubt over the usefulness of the Catalan Agency for Development Cooperation.
- 9 — Law 31/2002 of 30 December on fiscal and administrative measures gave rise to the Catalan Agency for Development Cooperation (Section Five, Articles 50 et. seq.). Pursuant to Final Provision Two of this Law, the Government approved Decree 236/2003 of 8 October for the approval of the statutes of the Catalan Agency for Development Cooperation.
- 10 — As shall be seen, the main planning instrument, the Master Plan, is approved by the Parliament.
- 11 — According to Article 8 of the law, the master plan must be approved by Parliament. The first Master Plan was approved in February 2003, for the period 2003-2006. The fifth Master Plan 2019-2022 is currently in force. Predictably during this year 2022 the Plan 2023-2026 will be prepared.



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