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**THE DEPUTATION OF THE GENERAL OF CATALONIA:
AN OVERVIEW OF LEGAL CULTURE AND INSTITUTIONAL EVOLUTION**

**LA DIPUTACIO DEL GENERAL DE CATALUNYA:
UNA PANORÁMICA JURÍDICO-CULTURAL E HISTÓRICO-INSTITUCIONAL**

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It is an honour to have the opportunity to pay tribute through this article to Prof. Antonio Pérez Martín, someone who has devoted all his life to disseminating Spanish legal history, with important contributions to the Catalan sphere, revealing our political and legal roots, and providing us with a point of reference and inspiration for any historical work.

Abstract

The history of some key political and legal institutions of certain countries reflects the legal culture of those countries. Very often, the legal history of the nations of the Iberian Peninsula is analysed from an extremely homogeneous point of view, regardless of significant differences between their legal and political systems. Catalonia exemplified these differences, having a legal culture based on legal pactism and political iuscentrism. It also had a notable body of prominent jurists that described this legal framework in its entirety, in which an institution such as the Deputation of the General of Catalonia, the famous *Generalitat*, appears as one of the most significant manifestations of all Catalan political and legal heritage. The following essay provides a brief and concise analysis of the history of this institution which is indebted to the valuable work of some contemporary authors. It seeks to describe the main features and evolution of the Deputation by examining its institutional structures and legal tradition. It is also intended to serve as a general overview available for European historians, showing some special trends that allow a comparison with other medieval and modern institutions in Europe.

Resumen

La historia de determinadas instituciones políticas y jurídicas clave de algunos países, suponen el reflejo de su propia cultura jurídica. Muy a menudo, la historia jurídica de la Península Ibérica es analizada desde un punto de vista extremadamente homogéneo, sin tener en cuenta con ello las marcadas diferencias existentes entre sus sistemas políticos y jurídicos. Cataluña fue ejemplo de dichas diferencias, pues su cultura jurídica tuvo como base el pactismo jurídico y el iuscentrismo político. También contó con un importante grupo de destacados juristas que detallaron toda esa dimensión, en la cual la Diputación del General de Cataluña, la famosa Generalidad, aparece como una de las más altas representaciones del legado político y jurídico catalán. El presente escrito, breve y conciso, analiza la historia de esta institución gracias al valioso trabajo de algunos autores contemporáneos. Su intención es servir de fuente de información mediante la descripción de las principales características desde sus estructuras institucionales y su tradición jurídica. A la vez también pretende ser una presentación de la institución al servicio de los historiadores europeos, mostrando algunas tendencias especiales para su comparación con otras instituciones medievales y modernas de Europa.

Keywords

Deputation of the General of Catalonia, legal and political culture, medieval and modern institutions, medieval taxation, Catalan history

Palabras clave

Diputación del General de Cataluña, cultura jurídica y política, instituciones medievales y modernas, fiscalidad medieval, historia de Cataluña

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1. Introduction

The General Court of Catalonia in 1283 represented the establishment of the constitutional foundations of Catalan pactism. The main objective of that meeting was to restrict the ordinary jurisdiction of the Prince or monarch.¹ The General Court² was the essential institution of this pactism, summoned by the monarch to treat the main land issues and to agree the laws³ designed to ensure good and effective government and administration of justice. The Prince's jurisdiction was deployed and administered throughout the territory by means of a network of royal officials.⁴

Catalonia, then, was a territory composed of a community of natural persons called the *General de Catalunya* (*Universitas Cathalonie* initially, and later *Generale*). It was represented through the feudal General Courts that were held at the beginning of each year, and in other periods triennially or at similar intervals. The General Court, aside from reaching an accord with the monarch, fundamentally had the function of executing the agreements and the obligation of collecting and paying the economic allocation conferred upon the monarch. These functions were difficult to carry out during the specific days in which the General Court was summoned, all the more so because the long interval between the previous General Court and the current one caused new and complex events and problems to arise. It was undoubtedly this time interval that caused the emergence of the institution known as the *Deputació del General de Catalunya*, the

¹ In the Middle Ages, this term refers to the power of the physical or legal person who had an autonomous position among his peers, and a position of superiority over the people. The Prince, in the function of *princeps-iudex*, is the supreme judge, with the administration of justice as his main duty, guarding what is just: *custos iustitiae*. Today we translate the term *Iurisdictio* as Jurisdiction, although this should be qualified because medieval thought makes it difficult to equalize the term with concepts such as sovereignty, creation of law, or other modern or contemporary political features. Grossi, P., *El Orden Jurídico Medieval*, Marcial Pons, Madrid 1996, pp. 141-143.

² Understood as the assembly of the Estates of the realm, called in Catalonia "*els Braços*", the Arms.

³ As in the English *King in Parliament*, in which the power of the monarch can only be implemented through the meeting with the other two bodies of the kingdom, the spiritual and temporal lords and the commons. Pocock, J.G.A., *El momento maquiavélico. El pensamiento político florentino y la tradición republicana atlántica*, Madrid, Tecnos, 2002, p. 95.

⁴ De Montagut i Estragués, T., *Estudi introductor. Lluís de Peguera "Pràctica, forma i estil de celebrar Corts Generals a Catalunya i matèries incidents en elles"*, Madrid, Centre d'Estudis Jurídics i Formació Especialitzada, Centro de Estudios Políticos y Constitucionales, 1998.

Deputation of the General of Catalonia, as a body with authority delegated from the General Court (specifically from the Estates) because of its absence. The Deputation's main task was to carry out the obligations contracted by the General, which were fundamentally concerned with fiscal and financial matters, together with the control and monitoring of legal compliance. Although at first the commissions were occasional and brief, as time passed they became consolidated as permanent and regular institutions. This phenomenon also occurred in the rest of Europe, with similar institutions such as the College of the Counsellors Deputies of Holland, the *Verordnung* of the Duchy of Bavaria, or the Deputation of the Diet of the Holy Roman Empire.⁵

It is difficult to pinpoint a concrete date of establishment of the Deputation of the General of Catalonia as can be done with other institutions which, due to some decree, act, charter or privilege, were well defined.⁶ We find its antecedents at the end of the thirteenth century, and some theories provide dates. Some authors draw attention to 1283 because this was the starting point of the first delegated commissions. Others, voicing the most widespread opinions, mention two key dates: 1359, when the autonomy and independence of the Deputation from the General Court became evident, and 1413, when its legal framework became clearly delimited and fixed. We are talking, then, about an evolutionary process which shows generically that sometimes the development of concepts and ideas within legal and political institutions is complicated because they evolve through time and their functional areas change. This is clearly the case in relation to the Deputation of the General of Catalonia, the early functions of which changed over time, making it difficult to attribute the same concepts to different periods of the history of the institution. Its role in the fourteenth century was quite different from that of the Deputation that was to start on its path to institutional consolidation in the fifteenth century,⁷ a time when it reached the authentic legal status that delimited its powers and structure, demonstrating its establishment as a body of fiscal government, autonomous and independent of the rest of the institutions of the Principality.

1.1. Origins of the institution, legal thought and custom

The legal experience of the Middle Ages was born of the customary structure linked to the naturalistic dimension of facts, and things: reicentrism. And this was the dynamic for typifying law, which was separated from the subject, focusing on the ordering of things in terms of their unconditioned factuality, because the "thing" has primary requirements, becoming the main feature and material source of the legal system. The "*res*" was the attempt to rediscover the objective dimension of each legal form, disposed to construct the reality from the real, a force that governed the daily survival, and the primary actions. Hence, legal experience was inseparable from reality. Custom was the most objective source, having a bottom-up origin, being the voice of the things itself. Medieval jurists identified and assessed a message from the things as emerging from a second nature "*altera natura*", as glosators and commentarists repeated frequently. The Medieval legal order did not believe in individual action, it was based

⁵ Ferro, V., *El Dret Públic Català. Les Institucions a Catalunya fins al Decret de Nova Planta*, EUMO, Vic, 1987. pp. 243-246.

⁶ Ferrer i Mallol, M.T., *Els orígens de la Generalitat de Catalunya (1359-1413)*, Gencat 2009, p. 9.

⁷ Sánchez de Movellán Torrent, *La Diputació del General de Catalunya (1413-1479)*, GENCAT and IEC, 2004, pp. 100-103.

on the community, and this position gave rise three fundamental things as the expression of the minimization of the individual: land, productive and guarantee of survival; blood, as the reality that created the essential link between individuals, heritage of virtues, faculties and functions; and time, which creates, extinguishes and modifies rights and things regardless of human will. The normative nature of things, and hence of natural actions, was the main real source with the capacity to be projected as a norm for human communities.⁸ Custom was not based on reason and universal knowledge. It was legitimated by antiquity and uses, above written law. The Prince only had the power to interpret usages, to declare law under the customary jurisdiction. This dynamic should be understood as a long process in time, that was forceful in terms of the legitimation of the law, but not practical in some quotidian rapid responses required by the *gubernaculum* side of royal jurisdiction,⁹ as the concerns of the humanistic school later demonstrated.

The feudal system was based on a practical dynamic and mentality, focused on institutional solutions by operative and effective criteria through casuistry. The history of the formation and consolidation of the Deputation of the General of Catalonia serves as an example of how many medieval political administrative institutions stemmed from pragmatic concerns and needs of the time, rather than from political wills that created clearly defined and fixed institutions. In the late thirteenth century, the Deputation was born essentially from the institutional wishes of the Estates to restrict the full powers of the monarch on tax matters. Europe was at that time a place characterized politically by a context of war, and legally by doctrines and categories based on *Ius Commune* and canon law, together with the various *Iura Propria*. Catalonia was an example of these features, characterized by a Crown with very limited funding, resulting in requests for economic aid from the main political actors, and causing a political institutional dialogue that exemplified the legal pactism and political iuscentism that was rooted in the Principality and in the rest of the kingdoms of the Crown of Aragon.¹⁰

The assembly of the Estates of the realm lay at the centre of all these principles, at which the decision was made to create instruments depending on the events and needs of the moment. The creation of the Deputation as an economic commission in charge of the administration of economic contributions granted to the monarch occurred *in extremis* without any royal representative. The General Courts of 1289, 1292, 1300 and 1323 had already created some delegated bodies without royal power in order to collect the agreed taxes. Even so, these delegations never became institutions because of their lack of continuity.¹¹ Therefore, the origins of the Deputation of the General of Catalonia basically lie within the system of the General Court of Catalonia, and its importance within the Catalan constitutional system.

2. Main features of the General Court of Catalonia

⁸ Grossi, P., *El Orden Jurídico Medieval*, pp. 89-91.

⁹ Pocock, *El momento maquiavélico*, pp. 96-108.

¹⁰ Estrada i Rius, A., *Una Casa per al General de Catalunya. A propòsit del VI centenari de l'adquisició de la primitiva casa de la Deputació del General de Catalunya a Barcelona, avui Palau de la Generalitat (1400-2000)*, Barcelona, GENCAT, 2000, pp. 16-20.

¹¹ Ferrer i Mallol, *Orígen i evolució de la Diputació del General*, p. 152.

Most medieval western Europeans were subjects submitted to royal jurisdiction, while they were masters of their own property, which they administered freely. Many monarchies had a limited financial capacity without the ability to establish unilaterally more tax obligations than custom allowed.¹² Hence, they were forced to request aid from the Estates in exchange for some compensation. In Catalonia this financial contribution to the monarchs was voluntary and agreed in General Court. It was known as the donation, and was voluntary to such a degree that the Estates called it a “*donatiu graciós, fet per aquesta vegada tan solament*” (gracious donation, granted only on this occasion) to prevent it from becoming a permanent right of the monarch.¹³ The background to this relationship between the Estates and the monarch is to be found in the county assemblies that appeared as early as the year 1000 and were composed of nobles and churchmen who congregated around the various independent Catalan counts as directors in the conduct of the affairs of the county. The Count of Barcelona, Prince of Catalonia, was a *primus inter pares* political figure among the Catalan counts, and he also had his own assembly, although in the first half of the eleventh century he had supreme authority over the Principality, with far-reaching powers at the military level, home and foreign policy, high justice, tax law, peace and order, and legislative supremacy. The assembly of the Prince became progressively stronger in economic decisions such as monetary matters, debt and credit, and also in the legislative field, as shown by its leading participation in the development and codification of the Usages of Barcelona. The meetings grew in importance, and the name of county assembly was changed to *Curia Regia*. During the twelfth century this assembly met in two different forms, the ordinary one which dealt with more restricted matters, and the solemn one in which the most important policies of the Principality were addressed by the main magnates of the country.

The veritable transformation of these assemblies into a General Court took place in a period of important institutional and political changes, the early thirteenth century. This time saw the incorporation of the third Estate into the *Curia Regia*, providing the representatives of the country’s cities and towns with access to that forum, and making possible a larger economic endowment to a Crown totally immersed in ambitious projects under the expansionist policy of James I the Conqueror. At the end of this century the Crown had insufficient patrimony for the economic sustenance of the Principality, and requested the first royal subsidy in 1288 from the Counsellors of Barcelona, causing the next requests to be made within the General Court of 1289.¹⁴

The year 1288 is witnessed what is thought to be the first general royal financial request embracing the whole Principality, and under the management of an external committee without any intervention from the royal administration. It is important to mention here the *Chapters of the Donation* – the official documentation establishing and broadly regulating the subsidy – as a reflection of the birth of the State’s taxation and its administration. This shows that it was

¹² The most famous limitation of royal power appeared in the English *Magna Carta* of John Lackland. The charter imposed restrictions on the royal powers of taxation, which required the necessary approval of the Council of the realm. In other parts of Europe many monarchies also underwent this weakening of royal power, including Navarre in 1238, Hungary in 1222 and Aragon in 1283. Leca, A., *La république européenne*, Vol 1, Librairie de l’université-P.U.A.M., 2000, pp. 256-257.

¹³ Ferro, V., *La Deputació del General, un organisme creat per les Corts. L’autogovern de Catalunya: els precedents*. Coordinators: Tomàs de Montagut, Josep M. Sans i Travé, Carles Viver i Pi-Sunyer, Fundació Lluís Carulla, Barcelona, 2004.

¹⁴ Sánchez de Movellán Torrent, *La Diputació del General de Catalunya*, pp. 57-61.

impossible for the Crown to establish a tax system unilaterally, so as to exclude the intervention of the Estates. In turn, this means that the Catalan experience resembles that of medieval England, and should be distinguished from the developments in the neighbouring kingdoms of Castile and France, where the Crown could raise taxes unilaterally, at least to some extent. It represented a taxation that was not in the hands of the king, and which was managed by the said external committee. They could impose time constraints on the uplift of the donation, and stop collecting revenues if the rationale for the original donation came to an end. For instance, if war ceased by means of peace or truce, then the taxation was considered cancelled because of the finalization of its motivating cause.¹⁵ Monarchs were progressively forced to request more financial aid for their military enterprises, causing a situation in which the royal legislative supremacy was reduced to some normative provisions such as the privileges and other royal legal instruments that at the same time were submitted to the existing law, most of them subject to parliamentary approval and the provisions of statutes (named constitutions in Catalonia). The monarchy was weakened fundamentally because of the establishment of legal pactism in 1283 and the procedure and regulations of the General Court, and also because of the severe financial reliance it had on the Estates throughout the fourteenth century. That marked the onset of a period of consolidation of the commissions in charge of the collection of the royal donation, and the end of the period in which the Catalan monarch had broad jurisdictional faculties. Now he was limited and economically dependent, a picture that dominated at least the whole of the fifteenth century.¹⁶

The meetings and parliamentary assemblies were not specifically a limitation of the royal power, but rather a consequence of this weakening of the institution of the monarchy. Despite the development of many parliamentary institutions, it is difficult to equate them with the modern function of enacting laws. The augmentation of the authority of parliaments, courts, diets and assemblies was the result of a practical need and also the feudal relationship itself, which established the bilateral link of mutual obligations between lord and vassal. At the same time, the Church formulated the legal relationship, considered the reflection of an absolute and transcendent justice, with the introduction of concepts from its own legislation. The original functions of advising the king in legislative and governmental matters, justice and administration, receiving petitions for redress of grievances, and seeking funding for the monarch, all arose from the general duty of the monarch to consult the General. But subsequently these original advisory functions crystallised into the right to determine whether or not new laws were consistent with existing customary law, and so to determine their validity and binding force. It is worthy of note that Catalonia was a pioneer and a privileged model with respect to other European Courts. It is important to highlight the influence of the movement *Pau i Treva del Senyor* (Peace and Truce of God), an originally ecclesiastical institution that was available to the counts and lent a greater sacral solemnity to the county curia as it was later held within it, not only according sacred authority to the county justice, but also constituting a powerful tool for intervention in the name of public order. This was transferred to the General Court, when in 1235 the Peace and Truce was already held within it.¹⁷

¹⁵ Sánchez Martínez, M., & Ortí Gost, P., *Corts, Parlaments i Fiscalitat a Catalunya: Els Capítols del Donatiu (1288-1384)*, Generalitat de Catalunya, 1997. pp. VI-VII.

¹⁶ Sánchez de Movellán Toront, *La Diputació del General de Catalunya*, pp. 57-61.

¹⁷ Ferro, *El Dret Públic Català*, pp. 187-188.

To understand the power of the constitution of the Peace and Truce of God and its impact on the configuration of the Catalan General Court, we must go back to the process of decline of the Carolingian monarchy, which led to the dissolution of public authority, atomizing power into small local sovereignties. This great power vacuum belonging to the first half of the eleventh century generated a situation of private wars between the nobility, which used agents of domination, the so-called *milites*, and based its actions on violence. A reformist sector of the Catholic Church saw all these actions as primarily affecting the safety of the weaker levels of society, and reacted by promoting the Peace of God to mitigate these effects. This movement had its legal roots in old Carolingian law, the Germanic peace of the king, and the right of ecclesiastical asylum. The subsequently established Truce of God chiefly sought the temporary cessation of hostilities, especially during the Day of the Lord. Hence, it represented a confrontation between the two main dominating factions: the Church and the lay nobility. The eruption and complete implementation of feudalism in Catalonia at the beginning of the eleventh century, along with the period of weakness of King Ramon Berenguer (1017-1035), intensified the outbreaks of dispersed private violence. Here it is fundamental to mention the figure of Abbot Oliba, who introduced the institution of Peace and Truce through the councils of Toluges of 1027, and Vic in 1030 and 1033.¹⁸ The degree of institutionalization of the movement on the basis of the efforts of Oliba was such that the only precedents to be found are some provisions agreed in France – Charroux in 989 and Le Puy en Velay in 990. Oliba's councils were strictly ecclesiastical – they dealt with matters relating to the extension of the right of asylum and questions (excommunications, immunities, penalties, etc.) relating to persons in the service of the Church. They also implicitly sought to ensure the protection of defenceless people, and to secure the commitment of the main lay powers to all of these goals. In these ways, Oliba advanced peacemaking measures within Catalonia.¹⁹

The original ecclesiastical dominance of the movement changed progressively with its expansion to the rest of the Catalan counties, which was accepted by the lay public authorities. Already at this stage it adopted some mixed features, with a single legal body with 29 chapters from the important councils of Narbonne of 1043 and 1054. In 1064 the assembly was summoned for the first time by the Count of Barcelona, hence by the secular authority, as a first step towards converting it into a political and legislative instrument held by the said authority, and associated with the concept of territorial or public peace. The culmination of these assemblies coincided with a century of gradual decline. In 1228 the assembly of Barcelona, in

¹⁸ Leading historians talk of the following synod, which clearly defines the sense of the movement, as a date of prime importance:

Toluges, 16 May 1027

Oliba, bishop of Vic, presided over a synod at Toluges meadow, county of Roussillon, on behalf of Berenguer, bishop of Elna, absent on pilgrimage. He was accompanied by the clergymen and canons of the See of Elna and its diocese, and by all the townsfolk. The assembly ratified statutes of Peace and Truce which have since been lost. A pact or Truce was established whereby the entire population of the county and bishopric were prohibited from assaulting their enemies from *hora nona* on Saturdays until *hora prima* on Mondays, in order to respect the Sunday obligation. Moreover, the Truce protected unarmed monks and clergymen, and families on the way to and from church, and a prohibition was agreed against violating the sanctuary or asylum of churches, comprising a circuit of thirty paces. The synod ordained that no one could attack the Church of Elna, its temples or its monasteries. The assembly also decreed other canonical provisions. The transgressors of all these agreements were to be excommunicated, and separated from the rest of the believers. Gonzalvo i Bou, G., *Les constitucions de Pau i Treva de Catalunya (Segles XI-XIII)*, Generalitat de Catalunya, Barcelona, 1994. pp. IXX-XXIII & 3.

¹⁹ Junyent, E., *La Pau i Treva*, Rafael Dalmau Editor, Barcelona, 1975. pp. 15-17.

which King James I prepared the conquest of Majorca, was the last meeting in which the chapters of Peace and Truce were grouped into a compact body, acquiring a permanent validity that would subsequently appear blended into other norms such as the compilation of Catalan general law – the so-called Constitutions of Catalonia – in which the institution appears with a specific title.²⁰ The importance of the institution is also reflected by its presence in the Usages of Barcelona, a sign of constitutional support for political actions in the construction of the state apparatus by the monarchy, through the union of feudal law and its statutes.²¹

The Catalan General Court was summoned and chaired by the monarch, who proposed and approved the general law through the pact. It also participated in the checking of powers in accordance with the redress of grievances, and solved the debates and disagreements of the meetings, which were finally licensed by the monarch because he or she was the holder of the sanctioning power of the supreme norms. This only had any meaning through the meeting of the king with the representatives²² of the Principality in the General Court. This is a capital principle of Catalan legal thought that was well described by the jurist Calixto Ramirez (1556-1627), who considered that the king together with the Court had greater power than the monarch acting alone. A General Court without the monarch or his authorized representative was not a possibility. The provisions of procedure established the sittings of the Court at the beginning of each year with the participation of prelates, religious leaders, barons, knights, citizens and townsfolk, in short, the Estates, who would be appointed collectively.

Co-legislative power between the Estates and the monarch was established for the first time in Europe in Catalonia. Moreover, the Constitution (Act) providing this principle established concurrence and collaboration in the elaboration of constitutions, chapters and Court acts. There were times at which the monarch limited the matters to be treated, a move that was heavily criticized by the Estates, which claimed the right of presenting all grievances during the sittings of the General Court rather than during the sittings of the Catalan parliaments, because in these meetings they were not represented collectively, and also because they were a non-legislative assemblies. In conclusion, the co-legislative dynamic and the principle of pact law became a veritable right for the Estates, which reasserted it on several occasions.²³

2.1. The early Deputation

²⁰ The first compilation collected the provisions up to 1422, during the reign of Queen Maria. Even so, the provisions of Peace and Truce remained in force until the eighteenth century. Gonzalvo i Bou, G., *Les constitucions de Pau i Treva de Catalunya (Segles XI-XIII)*, Generalitat de Catalunya, Barcelona, 1994. pp. XXII-XXXI.

²¹ Gonzalvo i Bou, G., *La Pau i la Treva de Catalunya, Orígen de les Corts Catalanes*, Edicions La Magrana, 1986. pp. 110.

²² Concerning the principle of representation, Professor Victor Ferro talks of the Estates as the expression of the territorial jurisdictions, which due to their political, economic and military importance could not be ignored by the monarch. Therefore, it was not a principle of representation based on a corporatist sense, but rather on the notion of jurisdiction. The author identifies two levels of representation, one referring to the universality of the Court by the meeting of their Estates or arms, which represented the whole political community. And the other concerning the mechanism of representation applied not only to the royal arm, but also to the ecclesiastical corporations and the members of the political body. Ferro, *El Dret Públic Català*, pp. 203-205.

²³ Ferro, *El Dret Públic Català*, pp. 189-192.

In 1359 the Deputation was born as a temporary body that would disappear once it had finished its task. But the course of events led to a link between subsequent delegated commissions and the original one, basically because the context forced frequent meetings of the General Court to ensure the procurement of resources for defence.²⁴ The war with Castile in 1356-1375 caused a staggered and yet rapid transition to a phase in which the Estates controlled the royal donation because of the continuing and increasing claims for aid. Even then, before the Court of Cervera of 1359, the accepted practice whereby the monarch had the opportunity to request help and assistance, meant that the benefit given by the *universitas* was not mandatory, as previously mentioned. Hence the community tended to establish a mechanism of procurement of a commission with its own delegated members to perform the collection, management and administration of the donation, with complete jurisdiction over this area in which the delivery, spending and final audit was without the oversight of the monarch, who was simply the final beneficiary and was separated from the process. This process created a feudal treasury in which the will of the Estates was to exclude the monarch from the management of the donation, while the monarch permitted all of its organization through the delegated commissions with exclusive competences.²⁵

The elected deputies in the Court of Cervera were mentioned as administrators, and their main duties were the management and distribution of the donation. Twelve deputies were appointed, four per Estate, and each of them was accompanied in the task by another administrator elected from each Estate as counsellor and auditor. All of them were solemnly confirmed by the king, and with the consent of twenty-one prelates and ecclesiastics, twenty-four nobles, and thirty representatives of the royal municipalities of Catalonia. This General Court comprised elected notables of the Principality, subject to rules included in the donation chapter itself, including dismissal for reasons of misconduct or economic abuse, together with other provisions such as substitutions in the event of the death of a deputy, illness, or resignation, in which event the rest of the deputies were obliged to find the substitute within the same arm or Estate. The General Court of Cervera elected the following public servants:

Deputies from the ecclesiastical arm

- *Berenguer de Cruïlles, bishop of Girona*
- *Fra Pere Arnau de Parestortes, prior of Catalonia, of the order of the Hospital*
- *Romeu Sescomes, provost of Tarragona*
- *Arnau de Busquets, doctor in law and canon of Barcelona*

Deputies from the military arm

- *Bernat de Cabrera, count of Osona, knight*
- *Hug, viscount of Cardona, squire*
- *Ponç d'Altarriba, knight*
- *Ramon de Peguera, squire*

Deputies from the royal arm²⁶

²⁴ Ferrer i Mallol, *Els orígens de la Generalitat de Catalunya*, p. 23.

²⁵ Estrada i Rius, *Una Casa per al General de Catalunya*, pp. 20-24.

²⁶ This does not refer to the monarchy. The royal arm has to do with the royal municipalities, the representation of the main towns and cities.

- *Pere Desplà, citizen of Barcelona*
- *Pere de Carcassona, citizen of Lleida*
- *Francesc Pabia, citizen of Girona*
- *Pere Borró, burgess of Perpinyà*

Counsellors of deputies from the ecclesiastical arm

- *Pere Clasquerí, archbishop of Tarragona*
- *Hug Desbac, bishop of Urgell*
- *Guillem Arnau Patau, dean of Urgell*
- *Galceran de Montcorb, officer of Girona*

Counsellors of deputies from the military arm

- *Bernat de Cabrera, knight, father of the count of Osona*
- *Ramon d'Anglesola, lord of Bellpuig, knight*
- *Berenguer Despujol, knight*
- *Ramon Arnau Sacirera, knight*

Counsellors of deputies from the royal arm

- *Romeu de Busquets, citizen of Barcelona*
- *Pere de Muntanyana, citizen of Lleida*
- *Arnau de Messina, from Cervera*
- *Valenti Saperà, from Vilafranca del Penedès*²⁷

Another factor that enabled the institution to take shape was the General Court of Montsó in 1362-1363, which established a set of taxes in order to ensure the continuity of the military enterprise that was defending Aragon and Valencia. It created the taxes called *generalitats*, the right of entry and exit over exports and imports, and the *dret de bolla* (literally, the right of ball) over textile manufacturing and marketing. All this involved the establishment of an economic policy that declared the importance of the enrichment of the Principality, exalting the creation of quality products, cutting prices to reduce imports, expanding livestock, and importing new production techniques. Import and sale of foreign wool and spun wool were prohibited. The collection of these taxes established a system in which each town and city would have two persons in charge of it, within a system created by an organization of concessionaires which delivered the whole amount collected to the deputies.

The institutionalization and permanence of the Deputation was also influenced by another factor, namely the impact of the decision to permit the sale of so-called *censals morts* and *violaris*, the public debt of the time. Very widespread within the Crown of Aragon, these were broadly used instruments in previous decades in municipalities such as Barcelona. The buyers of portions of this debt acquired the right to obtain an annual pension in exchange for the capital contributed. The *censal* was indefinite and redeemable by the seller through the return of the capital obtained. The *violari* was an annuity, based on the right to draw a regular monetary pension that was developed as a long-term credit that could be extended to cover two lifespans. The General Court of Barcelona-Lleida-Tortosa of 1364-1365 decided a public debt issue of 100,000 pounds at 10% interest, with a guarantee based on the *generalitats* created in the

²⁷ Ferrer i Mallol, *Els orígens de la Generalitat de Catalunya*, pp. 10-14.

previous General Court. This kind of guarantee had temporary surcharges before this decision, but now because it became the guarantee of the public debt sold, the General Court declared that these taxes could not be suppressed until the amortization of the *censals* and all the pensions would be paid, something that never happened. This is when the idea of the continuity of the Deputation takes effect; in fact the first records of letters submitted by the deputies were in 1365, when it was decided not to destroy the documentation generated, as it was thought it would be necessary later. The newly elected deputies had a larger task because in addition to the administration of the donation, now they also had to manage the regulation of the taxes, the control of the public debt issue, the payment of the debt securities pensions, and the capital amortization.

As regards organizational issues during this period, the General Court of Vilafranca was particularly concerned about the organization of the Deputation. This meeting was summoned in 1367 at a moment when war had ceased. Now that the institution was considered too costly, some kind of structural simplification was sought through the removal of the deputies residing in Barcelona, who were replaced by a manager named Regent of the Deputation, in charge of all the former deputies' duties. The Deputation's management was put under the sole supervision of the auditors, who also helped in the performance of its tasks. The system remained like this until the General Court of Lleida of 1375, a new period of war in which the system of deputies residing in Barcelona was restored without abolishing the administrative system based on the Regent. The three elected deputies and their auditors were in charge of the administration of the institution jointly with the Regent, a system that remained operational until the General Court of Barcelona of 1377-1378, when the Regent was reduced to a regent of accounts without management powers.

Different forms of organization were tested with the intention of making the institution more efficient at a lower cost, and the meetings of the General Court of Barcelona in 1379-1380 decided to remove the auditors. This was a period in which the elected deputies had limited powers and a very tense relationship with the monarch; they required intermediaries when negotiating with the Crown, provoking a situation of limited powers. In 1383 a new General Court of all the kingdoms was held in Montsó, but the absence of consensus and interest in solving all the conflicts and claims of the Deputation meant that the meeting was unable to reach consensus concerning all matters requiring its attention. The new deputies were elected until the new General Court of 1388, which also adjourned after the appointment of the new deputies. These had a long period in office because the next General Court was summoned for 1405. This one was also unfinished because of the death of King Martin the Humane, without the election of the new members of a Deputation, which in any event had insufficient legal powers²⁸ to face the

²⁸ The powers of the deputies varied depending on the nature of each crisis as it arose. For instance, when in May 1396 John I unexpectedly died while his brother and successor Prince Martin was in Sicily, the deputies helped the new Queen Maria de Luna to ensure the succession of her husband, avoiding any intention to alter his rights, which were clear enough under Catalan customary law. The Deputation assumed political responsibilities as a delegation of the Estates in the General Court, and cooperated in the face of the threats of external invasion coming from the Count of Foix, who wanted the Crown by virtue of his marriage with Princess Joanna, daughter of John I. Furthermore, the political function of the Deputation remained inhibited in other situations such as the death of Martin the Humane, who died without legitimate male succession. Here the institution could have supported James of Urgell as king, something that never happened, and it limited its functions to the management of the resources for the defence of the Principality and Sardinia, leaving the decision of the succession to the other kingdoms, and

extraordinary expenses and loans to the Crown. Any actions were not supported by the military Estate or arm, which was against to any attempt to solve the political uncertainty proposed by the royal and ecclesiastical Estates which represented a disturbance of the co-legislative procedure. This was the last Deputation before the great reform of 1413.

In the first period, therefore, the importance of the fiscal power conferred upon the deputies-auditors is evident. It was not only a transfer of supreme hierarchical rank; they were also constituted as members of the same body in charge of the exercise of the supreme jurisdiction of the Deputation. They had the power to demand accountability from everyone, and the control of these powers remained solely in the hands of the Deputation, of which they were members. Hence, they were holders of royal prerogatives as the magistrates exercising full political taxation functions. This was an indication of the extent to which the process that had been initiated pursued a new and modern style of political administration, unifying the territory through the general imposition of the same taxes on everyone living or travelling in the Principality. The General Court of Cervera in 1359 developed the most extensive regulation of functions and limits. It also established clearly how all these duties should be performed, with absolute independence from the monarch and his officials. Probably the most important transformation of political thought appears when, in the General Court of Barcelona of 1368-1369, the regulatory texts began to manifest the recognition of Catalonia as a political community not only represented by the monarch, but also through the joint representation of the Estates in the General Court.

The auditors of accounts elected this time appeared legally as *auditors of the accounts of the General of Catalonia*, and not as the auditors of each Estate. This basically means that the Estates identified the General of Catalonia as an entity encompassing all of them, having at the same time administrative bodies, with a higher level represented by a permanent official, the Regent (this time replacing the deputies, as the holder of the universal delegation), and the temporary officials through the auditors. The Regent was legally bound to take the advice of the auditors, to whom as of 1372 advisory powers were transferred, allowing them to participate directly in the decisions affecting the daily exercise of financial autonomy. In 1375 the post of the three deputies was restored, hence the College of Deputies embodied the representation of most political matters of the Principality, and also extended with the auditors of accounts who, on the other hand and for fiscal reasons, remained in a situation above this institutional position, having jurisdiction (based on the capacity to audit, challenge and define accounts, and also acquittals and other related actions pertaining to this matter) over all the personnel administering the General, embracing the whole network of local deputies to be elected in all the bishoprics and in the Sardinian *vegueria*, which at this time composed the entire administrative circumscription of the Deputation.

In 1376 the auditors retained their functions of providing political counsel, participating in substitutions of deputies in military campaigns, and also in electing new deputies owing to the death, resignation or incapacity of the former incumbent. They were still considered as essentially elected through the consent of the General, with a time limit on the exercise of their post as deputies, and also with another important limitation reducing their weight in the

relegating executive power to the Governor, Guerau Alemany de Cervelló. Ferrer i Mallol, *Els orígens de la Generalitat de Catalunya*, pp. 23 ff.

institution, because they had four months to perform the task of examining the accounts. The General Court of this year created the said post of the Regent of Accounts, subordinated to newly elected deputies, coinciding with the non-renewal of the former regent of the institution, now substituted by the three deputies. The first period, then, shows variations in the posts and their duties. As mentioned above, the General Court of 1379-1380 decided to abolish the post of the three auditors, probably in response of the institutional crisis created by the decisions of the commission in charge of checking the functioning and the accounts of the institution. Now the deputies absorbed the powers of the auditors, becoming two different bodies because one deputy assumed the receipt, distribution and administration of finances, while the other two became the auditors of accounts of the first. The new deputies elected from this Court also had specific powers over inquisition and control, and the pattern established from this General Court was subsequently revalidated, without any vestige of the appointment of auditors of accounts until 1413.²⁹

3. The Deputation as a permanent and consolidated institution

From the first decade of the fifteenth century the Deputation showed a notable degree of institutional stability as a fiscal instrument. Here it is difficult to equate the composition and functions of this Deputation with the original delegated commission created in 1359, especially after the incorporation of legal supervision tasks as of 1413. Two centuries later, in the reign of Philip II, the institution remained strongly rooted within the economic area as a truly fiscal administration throughout the entire Principality, controlling its two main sources of income: the rights of the General, i.e., the entry and exit tariffs on exports and imports of goods and currency that crossed the sea and land borders of the Principality, and the right of the ball of lead, which consisted of three different taxes:

- i) The ball, levied on textiles manufactured or imported into the Principality.
- ii) The right of the wax seal, which was paid on exchanges of ready-made clothes, and also those exempted from the ball.
- iii) The right of jewels, on the sale or import of gold and silver threads.

The tax collection coming from the right of the ball of lead and the wax seal was performed through private leases which conferred rights upon individuals to uplift the taxation after a public call around the various local deputations. Later, it became urgent to set a concrete date in Barcelona, where the institution proceeded to the evaluations for the final concessions. The great rivalry generated around the possibility of obtaining one of these leases caused heavy pressure, and the institution suffered from the appearance of concealed agreements and irregularities in the concessions and pricing. It was indeed a veritable business, and very often the final management of the leasehold was performed by front men, who shared the responsibilities with the guarantors that credited their solvency to the Deputation. The main lessees recognized their guarantors as participants in profit and loss during the triennium of

²⁹ De Montagut i Estragués, T., *Les institucions fiscalitzadores de la Generalitat de Catalunya. Dels seus orígens fins a la reforma de 1413*, Sindicatura de Comptes de Catalunya, 1996, pp. 47-54, 85, 102-126.

management.³⁰ This picture describes a situation in which the Deputation not only had a strong presence within the public fiscal administration, but also its economic dimensions embraced and reaffirmed its presence in Catalan society.

3.1. Legal framework of the Deputation and its relationship with the General Court

Concerning the rules applicable to the institution, we should distinguish four main categories:

i) The Chapters of the General Court, which were the regulations creating the Deputation. These regulations constructed the general law of the institution and its normative development.

ii) The Chapters and Ordinations of the General, with lower rank than the preceding chapters, basically comprised the legislation whereby the Crown transferred its royal jurisdiction in tax matters to the Deputation. Here it is difficult to consider these regulations as an act of General Court because they were operative rules for the use of the Deputation, and at the time were rarely published and incorporated into Catalan general law.

iii) The Calls, which were provisions elaborated by the Deputation and served as an instrument to publish the general rules of the institution. Written and published directly by the Deputation, these were compulsory for all citizens.³¹

iv) The Chapters of Redress. This rule was elaborated by the General Court during the redress or economic and administrative balance requested of the deputies. This relationship between the General Court and the Deputation was established to control the activity of the institution. This checking generated this kind of regulations, which had different formal requirements and a different normative range from the primary and constitutive rules creating the Deputation. The main novelty was that the Chapters of Redress were not legislation enacted by the legislator itself, that is to say the royal sanction with the approval of the Estates. The monarch disappeared from this process and the Estates alone created this regulation by virtue of a set of royal concessions such as the privilege of 3 May 1410, based on the normative autonomy of deputies and auditors. It was an instrument available to the Estates in which royal intervention was only voluntary, or applicable when it affected royal jurisdiction. These particular rules were subject to the general law of the Principality, hence the Chapters of Redress were a kind of bylaw referring to the rights and revenues of the General, and they subjected the Deputation to the General Court to ensure the governance of the house and the stability of the General.³²

The year 1413 entailed the most important change concerning the regulation of the Deputation. The General Court of that year fixed the normative bases that could later complete

³⁰ ...thanks to the leasehold from the ball of Girona of 1569, we know some important personages of this part of the century belonging to the history of the Deputation and Catalan politics at the end of the reign of Philip II. The main lessee was the knight Miquel Joan Pons, and around him an interfeudal group of relatives and debtors, mainly from Vic and predominantly the kindred of the Granollacs, who were omnipresent in the management of leases even at the beginning of the XVII century. Despite the political disturbances of the previous decade, the 14,501 pounds that were offered during the acts of selection were finally distributed, and the signers of the concordance already appeared as guarantors of the main lessee. Pérez Latre, M., *La Generalitat de Catalunya en temps de Felip II. Política, administració i territori*, Afers, País Valencià, 2004, pp. 107-112.

³¹ Sánchez de Movellán Toront, *La Diputació del General de Catalunya*, pp. 120 ff.

³² Ferro, V., *El Dret Públic Català*, pp. 222-227.

and reform particular points. Especially 1432 and its Ordinations represented the most important effort to achieve better and more comprehensive ordering of the management and administration of the assets of the General. All this affected the structural organisation of the Deputation, delimiting the officials' functions more precisely. The compilation of all these measures took place the following year in the form of the so-called *Llibre dels Quatre Senyals* (Book of the Four Signals). But all this reform started in 1431 when the deputies set forth a set of measures that they considered necessary at the time, calling for certain changes. The General Court decided the appointment of a special commission in charge of a comprehensive review of the institution. Nine people had the faculty to poll and investigate it under twelve points:

I. Informació sobre les rebudes e emoluments de la casa (Information on receipts and emoluments of the house).

II. Arrendament o no dels drets i causes (Lease or otherwise of rights and causes).

III. Ordre que es segueix en els arrendaments (Order established in leases).

IV. Deutes de la casa, qui són els deutors i perquè no són executats (Debts of the house, who the debtors are and why the debts are not collected).

V. Interesses que fa la casa, preus i despeses dell's ordinaris i extraordinaris, salaris, esmenes i remuneracions extraordinàries (Interests of the house, prices and ordinary and extraordinary expenses, wages, amendments and extraordinary remunerations).

VI. Els ministres de la casa, quants hi han i si són necessaris (Ministers of the house, how many there are and whether they are necessary).

VII. Deputats locals, salari, temps (local deputies, wage, time).

VIII. Veure si és expedient que vingui algú a la casa i no tingui ofici allà (To see whether it is expedient for someone without an official job there to come to the house).

IX. Si és útil el guarda dels esclaus (Whether the custodian of slaves is useful).

X. ...de inquirir contra los deputats, oidors, deputats locals e altres ministres de la casa, axi passats com presents... E que de aço haie comissió del Senyor Rey (To inquire into deputies, auditors, local deputies and other ministers of the house, former and current... and all this with commission to the king).

XI. Mirar altres coses de la casa com l'elecció dels deputats, oidors, deputats locals, advocats e altres ordinacions de la casa (To observe other things in the house such as the election of deputies, auditors, local deputies, barristers and other ordinations of the house).

XII. Pensar, cogitar e ordonar totes e sengles provisions en los dits deffalliments necessaries e altres ordinacions utils e profitoses a la dita casa... i fer ne relació de elles a la cort (To think over, collect and classify all the provisions and other useful ordinations of the house... and inventory them for the General Court).³³

This scheme describes the vision of the Deputation as an institution. Permanent and working between the intervals separating the meetings of the General Court, the original idea of the institution as a delegated commission is changed to that of an autonomous and independent centre exerting full jurisdiction relating to all the powers conferred. But as we know, power tends to corrupt, and a control system sought to identify possible flaws and frauds committed by officials of the house. This action set the precedent for the subsequent system of visiting (*Visita del General*) established in the following century.

³³ Cortes..., *Cort de Barcelona 1431-1434*, Vol. XVII, pp. 445 and 446. From: Sánchez de Movellán Toront, *La Diputació del General de Catalunya*, p. 115.

3.1.1. The Book of the Four Signals

This is the compilation of all regulations governing the institution. In it, basically we find chapters and ordinations from the General Court, and the Calls of the Deputies. The book served as a code, and fundamentally described a set of provisions structured by chronological criteria:

i) Chapters of the General Court approved in 1413 defining the institution organically and functionally. Basically they describe the powers of the deputies, rights of entry and exit, chapters of jewels of Barcelona, ball of lead and wax seal, their Calls, and also the wax seal of the city and *Vegueria*³⁴ of Barcelona.

ii) Regulations of the General Court celebrated in Sant Cugat-Tortosa in 1420, in which the meeting resolved some practical issues such as salary increases for deputies, auditors, barristers and other officials of the house.

iii) Ordinations of 1422 regulating textiles, which were the main commodities taxed, and amendments and extension of the provisions of 1413.

iv) Regulations approved in 1433 pertaining to the General Court of Barcelona of 1431-1434, establishing a more rigorous system of control over tax collection as a safeguard against some frauds detected during this process. This meeting also changed the personal status of the house officials.

v) Chapters and Ordinations of the General Court of Barcelona held on 12 January 1452. This time the meeting changed some specific issues such as the update of officials' salaries, and fixed a new balloting system for them and for auditors of accounts as from the year 1455.

vi) Finally some copies of royal letters.³⁵

The first printed edition was in 1634, and was initiated by the monitoring visit that analysed the management of the 1626-1629 triennium. This process highlighted the great cost of the traditional system established within the institution whereby at the beginning of each triennium the Deputation commissioned a set of manuscript copies of the book that it distributed to the house officials. They also found evidence of corruption, because some copies were paid

³⁴ This was a territorial division in the Principality of Catalonia and Majorca. It had a magistrate called the *veguer* in charge of the administration and exerting the delegated royal authority on governmental, judicial and administrative jurisdiction. Other explanations in following sections. Source: *Institut d'Estudis Catalans*.

³⁵ It is important to mention the influence and importance of the Catalan general law codification movement in the fifteenth century; this arose as the law was considered to be too widely dispersed in a variety of sources, and led to the so-called Compilations (*Compilacions*). Considering that as of 1413 the deputies became controllers of legality, this duty was facilitated due to various processes of this movement that collated the main legal sources contained in the Usages of Barcelona, Constitutions, Chapters of Court, Uses, Custom, Privileges, etc. Concerning the regulation of the Deputation itself, there is an indirect reference within the Compilations, specifically visible in provisions regulating legal compliance, in which an Act displays the obligations for local and general deputies to proceed in this situation. The last compilation of 1704 mentions the balloting process of deputies and auditors. But the most important provisions are in the Compilation of 1588, which shows the chapters and ordinations regulating the institution in general after the great reform of 1413, the year in which the Crown has to pay taxes and appears in the Compilation. It also renews the royal jurisdiction previously granted to the deputies by Chapter of Redress, but now in the form of a Chapter of the General Court. Sánchez de Movellán Toront, *La Diputació del General de Catalunya*, pp. 110-137.

for but never delivered. The inquisitors or visitors decided to prohibit payment for any manuscript copy, and they ordained the printing and binding of the book, copies of which would be distributed to the main officials, and the rest kept under lock and key. This measure was not implemented, and the next inspection detected the violation of this decision. The institution was sentenced to repair the irregularity; on 30 May 1634, deputies and auditors agreed to its realization, and the book was printed during that year. Two more editions followed the first, in 1683 and 1698.

The Book of the Four Signals was an instrument that highlighted all the provisions referring to the legitimate jurisdiction of the deputies, comprising their competences, public powers on declarative and constitutive matters of law, and organizational, administrative and judicial functioning. Tax regulation also had an important place in the book. It also included the rules that the institution created to maintain high standards of production in the textile industry, showing the policy of promotion and protection of this industry that was an economic vanguard generating considerable wealth, and demonstrating that taxes constituted the main incomes of the institution. Hence, one hundred provisions of the book are related to textile regulation, and ninety-nine to the configuration of the general deputies' functions. The rest of the most important matters addressed are the salaries of the officials, oaths, leases of *generalitats* (indirect tax collectors), the trade of dyeing and wool-stapling, the election process of officials, the specific post of auditor of accounts and lawyers of the General, direct tax collectors, and posts and officials in general.

The book itself was not an officially enacted publication, but rather an official or authorized internal instrument designed to facilitate legal consultation and knowledge, and to avoid the excessive cost of manuscript copies and constant visits to the file. As a compendium of law describing the legal framework of the General of Catalonia, together with its bodies, competences and functions, it was attached to the general law of the Principality. The situation of the Deputation within this system had its doctrinal controversy (with dialogue among notable jurists of the time such as Felip Vinyes, Joan Pere Fontanella, and others) during the seventeenth century. It was especially the power of the General Court to reform the Deputation by Chapters of Redress (developed and approved without royal consent) that questioned whether the institution was a subordinated body of the General Court, or whether it was another body of the Principality because of its powers directly delegated from royal jurisdiction.

As of 1413 the General Court provided the chapters of reform and defined the powers of deputies and auditors, a system that was ratified by the monarch, subsequently becoming the so-called "accustomed jurisdiction" that the monarch granted in each General Court. It is quite evident, especially in the General Court of 1455, that the monarch continued to renew the accustomed jurisdiction in many matters, but precisely without participating in the sanction of the Chapters of Redress, which means that the General Court used its accustomed jurisdiction in the approval and enactment of this legislation alone, showing how deputies and auditors were indeed a body hierarchically subordinated to the General Court.³⁶

³⁶ De Montagut i Estragués, *Libre dels Quatre Senyals. Estudi introductori*, Ed. Base, Barcelona, 2006, pp. 37-68.

3.2. General organization, general deputies, auditors and relevant figures

The laws that formed the Deputation laid down a set of functions designed to take effect during the intervals separating the sittings of General Courts. It is in this context that we are able to talk about the three deputies and the three auditors belonging to each arm or Estate, which formed the “Consistory (council) of the Very Illustrious and Most Faithful Deputies and Auditors of the General of the Principality of Catalonia and the Counties of Rosselló and Cerdanya”. The appointment was for three years, starting in August and finishing on 31 July. Moreover, the post could not be renewed until six years had passed.³⁷ While at first the number of elected deputies varied, it was only during the General Court of Cervera in 1359 that four were elected for each Estate, being named as such the ecclesiastical and military branches, and the royal one being considered as the administrator. In the General Court of Montsó (1362-1363) three deputies were fixed for both the ecclesiastical and the military Estates, and five for the royal one, due to its importance in the contribution of the donation. Furthermore, on this occasion it was determined that one of the deputies would be from Barcelona, another from Lleida, another from Barcelona for half the year and from Lleida for the other half, the fourth from Girona and the last from Perpinyà. One of the deputies was to be a military man from Majorca. However, there was to be a deputy on the island who would not be one of the five belonging to the royal Estate. His task was to collect and administer the donation that corresponded to the kingdom of Majorca. The configuration probably varied for political and economic reasons as well as the difficulties of war, which imposed the need to ask for more donations, thereby increasing the weight of the royal Estate, and resulting in the appointment of more deputies. It was not until the 1413 reform that the definitive consolidation of the institution occurred, the election of the deputies thus being removed from the competence of the General Court and being left in the hands of the deputies, who set the period in office at three years.³⁸

3.2.1. Elections of general deputies, auditors of accounts and formation of the consistory or council

Except for the clergymen, the auditors and deputies needed to be Catalan³⁹ and residents of *vegueries* or towns which needed to be elected by the casting of lots, or sortition. The military auditors had to be knights or gentlemen. The following were excluded from being a deputy or auditor: royal councillors, members of the Inquisition, General debtors, the tenants of the

³⁷ Ferro, *El Dret Públic Català*, pp. 246-247.

³⁸ Ferrer i Mallol, *Orígen i evolució de la Diputació del General*, pp. 153-154.

³⁹ The various regulations established and implicitly reasserted the condition of Catalan citizenship for any post in the General. In some cases when this requirement was not clearly fulfilled, the candidate was removed as a result. It was a fact within the Crown of Aragon that each territory wanted its natives for their posts. The kingdoms of Aragon and Valencia also defended this rule, religiously fulfilled especially under the Catalan dynasties of kings controlling the Crown/union. The situation was different with the Castilian Trastámara dynasty and later the new Austrian one of Charles I, which adopted a more permissive attitude to the rule. However, this was nothing in comparison with the Bourbon imposition of the eighteenth century, which through the access to the old Crown of Aragon, not only permitted the introduction of Castilian officials to the political bodies but actually fostered it. Sánchez de Movellán, I., *Les institucions fiscalitzadores de la Generalitat de Catalunya, des de la reforma de 1413 fins al final del regnat de l'Emperador Carles I, el 1556*, Barcelona, Sindicatura de Comptes de Catalunya, 2004, pp. 77-78.

General's rights, those who obtained some ecclesiastical inhibition against the jurisdiction of the General, those who had defrauded the General's rights and those who had promised to elect for money. A regime of incompatibilities was established for reasons of family, barring of fathers and sons from holding office simultaneously, and the same applied in the cases of father-in-law and son-in-law, brothers, brothers-in-law, cousins, uncles and nephews.⁴⁰ Once the lots had been chosen, the councillors (most of whom lived outside the capital) had two months to occupy the post. Furthermore, they were forced to give up their previous job for a period of three years, especially if the incompatibility was within the incompatible trades, such as serving the king or working at universities or central governments; they had to abandon their jobs months in advance in order to have access to the sortition.

Once they had arrived in Barcelona, they stayed at the House of the Deputation,⁴¹ which is currently the Palace of the *Generalitat*, seat of the Catalan autonomous government. It was in its Solemn Hall that the most important decisions were taken. There was great interest in occupying this prestigious post, mainly due to its privileged conditions in the exercise of power,⁴² as well as the high wages.⁴³ The consistory was also formed by the lawyers of the General, who offered permanent advice, and the scribes of the General, who recorded all legal and non-legal acts daily.

These, together with the deputies and the auditors who had superiority over the rest of the officials, participated jointly in the knowledge of the lawsuits affecting the rights of the General, setting up a court with absolute power at first and last instance in issues regarding these tax matters. The consistory met from Monday to Friday, and sometimes even on Saturday mornings and on holidays if necessary. Furthermore, the city or the town of the meeting could be changed on the consistory's decision. It is known that councils were held in places such as Girona, Sant Feliu de Guíxols, Vic, Vilafranca del Penedès, Manresa, Martorell, Cervera and Terrassa. In addition to this, the following also had to travel to these places: the deputies and auditors, the lawyers of the house, the Scribe Major, the Notary, the Rational, the Regent of Accounts, the Debt Pursuer and the Syndic, or Procurator of the General.⁴⁴

⁴⁰ Ferro, *El Dret Públic Català*, pp. 246-247.

⁴¹ On 3 December 1400, Alfons de Tous, canon and doctor in law, Jaume Marc, knight, and Ramon Pla, citizen of Barcelona, all of them deputies, purchased from Pere Brunet the house located in Sant Honorat Street for the sum of 38,400 Barcelona *sous*. As a consequence, the General of Catalonia as a legal entity obtained this house to become the headquarters of the institution. Before this date, the venue of the meetings varied, the first site being the Franciscan convent of Barcelona. Estrada i Rius, A., *Una Casa per al General de Catalunya. A propòsit del VI centenari de l'adquisició de la primitiva casa de la Deputació del General de Catalunya a Barcelona, avui Palau de la Generalitat (1400-2000)*, GENCAT, 2000.

⁴² Pérez Latre, *La Generalitat de Catalunya en temps de Felip II*, pp. 42-45.

⁴³ This was regulated for the first time in 1413, the salary of the deputies being one *florí* a day. After the reform of 1420, adopted in the course of the General Court of Sant Cugat-Tortosa, the salary was increased to fifteen Barcelona *sous*, covering the movements of the deputies to and from their homes, which caused much expense. That year a prohibition was established on earning commissions on matters of the Deputation or litigants, with the possibility of losing their salary. In 1433 the wages were updated, specifically being raised to sixteen Barcelona *sous* and six Barcelona *diners* a day. This was due to the expansion of its assigned functions, comprising not only financial and tax functions, but also as of 1413 those of controllers of legal compliance, so the deputies had a higher ordinary salary than the auditors. Sánchez de Movellán Torrent, *La Diputació del General de Catalunya*, pp. 166-167.

⁴⁴ Sánchez de Movellán Torrent, *La Diputació del General de Catalunya*, pp. 152-153.

3.2.2. Functions and competences of the deputies

As mentioned beforehand, the Deputation varied throughout history, thus also modifying the councillors' tasks at the same time as the institution acquired permanence and other features. Consequently, the main function in this first stage was to collect and administer the donation; thus it was excluded from the executive powers such as proceeding against those who had not paid their donation, which belonged to the ordinary royal councillor's duties. Moreover, they were forced to take the oath and to swear allegiance (except for the clergymen, who only swore), as well being obliged to spend their money only on matters of war and defence of Catalonia. In addition to this, they were bound to be accountable to auditors elected by the General Court twice a year, and were required to stay in Barcelona while the aid was administered. Out of the provisions established by the General Court of Cervera in 1359 in this area, we can identify the following general aims:

- i) Appointment of collectors for collection in the areas of bishoprics or *vegueries*, together with the appointment of scribes and porters, hence assigning them a proper salary.
- ii) Existence of money loans, forcing the aid granted by the General Court for a period not exceeding two years prior to the confirmation of the board of councillors appointed by the General Court. If the king so wished, interest could be deducted from the grant.
- iii) Consent, according to the board of councillors, for the exit of men on horses from the Principality if permission was granted by the king. Moreover, they had the possibility to hire people from outside Catalonia if no Catalans were found who wanted to serve in war.
- iv) To decide, if approved by the councillors, to set aside a part in order to help build a fleet and appoint a captain.
- v) Custody of the money, which was destined for the aid of Barcelona. Each arm would have a box with two locks, the keys of which would be kept by the deputies or administrators.
- vi) Signature of public documents using a stamp authority of the General Court.
- vii) To decide, together with the board of councillors, on doubtful questions as the General Court would do.⁴⁵

Once the Deputation constituted a permanent, autonomous and independent institution, the character of its deputies followed a general scheme based on the maximum representation shared with the auditors, management and administration of the General: work focused on the tax function, law enforcement and military defence, with some periods in which there were some very specific obligations such as custody of slaves. Later on the deputies reported the excessive power they had on some issues, thus posing the question whether some tasks should be undertaken by a new Deputation. Moreover, during the General Court of 1431-1434, these councillors, joined by other councillors, demanded a wage increase due to the amount of work they had. Despite their supremacy over the auditors, the fact is that during this period the main functions and powers carried out by the deputies went hand in hand with the work done by the auditors, fundamentally because they formed the consistory and the Supreme Court on matters concerning rights and generalities, where the institution had jurisdiction above the king and the governor of Catalonia. The following functions are to be noted:

⁴⁵ Ferrer i Mallol, *Orígen i evolució de la Diputació del General*, pp. 153-154.

i) Participation in the selection and award of the generalities for buyers or tenants. Moreover, the granting of bounties to the agents holding the rights (taxes) flowing from the successful leases. Generalities sold or leased could be recovered during the established period, as well as being re-auctioned. A new collector could also be appointed.

ii) Signature of letters, receipts or cautions and provisions relating to the generalities and other matters.

iii) Election of the officials of the institution with consistency between deputies and auditors, although this rule did not always work because there were instances of disagreements between the candidates chosen.

iv) Exemption and reduction of ten thousand pounds a year of the amortization on *censals* of the General.

v) Judicial administration of the causes arising from the involvement of the General officials, knowing all matters relating to the rights of the General, from the filing to the last sentence, transforming the council into a judicial organ.

vi) General prosecution of debtors, including the debtor's debtor, until the General's debt was paid. At the beginning of the three years, it was obligatory to attempt to recover the debt and to state the facts and the pending proceedings. It was also obligatory to proceed against fraudulent tenants. Most frauds were committed mainly in textile estimations. In lawsuits relating to the General's assets, a penalty had been established since they already administered justice on this issue.

vii) Payment of officials' salaries and the authorization of extraordinary payments for both officials and outsiders.

viii) Controlling the flow of all the revenues coming from the institution to the city table, i.e., the bank.

ix) In addition to the lawyers of the house, clarification of doubts about the accounts presented by the Rational.

x) Defence and general compliance with the law of the country, Constitutions, Usages, Privileges and Chapters of the Court; with the option to use legal instruments of all types for this purpose. This task could be carried out by the Syndic or by the Procurator of the General if the deputies were overworked.⁴⁶

xi) Also in 1413, the Deputation was able to have an army, as well as weapons and artillery to defend the Principality. Ships, galleys and boats could be provided to the king for that purpose. At the same time, such property could be leased to individuals in times of peace for commercial reasons, thus resulting in economic benefits from these leases.⁴⁷

3.2.3. Roles and responsibilities of auditors of accounts

⁴⁶ This matter (established in 1413 and confirmed in 1422) has to do with the concept of contravention or an infraction in the sense of those involved in drafting a law violating it. This principle certainly evolved through several events that had occurred before, including the conflicts during the reign of John I and the disputes on the succession after the death of Martin the Humane. All this highlighted the need for new tools in defence of the rule of law. Then Constitution 1422/53 transposed the principles established in the Chapters of 1413, requiring the Crown to comply with the law, under the oversight of the Deputation. General and local deputies were obligated to be opposed to the contraventions emerging, and subsequent General Courts delimited other functional and economic procedures. Ferro, *El Dret Públic Català*, pp. 271-279.

⁴⁷ Sánchez de Movellán Toront, *La Diputació del General de Catalunya*, pp. 143-151.

The developments seen in the roles and functions of the auditors, which gradually increased and complemented the previously mentioned tasks undertaken by the deputies, lead us to observe how the origins and the original purposes of the auditors remained practically the same. Consequently, in the General Court of Montsó in 1362-1363, in which no councillors were appointed for deputies, the nature of these auditors is already described by naming them auditors of accounts, one for each arm, and with the aim of scrutinizing the administration of the deputies⁴⁸ and the realization and subsequent distribution of proceeds as the first commissioned function. This would become a constant specific feature of the auditors' accounts in the fifteenth century and it describes their primary role as principal officials in all tax matters. The following basic functions are to be noted:

i) Maximum tax competence to audit, examine, challenge, define and decide all the accounts presented by the deputies and other officials at the end of their three years of service in the administration and collection of the goods of the General, as well as to control and audit the accounts of the previous period. Furthermore, it was necessary to reside in the town where the council was held, during the performance of all these duties.

ii) Obligation to substitute absent deputies by signing letters and invoices that appeared during their absence. As of 1455 the deputies participated in the direct election of the auditors.⁴⁹

The legal framework of the auditors detailed some basic prohibitions. For instance, they could not postpone payments of debtors beyond the limits of the regulations. It was impossible to give or lend out any goods or moneys of the General to anyone, including the monarch, because all such matters required the approval of the Estates in General Court. The incompatibility system also excluded receiving goods or moneys from individuals (except for the ecclesiastical deputy and auditor, because they could continue to collect and receive rents and incomes from their canonry), in an attempt to prevent conflicts of interest from arising. One of the measures was to increase wages in several periods. Auditors and deputies received the same salary, decided always in General Court, and they obtained the highest remuneration in the institution. The auditors could also earn extra payments in cases of substitutions of deputies. As of 1413 and the subsequent fixing of their legal status, the term of office of deputies and auditors was tied to the "consistorial triennium", and re-election was possible only after the prudent interval of two trienniums.

As of 1410, auditors (and deputies) were granted interpretative authority to revoke any legal provision contrary to any power of the Deputation. The legal framework governing the institution would serve as an interpretative parameter before doubtful norms, whereby the officials could request the inapplicability of the norm or its subsequent revocation to the extent that it was already in force. This power was progressively transferred exclusively to deputies, specifically as of 1482, and this trend was linked to the prevalence over this matter of the General Court, where all the institution's regulations emerged. The Deputation's interpretative powers were especially useful in controversies between municipalities and the Deputation regarding fiscal and tax matters. Some taxes were claimed from both bodies, resulting in cases of superimposition or non-completion of the said taxes. Here the institution wielded its unilateral power to block the challenge of a regulation coming from another institution.

⁴⁸ Ferrer i Mallol, *Orígen i evolució de la Diputació del General*, p. 154.

⁴⁹ Sánchez de Movellán Toront, *La Diputació del General de Catalunya*, pp. 151-152.

Civil and criminal immunity were also notable privileges of the post, appearing in the original regulations and in later reforms during the sixteenth century. Essentially this was a consequence of the political immunity of the post, whereby the officials could not be perturbed during the exercise of their tasks. Even so, this measure did not prevent the initiation of judicial proceedings against auditors, that would be processed because this immunity underwent a progressive weakening, resulting in the paralysis of the auditors because of the weight of some illegal actions.⁵⁰

3.2.4. Other important figures to be noted in the administration

The Deputation had a number of officials who assisted in the duties and responsibilities of the institution.⁵¹ A list of all of these officials was compiled in 1621, following a visit by the judges regarding the procedures through which they were held accountable.⁵² We highlight the following posts and duties:

i) The Scribe Major and assistants

The Scribe Major had the category of Minister of the General.⁵³ He was assisted by two or three officials known as ordinary notary assistants. His main tasks essentially consisted in registering and signing the contracts for the lease rights or generalities. If this was not achieved, he would take note of the orders made by deputies and auditors and give a copy to the Regent of Accounts or to the Rational. He also had to issue letters and communications in writing of all kinds from the Notary of the institution, signed by an ecclesiastical deputy who was the highest representative authority of the General. Furthermore, he was supposed to issue the receipts to the creditors, and to control all of these activities. He was also supposed to accompany deputies and auditors monitoring and controlling the boards and steps in which the generalities were collected. He was required to write the Journal of the Deputation and perform notary work, attesting events throughout the Principality. Moreover, he received the writs of supplication or fiscal demands presented to the Deputation.

ii) The Regent of Accounts

⁵⁰ Sánchez de Movellán, *Les institucions fiscalitzadores de la Generalitat de Catalunya*, pp. 79-88.

⁵¹ Given that the institution originated through royal initiative (the monarch delegated his powers and made possible a centralized financial administration), it is not difficult to find the influence of the royal administrative structure on that of the configuration of the Deputation. Moreover, the transit of officials between administrations was usual, and the patterns of organization were influenced by a body of specialized bureaucratic staff. For instance, in 1283 the post of the Rational Master of the Court was created as a superior official presiding over the Royal Patrimony or the privative public finances of the monarch. Hence, the administration of the Deputation followed the main sections of the Royal Court (Chancellery, Rational Master and Treasury), creating the posts of Notary Major, the Rational and the Scribe or Regent of Accounts respectively. De Montagut i Estragués, *Les institucions fiscalitzadores de la Generalitat de Catalunya*, p. 49.

⁵² Ferro, *El Dret Públic Català*, p. 265.

⁵³ In contradistinction to the ordinary officials who could be elected by deputies and auditors without concurrency of opinions, officials with the rank of Minister of the General needed to be appointed with the unanimous consent of deputies and auditors. Sánchez de Movellán Torent, *La Diputació del General de Catalunya*, p. 207.

Although his assistants were notaries who came from the Notary or Scribe Major, the Regent was not this kind of official. He was supposed to be a trader with knowledge of trade and accounting. He also had the rank of Minister, and his main tasks were to keep the accounts of the institution by recording the statements of the two annual books, called ordinary or common. In these books the leases, debts, remunerations, orders of rights or generalities and other financial aspects of the institution were written down.

iii) The Rational

This was a notarial post, known also as the Notary, belonging to the auditors of accounts or to the bearers of the keys of the archive of the house. The Rational also had the rank of Minister of the General. His main tasks were to receive and consider – with the help of an expert – the triennial accounts of the general and local deputies, and all the other accounts relating to goods or other remunerations of the General. He then had to prepare a final report and question the auditors and deputies on the most controversial issues. Moreover, he had to keep the Blue Book and all the books of the bank. In addition, he was required to take charge of for the one hundred pounds received to examine the accounts of the rights or the non-leased generalities.

iv) Lawyers of the General

Most of these were doctors with in-depth knowledge of the decrees and law of the Principality. They therefore had to advise the deputies and auditors constantly, as well other members of the house. In addition, they had to take part in the consistory court when tax matters arose in the consistory that concerned the institution, in which one of the lawyers was a counsellor or judge, while the other worked as a barrister. Consequently, their work was based on seeing, recognizing and recording all the processes and documents that were referred to the General, as well as taking part in all the causes, events and issues that affected it. Their attention was drawn in particular to the questions or concerns raised by deputies because of their duties regarding control of legal compliance. In fact, the legislation of 1413 states the obligation of the deputies only to be advised by their own officials (from the Deputation) and not by other councillors drawn from other bodies of the Principality. The same legislation provided for their election in the General Court itself, stating that this duty would thereafter be the task of the six councillors. The offices of the Lawyers of the General would be renewed once they had served for six years, and not three years, which was the case with the majority of the posts the councillors selected.

v) The Procurator of the General or General Syndic

This post was created by the 1422 General Court, which confirmed that the Deputation's task was to defend the legal order.⁵⁴ His main task was entirely related to this principle, but

⁵⁴ Among the main tools for this purpose were the so-called embassies that the institution sent to the General Court. The regulation stated that the members of the consistory could only be part of these delegations in cases of the defence of Constitutions or in important events such as coronations and royal births. Also, the consistory could decide to send embassies whenever the choice was made by a joint decision of an eighteenth of the arms, by majority and by secret vote. In this respect the Syndic was in charge of requesting a licence from the lieutenant when the councillors wanted to go to see him in embassy. The same happened when they wanted to submit repeals of supplications, petitions and contraventions to the Royal Council or to the Royal Court. Ferro, *El Dret Públic Català*, pp. 279-281.

On the other hand, the conformation of the embassies was controversial and reflected the structure of the Estates that followed the institutions created by the arms. However, during the sixteenth century higher jurisdictional

within the Deputation as a result of the orders stated by the deputies and the processes they initiated. Once the monitoring and defending the law of the Principality was reaffirmed, the chief task of this post was to replace the main deputies presenting demands to the relevant courts. Most of the people who accessed this post were notaries who came from different positions in the institution. Nonetheless, succession from father to son was banned as of 1455.⁵⁵

3.3. Territorial structure and local deputies

The activity of the Deputation of the General was based in Barcelona, since the institution's most significant phase of development occurred during the fifteenth and sixteenth centuries. The institution's activity created a financial and institutional framework in which the high-level administration carried on by the consistory remained – either for practical reasons or due to other regulations – in the House of the Deputation, in the capital of the Principality. However, its officials were not limited to being centralized in Barcelona; there were other types of posts which served as a link between the capital and the twenty-two local deputations into which the country was divided and which formed the territorial administration of the Deputation of the General. The highest authorities were the local deputies, who represented the central institution in the main towns and cities of the Principality, while reporting to the consistory on local grievances. At the same time they were delegated the tasks of the auditors and the deputies, i.e., general examination and the decision to declare and determine matters relating to the rights of the General, as well as to exercise jurisdiction over people and goods of all conditions. Local deputies were appointed in Barcelona, with a number of universities showing a strong interest in influencing the election of the candidates. Moreover, they had special tasks such as regulating the relations between the indirect tax collectors (leasers) and producers and marketers (in particular) whose production was taxed by these rights, while conducting regular examinations on the status of the collection.

Overall we can say that the local deputation had two types of positions consistent with its duties to counsel the government and to administer justice, established in the capital of the collection⁵⁶ and composed of a local deputy as the head of the administration and its consistory. In turn, the local deputation had a set of officials in charge of tax collection (rights of the General

disputes and conflicts appeared against the Deputation, which caused the sending of several delegations in the 1570s and episodes of both acceptance and rejection by Philip II. Pérez Latre, *La Generalitat de Catalunya en temps de Felip II*, pp. 70-72.

⁵⁵ Sánchez de Movellán Toront, *La Diputació del General de Catalunya*, pp. 181 ff.

⁵⁶ In the sixteenth century the collections distributed throughout the Principality were the following: Balaguer, Barcelona, Berga, Camprodon, Castellbò, Castelló d'Empúries, Cervera, Girona, Lleida, Manresa, Montblanc, Perpinyà, Puigcerdà, La Seu d'Urgell, Tarragona, Tàrraga, Tortosa, Tremp i Pallars, La Vall d'Aran, Vic, Vilafranca de Conflent and Vilafranca del Penedès. Pérez Latre, *La Generalitat de Catalunya en temps de Felip II*, pp. 199 ff.

Most of the local deputations coincided with the *vegueria* capitals; moreover, some competences sometimes received mutual influence from both institutions. Thanks to some sources of notable jurists of the time such as Lluís de Peguera, who wrote: "*Pràctica, forma i estil de celebrar Corts Generals a Catalunya i matèries incidents en elles*" (Practice, form and style to hold General Courts in Catalonia and matters affecting them), we know which *vegueries* made up the territory during this century: Barcelona, Lleida, Girona, Vic, Manresa, Cervera, Tortosa, Tarragona, Vilafranca del Penedès, Montblanc, Tàrraga, Balaguer, Agramunt, Camprodon, Puigcerdà, Rosselló and Vilafranca de Conflent.

in this area) and administration of all these matters and its census. In addition, the house of the local deputation was formed by its local consistory or council, composed of an ordinary advisor, the lawyer and the tax procurator, the notary or scribe, the ordinary guards and other councillors. At the end of the three years in the post, the local deputies had two months to go to Barcelona to submit their management to the scrutiny of the general consistory. The local deputations were also visited every four months by other collection officials called *sobrecollidors*, who closed and brought the books and proceeds to Barcelona to justify them to the auditors of accounts. Contact with the capital was therefore constant, as the most important processes were transferred to Barcelona. These included appeals against lower sentences by local deputies, banishment penalties or death sentences issued against killers of officials of the General, and also major frauds. Finally we highlight the post of the so-called muskets or extraordinary guards, held mostly by farmers and artisans, who performed police functions patrolling streets and roads in search of possible frauds. However, the position degenerated, with many cases of corruption, rape allegations and thefts; finally the post was reformed and regulated with measures such as appointments from Barcelona, oaths, sworn fidelity to the local deputy, presentation of financial guarantees, limitation to a single jurisdiction, and the obligation to carry permanently the credentials of appointment.⁵⁷

4. Concluding remarks

The creation in 1359 of a commission of the General Court of Catalonia that would provide a link with the subsequent sittings of General Courts is considered the almost accidental birth⁵⁸ of an institution that two centuries later would be a powerful administrative institution deployed throughout the Principality. A journey through the history of our legal and political institutions shows how their analysis not only allows us to perceive their evolution to the present day but also leads us to observe whether our current reality deserves to be compared with other periods that we sometimes underestimate. In other words, we sometimes observe the Middle Ages as a dark period, lacking in rights, full of irregularities and completely arbitrary decisions, which has nothing to do with our own reality.

It is true that the apparent distribution of power of that time should be seen using historicist lenses. This is because the evolution of the Middle Ages and the relationship between power and the factuality of medieval reicentrism leads us to analyse the evolution of royal jurisdiction with the subsequent concept of tyrannical *gubernaculum*, as a form of exercising all the spheres of jurisdiction with an arbitrary base. This contradicts the long-term process through which customary law is established, and instead reflects the desire to face new challenges in the short term. This is, for instance, how Machiavelli understood his reformulation of the *iurisdictio* that preceded the onslaught of humanist ideas. The humanistic political literature reflected the concerns of a period in which many governments tended to be tyrannical. The flourishing of certain texts advising monarchs what to do to obtain *virtus* (honour and glory) was also reflected

⁵⁷ Pérez Latre, M., *Entre el Rei i la Terra. El poder polític a Catalunya al segle XVI*, EUMO Editorial, Vic, 2003, pp. 65-74.

⁵⁸ Pérez Latre, M., *Entre el Rei i la Terra*, p. 33.

in Machiavelli's analysis of how the new prince should face the problems of adverse fortune.⁵⁹ The starting point of Machiavelli's theory is the whole background of customary law. He observes a completely traditional society that makes it impossible to establish an Aristotelian polis. Hence, the importance of custom as a source of legitimacy for the traditional Prince led him to reflect on the relationship between citizenship, virtue and fortune in constructing legitimacy, but especially the customary legitimacy that conferred to the old prince sufficient power to govern through tyrannical bases without extraordinary virtue.⁶⁰ This picture describes why in many European countries legal pactism and political iuscentrism never occurred or changed, or never had the intensity of some other countries such as Catalonia.

The study of the Deputation of the General of Catalonia shows how the process of its creation was precisely the result of powers subject to counterbalances, with the aim of strictly clarifying and regulating decision-making procedures, and firmly establishing rights of legal relationships based on the fulfilment and participation of all the stakeholders, which is the principle of legal pactism. It is with this relationship that we find the starting point of the Deputation that, step by step and as a result of its great utility, it abandoned its features as a branch of the General Court, to become an institution that had a relationship with the General Court based on accountability for its governance. All this demonstrated the degree of autonomy and independence of the institution, as is the case with current governments appointed by parliaments, which have to submit all their management to parliamentary scrutiny. This article also seeks to draw out this theme through the contextualisation of the institution within its proper ideological and political settings.

The period that marked the most significant developments in the history of the Deputation as an autonomous and independent administration was the fifteenth and sixteenth centuries. The result was an institution with the following features: i) It represented government action, because it controlled the taxation of the whole of the Principality, with major impact on Catalan finance and economy. ii) It was an instrument of territorial decentralization. iii) Throughout its history, it developed a legal framework that was important not only for its procedure, functional and organizational matters but also because it created a system of personal legal status based on a regime of incompatibilities, and transparency during the exercise and remuneration of the post. iv) It had regulatory powers and broad public competencies. v) It performed political and diplomatic functions during some crises affecting other bodies of the Principality. vi) It constantly and systematically maintained the representation of the Estates and main actors in its structures. And finally vii) we can talk also about its features as a constitutional court because it was a guardian of legal order.

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⁵⁹ Skinner, Q., *Los fundamentos del pensamiento jurídico moderno. El renacimiento*, Fondo de Cultura Económica, México, 1985, pp. 142-145.

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