International Review of Law & Economics 79 (2024) 106212

Contents lists available at ScienceDirect

International Review of Law & Economics

journal homepage: www.elsevier.com/locate/irle

No War of Courts in the protection of fundamental rights: The case of *amparo* appeals in Spain

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ARTICLE INFO

JEL classification:
K38
K40

Keywords:
Constitutional complaints (*recursos de amparo*)
Fundamental rights
Constitutional Court
Supreme Court
War of Courts

ABSTRACT

This paper econometrically tests the possible existence of a War of Courts when the Spanish Constitutional Court (CC) decides on constitutional complaints (*recursos de amparo*), filed by citizens against the violation of a fundamental right or freedom by the Supreme Court. Exploiting a unique database comprising 404 *amparo* appeals rulings issued by the Spanish CC for the period 2015–2019, we have carried out various estimates whose results do not confirm the hypothesis of the existence of such a War of Courts, despite the fears expressed in the legal doctrine on this subject. On the contrary, the results suggest that the CC maintains a favourable attitude towards the Supreme Court, specifically when the ruling is issued by the Plenary of the CC. However, the estimates do not allow us to conclusively reject the existence of such a conflict between the CC and other bodies of the Judiciary besides the Supreme Court.

1. Introduction

The Kelsenian system of judicial review concentrates the power of constitutional review in a judicial body, the Constitutional Court (CC), which is outside the judicial branch of government. CCs built upon this system usually intervene, in abstract and concrete cases, to determine whether laws are in accordance with the Constitution, to settle conflicts of competence between different administrations and to resolve constitutional complaints, that is, whether any branch of government has violated any fundamental right or freedom of citizens.

There is a growing literature analysing the behaviour of Kelsenian CCs when ruling on abstract constitutional review cases, based on the conventional legalist, ideological and strategic models (Epstein, Landes and Posner, 2013). However, within this same Kelsenian framework, there is hardly any evidence on the factors explaining CCs' decisions when they rule on concrete constitutional review cases in which they act as citizens' last line of defence (hence the Spanish term for constitutional complaints: *recursos de amparo*, literally "appeals for protection") against violations of their fundamental rights and freedoms by any of the three branches of government: legislative, executive and judicial.

Yet this is a very promising field of research, because it enables an empirical analysis of the CC's relationships with the three branches of government, a relevant topic on which empirical evidence is also very scarce (Garlicki, 2007; Garoupa and Ginsburg, 2011). In fact, whether or not a constitutional complaint is granted can be, and sometimes is, interpreted as a potential conflict between the CC and the branch of government whose decision is being questioned. This is of especial concern in centralized constitutional review settings when the CC overturns Supreme Court's rulings, because "only in those countries (Germany, Spain, Austria, the Czech Republic, Slovakia) that have adopted a genuine concept of constitutional complaint (*Verfassungsbeschwerde*) is the Constitutional Court sufficiently equipped to impose its legal positions on other segments of the judicial branch" (Garlicki, 2007: 67).

Although the mere existence of legal interpretative tensions between CCs and Supreme Courts can be seen as intrinsic within this institutional framework (Garlicki, 2007), competition for jurisprudential supremacy may end up in what the Italian doctrine long ago baptized as *Guerra delle due Corti* (seminally, Iemolo, 1965), referring to the deep tensions arising when the *Corte di Cassazione* tried to bypass (i.e., disobey) the

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https://doi.org/10.1016/j.irle.2024.106212

Available online 6 July 2024

erga omnes effects of the *Corte Costituzionale's* interpretative resolutions. While the war seemed to be over by the early eighties (Romboli, 1999), from time to time the legal doctrine still refers to it with respect to particular cases (Nania, 2004). Similar occasional experiences have been documented for almost every single country where CCs and Supreme Courts do cohabit, especially in those (as Spain) where constitutional courts were consciously promoted as one of the institutional arrangements aimed at strengthening newly-established democracies after autocratic rule (Garlicki, 2007).

The Spanish legal doctrine has also paid a great deal of attention on this issue (Gimeno Sendra, 2001; Méndez López, 2009; Xiol Ríos, 2018; López Guerra, 2021). Soon after democratic restoration in the late seventies, it was precisely a matter of concern how the Judiciary, and specially the Supreme Court as its pinnacle, would apply the supreme normative power of the new-established Constitution over Francoist Law (Rubio Llorente, 1982). While that ideological concern disappeared quite fast, from time to time the legal doctrine still argues nowadays about the existence of an eventual conflict between the CC and the Supreme Court. In fact, when ruling on appeals for *amparo* it is quite common for the Supreme Court "to be sued" (López Guerra, 2021), so that the CC, by upholding an appeal for *amparo*, contradicts the legal arguments of the former.

In this context, the aim of this paper is to contribute to the above lines of research, by empirically contrasting the hypothesis of whether such a war between the Spanish Supreme and Constitutional Courts in the ruling of *amparo* appeals exists. If such a conflict existed in Spain, the probability of the CC's rulings granting *amparo* should, ceteris paribus, increase in appeals in which the violation of a fundamental right or freedom is attributed to the Supreme Court, with respect to those involving other branches of government, which will be reflecting that the CC is imposing its criterion, different from that of the Supreme Court.

The Spanish *amparo* is a very appropriate case study to examine this problem. On the one hand, in the 2015–2019 period covered by our database, about 99 % of the appeals for *amparo* filed (admitted or not by the CC) are related to the Judiciary, according to the *Annual Reports* of the CC. On the other hand, 90 % of the *amparo* rulings refer to cases in which the violation of some right or freedom by the Judiciary has been alleged and, of these, 32 % refer to violations attributed to the Supreme Court.

With the aforementioned objectives, and from a database which we constructed with information from the 404 rulings of the Spanish CC on *recursos de amparo* in the period 2015–2019, we carry out a set of estimates in which the binary dependent variable is the positive or negative verdict of each ruling. The independent variables of interest reflect the relationship of the appeal with the Supreme Court and the professional and ideological background of the Justices; in addition, a set of control variables, both ideological and strategic, are added, which the literature has significantly associated with the behaviour of judges and courts. The results obtained do not support the hypothesis of the existence of a War of Courts between the CC and the Supreme Court, at least from the side of the CC. In any case, deference from the CC to the Supreme Court could be ultimately inferred when the appeal is decided by the Plenary. However, the estimates do not allow conclusively rejecting the existence of such a conflict between the CC and any body of the Judiciary other than the Supreme Court.

This paper contributes to the literature by adding evidence in the two lines of research outlined above. First, the paper adds empirical evidence on the Spanish judiciary focused on concrete constitutional review, taking into account that the dynamics of *amparo* appeals have not been systematically studied (Garoupa and Magalhães, 2020). And second, this research also contributes to the incipient empirical developments on the theory of judicial versus constitutional courts (Garoupa and Ginsburg, 2011).

After this introduction, the paper is structured as follows. Section 2 presents the theoretical framework in which the empirical exercises are based. Section 3 briefly summarises the literature on the topics covered by the paper. Section 4 describes how the appeal for *amparo* works. Section 5 presents the database we have constructed specifically for this research. Section 6 shows the specification of the application performed and presents and discusses its results. The final section collects the main conclusions of the paper.

2. Theoretical framework

As Garlicki (2007: 49) vividly explains, the evolution of modern constitutionalism "demonstrate that no genuine separation of constitutional jurisdiction and ordinary jurisdiction is possible in a modern *Rechtsstaat*. The new role of constitutional norms may be beneficial for the protection of individual rights and liberties, but it also complicates, to a considerable extent, relations within the judicial branch". The immediate consequence of concrete constitutional review is that it may exacerbate Constitutional and Supreme Courts' differences in terms of their legal positions, paving the way for legal interpretative conflicts between the two Courts, given that both Courts interpret the Constitution, as well as ordinary statues (Garlicki, 2007). A deep competitive scenario in terms of legal interpretative criteria between Constitutional and Supreme Courts nowadays can be understood in line with what the Italian doctrine coined *Guerra delle due Corti* (Garlicki, 2007). In a similar vein, Garoupa and Ginsburg (2011) argue that the objective of the CC in this context is to achieve and enhance normative authority over the Judiciary, and that the pursuit of this reputation may create an aversion to dissent within the CC.

If the above framework is adequate to explain the relations between the CC and the Supreme Court in Spain, we can put forward the following hypothesis: within the domain of *amparo* appeals, if a conflict between Courts exists, the probability of the CC's rulings granting *amparo* will, ceteris paribus, increase in appeals in which the violation of a fundamental right or freedom is attributed to the Supreme Court, with respect to those involving other branches of government, which will be reflecting that the CC is imposing its criterion, different from that of the Supreme Court.

If the evidence does not confirm the above hypothesis, the literature offers at least three results that could explain a cooperative relationship between the CC and the Supreme Court; the first two respectively refer to Justices' professional background and selection process and can be embedded in the strategic model of judicial behaviour; the third one, related to Justices' ideology, can be ascribed to the attitudinal model.

First, constitutional Justices are often career Magistrates themselves (in Spain, even of the Supreme Court itself), which poses the question about their true will to overturn, or otherwise, other colleagues' work. The Spanish legal doctrine shows an ambivalence position on the issue (Gimeno Sendra, 2001; Xiol Ríos, 2018).

Second, a number of constitutional Magistrates are appointed by the Judiciary itself (in the case of Spain, two magistrates are appointed by the General Council of the Judiciary, the governing body of the Judiciary), presumably affecting these Justices' incentives to resolve disputes against this branch of government (Posner and Figueiredo, 2005; Epstein and Posner, 2016; Tiede, 2020; Hemel, 2021; for the Spanish case, see Garoupa et al., 2021a, 2021b).

And third, if the ideological majority of the justices of the CC and the Supreme Court coincides, one would expect that, to a certain extent, the relationship of conflict between the two Courts would be replaced by one based on cooperation.

These three results should therefore be incorporated into the explanatory model of the relations between the CC and the Supreme Court in Spain. If the estimates of this model do not confirm the hypothesis of the existence of a War of the Courts, but neither the existence of a confluence between Courts derived from the professional or ideological background of the Justices of the CC, we believe that we must take into consideration that the CC might be showing a deferential attitude towards the Supreme Court in *amparo* cases involving the latter.

3. Literature review

Our paper is embedded in the literature on judicial behaviour and is related to two lines of research that have been scarcely treated from an empirical perspective: judicial behaviour in appeals for the protection of citizens' fundamental rights, and the relations between Kelsenian Constitutional Courts and the Judiciary, especially Supreme Courts.

There is ample evidence supporting the complementary importance of the legalist, ideological and strategic models for explaining judges' behavior when dealing with abstract constitutional review within the Kelsenian design of CCs, as well as for providing evidence on judicial review based on the common law tradition.[1] In the case of Spain, there has been a broad analysis of CC justices' behaviour aimed at studying rulings on conflicts of competence between different administrations, namely over decisions on territorial disputes (López-Laborda, Rodrigo and Sanz-Arcega, 2018, 2019); on abstract constitutional review on appeals on the grounds of unconstitutionality against laws, acts and enforceable provisions (Magalhães, 2002; Garoupa et al., 2013; Garoupa et al., 2021a, 2021b); on both types of procedures (Sala, 2010, 2011; Harguindéguy, Sola Rodríguez and Cruz Díaz, 2018); and even considering the whole CC's activity with respect to unanimous decisions (Hanretty, 2012). According to all of these works, and in line with the international literature, the justices' behaviour is affected by legal, ideological and strategic factors, both in verdicts and in reaching or not unanimity.

However, the literature focusing on the behaviour of Kelsenian CCs when ruling on concrete constitutional review, namely constitutional complaints, addressed to the protection of the fundamental rights of citizens in the face of violations of their fundamental rights and freedoms by any of the branches of government, is practically non-existent. In fact, the closest papers to ours are concerned with the econometric analysis of the determinants influencing the behaviour of the Justices in the European Court of Human Rights (ECtHR). The function of this international court is to examine possible violations of the rights recognized by the European Convention on Human Rights, although according to the Convention itself, the ECtHR has only a limited jurisdictional function for the enforcement of its decisions. The two papers investigating the behaviour of ECtHR Justices confirm that the largest source of dissent in the Court is judicial activism or restraint, and that the impartiality of the Justices cannot be dismissed (Voeten, 2007, 2008).

Spanish literature has only conducted a doctrinal legal examination of specific cases of appeals for *amparo* (Ahumada Ruiz, 2000; Navarro Mejía, 2019), including some case-based studies aimed at depicting the war of Courts (Gimeno Sendra, 2001; Turano, 2006; Méndez López, 2009; Xiol Ríos, 2018), or from a descriptive perspective and focused on the study of dissenting votes (Cámara Villar, 1993).

With regard to the literature on the relationship between Courts, its development mainly remains within the boundaries of the legal doctrine (Iemolo, 1965; Garlicki, 2007). To our knowledge, only Garoupa and Ginsburg (2011) have undertaken an empirical approach to this issue, testing whether unanimity and stability help CCs gain doctrinal reputation vis-à-vis Supreme Courts to achieve supremacy, and they obtain preliminary support for their hypothesis.

4. The appeal for *amparo*

The cases brought before the Spanish Constitutional Court can be classified in three categories: (i) conflicts of competence between Administrations or constitutional bodies of the State, (ii) cases in which the constitutionality of legislative provisions and acts having the force of law is at issue, and (iii) protection of fundamental rights and freedoms through the appeal for *amparo*. Given that the focus of this paper is on the latter, we will go into more detail on its regulation.[2]

The appeal for *amparo* is an extraordinary and subsidiary process protecting against violations of rights and freedoms, governed in Articles 14–29 and 30.2 of the Constitution (CE), "originating in the provisions, legal acts, omissions or simple actions of the public authorities of the State, the Autonomous Communities, and other territorial, corporate or institutional bodies, their functionaries or agents" (Article 41.2 LOTC), when all other legal means of protection have been exhausted. The LOTC differentiates between three types of *amparo* proceedings, depending on the branch of government claimed to have violated rights: against decisions by the legislative branch (including the so-called Parliamentary *amparos*, when the violation is alleged by lawmakers), against decisions by the Government or Administration, and against judicial decisions. Table 1 shows the rights and freedoms protected by the appeal for *amparo*.

The appeal for *amparo* begins with the filing of the claim, which must explain which fundamental right or freedom has been breached. The claim must also justify the special constitutional relevance of the appeal. The appeal for *amparo* may only be brought by the person directly affected, by the Ombudsperson (*Defensor del Pueblo*), or by the Public Prosecutor (*Ministerio Fiscal*).

Once the claim is filed, the Court must decide whether to consider it. The claims admitted for consideration will be resolved by a ruling, which may fully or partially grant the appeal, or reject it and deny *amparo*. Decisions on *amparo* may be issued by the Sections (four, each comprising three Magistrates), the Chambers (two, each comprising six Magistrates), or the Plenary (full Court, comprising the twelve Magistrates). The Plenary takes on a case either because some magistrates in the Chamber have recused themselves, or by making use of the power granted by Article 10.1.n) of the LOTC, which allows it to hear "any other matter which is competency of the Court but which the Plenary

Table 1
Rights and freedoms protected by the appeal for *amparo*.

Article of the Constitution	Protected right or freedom
14	Equality before the law
15	Right to life and physical and moral integrity
16	Freedom of ideology, religion and worship
17	Right to freedom and security
18	Right to honour, to personal and family privacy and to one's own image
19	Right to freely choose a place of residence and to move freely
20	Freedom of expression and information
21	Right to assembly
22	Right of association
23	Right to participate in public affairs
24	Right to effective legal protection
25	Right to legality in criminal proceedings
26	Prohibition of Courts of Honour
27	Right to education and freedom of teaching
28	Freedom to unionise and right to strike
29	Right to individual and collective petition
30	Right to conscientious objection

Source: by the authors.

[1] See Epstein and Knight (1998), Segal and Spaeth (2002), Posner and Figueiredo (2005), Halberstam (2008), Voeten (2013), Hirschl (2011), Tiede (2016), Epstein et al. (2013), Epstein and Posner (2016), Hemel (2021).

[2] Regulation contained in Articles 41–58 of Organic Law 2/1979, of 3 October 1979, on the Constitutional Court (LOTC), and in Articles 49 and 114 of Organic Law 5/1985, of 19 June 1985, on the General Electoral Regime (LOREG), which govern what is known as electoral appeal for *amparo*, and which ultimately derive from actions and decisions of the Electoral Administration.

may claim for itself, at the proposal of the President or of three Magistrates, and other matters which may be expressly attributed to it by an Organic Law".

Despite this process being, as stated above, extraordinary and subsidiary (but free of charge, which helps explain why it is so widely used: Padrós Reig, 2019), the appeal for *amparo* has been used since the earliest days of the Court as a kind of general last resort (Aragón Reyes, 1987; Pérez Tremps, 1994; Pérez de los Cobos Orihuel, 2017), and thus thousands of claims are brought every year, especially referring to alleged breaches of Article 24 CE, closely related to the Judiciary (Blasco Soto, 2001). All of this alters both the function of the appeal for *amparo* and the efficient running of the CC, causing excessive delays in resolving cases and forcing the Court to concentrate its efforts on just one of its many tasks. Indeed, one notable set of criticisms of Spain by the ECtHR was for undue delays (Matia Portilla, 2018).

To help resolve this problem, the LOTC was amended in 2007 in order to decrease the Court's workload, reducing the number of appeals considered.[3] Until 2007, the only material criterion available to the Court for not admitting for consideration an appeal for *amparo* was if the appeal obviously lacked content which would justify a decision on the merits of the case. The 2007 reform specifies that an appeal will be considered when "the content of the appeal justifies a decision on the merits by the Constitutional Court based on its *special constitutional significance*, which will be assessed based on its importance for the interpretation of the Constitution, for its application or for its general effectiveness, and for determining the content and scope of fundamental rights" (Article 50.1.b of the LOTC; our italics).

It was not until 2009 (STC 155/2009, of 25 June) that the CC itself provided details on the taxonomy of criteria for acknowledging special constitutional significance. These are:

"a) that the appeal presents a problem or a facet of a fundamental right eligible for *amparo* for which no Constitutional Court doctrine exists;

b) or which causes the Constitutional Court to clarify or change its doctrine, as a consequence of an internal discussion process, […], or due to the emergence of new social situations or changes to regulations relevant to the configuration of the content of the fundamental right, or a change in the doctrine of the guarantor bodies which must interpret international treaties and agreements, referred to in Article 10.2 [of the Spanish Constitution];

c) or when the alleged breach of a fundamental right comes from the law or another general provision;

d) or if the breach of the fundamental right comes from a repeated jurisprudential interpretation of the law which the Constitutional Court considers harmful to the fundamental right and deems it necessary to announce another interpretation in accordance with the Constitution;

e) or if the doctrine of the Constitutional Court on the fundamental right alleged in the appeal is being breached generally and repeatedly by the Judiciary, or there are contradictory judicial rulings on the fundamental right, whether interpreting the constitutional doctrine differently, or applying it in some cases and ignoring it in others;

f) or in the case that the Judiciary is clearly refusing its duty to follow the doctrine of the Constitutional Court;

g) or finally, when the matter in question, while not included in any of the above situations, transcends the specific case because it raises a legal question with a significant and general social or economic impact or has general political consequences, especially but not exclusively consequences which may occur in certain electoral or parliamentary *amparos*" (STC 155/2009, legal basis 2).

Despite this taxonomy, until 2015 the CC did not state the reasons for admitting most of the cases it considered. For example, from 2011 to 2014, fewer than 12 % of the rulings issued explicit the concrete criterion of special constitutional significance (Hernández Ramos, 2016). In the decision *Arribas Antón vs. España* of 19 January 2015, the ECtHR ruled that the CC must state the reason of special constitutional significance found in the appeals declared admissible. The first CC decision after the pronouncement of the ECtHR was STC 9/2015, of 2 February 2015. In only 51 of the 404 decisions issued from 2015 to 2019 (i.e., 12.6 %) the CC does not state why it admitted the appeal, and almost all of these are cases filed before 2015.

5. Database and main descriptive statistics

The database created and exploited in this paper is based on the 404 rulings on *amparo* appeals issued by the CC from 2015 to 2019, and was completed by adding other variables needed for the empirical exercises, such as the professional status of the Justices before their appointment, their age, sex, or their ideological leanings. The first year of the period was chosen because, as explained above, this was when the Court began to state the special constitutional significance justifying the admissibility of each case of appeal for *amparo*. The last year is the year before the COVID-19 pandemic struck. In contrast to the previous decade, when the CC issued over a hundred decisions on appeals for *amparo* nearly every year, in 2015–2019 the average is 81 rulings.

Table 2 shows, for this period, the appeals admitted, the *amparos* granted and, of the latter, how many were ruled unanimously, with the figures displayed according to the different stages of the procedure. In the following, we will focus on the figures of most relevance for the purposes of our paper.

Plaintiffs claiming *amparo* attributed 90 % of the breaches of fundamental rights and freedoms to judicial decisions (Judicial branch), 9 % to parliamentary decisions (Legislative branch), and 7 % to governmental and administrative decisions (Executive branch). There are no notable differences in the level of *amparos* granted (73 %, 77 %, and 81 %, respectively) nor in the unanimity reached in this decision (86 %, 89 %, and 91 %, respectively). However, the results change significantly when the breach of the right is attributed to the Supreme Court (in 28 % of cases). In this case, *amparo* is granted in only 56 % of rulings, and 64 % of these are unanimous, well below the aggregate values shown above.

As for the rights claimed in the appeal for *amparo*, 64 % of the cases allege Article 24 CE as the primary violated right.[4] The percentages of granting *amparo* and unanimity differ very little from the overall data.

In most cases (65 %), the reason of special constitutional significance which is the basis for the CC admitting the appeal, is that the case involves a problem for which there is no Constitutional Court doctrine, or where the doctrine should be clarified or changed (headings a) and b) in the taxonomy shown in the previous section). In this case, the percentage of cases in which *amparo* is granted (and unanimity) is close to average values. According to the *Annual Reports* of the CC, the CC inadmitted more than 95 % of the *amparos* filed.

In the period 2015–2019, 75 % of the *amparos* admitted for consideration were granted, 86 % of them unanimously. There is more unanimity in the *amparos* granted than in those denied (66 %). On average, about two years would pass from bringing the appeal to issuing the decision.

The Chambers rules on about 85 % of total appeals, granting *amparo* in 80 % of these cases, while the Plenary does so in 44 % of its cases. The Plenary is more likely than the Chambers to grant *amparo* when the breach of rights is attributed to the Executive or Legislative branches,

[3] Before the 2007 reform, over 95 % of *amparos* were already being dismissed (Aragón Reyes, 2009; Cabañas García, 2010), in line with what happens in Germany, where an appeal similar to *amparo* was long ago depicted as *müihelos, kostenlos und aussichtslos* ("effortless, costless and hopeless") (Rubio Llorente, 1982: 59).

[4] As the literature explains (Blasco Soto, 2001; Padrós Reig, 2019), many people seem to confuse the right to effective legal protection set forth in Article 24 CE with an imaginary right to have courts rule in their favour.

Table 2
Amparo appeals admitted, granted and granted with unanimity, by stages of the procedure.

Stage			Number of *Amparos* admitted	Number of *Amparos* granted	Number of *Amparos* granted with unanimity
Filing	**Legitimised**	**Person affected**	396	293	250
		Ombudsperson	0	0	0
		Public Prosecutor	8	8	8
	Primary Right Breached	**Article 24**	260	196	164
		Article 14	47	29	21
		Others	106	85	79
	Branch of Government accused of the breach	**Legislative Branch**	35	27	24
		Executive Branch	27	22	20
		Judicial Branch (Supreme Court)	362 (115)	265 (64)	227 (41)
Admission	**Competent Body**	**Sections**	199	168	148
		Chambers	183	125	102
		Plenary	22	8	8
	Reasons of special constitutional significance	**Doctrinal reasons**	263	202	171
		Breach originating in the law	21	12	11
		Fault in the Judiciary	67	60	52
		Public interest	46	33	30
		No reason provided	51	22	17
Decision	**Competent body**	**Sections**	0	0	0
		Chambers	343	274	239
		Plenary	61	27	19
	Ruling	***Amparo* granted / denied**		301 / 103	258 / 68

Note: The totals under each heading do not always coincide with the total number of *amparos* admitted or granted, because there are cases in which more than one fundamental right is alleged to have been violated or where non-compliance by several branches of government is alleged, or where the Constitutional Court admits the appeal on various grounds of special constitutional significance.
Source: by the authors.

but much less so when it is attributed to the Judiciary, especially the Supreme Court. Meanwhile, the Plenary is much less likely to grant *amparos* based on Article 24 CE and grants hardly any where their admission was based on doctrinal reasons or judicial shortcomings.

The above descriptives offer a first indication that the conflict between the Supreme Court and the CC suggested by some literature is not so evident, especially when the Plenary of the CC intervenes in the resolution of the appeal for *amparo*. In the following sections we will empirically test the eventual existence of such a conflict.

6. Application

6.1. Specification

This section will test the hypothesis of the existence of a War of Courts between the Spanish Supreme and Constitutional Courts, for the 404 rulings of the Spanish CC on appeals for *amparo* in the period 2015–2019. To this end, we propose the following specification of a logit/probit model:

$$Pr\ (GRANTING = 1|X,\ Z) = FDA\ (X\beta + Z\gamma) \quad (1)$$

where *Pr* represents probability, FDA is the cumulative distribution function of the standard normal distribution (for a probit model) or the logistic distribution (for a logit model), X is a vector of independent variables of interest and Z is a vector of controls (β and γ are their respective coefficients). The dependent variable, *GRANTING*, takes a value of 1 if the ruling fully or partly grants the *amparo* requested in the appeal, and 0 if the ruling denies it.

The independent variables of interest will reflect, in the first place, whether the appeal is related to the Supreme Court, with the aim of determining whether in this case the probability of the CC granting *amparo* increases, relative to rulings related to other branches of government. Thus, firstly, we include the variable *SC*, which takes a value of 1 if the complaint attributes the violation of a fundamental right or freedom to the Supreme Court; and 0 if it is attributed to any other governmental branch. Secondly, we define the variable *ART.24*, which takes a value of 1 if the right alleged to have been violated is the right to effective judicial protection, which is the right alleged in most cases, and is obviously directly and almost exclusively related to the Judiciary; and 0 if another right or fundamental freedom is alleged.

And thirdly, we construct the variable *DOCTRINE&JURISPRUDENCE*, that shows the possible existence of a doctrinal discrepancy between the two Courts, as the reason of special constitutional significance alleged by the CC for admitting the appeal for *amparo*. That variable takes a value of 1 if that reason is the non-existence of constitutional doctrine or that this should be clarified or changed (i.e., the reasons set out in paragraphs a) and b) of STC 155/2009, of 25 June, legal basis 2) or the presumed existence of a failure by the Judiciary to comply with the doctrine of the CC (i.e., the reasons set out in paragraphs d), e) and f)); and 0 if any other different reason is given.

We also try to include the interaction of *SC* with the other two variables, although, as we detail later, a previous multicollinearity analysis warns us that it is not always possible to make an estimate with all the variables mentioned.

Subsequently, and in accordance with the theoretical framework presented in Section 2, we introduce into the specification the variables reflecting the professional background, selection process and ideology of the Justices, in order to test whether they have any influence on the rulings. The first variable is *%MAGISTRATES*, representing the percentage of career judges in the total Justices taking part in each ruling. The second is *RAPPORTEUR_GCJ*, which takes a value of 1 when the rapporteur of the ruling has been elected on the proposal of the General Council of the Judiciary, GCJ (*Consejo General del Poder Judicial*), and

0 when the rapporteur has been appointed by another branch of government.[5] During the period analysed, no Justices appointed at the proposal of the GCJ were elected President or Vice-President of the CC. Again, when possible, we interact these variables with *SC*.

In order to analyse the possible influence of the ideological coincidence of the CC and Supreme Court Justices on the *amparo* rulings, we have constructed the following two variables: *RAPPORTEUR_LEFT* and *SC*RAPPORTEUR_LEFT*. The first takes a value of 1 if the ideology attributed to the rapporteur is leftist, and 0 otherwise; the second takes a value of 1 if the rapporteur of that ideology intervenes in a case in which non-compliance is attributed to the Supreme Court, and 0 otherwise. As the majority of magistrates in the CC and the Supreme Court (and other bodies of the Judiciary) are attributed with a right-wing ideology (mainly in accordance with the professional associations to which they are affiliated), our hypothesis is that, if the CC's behaviour has an ideological component, when the rapporteur of the case is left-wing, the likelihood of the *amparo* being granted should increase.

Finally, according to the descriptive analysis carried out in Section 5, the Plenary of the CC seems to behave very differently from the Chambers in the cases in which it intervenes and, in particular, in the appeals for *amparo* that affect the Supreme Court. To test the statistical significance of these indications, we introduce two new variables in the specification: *PLENARY*, which takes a value of 1 if the decision was issued by the Plenary, and 0 if it is issued by a Chamber; and that same variable interacted with *SC*.

Following the literature, we have grouped the independent control variables into two groups, according to their degree of connection with some ideological or strategic and collegial factors. With regard to ideological variables, we consider three dummies to identify the ideological aspects which may affect CC decisions. First, we introduce the variable *PP*, which takes a value of 1 if the *Partido Popular* (the main right-wing party) is governing the country at the time of ruling on the dispute, and 0 otherwise, to determine whether the political orientation of the central government can affect the sign of the rulings, in line with the literature (Garoupa et al., 2013, 2021b; López-Laborda et al., 2018). The other two variables group the fundamental rights and freedoms which are most often related, albeit not undisputedly, with a given ideology, to test whether any of these groups has affected the likelihood of *amparos* being granted: *LEFT* takes a value of 1 if the plaintiff is claiming a breach of Articles 16, 21, 22, 28, or 30 of the CE, and 0 if any other right is alleged to have been violated; *RIGHT* takes the value 1 if the plaintiff refers to Articles 15, 17, 18, or 19 of the CE (Table 1), and 0 otherwise.[6]

As for the strategic and collegial variables, we add variables related to the institutional context of the Justices and their strategic behaviour, defined according to the literature (López-Laborda et al., 2019; Garoupa et al., 2021b). Thus, we reflect the personal characteristics of the Justices and the circumstances related to the deliberative process that underlie the interaction between Justices (also closely linked to their professional background). These are *FEMALE_MAGISTRATES*, as the percentage of female Justices over the total number of magistrates involved in each ruling; *NEW_MAGISTRATES*, representing the percentage in each ruling of Justices appointed in the new intake of March 2017; *UNANIMITY*, a dichotomous variable that takes the value of 1 if the litigation was resolved unanimously (no dissenting votes), and 0 otherwise; *TIME*, a variable that shows how many days elapsed from when the appeal was filed until the ruling was issued; and *TREND*, which aims to show the influence of the passage of time on appeal rulings.

The descriptive statistics of all the variables, dependent and independent, are shown in Table A.1 of the Annex.

6.2. Estimates and results

Given that the dependent variable *GRANTING* is discrete, we estimated equation [1] using probit/logit models, finally selecting the one that maximizes the log-likelihood function and presents the best AIC/BIC values.

As a preliminary, we must examine some possible problems with our model. Thus, we must consider the possible existence of a sample selection bias. Our sample consists of all the rulings issued in *amparo* appeals between 2015 and 2019, but, as discussed above, only a small proportion of the appeals filed are admitted for consideration by the CC. However, we think that this limitation should not be a concern when contrasting the hypothesis of the existence of a conflict between the CC and the Supreme Court. As explained in Section 4, the reasons for the admission or non-admission of *amparo* appeals have been precisely defined since 2009, and have been applied and specified in each decision by the CC since 2015, which excludes arbitrary behaviour by the CC in the admission or non-admission of appeals related to a particular branch of government. The numbers seem to support the latter assertion. About 99 % of *amparo* actions are directed every year against breaches of the Judiciary. Although we cannot know what percentage of these appeals are admitted, we do know that appeals against breaches of the Judiciary represent only 85 % of the total number of appeals admitted by the CC. These figures do not seem compatible with a CC bias against the Judiciary; if anything, they might suggest the opposite. In any case, if there were a sample selection problem, we would not be able to solve it, because there is no disaggregated information on the appeals for *amparo* that enter the CC and whether or not they are admitted. In such a case, our results should be limited to affirming the existence or not of a conflict between Courts for the cases admitted by the CC.

We also diagnosed possible multicollinearity problems between the different explanatory variables. Thus, from the initial specification we discarded the variables which could lead to problems of exact or partial multicollinearity. To deal with this latter problem, we excluded variables from the specification which presented a variance inflation factor (*VIF*) above or close to 10. Also, once the remaining variables had passed the above procedure, if there was still significant correlation between certain pairs of variables, we estimated the model eliminating one of the variables to be sure of avoiding multicollinearity problems.[7]

The results of the estimates are shown in Table 3, and do not support the hypothesis of the existence of a War of Courts between the CC and the Supreme Court. In the initial model (column 1) there are two main results. Firstly, although the probability of the *amparo* being granted increases significantly when the claim is admitted on the grounds of non-existence or clarification of the Constitutional Court's doctrine or of the existence of a failure by the Judiciary to comply with the doctrine of the CC, the coefficient of this variable is not significant in explaining the granting of *amparos* when it interacts with the *SC* variable. Secondly, the probability of the *amparo* being granted also rises significantly when the violation of Article 24 CE is alleged, but the sign of the estimated coefficient changes when the violation is attributed to the Supreme Court. Therefore, rather than the existence of a conflict relationship between Courts, these first results suggest a favourable attitude of the CC towards the Supreme Court in some cases.

[5] The criterion for designating the rapporteur in each case follows the rule of "turns established based on objective criteria" (Ahumada Ruiz, 2000: 171).

[6] We had intended to add more ideological variables to show, first, the ideology of most of the Justices in the CC in the period analysed, and second, whether the majority ideology of CC's Justices matches that of the national government. However, the period analysed, 2015–2019, prevents us considering these variables, as there was no variability in the majority ideology of the CC in that period (the majority was always conservative), and also because the variables of matching ideology and *PP* always take the same values.

[7] This multicollinearity problem specifically happens when we introduce simultaneously *SC*, *ART.24*, *DOCTRINE&JURISPRUDENCY*, and the interactions between the first variable ant the other two. The VIF analysis recommends us discarding the variable *SC*.

Table 3
Results of the estimates.[a] Hypothesis of the existence of a War of Courts between the CC and the Supreme Court.

	Coefficient (1)	$\partial P(Y=1))/(\partial Xj)$	**Coefficient (2)**	$\partial P(Y=1))/(\partial Xj)$	**Coefficient (3)**	$\partial P(Y=1))/(\partial Xj)$
DOCTRINE&JURISPRUDENCE	0.61***	0.20***	0.54**	0.17**	0.50**	0.16**
ART.24	0.38*	0.12*	0.39*	0.12*	0.32	
*SC*DOCTRINE&JURISPRUDENCE*	-0.19		0.06		0.44	
*SC*ART.24*	-0.60**	-0.20*	-0.36		-0.04	
SC%MAGISTRATES*			-0.68		-1.25	
RAPPORTEUR_GCJ			0.57*	0.14**	0.65**	0.15***
SC RAPPORTEUR_GCJ*			-0.26		-0.05	
RAPPORTEUR_LEFT			-0.06		-0.07	
*SC*RAPPORTEUR_LEFT*			-0.24		-0.11	
PLENARY					-0.39	
*SC*PLENARY*					-1.22***	-0.44***
PP	0.62**	0.19*	0.66**	0.21**	0.55*	0.17*
LEFT	-0.41		-0.48		-0.46	
RIGHT	0.35		0.40		0.41	0.10*
FEMALE_MAGISTRATES	-3.33		-4.67		-5.29	
NEW_MAGISTRATES	0.86*	0.26*	0.74		0.99*	0.29*
TIME	0.0002		0.0002		0.0003**	0.0001**
UNANIMITY	0.47**	0.15**	0.44**	0.14**	0.40*	0.13*
TREND	0.003**	0.0008**	0.003**	0.0008**	0.003*	0.001*
CONSTANT	-0.76		-0.53		-0.25	
Number of observations		404		404		404
LR χ^2 (*Prob* > χ^2)		70.59 (0.00)		72.98 (0.00)		90.78 (0.00)
Log-likelihood function		-192.81607		-189.71142		-175.49558
Pseudo R^2		0.1593		0.1728		0.2348
AIC / BIC		411.6321/463.6505		415.4228/487.4483		390.9912/471.0195

[a]The table shows, in columns, the value of the estimated coefficient of each variable and the corresponding marginal effect (when its coefficient is significant) over the probability that the endogenous variable takes the value 1.
*** Coefficient/marginal effect significant at 1 %,
** Coefficient/marginal effect significant at 5 %,
* Coefficient/marginal effect significant at 10 %.
Source: own elaboration.

When we add the variables related to the professional origin, selection process and ideology of the Justices (column 2), the previous results are maintained, although the coefficient of the interacted variable *SC*ART.24* is no longer significant. The higher presence of career magistrates in the ruling when the Supreme Court is affected does not seem to affect the probability of the *amparo* being granted. However, this probability does increase significantly if the rapporteur of the ruling has been appointed by the GCJ, although in this case it is not significant that the violation of the right or freedom has been attributed to the Supreme Court. Nor does the ideology of the rapporteur seem to have a significant influence on the outcome of the ruling, even when the case concerns the Supreme Court. Consequently, we cannot confirm the hypothesis of conflict between Courts, and we cannot argue either that the absence of conflict can be explained by the professional or ideological background of the CC Justices.

In the final model, which incorporates the intervention of the Plenary of the CC (column 3), the previous results are also generally maintained, although the coefficient of the *ART.24* variable is now also no longer significant The fact that the ruling is issued by the Plenary does not affect the outcome, unless a breach of the Supreme Court has been alleged, in which case, the probability of the *amparo* being granted significantly decreases.

In summary, the results obtained do not allow us to confirm the hypothesis of the existence of a War of Courts between the CC and the Supreme Court in the resolution of *amparo* appeals, in the period 2015–2019. On the contrary, the estimates suggest the existence of a favourable attitude of the CC towards the Supreme Court, especially when the appeal is decided by the Plenary. This attitude does not seem to be based on strategic or ideological drivers, so we cannot rule out the possibility that it responds to an attitude of institutional deference, at least on the part of the CC.

As for the control variables, in all the three estimates the probability of the *amparo* being granted significantly increases with the passage of time, if the PP governs or if the ruling is reached unanimously. In the last and most comprehensive estimate (column 3), the percentage of Justices appointed in the new intake of March 2017 involved in each ruling, the time elapsed since the appeal was filed until the ruling was issued, and the allegation of the violation of a right or freedom more closely linked to a conservative ideology (as opposed to the other rights susceptible of *amparo*), also positively and significantly affects the granting of *amparo*.[8] These results are in line with previous findings in the literature on the determinants influencing Spanish Constitutional Court Justices' judicial behaviour (Garoupa et al., 2013; López-Laborda et al., 2019; Garoupa et al., 2021a, 2021b).

The above results led us to wonder whether this conflict between Courts could exist between the CC and other bodies of the Judiciary besides the Supreme Court. This is an interesting issue, given that *amparo* appeals can be filed only when all other legal means of protection have been exhausted, which, at the same time, implies that cases involving these other bodies were not able to reach the Supreme Court.

To explore this question, we repeat the previous estimates, but now with the new variable of interest *JUDICIARY*, which takes value 1 if the plaintiff attributes the violation of a fundamental right or freedom to a body of the Judiciary other than the Supreme Court, and 0 if the breach is attributed to the Supreme Court or to any other branch of government (legislative or executive).

The results of these estimates are shown in Table 4.[9] They coincide with those shown in Table 3 for the *amparos* involving the Supreme Court, in terms of significance and sign of the estimated coefficients, but with two main differences. Firstly, when the Plenary resolves the appeal,

[8] Table A.2 of the Annex shows the results of estimating the final model replacing the time trend by time dummies. The results shown in column 3 of Table 3 are substantially unchanged.

[9] We have carried out the same VIF analysis previously described to detect possible multicollinearity problems. In this case, the analysis recommends us not to introduce the *JUDICIARY* variable in isolation.

Table 4
Results of the estimates.[a] Hypothesis of the existence of a War of Courts between the CC and the Judiciary (not Supreme Court).

	Coefficient (1)	$\partial P(Y=1))/(\partial Xj)$	**Coefficient (2)**	$\partial P(Y=1))/(\partial Xj)$	**Coefficient (3)**	$\partial P(Y=1))/(\partial Xj)$
DOCTRINE&JURISPRUDENCE	0.53**	0.17***	0.50**	0.16**	0.57**	0.18**
ART.24	-0.26		-0.22		-0.24	
*JUDICIARY*DOCTRINE&JURISPRUDENCE*	0.04		0.07		-0.02	
*JUDICIARY*ART.24*	0.65**	0.18**	0.64**	0.18**	0.59*	0.16**
%MAGISTRATES			-0.03		-0.53	
RAPPORTEUR_GCJ			0.40		0.55*	0.13**
*JUDICIARY*RAPPORTEUR_GCJ*			0.12		0.22	
RAPPORTEUR_LEFT			-0.12		0.01	
*JUDICIARY*RAPPORTEUR_LEFT*			-0.01		-0.16	
PLENARY					-0.96***	-0.33***
*JUDICIARY*PLENARY*					0.07	
PP	0.61*	0.19*	0.62**	0.19*	0.53	
LEFT	-0.39		-0.43		-0.42	
RIGHT	0.36		0.37		0.40	
FEMALE_MAGISTRATES	-3.56		-4.23		-3.72	
NEW_MAGISTRATES	0.86*	0.26*	0.82		0.88	
TIME	0.0002		0.0002		0.0003*	0.0001*
UNANIMITY	0.46**	0.15**	0.47**	0.15**	0.38*	0.12*
TREND	0.003*	0.001**	0.003**	0.001**	0.003**	0.001**
CONSTANT	-0.66				-0.26	
Number of observations		404		404		404
LR χ^2 (*Prob* > χ^2)		69.29 (0.00)		71.77 (0.00)		90.70 (0.00)
Log-likelihood function		-193.94598		-192.12314		-182.16735
Pseudo R^2		0.1544		0.1623		0.2057
AIC / BIC		413.892/465.9104		420.2463/492.2717		404.3347/484.363

[a]See note to Table 3.
*** Coefficient/marginal effect significant at 1%
** Coefficient/marginal effect significant at 5%
* Coefficient/marginal effect significant at 10%
Source: own elaboration

the probability of the *amparo* being granted is significantly reduced, but this probability is not affected when the breach is attributed to judicial bodies other than the Supreme Court. These results are consistent with the fact that most of the cases in which the Plenary intervenes concern breaches attributed to the Supreme Court, which, as we have seen above (Table 3), reduces the probability that *amparo* be granted. Secondly, while the likelihood of granting *amparo* does not seem to be affected when the violation of Article 24 CE is attributed to the Supreme Court, when the breach of this precept is attributed to the rest of the Judiciary (which occurs in 65 % of the cases), the probability of granting *amparo* increases significantly. This result is the only indication we found of the possible existence of a conflict between the CC and the Judiciary. In any case, what can categorically be affirmed is that the estimates do not show a favourable attitude of the CC towards these bodies of the Judiciary.

With minor changes, control variables behave as in the estimates relative to the Supreme Court.

6.3. Robustness check: individual model

In the preceding Sections, we focused on the position of the majority of the CC as expressed in each ruling. As a robustness test of the previous results, in this Section, we will carry out an individual analysis by examining whether the fact that the violation of a fundamental right or freedom is attributed to the Supreme Court or to another body of the Judiciary affects the way each Justice votes in each ruling.

To this end, we re-estimated specification (1). The dependent variable *GRANTING* takes now value 1 if the Justice has voted in favour of granting *amparo* in full or partially, and value 0 if the Justice has voted against granting the *amparo*. We must point out that because Justices´ deliberations are secret (as required by Article 233 of Spain's Organic Law on the Judiciary), we can only grasp Justices´ disagreement with the majority when they write or join a dissenting vote. In other cases, we assume that the Justice's vote was the same as the overall decision contained in the verdict of the ruling. Thus, our database is made up of the 2651 votes cast by the CC Justices in *amparo* rulings in the period 2015–2019.

The independent variables are the same as for specification (1), but now, whenever possible, they refer to each Justice rather than to the CC as a whole or to the affected decision. We add an ideological dichotomous variable, *MAGISTRATE_LEFT*, to control for the ideology individually assigned to each Justice, which takes the value of 1 if that ideology is left-wing, and 0 otherwise.

Table A.3 in the Annex shows the results of the logit/probit estimates for the model that tries to test the hypothesis of the existence of a War of Courts between the CC and the Supreme Court, and Table A.4, for the remaining bodies of the Judiciary. For simplicity, only the most comprehensive models, which contain all the exogenous variables of interest, are shown. In the interpretation of these results, it should be borne in mind that, as detailed in Section 5, more than 80 % of *amparo* rulings are unanimous, leading the literature to raise the possibility that individual votes may not be adequately reflecting the sincere preferences of individual Justices (e.g., Garoupa et al., 2023).

The results obtained corroborate and enrich those achieved at the level of rulings. For the cases involving the Supreme Court, the hypothesis of the War of Courts cannot be confirmed. On the contrary, the hypothesis of the existence of a cooperative relationship between them cannot be ruled out. For cases involving other bodies of the Judiciary, the individual estimate provides further evidence of the possible existence of a conflictive relationship with the CC, although it also provides evidence indicating that the presence in the rulings of Justices who are professional magistrates mitigates this result. Additionally, and in line with previous literature, several ideological, strategic and collegial factors seem to be very influential in explaining the behaviour of Justices in both estimates.

7. Concluding remarks

There is a large and growing literature on the determinants of the behaviour of judges and Courts in general, and of Constitutional Courts in particular. But there is one topic that has been hardly addressed in this literature, and that is the behaviour of the Kelsenian Constitutional Courts and its Justices in constitutional complaints, namely appeals related to the protection of citizens' rights and freedoms, which in Spain are known as appeals for *amparo*. This is a potentially very fruitful field of research, because it allows for the examination of the Constitutional Court's relations with the other branches of government -legislative, executive and judicial-, since it is to these bodies that the plaintiffs attribute the violation of the fundamental right or freedom that gives rise to the *amparo* action. Special attention should be paid to the relationship between the Constitutional Court and the Supreme Court (or, more in general, the Judiciary), between which, in the words of the legal doctrine, there may arise a War of Courts. This relationship between Courts has been studied theoretically, but empirical evidence is practically non-existent.

It is in this context that this paper has been developed. Using a database of the 404 rulings issued by the Spanish Constitutional Court, in *amparo* appeals in the period 2015–2019, we have carried out various estimates whose results do not confirm the hypothesis of the existence of a War of Courts between the Spanish Constitutional and Supreme Courts, despite the fears expressed in the legal doctrine on this subject. On the contrary, our results suggest that the Constitutional Court maintains a favourable position towards the Supreme Court, specifically when the ruling is issued by the Plenary of the Constitutional Court. This attitude does not seem to be based on the professional or ideological background of the Justices, so we cannot rule out the possibility that it responds to an attitude of institutional deference, at least on the part of the Constitutional Court

However, the results are not so clear when we consider the hypothesis of the existence of a possible conflict between the Constitutional Court and the remaining bodies of the Judiciary, since, in this case, we obtain some results compatible with the existence of such a conflict. In any case, and in contrast to what happens with the Supreme Court, the estimates do not show a favourable attitude of the Constitutional Court towards the Judiciary (although perhaps it does exist on the part of some of its Justices).

Our paper has contributed to filling the existing gap in the literature in the two lines of research mentioned above. On the one hand, it is the first paper that empirically studies the behaviour of the Spanish Constitutional Court and its Justices in the ruling of appeals for *amparo* against the violation of citizens' rights and freedoms. On the other hand, it is one of the few papers that has empirically studied whether there is a conflict relationship between the Constitutional Court and the Supreme Court.

This paper merely initiates research on this topic. The descriptive statistics discussed in Section 5 suggest that the Constitutional Court may have a different position in relation to appeals affecting the legislative and executive branches of government than in relation to those involving the Judiciary, and that the behaviour of the Plenary is, as we have already seen in this paper, quite different from that of the Chambers. These indications open the door to future research in this field.

Data availability

Data will be made available on request.

Acknowledgements

The authors would like to thank the Spanish Constitutional Court, and especially Luis Pomed and Maurino Sánchez, for facilitating the use of the Court's database of case law, as well as the excellent assistance provided by Alberto Macho and Andrés Dueñas in the creation of the database for this work. The authors are also grateful for the comments, suggestions and observations of a reviewer of the Journal, which have substantially enriched the paper.

Annex

Table A.1
Descriptive statistics of the variables considered in the specification at sentence level

VARIABLE	*GRANTING*	*SC*	*JUDICIARY*	*DOCTRINE& JURISPRUDENCE*	*ART.24*	*% MAGISTRATES*	*RAPPORTEUR_GCJ*	*RAPPORTEUR_LEFT*	*PLENARY*
Average	0.75	0.28	0.61	0.65	0.64	0.42	0.12	0.44	0.15
Median	1	0	1	0	1	0.4	0	0	0
Maximum value	1	1	1	1	1	0.6	1	1	1
Minimum value	0	0	0	0	0	0	0	0	0
Standard deviation	0.44	0.45	0.49	0.48	0.48	0.11	0.32	0.50	0.36
Coefficient of skewness	-1.12	0.95	-0.46	-0.63	-0.60	-0.10	2.39	0.24	1.95
Coefficient of kurtosis	2.26	1.91	1.21	1.40	1.36	3.31	6.73	1.06	4.80

VARIABLE	*PP*	*LEFT*	*RIGHT*	*FEMALE MAGISTRATES (%)*	*NEW MAGISTRATES (%)*	*TIME (days)*	*UNANIMITY*	*TREND*
Average	0.63	0.03	0.09	0.17	0.12	749	0.81	202.5
Median	1	0	0	0.17	0	603.5	1	202.5
Maximum value	1	1	1	0.25	0.6	2808	1	404
Minimum value	0	0	0	0	0	1	0	1
Standard deviation	0.48	0.18	0.29	0.03	0.19	509.45	0.16	116.77
Coefficient of skewness	-0.55	5.30	2.83	-3.41	1.32	1.68	-1.55	0
Coefficient of kurtosis	1.31	29.1	9.02	25.03	3.00	6.03	3.42	1.80

Source: own elaboration.

Table A.2
Results of the estimates.[a] Hypothesis of the existence of a War of Courts between the Constitutional Court and the Supreme Court

Complete model with temporal dummies	
	Coefficients
DOCTRINE&JURISPRUDENCE	0.57**
ART.24	0.32
*SC*DOCTRINE&JURISPRUDENCE*	0.52
*SC*ART.24*	-0.09
SC%MAGISTRATES*	-1.45
RAPPORTEUR_GCJ	0.68**
SC RAPPORTEUR_GCJ*	-0.07
RAPPORTEUR LEFT	-0.10
*SC*RAPPORTEUR LEFT*	-0.01
PLENARY	-0.33
*SC*PLENARY*	-1.34***
PP	0.41
LEFT	-0.43
RIGHT	0.42
FEMALE_MAGISTRATES	-5.10
NEW_MAGISTRATES	1.04*
TIME	0.0004**
UNANIMITY	0.47**
d2016	-0.21
d2017	0.38
d2018	0.18
d2019	0.42
CONSTANT	0.05
Number of observations	404
LR χ^2 (*Prob* > χ^2)	93.80 (0.00)
Log-likelihood function	-174.82722
Pseudo R^2	0.2377
AIC / BIC	395.6544/487.687

[a]The table shows, in columns, the value of the estimated coefficient of each variable.
*** Coefficient significant at 1%,
** Coefficient significant at 5%,
* Coefficient significant at 10%
Source: own elaboration

Table A.3
Results of the estimates of the individual model.[a] [b] Hypothesis of the existence of a War of Courts between the CC and the Supreme Court

	Coefficient	$\partial P(Y=1))/(\partial Xj)$
DOCTRINE&JURISPRUDENCE	0.65***	0.13***
ART.24	0.55***	0.10***
*SC*DOCTRINE&JURISPRUDENCE*	-0.18	
*SC*ART.24*	-0.67***	-0.13***
MAGISTRATE	-0.03	
*SC*MAGISTRATE*	-0.03	
RAPPORTEUR_GCJ	1.25***	0.18***
SC RAPPORTEUR_GCJ*	-0.37	
RAPPORTEUR	-0.10	
SC RAPPORTEUR_LEFT*	-0.28	
PLENARY	-0.48***	-0.09**
*SC*PLENARY*	-1.58***	-0.35***
PP	1.16***	0.22***
LEFT	-0.49*	
RIGHT	0.58***	0.09***
FEMALE_MAGISTRATE	-0.24	
NEW_MAGISTRATE	0.61***	0.10***
MAGISTRATE_LEFT	0.24*	0.04*
TIME	0.001***	0.0001***
UNANIMITY	0.56***	0.11***
TREND	0.01***	0.001***
CONSTANT	-2.24***	
Number of observations		2651
LR χ^2 (*Prob* > χ^2)		485.04 (0,00)
Log-likelihood function		-1233.2935
Pseudo R^2		0.2213
AIC / BIC		2510.587/2640.006

[a]See note to Table 3.
[b] We have also tried to estimate this specification incorporating fixed effects per magistrate, but we

have had to discard this strategy due to the severe multicollinearity problems it introduced.
*** Coefficient/marginal effect significant at 1%
** Coefficient/marginal effect significant at 5%
* Coefficient/marginal effect significant at 10%
Source: own elaboration.

Table A.4
Results of the estimates of the individual model.[a] [b] Hypothesis of the existence of a War of Courts between the CC and the Judiciary (not Supreme Court)

	Coefficient	$\partial P(Y=1))/(\partial Xj)$
DOCTRINE&JURISPRUDENCE	0.22	
ART.24	-0.81***	-0,14***
JUDICIARY DOCTRINE&JURISPRUDENCE*	0.48**	0.09**
*JUDICIARY*ART.24*	1.32***	0.22***
MAGISTRATE	0.19	
*JUDICIARY*MAGISTRATE*	-0.46**	-0.09**
RAPPORTEUR_GCJ	0.98***	0.14***
*JUDICIARY*RAPPORTEUR_GCJ*	0.20	
RAPPORTEUR_LEFT	0.03	
JUDICIARY RAPPORTEUR_LEFT*	-0.32	
PLENARY	-1.29***	-0.27***
*JUDICIARY*PLENARY*	0.02	
PP	1.10***	0.21***
LEFT	-0.34	
RIGHT	0.54***	0.09***
FEMALE_MAGISTRATE	-0.23	
NEW_MAGISTRATE	0.54***	0.09***
MAGISTRATE_LEFT	0.21	
TIME	0.0005***	0.0001***
UNANIMITY	0.40***	0.08***
TREND	0.006***	0.001***
CONSTANT	-1.73***	
Number of observations		2651
LR χ^2 (*Prob* > χ^2)		487.41 (0.00)
Log-likelihood function		1272.8035
Pseudo R^2		0.1964
AIC / BIC		2589.607/2719.026

[a]See note to Table 3.
[b]We have also tried to estimate this specification incorporating fixed effects per magistrate, but we have had to discard this strategy due to the severe multicollinearity problems it introduced.
*** Coefficient/marginal effect significant at 1%
** Coefficient/marginal effect significant at 5%
* Coefficient/marginal effect significant at 10%
Source: own elaboration

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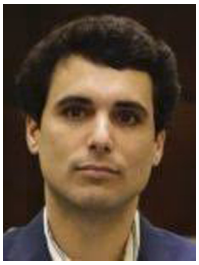

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