

Copyright © ECMI 2018

This article is located at:

<http://www.ecmi.de/fileadmin/downloads/publications/JEMIE/2018/Bourne.pdf>

---

## **Pathways out of Violence: Desecuritization and Legalization of Bildu and Sortu in the Basque Country**

Angela Bourne\*

*Roskilde University*

### **Abstract**

In this article, I examine political processes leading to the legalization of the Batasuna-successor parties, Bildu and Sortu. I apply the concept of desecuritization - a process by which an issue moves from the field of 'emergency politics' and 'existential threat' into the normal bargaining process of the public sphere – to analyse the legalization process. Desecuritization frames replaced, at least in the judicial, but also to some extent in the political spheres, a securitized framing of the organizations of the Basque Nationalist Left as integral to the terrorist organization ETA and as a threat to the democratic community. I argue that the desecuritization processes analysed here have had important consequences in terms of the Nationalist Left's modes of engagement in institutional politics since ETA's 2011 ceasefire. In addition to abandoning political violence, desecuritization processes taking the form of what Hansen describes as 'change through stabilization' facilitated the adoption of more conventional political practices, such engagement in parliamentary politics and cooperation with other parties.

**Keywords:** desecuritization; securitization; ETA; Bildu; Sortu; terrorism; legalization of parties

---

\* Correspondence details: Angela Bourne. Email: bourne@ruc.dk.

In May 2018, the armed Basque separatist organization, Euskadi Ta Askatasuna (ETA, Basque Homeland and Freedom), announced its dissolution. This was the culmination of a longer process in which ETA signalled a willingness to abandon violence, including the declaration, in September 2010, of a ‘cessation of armed offensives’ and in January 2011 of a ‘permanent, general and verifiable’ ceasefire. Formed in 1959 during the dictatorship of General Francisco Franco, the organization employed armed struggle in pursuit of an independent socialist state incorporating Basque-speaking provinces in France and Spain. During the transition to democracy after Franco’s death in 1978, its largest faction, *ETA militar*, continued military operations, conceiving of the Basque Country as an occupied territory and pursuing national liberation. In all, ETA killed over 800 people, injured thousands of others, and engaged in criminal activities including kidnapping, robbery and extortion.

Scholars point to various factors accounting for the renunciation of violence. These include changing attitudes of Basque citizens, increasing effectiveness of police and security operations, a hardening of attitudes against terrorism after the September 11, 2001 terrorist attacks in the United States, and the ideological evolution, strategic reorientation, and changing balance of power between ETA and the Nationalist Left (Murua, 2017; Zabalo and Saratxo, 2015; Domínguez, 2012; Llera, 2011). Among these explanations, many have emphasized the punitive effects of judicial campaigns targeting the so-called ‘satellite’ organizations of ETA’s support network – generally known as the *izquierda abertzale* (Nationalist Left). These included political parties, media, youth organizations and lobby groups. Of particular importance in this regard was the illegalization in 2003 of the radical Basque nationalist parties, *Herri Batasuna* (HB, Popular Unity) and its successors *Euskal Herritarrok* (EH, Basque Citizens) and *Batasuna* (Unity) on the grounds that the parties were an integral component of the terrorist network led by ETA. HB was a coalition of parties established by ETA in 1978 during the Spanish transition to democracy. Prior to illegalization, HB managed to win as many as five parliamentary seats (out of 350) in Spanish general elections and up to fourteen seats in the Basque parliament (as EH in 1998) (Llera, 1992; Mata, 1993: 95-131). Spanish authorities continued to prevent a long list of *Batasuna* successor parties from re-emerging for nearly a decade (for details see Bourne, 2012 and 2018a: 44). Purported effects of the ban included a weakening of ETA’s operational ability due to the scale of arrests, and, by strengthening the argument that a military strategy was ineffective in current circumstances, a weakening of

ETA's ability to claim leadership of the Nationalist Left (Alonso, 2010: 25-6 and 42-6; Domínguez, 2012: 274-5). In 2011-2, however, the cycle of party bans came to an end. The Constitutional Court overturned Supreme Court rulings banning the Batasuna successor parties *Bildu* (Unite), a coalition of parties including independents of the Nationalist Left, and *Sortu* (Create), a new party of the Nationalist Left.

In this article, I aim to contribute to this literature by examining political processes leading to the legalization of Bildu and Sortu. This has had important consequences in terms of the Nationalist Left's modes of engagement in institutional politics since ETA's 2011 ceasefire. I do so by deploying the concepts of securitization theory (e.g. Buzan et al., 1998; Balzacq, 2011). Briefly, according to Buzan et al., a public issue becomes *securitized* when 'presented as an existential threat, requiring emergency measures and justifying actions outside the normal bounds of political procedure' (1998: 23). On the other hand, *desecuritization* 'shifts the issue out of emergency mode and into the normal bargaining process of the public sphere' (ibid: 4), where issues are no longer phrased as 'threats against which we have to take countermeasures' (ibid: 29). Elsewhere I argue that securitization of both parties such as HB, EH, and Batasuna, and other political organizations of the Basque Nationalist Left as integral to the terrorist organization ETA and as a threat to the democratic community, helped explain the major turn in Spanish counterterrorism policy from the late 1990s (Bourne, 2015 and 2018b). In this context, it is pertinent to examine whether legalization of Bildu and Sortu took the form of desecuritization processes and reflect on the consequences of this process for the conduct of Basque politics since ETA's ceasefire and dissolution.

I begin with a brief discussion of securitization theory and the concept of desecuritization in relation to party ban and legalization proceedings. I then turn to examine the political context in which legalization debates took place, followed by an analysis of discursive constructions of the relationship between Bildu and Sortu and the terrorist organization ETA. Data employed for the analysis consists of parliamentary debates, court rulings, and newspaper articles principally from the daily *El Mundo*. Analysis focuses on discourses of the principal political actors involved in legalization processes, namely the Spanish government, the state-wide political parties (the *Partido Popular* (PP, Popular Party) and *Partido Socialista Obrero Español* (PSOE, Spanish Socialist Workers Party)) and the Supreme and Constitutional Courts. I conclude arguing that the legalization of Sortu and Bildu was the result of a highly-contested but nevertheless clear process of desecuritization. Ultimately, the Constitutional Court issued a definitive ruling redefining the fundamental 'friend-enemy' distinction at the heart of ban supporters' conception of the relationship between ETA and various components of the

movement of the Nationalist Left. As a consequence, there was increasing acceptance, on the part of mainstream political parties, that the parties of the Nationalist Left would best be dealt with through mediation of difference in the public sphere. Furthermore, legalization facilitated greater integration of the Basque Nationalist Left, through the party of Euskal Herria Bildu, in institutional politics. As such, the article addresses special issue themes relating to the use of violence as a strategy for pursuing independence, and the nature of state responses to movements who adopt such a strategy. However, rather than addressing the choice of pursuing independence through armed struggle, this article focuses on the ways in which the state can facilitate prioritization of political over military strategies.

### **1. Securitization and desecuritization in the regulation of party status**

Securitization theory, in its several variations, is premised on a conception of ‘security’ as intersubjective and socially constructed (e.g. Buzan, *et al.*, 1998: 30-1; Balzacq, 2011: 1-4). In their seminal work, Wæver and Buzan argue that ‘security’ occurs when ‘an issue is presented as posing an existential threat to a designated referent object (traditionally but not necessarily the state, incorporating government, territory and society)’ (Buzan *et al.*, 1998: 21). While ‘the invocation of security has been the key to legitimizing the use of force’ it has also ‘opened the way for the state to mobilise or to take special powers, to handle existential threats’ (Buzan *et al.*, 1998: 21). A public issue becomes *securitized* when ‘presented as an existential threat, requiring emergency measures and justifying actions outside the normal bounds of political procedure’ (ibid, 23). Securitization begins with a *securitizing move*, a discourse that takes the form of presenting something – in relation to party bans, a party – as an existential threat to a *referent object* – here a state, democratic institutions, or a national or democratic community (ibid: 25). Securitization discourse contains within it a ‘grammar of security’ which ‘construct[s] a plot that includes existential threat, point of no return, and a possible way out’ (1993: 33). However, an issue is successfully securitized only if a relevant audience accepts it as such (ibid: 25 and 31). Securitization arguments must ‘gain enough resonance for a platform to be made from which it is possible to legitimize emergency measures or other steps that would not have been possible had the discourse not taken the form of existential threats, point of no return, necessity’ (ibid: 25). Moreover, ‘In a democracy, at some point it must be argued in the public sphere why a situation constitutes security and therefore can legitimately be handled differently’ (ibid: 28). In this regard, Balzacq’s distinction between ‘moral’ and ‘formal’ support usefully distinguishes between audiences whose support is ‘crucial’ and those whose

support is merely ‘relevant’, with ‘crucial’ support resting on institutionalized rules distributing power among various kinds of political actors, and ‘relevant’ support being that from actors whose moral support is desired.

The proscription of political parties may be a response to securitization in three different security sectors - military, societal and political (Bourne, 2018a). Where a party is linked to a paramilitary group, party bans may be securitized as issues of *military* security, which, in this context, is ‘primarily about the ability of the ruling elite to maintain civil peace, territorial integrity and, more controversially, the machinery of government in the face of challenges by its citizens’ (Buzan *et al.*, 1998: 50). Indeed, as Buzan *et al.* note, minority nationalist and secessionist groups are ‘frequently objects of military interest and action and therefore securitization. They can easily be cast as threats to state sovereignty and, by the state-like activities they engage in, can motivate the existing state to use military force to secure its monopoly over legitimate violence’ (ibid). Far right, Islamist or radical leftist parties that may challenge the institutions and constitutive principles of democratic states, or minority nationalist groups that may challenge identity conceptions of majority nations, may be securitized as threats to *societal* security. Societal security refers to threats to the ‘identity, the self-conception of communities and of individuals identifying themselves as members of a community’, whether this be national, religious, racial or some other identity (ibid: 119). In other words, a threat to societal security exists ‘when communities of whatever kind define a development or potentiality as a threat to their survival as a community’ (ibid: 119) and involves ‘action taken to defend such “we identities”’ (ibid: 120). In this context, the referent object is ‘whatever larger group [that carries] the loyalties and devotion of its subjects in a form and to a degree that can create a socially powerful argument that this “we” is threatened’ (ibid: 123). Finally, anti-system parties *as such* may be securitized as a threat to the ‘organisational stability of social orders(s)’ (ibid: 141), or ‘political security’. Buzan *et al.* define political security as being about ‘threats to the legitimacy or recognition either of political units or of the essential patterns (structures, processes or institutions) among them’. More specifically, internal political threats are ‘made to...the internal legitimacy of the political unit, which relates primarily to ideologies and other constitutive ideas and issues defining the state’ (ibid: 144).

According to Buzan *et al.*, *desecuritization* ‘shifts the issue out of emergency mode and into the normal bargaining process of the public sphere’ (ibid: 4) where issues are no longer phrased as ‘threats against which we have to take countermeasures’ (ibid: 29). Developing Buzan *et al.*’s insights further, Hansen conceives desecuritization as involving ‘reconstitution of the friend-enemy distinction’ (2012: 534) and reconceptualization of an issue as properly

dealt with through mediation of difference in the public sphere (2012: 531). Hansen identifies four ideal types of desecuritization. The first is *change through stabilization*, or ‘a slow move out of an explicit security discourse, which in turn facilitates a less militaristic, less violent and hence more genuinely political form of engagement’ (ibid: 539). It entails not the resolution of conflict, but a receding of an issue into the background, which in itself ‘requires continued recognition and accommodation on both sides’ (ibid: 540). This kind of desecuritization could include lapsed party bans, including acceptance that a banned party might, after some time, re-emerge under new banner. *Rearticulation*, the second form, involves ‘desecuritizations that remove an issue from the securitized by actually offering a political solution to the threats, dangers and grievances in question’ (ibid: 543). Here an issue is ‘rearticulated rather than just replaced’. It could include legalization of a party in the context of peace processes addressing grievances of anti-system parties. Desecuritization through *replacement* involves ‘one issue moving out of security while another is simultaneously securitized’ (ibid: 541). Finally, *silencing* occurs ‘when an issue disappears or fails to register in security discourses’ (ibid: 544). It involves a move from the securitized to the non-politicized rather than to the politicized realm of the public sphere.

While hypotheses draw on insights from the Copenhagen School, which grew from Wæver and Buzan’s work, the approach employed here is closer to Balzacq’s ‘sociological’ approach (2005, 2011). Briefly stated, the Copenhagen School works within the poststructuralist tradition, which posits the social power of language and conceives of security as a ‘speech act’ in which security utterances ‘do things’ in the social world. In contrast, the ‘sociological’ perspective views securitization as ‘a strategic (pragmatic) process that occurs within, and as part of, a configuration of circumstances, including the context, the psycho-cultural disposition of the audience and the power that both the speaker and listener bring to the interaction’ (Balzacq, 2010: 1).

## **2. Party bans, ETA’s ceasefire and the legalization of Bildu and Sortu**

In Spain, parties can be banned in accordance with provisions of the Criminal Code on criminal and terrorist organizations and Party Law, most recently Organic Law on Political Parties 6/2002 of July 27, as amended by Organic Law 3/2015 of March 30 (Tajadura and Vírjala, 2008; Gil, 2015). Party Law has been the principal legal instrument for banning parties and there are currently various grounds for doing so: if a party is proven to be an ‘illicit association’, if its internal structure and functioning are undemocratic and if a party violates democratic

principles, in a repeated and grave form, and aims to undermine or destroy the regime of liberties, or injure or eliminate the democratic system (2002 Party Law, Article 10). HB, EH and Batasuna were banned in 2003 for complementing and supporting the terrorist organization ETA. As I spell out in more detail elsewhere, justifications for banning these parties employed two modes of securitization (Bourne, 2015 and 2018a). The first involved expansion of the concept ‘terrorist organization’ to include not just terrorist commandos but also the banned parties themselves, captured in the oft-repeated phrase ‘ETA is Batasuna, Batasuna is ETA’ or some variation thereof. The conceptual merging of parties of the Basque Nationalist Left and the terrorist organization ETA was achieved by framing the banned parties as security threats of the same order as a terrorist organization. A second mode of securitization was the argument that banned parties constituted a threat to the democratic community. The ban was conceived as a measure of democratic defence and the banned parties characterized as undemocratic and a threat to the rights and liberties of others. These positions were endorsed by all veto players, including the government, leading parties in the Spanish parliament, the Supreme Court and the European Court of Human Rights. For nearly a decade, all attempts to establish successor parties were thwarted in the Courts.

However, as mentioned above, in September 2010, ETA declared a ‘cessation of armed offensives’. In January 2011 it declared a ‘permanent, general and verifiable’ ceasefire. Soon afterwards, the party Sortu was launched, in February 2011, followed by the coalition Bildu, in April 2011. Unlike its predecessors, Bildu took the form of an electoral coalition involving a large number of independent candidates from the Basque Nationalist Left and two already legal political parties, namely *Eusko Alkartasuna* (EA, Basque Solidarity) and *Alternatiba* (Alternative), both with a long history of explicitly condemning ETA (Iglesias, 2011: 556; Narváez, 2011: 2). By October 2011, ETA had declared the ‘definitive cessation of armed activity’. Interventions by high-profile international actors urging ETA to abandon violence, and Spanish and French governments to negotiate with ETA on issues relating to prisoners and disarmament provided an international dimension to the process leading to ETA’s October 2011 declaration. In March 2010 South African lawyer Brian Currin had presented the declaration in Brussels along with other ‘International Leaders in Conflict Resolution and Peace Processes’, including Nobel peace laureates, making these demands. In October 2011, prior to the Constitutional Court’s decision to legalize Sortu, the Conference of Aiete in San Sebastián, led by former UN Secretary General Kofi Annan, made similar calls. Successive Spanish governments did not welcome these interventions. In April 2017, ETA handed over a cache of

arms to French security services, overseen by international mediators, and announced its disarmament. In May 2018, ETA announced its dissolution.

As mentioned above, many have argued that a withdrawal of support from the Nationalist Left - ETA's base - was crucial in its decision to abandon violence (Murua, 2017; Zabalo and Saratxo, 2015; Domínguez, 2012). According to Murua, withdrawal of support was caused by a gradual loss of confidence in ETA's military strategy after the failure of successive negotiations with the Spanish government, major police operations, disappointment with the failure of the Lizarraga-Garazi process and ultimately the frustration provoked by the failed 2006-7 dialogue with the PSOE Spanish government (2017: 98). Changes in the form of political violence employed, such as the indiscriminate nature of car bombs, the 'qualitative leap' of targeting political representatives and the cruelty of specific acts such as kidnapping of prison officer José Antonio Ortega Lara and assassination of PP councillor Miguel Angel Blanco were also 'turning points' in the Nationalist Left's evaluation of ETA (Murua, 2017: 99).

In the context of ETA's increasing operational weakness, the political wing was gradually able to impose its strategy of non-violence on the military wing (Murua, 2017: 109, see also Domínguez, 2012: 274-292). Between October 2009 and February 2010, leading figures from the Nationalist Left, including Batasuna leader Arnaldo Otegi, initiated a strategic debate in the movement defying the taboo of questioning the armed struggle and the utility of ETA's use of arms (Murua, 2017: 101; Zabalo and Saratxo, 2015: 375; Domínguez, 2012: 274-292). The outcome of the internal debate was support by the majority of the Nationalist Left for a new strategy based on non-violent pursuit of political goals (Murua, 2017: 102; Zabalo and Saratxo: 2015, 375). In September 2010, the Nationalist Left, Basque political parties, including those that would eventually form Bildu, trade unions and civil society groups signed the Gernika Agreement, which publicly called on ETA to end violence and for the Spanish government to begin negotiations with ETA on the basis of non-violence.

Sortu's Party Statute locates the origins of the party in the internal debate of the Nationalist Left. The Statute affirms that the party's commitment 'to exclusively political and democratic means is firm and unequivocal, unaffected by variation in tactics or contextual factors, and [that it] will therefore defend its ideology on the basis of respect for democratic principles and through legal means of intervention in public life'. The Statute specifically states that Sortu will oppose any external 'subordination, constraints or tutelage' that aims to convert it into an auxiliary organization of those that promote violence'; that its strategy is incompatible with 'violent acts or conduct that serve to complement or support them politically; and that the party 'rejected, openly and unequivocally, the organization ETA'. They also commit the parties

to the principles of the 2010 Gernika Agreement, restating a commitment to the Mitchell principles of non-violence (developed during the Northern Ireland Peace Process). Similarly, the documents establishing Bildu referred to a commitment to ‘exclusively peaceful and democratic means and the defence of all human rights’ and to pursuit of political conflict with reference to a commitment to the ‘Mitchell principles’ of non-violence. The two legal parties forming Bildu had unquestionable credentials as parties with long democratic traditions and staunch opposition to ETA.

In light of recent experiences, many were sceptical, in 2011, about whether the ceasefire was genuine or permanent. In 2006-7, an earlier ‘peace process’ had been initiated under the Socialist government of José Luis Rodríguez Zapatero but had been derailed after ETA exploded a car bomb at Barajas airport in Madrid in December 2006. The process had consisted of negotiations between ETA and the government representatives on ‘technical’ issues of prisoners and disarmament and political dialogue between Batasuna, EAJ/PNV and PSOE in a round-table of parties (Bew et al., 2009; 231-238). This was the most recent of various efforts to end violence through some form of dialogue, all of which had failed.

As Murua remarks,

it is not easy to determine whether [the 2009-2010 internal debates were] a debate among the social base of Batasuna, the party, or among the whole Nationalist Left, the movement. The ambiguous and undefined boundaries between the two concepts swallow both interpretations, and the fact that the majority of Batasuna’s social base also make up the majority of the Nationalist Left allowed the Batasuna leadership to present the debate’s conclusions as the will of the majority of the whole movement (Murua, 2017: 102).

Against a background of failed peace initiatives, mistrust and suspicion, this ambiguity about the boundaries between the party, movement and armed group was initially a major stumbling block in the legalization of Sortu and Bildu. Until the Constitutional Court reached its decision, this ambiguity confused the issue of whether there really was a breach between the political and military wings and thus whether it was still plausible to claim that ‘ETA-Batasuna-Nationalist Left’ were one and the same.

Nevertheless, these developments ultimately opened the way for legalization of Batasuna. In legal terms, the path to legalization of Batasuna required that new incarnations of the party – in this case Sortu and Bildu – satisfied what can be called the condemnation-of-violence ‘counter-indicator’. The 2002 Party Law and Ley Orgánica 5/1985, de 19 de junio, del Régimen Electoral General (Organic Law on the General Election Regime, LOREG), amended by the

2002 Party Law, established a number of indicators, refined by the jurisprudence of the Supreme Court and Constitutional Court, by which a new or existing party, federation, coalition or group of electors could be said to constitute a successor to, or continuation of the activities of, a banned party. ‘Subjective indicators’ were similarities between banned and succeeding parties in terms of the people who formed, directed, administered or joined them. ‘Objective indicators’ were similarities between the structures, organization and functioning of banned and succeeding parties and in the sources of their material and financial means. The 2002 Party Law and LOREG also permitted the Courts to take into account other relevant circumstances, particularly the new party’s disposition to support violence or terrorism. From this law, the Courts subsequently developed the concept of the condemnation-of-violence ‘counter-indicator’.<sup>1</sup> Even if it could be proven that there were ‘subjective’ or ‘objective’ links between a banned and a new party, a new party would not be banned if it explicitly condemned violence. This was the path to legalization for the parties of the Nationalist Left. It meant a new party, linked in terms of its personnel and supporters to HB, EH and Batasuna and/or the long list of other banned parties and electoral groupings, could return to the public sphere if they unambiguously rejected violence, including that of ETA (Català i Bas, 2013: 567; Iglesias, 2013).

The centrality of the condemnation-of-violence counter-indicator in the legalization process focused attention on the changing nature of the security threat posed by Bildu and Sortu. Despite continued appeals to securitization framed in political debates and legal argumentation, legalization was ultimately achieved as a result of a desecuritization process in which the Constitutional Court imposed a conception of Sortu and Bildu as separate from, and thereby less threatening than, the banned Batasuna and the ETA.

### **3. Desecuritization of Sortu and Bildu and mediation of difference through the public sphere**

#### ***3.1 Conflicting interpretations of Sortu and Bildu’s relationship with ETA: Securitization frames***

In a continuation of arguments about Batasuna and, by this time, many other banned parties of Nationalist Left, the PSOE (the party of government) and the PP (main party of opposition), the Public Prosecutor and majorities of the Supreme Court continued to hold by the securitized conception of parties of the Nationalist Left as an instrument of ETA, despite substantial changes in the political context described above. For both the Socialist government and the PP,

while ETA remained in existence, Sortu's rejection of violence and of the ETA itself was insufficient to justify legalization.<sup>2</sup> Both the government and opposition PP remained convinced that like Batasuna, Sortu was a party at the service of ETA and a successor to Batasuna.<sup>3</sup> The government acknowledged that 'things are happening' in the Nationalist Left and that the goal of constructing a 'pro-independence political space without violence' was 'more or less believable'. Nevertheless, it considered claims that the Nationalist Left sought to lead ETA away from violence were 'confused' and lacked 'sufficient credibility'.<sup>4</sup> Many from the PP and PSOE continued to insist, as PP parliamentary spokesperson Soraya Sáenz de Santamaría put it, 'Sortu is Batasuna and Batasuna is ETA'.<sup>5</sup> This was a position articulated by *La Asociación de Víctimas del Terrorismo* (AVT, Association of Victims of Terrorism), and *Foro Ermua*, civil society organizations representing the views of the victims of terrorism. They continued to describe Bildu and Sortu as the 'political wing of the terrorist group ETA' or similar, saw them as subordinate to the directives of ETA and supported proscription to prevent the 'return of ETA to the institutions'.<sup>6</sup> Similarly, many ban proponents continued to describe the parties as threats to democracy and frame illegalization processes as a 'defence of democracy', even after legalization.<sup>7</sup>

The majority of the Spanish Supreme Court endorsed these views, ruling that Bildu was a coalition designed to circumvent the illegalization of 'the political wing of the terrorist group ETA and thereby permit access of Batasuna/ETA to representative institutions'.<sup>8</sup> It ruled that Sortu was created by Batasuna and managed, encouraged and tutored by ETA.<sup>9</sup> In relation to Bildu, the 'Batasuna/ETA complex' had sought to align with, but control, ideologically similar parties, permitting it to develop an electoral presence under cover of legal political parties, unstained by past links with illegal parties.<sup>10</sup> Various agreements and evidence regarding their recruitment indicated that the 'independents' were in fact 'front men' for the illegal Batasuna.<sup>11</sup>

In both the Sortu and Bildu cases, majorities of the Supreme Court considered statements explicitly condemning or rejecting political violence, including that of ETA, as 'of instrumental value' or as a 'instrumental tactic' endorsed by ETA itself to create the conditions in which a new party could be legalized or to facilitate alliances with parties unequivocally opposed to ETA, such as EA and Alternatiba.<sup>12</sup> In the Bildu case, the Supreme Court majority readily acknowledged that EA and Alternatiba had always unambiguously rejected violence. Nevertheless, in both Bildu and Sortu rulings, the Supreme Court majorities nevertheless considered it proven that ETA itself had delivered instructions on how the rejection of its own terrorist actions were to be presented.<sup>13</sup> The majorities of the Supreme Court in both Sortu and Bildu rulings additionally argued that it was necessary to prevent re-emergence of new parties

or to annul the coalition Bildu's candidacies in order to guarantee the 'liberty of citizens' and protect democratic institutions.<sup>14</sup> In the Sortu ruling, the majority of the Supreme Court ruled that, even with a ceasefire, 'the very existence of the criminal group ETA and its political wing' has 'disturbed in an extraordinarily grave manner the social peace and normal peaceful coexistence of its citizens', not only in the Basque Country, but also in the rest of Spain, with the consequence of 'profoundly and negatively altering the public and constitutional order of the Spanish state'.<sup>15</sup> The majority also argued that tolerance of the use of a legal party to assure the continuity of the 'complex ETA-Batasuna', and allowing it to take advantage of the benefits that legality provided, posed a 'grave, imminent and objective risk, directly impinging on the basic pillars of our democracy'.<sup>16</sup>

### ***3.2 The Constitutional Court veto: the desecuritization frame***

This securitized framing of Bildu and Sortu as successors to Batasuna, their continuity as an instrument of Batasuna/ETA and the threat they purportedly posed to the democratic process was challenged and ultimately superseded in the Constitutional Court's rulings. These articulated a conception of the new parties as distinct from, and therefore less threatening than, the banned Batasuna and ETA. This process of redefinition, ultimately imposed by the Constitutional Court, involved a core attribute of what Hansen identifies as processes of desecuritization, namely a reconstitution of the 'friend-enemy distinction' (2012: 534).

The Constitutional Court's Bildu ruling reiterated the importance of separating the ideology of the Nationalist Left, which could not be a cause of illegalization, from support for violent means or perpetration of terrorist acts to achieve ideological goals, which could be cause for illegalization.<sup>17</sup> It held that the Nationalist Left, with EA and Alternatiba, had created Bildu after its own process of internal debate in which it had rejected violence.<sup>18</sup> In its Sortu ruling, the majority of the Constitutional Court effectively accepted at face value Sortu's claims that it had emerged from a changed Nationalist Left – a movement which had distanced itself from ETA, banned parties and conduct initially justifying proscription.<sup>19</sup> Focusing on the promoters of the new party – rather than party supporters with links to ETA or banned parties – the majority argued there were no indications of collaboration with either ETA or banned parties.<sup>20</sup> Furthermore, in both the Bildu and Sortu cases, the majorities of the Constitutional Court argued there was not proof of sufficient weight, given the threat to fundamental rights of political participation, to support the claim that Bildu or Sortu had been an instruments of 'Batasuna/ETA'.<sup>21</sup> In both cases, the Constitutional Court considered it proven – but irrelevant – that ETA and Batasuna had sought to subordinate Bildu and Sortu to achieve their goals.<sup>22</sup>

The lack of convincing evidence of ‘subjective’ or ‘objective’ indicators linking Batasuna or ETA, on the one hand, to Bildu, on the other, led the Constitutional Court to deduce that Batasuna/ETA had not actually been *able* to use Bildu for their own ends.<sup>23</sup> It made a similar argument when rejecting the Supreme Court ruling against Sortu.<sup>24</sup>

Against the Supreme Court, the majority in the Constitutional Court argued that Sortu could not be banned because its party statutes and similar manifestations by its promoters satisfied the condemnation-of-violence ‘counter-indicator’, outweighing other evidence of succession or continuity of a banned party.<sup>25</sup> It accepted that Bildu had eschewed violence, but did not consider it necessary to consider the issue in depth given the absence of evidence confirming other indicators of succession or continuity.<sup>26</sup> In addition to the long democratic trajectory of EA and Alternatiba, the declaration of Bildu candidates affirming a commitment to use exclusively peaceful and democratic means and to oppose acts of violence and those violating human rights, was deemed sufficient proof of Bildu’s condemnation of violence and terrorism. Indeed, in the view of the Constitutional Court majority, the Nationalist Left had rejected ETA’s thesis of armed struggle and the tutelage of the terrorist group, and affirmed mass politics, institutional and ideological competition as the only instrument to pursue its goal of Basque independence.<sup>27</sup> As the six dissenting Supreme Court judges had put it, the evidence suggested the Nationalist Left had liberated itself from ETA in a ‘Copernican shift’ from its traditional attitude of subordination to ETA...towards an absolute and unambiguous rejection of violence for political interventions, exclusively favouring political means’.<sup>28</sup>

Finally, in contrast to the Supreme Court, majorities in the Constitutional Court re-interpreted the source of threat to democracy as the overzealous application of party ban rules. The Court ruled that, given the seriousness that the limitation on the right of association entailed, banning Sortu and Bildu was disproportionate. It also warned that ‘the effort to ensure at all costs the security of the constitutional state, through preventing controls, puts...the very constitutional state at risk.’<sup>29</sup>

### ***3.3 Desecuritization and the preference for mediation of difference in the public sphere***

A second element of the desecuritization processes identified by Hanson that can be observed in this case was an increasing acceptance that the object framed as ‘threatening’ – here Sortu and Bildu – would best be dealt with through the mediation of difference in the public sphere rather than through exceptional measures – here, the party ban (2012: 531). Those against the proscription of Batasuna have long argued that the best way of dealing with the political claims of the Nationalist Left was through public debate and political competition. During 2002 Party

Law debates, for example, Gaspar Llamazares (*Izquierda Unida*, IU, United Left) argued that while ETA and its supporters should be dealt with through ‘the work of judges, of the public prosecutor and the police’, it was necessary to allow politicians to work to find solutions to political problems.<sup>30</sup> In 2012, IU continued to argue that it had always believed ‘illegalization contributed nothing to bringing the Basque conflict to a strictly political terrain’.<sup>31</sup> In the 2002 Party Law debate, PNV MP Josu Erkoreka had similarly argued that the best ‘defence of democracy’ was to apply ‘the Criminal Code to criminal acts...and combat ideologically, all those activities, conduct and acts of political parties that are not criminal’.<sup>32</sup> In 2011, after presentation of Sortu’s statutes, then PNV president Iñigo Urkullu, called other political forces to be conscious of this ‘important step’ and to ‘do what is possible to bring about the germination of a new time of normalization in political coexistence’.<sup>33</sup>

ETA’s ceasefire declaration and emergence of parties of the Nationalist Left formally renouncing violence, including that of ETA, facilitated a broadening of the constituency favourable to this position. Shortly after the emergence of Sortu, leader of the Basque branch of the PSOE, the PSE-EE, and president of the Basque Government (Lehendakari), Patxi López, argued legalization of Sortu would be ‘good news’. That is, he argued that the party ‘met the democratic and legal requirements to do politics’ and sought to ‘integrate itself into democracy’, even if the party needed to do more to dispel doubts and mistrust due to the frustrations of the past.<sup>34</sup> In addition to expressing a similar need for caution, PSE-EE spokesperson José Antonio Pastor commented that ‘the value of this party is, if it complies strictly with the law... that people who were previously in a political world collaborating with violence, would stop doing it and join... democracy’.<sup>35</sup>

After the Constitutional Court ruling legalizing Bildu, the constituency accepting engagement with radical Basque nationalist parties in the public sphere came to include almost the entire political spectrum, including the PSOE government and after December 2011, the PP government of Mariano Rajoy. Party spokespersons frequently spoke of a new period opened by ETA’s ceasefire declaration and many rejected new ban proposals not only on the grounds that they were unlikely to succeed in the Courts but also as a step facilitating peace, reconciliation or negotiation of political differences. The PSOE government continued to wield the threat of illegalization if parties of the Nationalist Left failed to respect ‘democratic rules’ and promised ‘thorough’ and ‘rigorous’ vigilance over the party.<sup>36</sup> Nevertheless, it rejected calls from the UPN to ban *Bildu* for acts subsequent to its legalization. Defending this line, PSOE Minister of the Presidency Ramón Jáuregui argued: ‘Maybe we are facing a unique opportunity to definitively overcome violence, without negotiation, without a political price, and with the

triumph of democracy'.<sup>37</sup> He called for encouragement of the Nationalist Left, 'movements which, probably, represent the fact that this circle has said that they don't want ETA anymore, although they say it in a manner that we don't like, but the fact that they are saying it appears important to me'. He further argued that there may be no other possible way to end 'fifty years of terrorist tragedy' and called for unity to tackle together this 'delicate peace process', converting these steps into something 'definitive and irreversible'.<sup>38</sup>

The government of the PP, traditionally the party arguing for proscription in the strongest terms, was less conciliatory in its response to further calls to illegalize Bildu. Answering a call from UPyD to ban Bildu and its sister party Amaiur, PP Minister of the Interior Jorge Fernández Díaz stated: 'you don't need to convince me or the government...about what ETA is, and what Bildu is, or what Amaiur is' and emphasized that the government's policy was to continue using instruments available within the law to bring about the end of ETA.<sup>39</sup> Urging the UPyD not to confuse 'what we find politically repugnant... and what is legally possible', the PP government argued that in light of the Constitutional Court ruling, there was insufficient proof to launch successful proceedings against Bildu and Amaiur and to do so would be counter-productive.<sup>40</sup> Nevertheless, the PP, along with the vast majority of deputies in the Spanish parliament rejected by 326 votes to 5 (in a 350 seat parliament), a February 2012 UPyD motion calling for the illegalization of Bildu and Amaiur.<sup>41</sup> A proposed amendment replacing the UPyD motion, supported by these parties, framed ETA's ceasefire as a 'victory for democracy' and among other things, urged the government to '[encourage efforts towards social coexistence].<sup>42</sup> In parliamentary debates on the motion, various party spokespersons described party bans as 'anachronistic' given the 'new times' inaugurated by ETA's ceasefire and the absence of political violence.<sup>43</sup> In addition to legal obstacles, banning parties at that time would represent a failure to take advantage of the opportunity for peace, created through political dialogue and the promotion of social coexistence.<sup>44</sup> Paul Ríos, spokesperson of the peace movement Lokarri, considered the 'decision of the Nationalist Left to advance through solely peaceful and political methods' was a 'new political situation' and that legalization of Bildu and its electoral successes were an 'opportunity to achieve peace'.<sup>45</sup>

### **Conclusion: integration of the parties of the Nationalist Left into the institutional sphere**

The above discussion suggests that desecuritization processes leading to the legalization of Bildu and Sortu took the form of what Hansen describes as 'change through stabilization', or a 'slow move out of explicit security discourse which in turn facilitates...a more genuinely political form of engagement' (2012, 539). It involved, as Hansen characterized this form of

desecuritization, not a resolution of conflict, but a receding of the issue into the background (ibid). In this case, legalization followed the unilateral decisions of ETA to abandon political violence in order to meet the requirements of party and electoral laws and was not part of a deal negotiated in a formally constituted peace process. After the Constitutional Court endorsed the legality of Bildu and Sortu, some continued to call for their illegalization, including the Association of Victims of Terrorism,<sup>46</sup> but the political appetite and legal conditions for party bans appeared to have been missing.

In the years since legalization, there are various indications of what Hansen described as ‘a more genuinely political form of engagement’ (2012: 539) between the Basque Nationalist Left and mainstream political parties. This has built on electoral success. Bildu participated in 2011 municipal, Navarrese parliamentary and provincial elections in Guipúzcoa, Vizcaya and Álava, winning more councillors in the Basque Country than any other party and a high number of those in Navarre (Iglesias, 2011: 557). The formula pioneered in Bildu was re-used for the 2011 Spanish general election, with the addition of the party *Aralar* to the coalition. In that election, the new coalition *Amaiur* (named after a Basque village) won seven seats. After it was legalized in 2012, Sortu joined these parties under the banner of *Euskal Herria Bildu* (Basque Country Unite, EH Bildu), becoming the second largest electoral force in the Basque Autonomous Community with 21 and 18 seats respectively following 2012 and 2016 elections. This fell to 2 seats in the 2015 and 2016 Spanish general elections. With the emergence of the coalition *Amaiur*, the Nationalist Left ended its long-term policy of abstention at the state level and took up its seats in the Spanish Congress of Deputies (Fernández and López, 2012: 134, 340). In June 2018, EH Bildu’s deputies were among the coalition of parties supporting the removal, in a constructive motion of no confidence, of the Mariano Rajoy’s Popular Party government.

Following ETA’s ceasefire declarations and definitive cessation of armed activities through 2010 and 2011, other parties have become more willing to collaborate with the Nationalist Left. As mentioned above, several moderate Basque nationalist parties, all of whom unambiguously rejected political violence, were willing to form electoral coalitions with Nationalist Left independents and, when legalized, Sortu. These include: EA, a former governing party in the Basque Autonomous Community; Aralar, split from EH in 2001; and Alternatiba, split in 2009 from Ezker Batua-Berdeak, an affiliate of the state-wide party, IU. EA and Alternatiba, among others, formed Bildu in April 2011, along with independent candidates from the Nationalist Left, to contest municipal elections in the Basque Country and Navarre. Later that year these parties, with Aralar and Nationalist Left candidates standing as

independents, formed Amaiur, to contest general elections in 2011, while EH Bildu was formed by these same figures for the 2012 Basque Autonomous Community elections. When legalized, Sortu joined EH Bildu.

Mainstream parties in the Basque Country have been cautious regarding their interest in cooperation with EH Bildu. *Euzko Alderdi Jeltzale/Partido Nacionalista Vasco* (EAJ/PNV, Basque Nationalist Party) is willing to facilitate the entry of EH Bildu into governing roles, according to its leader and President of the Basque government (Lehendakari), Iñigo Urkullu, in order to ‘test the capacity of government and management of the radical Basque nationalist left, but also to observe the consolidation of political normalization achieved at that moment’.<sup>47</sup> However, the EAJ/PNV has pointed to difficulties that EH Bildu’s preferred social and economic model present for governing with the EAJ/PNV (ibid). In 2016, prior to Basque parliament elections the EAJ/PNV stated its preferred coalition partner was PSE EE(PSOE), and subsequently formed a minority government with it.<sup>48</sup> For its part, the leader of *Podemos* (We Can) in the Basque Country, Lander Martínez, stated that while there are possibilities of agreement on socio-economic issues with EH Bildu, which may or may not lead to governing pacts, there remained profound differences on questions relating to political conflict in the Basque Country where EH Bildu ‘had to make advances’.<sup>49</sup> The PSE EE(PSOE), while willing to collaborate on political initiatives due to common leftist ideological positioning, also highlighted difficulties. More specifically, it indicated limits to cooperation due to what it called the reluctance of the Nationalist Left to acknowledge ‘their part in certain political and moral aspects of what happened’ in the past and difficulties this created for a ‘normalization’ of relations with EH Bildu, including sharing government.<sup>50</sup> The PP ruled out any collaboration with EH Bildu both due to ideological distance and because the Nationalist Left refused to ‘reject or condemn terrorism and all of ETA’s actions’ and ‘recognise the damage they have done’.<sup>51</sup>

Despite reservations, there are various examples of political cooperation between mainstream parties and parties of the Basque Nationalist Left. This kind of cooperation does in fact pre-date ETA’s 2011 ceasefire, although since then it has become broader and arguably more consequential. With the exception of the PSE EE(PSOE) 2009-2012 Basque Parliament, when, in fact, all parties of the Nationalist Left had been excluded due to the party ban, coalition governments formed predominantly by more mainstream Basque nationalists, have been willing to collaborate with parties of the Nationalist Left on an *ad hoc* basis to pass legislation. This has included support by some Batasuna deputies in a December 2004 Basque parliament vote for the so-called Plan Ibarretxe on reforming Basque self-government arrangements.<sup>52</sup>

Another example was support by some deputies from *Euskal Herrialdeetako Alderdi Komunista/Partido Comunista de las Tierras Vascas* (Communist Party of the Basque Homelands) for investiture of the EAJ/PNV leader, Juan José Ibarretxe, as Lehendakari in June 2005.<sup>53</sup> Collaboration at this time was difficult. Indeed, as Mata observed, the Nationalist Left became ‘a “referee” in many parliamentary votes, at times blocking bills and projects and thus virtually paralyzing the Basque parliament’ (2005: 85).

More recently, in Guipuzcoa, the EAJ/PNV and Basque branch of the PSOE agreed to facilitate approval of successive budgets in the Bildu-led minority administration during 2011-15.<sup>54</sup> Following elections in Navarre in 2015, *Geroa Bai* (Yes to the Future), a coalition of Basque nationalist parties, including EAJ/PNV, and the party, *Izquierda-Ezquerria* (Left), formed a minority government including EH Bildu with parliamentary support from Podemos (We Can). In 2015, collaboration among the PSE EE(PSOE), UPyD and EH Bildu – at that time, in opposition in the Basque parliament – led to approval of a new Housing Law against the wishes of the governing EAJ/PNV.<sup>55</sup>

## Notes

---

<sup>1</sup> Sentencia del Tribunal Constitucional (STC) 99/2004 de 27 de mayo, FJ 19 and STC 138/2012 de 20 de junio de 2012).

<sup>2</sup> El Mundo. ‘Rodríguez Zapatero, ante los medios tras la cumbre hispanopolaca’. *El Mundo*, March 10, 2011; El Mundo. ‘Jáuregui: “Si no han roto definitivamente con ETA no pueden ser legalizados”’. *El Mundo*, February 17, 2011; El Mundo. ‘Conde-Pumpido: “Sortu no debe ser legal mientras permanezca la sombra de ETA”’. *El Mundo*, August 15, 2011; El Mundo. ‘El PP califica de ‘repugnante’ el hecho de que Odón Elorza le vincule al franquismo’. *El Mundo*, February 13, 2011; El Mundo. ‘Basagoiti afirma que la “culpa” de que Sortu no sea legal la tiene ETA’. *El Mundo*, September 20, 2011.

<sup>3</sup> El Mundo. ‘Jáuregui: “Si no han roto definitivamente con ETA no pueden ser legalizados”’, *El Mundo*, February 17, 2011; El Mundo. ‘Caamaño asegura que el Gobierno “vigilará” para que Sortu no use las listas de EA’. *El Mundo*, March 24, 2011; El Mundo. ‘Rajoy aboga por ilegalizar Sortu para ‘no tirar por la borda’ años de trabajo’. *El Mundo*, February 17, 2011.

<sup>4</sup> El Mundo. ‘Jáuregui: “Si no han roto definitivamente con ETA no pueden ser legalizados”’. *El Mundo*, February 17, 2011; El Mundo. ‘Basagoiti afirma que la “culpa” de que Sortu no sea legal la tiene ETA’. *El Mundo*, September 20, 2011; El Mundo. ‘Conde-Pumpido: “Sortu no debe ser legal mientras permanezca la sombra de ETA”’. *El Mundo*, August 15, 2011; ‘Rajoy aboga por ilegalizar Sortu para “no tirar por la borda” años de trabajo’. *El Mundo*, February 17, 2011.

<sup>5</sup> El Mundo. ‘Rajoy aboga por ilegalizar Sortu para “no tirar por la borda” años de trabajo’. *El Mundo*, February 17, 2011; El Mundo. ‘El PP califica de “repugnante” el hecho de que Odón Elorza le vincule al franquismo’. *El Mundo*, February 13, 2011; El Mundo. ‘El PP ha pedido al Gobierno que impugne la candidatura de Bildu’. *El Mundo*, April 25, 2011).

- 
- <sup>6</sup> El Mundo. 'La AVT pide la ilegalización de Bildu y Sortu por los sucesos de Ondarroa'. *El Mundo*, May 16, 2011; El Mundo. 'El Foro de Ermua pide la ilegalización de Bildu y exige explicaciones al Gobierno'. *El Mundo*, July 14, 2011.
- <sup>7</sup> El Mundo. 'Basagoiti afirma que la "culpa" de que Sortu no sea legal la tiene ETA'. *El Mundo*, September 20, 2011; El Mundo. 'El Foro de Ermua pide la ilegalización de Bildu y exige explicaciones al Gobierno'. *El Mundo*, July 14, 2011; El Mundo. 'El PP de Elorrio pedirá a la Fiscalía que se retire el acta de una concejal de Bildu'. *El Mundo*, August 6, 2011.
- <sup>8</sup> Sentencia Tribunal Supremo (Sala del 61) (STS) de 1 de mayo de 2011, Fundamentos de Derecho, 14.
- <sup>9</sup> Auto Tribunal Supremo (Sala del 61) (ATS), de 30 de marzo de 2011, Fundamentos Jurídicos 12 and 13.
- <sup>10</sup> STS de 1 de mayo de 2011, Fundamentos de Derecho, 12.2.
- <sup>11</sup> STS de 1 de mayo de 2011, Fundamentos de Derecho, 12.6.
- <sup>12</sup> ATS de 30 de marzo de 2011, Fundamentos Jurídicos 6 and 14 III.a), STS de 1 de mayo de 2011, Fundamentos de Derecho, 13.
- <sup>13</sup> ATS de 30 de marzo de 2011, Fundamentos Jurídicos 6; STS de 1 de mayo de 2011, Fundamentos de Derecho, 13.
- <sup>14</sup> ATS de 30 de marzo de 2011, Fundamentos Jurídicos 14 II and 14 III.c); STS de 1 de mayo de 2011, Fundamentos de Derecho, 14.
- <sup>15</sup> ATS de 30 de marzo de 2011, Fundamentos Jurídicos 14 II.
- <sup>16</sup> ATS de 30 de marzo de 2011, Fundamentos Jurídicos 14 III c.
- <sup>17</sup> Sentencia Tribunal Constitucional (STC) 62/2011 de 5 de mayo de 2011, Fundamentos Jurídicos 6.
- <sup>18</sup> STC 62/2011 de 5 de mayo de 2011 Antecedentes 3, Fundamentos Jurídicos 9.
- <sup>19</sup> STC 138/2012 de 20 de junio de 2012, Fundamentos Jurídicos 10.
- <sup>20</sup> STC 138/2012 de 20 de junio de 2012, Fundamentos Jurídicos 11.
- <sup>21</sup> STC 138/2012 de 20 de junio de 2012, Fundamentos Jurídicos 13; STC 62/2011 de 5 de mayo de 2011, Fundamentos Jurídicos 13.
- <sup>22</sup> STC 62/2011 de 5 de mayo de 2011, Fundamentos Jurídicos 8 and 9; STC 138/2012 de 20 de junio de 2012, Fundamentos Jurídicos 13.
- <sup>23</sup> STC 62/2011 de 5 de mayo de 2011, Fundamentos Jurídicos 8 and 9.
- <sup>24</sup> STC 138/2012 de 20 de junio de 2012, Fundamentos Jurídicos 13.
- <sup>25</sup> STC 138/2012 de 20 de junio de 2012, Fundamentos Jurídicos 10.
- <sup>26</sup> STC 62/2011 de 5 de mayo de 2011, Fundamentos Jurídicos 12.
- <sup>27</sup> STC 62/2011 de 5 de mayo de 2011 Antecedentes 3.
- <sup>28</sup> STS de 1 de mayo de 2011, Voto Particular, Fundamentos de Derecho 7.
- <sup>29</sup> STC 62/2011 de 5 de mayo de 2011, Fundamentos Jurídicos 13; repeated in STC 138/2012 de 20 de junio de 2012, Fundamentos Jurídicos 12.
- <sup>30</sup> Diario de sesiones del Congreso de los Diputados, núm. 164, May 23, 2002, p. 8310.
- <sup>31</sup> Diario de sesiones del Congreso de los Diputados, núm. 12, February 21, 2012, p. 31.
- <sup>32</sup> Diario de sesiones del Congreso de los diputados, núm. 164, May 23, 2002, p. 8306.
- <sup>33</sup> El Mundo. 'Urkullu tiene previsto hablar con Zapatero y le gustaría hacerlo con Rajoy sobre Sortu'. *El Mundo*, February 10, 2011; see also PNV MP Aitor Esteban Bravo, Diario de sesiones del Congreso de los Diputados, núm. 12, February 21, 2012, p. 30.
- <sup>34</sup> El Mundo. 'Patxi López cree que la legalización de Sortu sería 'una buena noticia'. *El Mundo*, February 10, 2011; El Mundo. 'Patxi López dice que "ojalá" Sortu se legalice, pero que no convocará elecciones'. *El Mundo*, February 11, 2011; El Mundo. 'Patxi López advierte de que no habrá "alfombra roja" para Sortu'. *El Mundo*, February 16, 2011.
- <sup>35</sup> El Mundo. 'Joseba Egibar afirma que Sortu "no es Batasuna porque es una ruptura total"'. *El Mundo*, March 26, 2011.
- <sup>36</sup> El Mundo. 'Jáuregui dice que con los informes del Gobierno no se puede ilegalizar a Bildu'. *El Mundo*, July 20, 2011; El Mundo. 'El PSE avisa a Bildu de que podría ser ilegalizada si no cumple con la democracia'. *El Mundo*, August 28, 2011.
- <sup>37</sup> El Mundo. 'Jáuregui dice que con los informes del Gobierno no se puede ilegalizar a Bildu'. *El Mundo*, July 20, 2011.
- <sup>38</sup> Ramón Jáuregui, PSOE Minister of the President, Diario de Sesiones del Congreso de los Diputados, núm., July 20, 2011, p. 28.
- <sup>39</sup> PP Interior Minister, Jorge Fernández Díaz, Diario de sesiones del Congreso de los Diputados, núm. 10, February 15, 2012, p. 34; see also PP MP, Leopoldo Barreda de los Ríos, Diario de Sesiones del Congreso de los Diputados, núm. 12, February 21, 2012, p. 27-8.
- <sup>40</sup> PP Interior Minister, Jorge Fernández Díaz, Diario de sesiones del Congreso de los Diputados, núm. 10, February 15, 2012, p. 34-35 and 37.

- <sup>41</sup> Diario de Sesiones del Congreso de los Diputados, núm. 12, February 21, 2012, p. 40.
- <sup>42</sup> Boletín Oficial de las Cortes Generales, Serie D, núm. 44, February 28, 2012, p. 45.
- <sup>43</sup> PSOE MP Ramón Jauregui (p. 28-9); CiU MP Jordi Jané Guasch (p. 29); PNV MP Aitor Esteban Bravo (p. 30) in Diario de sesiones del Congreso de los Diputados, núm. 12, February 21, 2012.
- <sup>44</sup> PSOE MP Ramón Jáuregui (p.28-9); CiU MP Jordi Jané Guasch (p. 29); PNV MP Aitor Esteban Bravo (p. 30); IU MP Ricardo Sixto Iglesias (p. 31); Diario de sesiones del Congreso de los Diputados, núm. 12, February 21, 2012.
- <sup>45</sup> El Mundo. 'Lokarri insta a López a iniciar "el diálogo" entre partidos para la paz'. *El Mundo*, June 3, 2011.
- <sup>46</sup> El Mundo. 'La AVT pide a los partidos reeditar el pacto antiterrorista de 2000'. *El Mundo*, October 27, 2015.
- <sup>47</sup> El País. 'Así están las negociaciones para el pacto en las comunidades'. *El País*, June 18, 2015; Noticias de Navarra. 'Urkullu ve "difícil" un pacto entre PNV y EH Bildu tras las elecciones'. *Noticias de Navarra*, April 22, 2015.
- <sup>48</sup> El Correo. 'Gobierno y PNV se alejan del PP vasco tras su oferta de colaboración'. *El Correo*, April 20, 2016.
- <sup>49</sup> El Diario Vasco. 'Podemos rechaza un pacto con EH Bildu y PNV'. *El Diario Vasco*, March 26, 2016.
- <sup>50</sup> Interview by author with Rafaela Romero, Spokesperson for PSE-EE in Juntas Generales de Guipúzcoa, April 22, 2016, Bilbao.
- <sup>51</sup> Interview with Javier Ruiz, Secretary General of PP in Vizcaya, April 21, 2016, Bilbao.
- <sup>52</sup> El Mundo. 'El parlamento vasco aprueba el Plan Ibarretxe gracias a Batasuna'. *El Mundo*, December 31, 2004.
- <sup>53</sup> El País. 'Ibarretxe será "lehendakari" gracias a los votos de EHAK'. *El País*, June 23, 2005.
- <sup>54</sup> El País. 'El PNV facilita de Nuevo a Garitano la aprobación de los presupuestos'. *El País*, November 28, 2013.
- <sup>55</sup> El Diario Vasco. 'El parlamento vasco aprueba la primera ley de vivienda de Euskadi'. *El Diario Vasco*, June 18, 2015.

## References

- Alonso, R. 'Escenarios ante el final del terrorismo: ¿qué política Antiterrorista frente a ETA y Batasuna?' *Cuadernos de pensamiento político*. (26) 2010: 35-58.
- Balzacq, T. *Securitization Theory*. Oxford, UK: Routledge, 2011.
- Bourne, A. *Democratic Dilemmas: Why Democracies Ban Parties*. London: Routledge, 2018a.
- \_\_\_\_\_. 'Securitization and the Proscription of Terrorist Organizations in Spain'. *Terrorism and Political Violence*. 30(2) (2018b): 318-335.
- \_\_\_\_\_. 'The proscription of parties and the problem with "militant democracy"'. *Journal of Comparative Law*. 7(1) (2012): 196-213.
- \_\_\_\_\_. 'Why ban Batasuna? Terrorism, political parties and democracy'. *Comparative European Politics*. 13 (2015): 325-344.
- Buzan, B., O. Wæver and J. De Wilde. *Security: A new framework for analysis*. Boulder, CO: Lynne Rienner, 1998.
- Català I Bas, A. 'Sortu en la encrucijada: A propósito de la sentencia del Tribunal de Estrasburgo EAE-ANV c. España, de 15 de enero de 2013'. In *Igualdad i democracia: El género como categoría de análisis jurídico*, ed. Corts Valencianes, 1st ed. Valencia: Litoema, 2013.
- Domínguez, F. *La Agonia de ETA*. Madrid: La esfera de los libros, 2012.

- 
- Gil, A. 'La expansion de los delitos de terrorismo en España a través del delito de pertinencia a organización terrorista'. In K. Ambos, E. Malarino and C. Steiner, eds., *Terrorismo y Derecho Penal*. 1st ed. Berlin: Konrad Adenauer Stiftung, 2015.
- Hansen, L. 'Reconstructing desecuritization: the normative-political in the Copenhagen School and directions for how to apply it'. *Review of International Studies*. 38(3) (2012): 525-546.
- Iglesias Báñez, M. 'El caso Bildu'. *Teoría y Realidad Constitucional*. (28) (2011): 555-578.
- \_\_\_\_\_. 'Sentencia Tribunal Constitucional nº138/2012 de 20 de junio'. *Ars Iuris Salmanticensis*. 1(1) (2013): 239-242.
- Llera, F. 'Ejército secreto y movimiento social'. *Revista de Estudios Políticos*. (78) (1992): 161-193.
- \_\_\_\_\_. 'Sortu: ¿El fin de ETA?' *Claves de la Razón Práctica*. (210) (2011): 32-44.
- Mata, J. *El nacionalismo vasco radical*. Leioa: Universidad del País Vasco, 1993.
- \_\_\_\_\_. 'Terrorism and nationalist conflict: The weakness of democracy in the Basque Country'. In *The politics of contemporary Spain*, ed. S. Balfour, 1st ed. London: Routledge, 2005.
- Murua, I. 'No more bullets for ETA: The loss of internal support as a key factor in the end of the Basque group's campaign'. *Critical Studies on Terrorism*. 10(1) (2017): 93-114.
- Narváez, A. 'Sentencia del Tribunal Supremo (Sala Especial del artículo 61 LOPJ) de 1 de mayo de 2011: Caso Bildu'. *Diario La Ley*. (7650) (2011): 1-7.
- Tajadura, J. and E. Vírgala. 'España'. In *La ilegalización de partidos políticos en las democracias occidentales*, eds. J. Corcuera, J. Tajadura and E. Vírgala. Madrid: Dykinson, 2008.
- Zabalo, J. and M. Saratxo. 'ETA ceasefire: Armed struggle vs. political practice in Basque nationalism'. *Ethnicities*. 15(3) (2015): 362-384.

## Appendix: Abbreviations

EA	<i>Eusko Alkartasuna</i> (Basque Solidarity)
EAJ/PNV	<i>Euzko Alderdi Jeltzale/Partido Nacionalista Vasco</i> (Basque Nationalist Party)
EH	<i>Euskal Herriterrok</i> (Basque Citizens)
EH Bildu	<i>Euskal Herria Bildu</i> (Basque Country Unite)

---

ETA	<i>Euskadi Ta Askatasuna</i> (Basque Homeland and Liberty)
HB	<i>Herri Batasuna</i> (Popular Unity)
IU	<i>Izquierda Unida</i> (United left)
PP	<i>Partido Popular</i> (Popular Party)
PSOE Party)	<i>Partido Socialista Obrero Español</i> (Spanish Socialist Workers
PSE EE(PSOE)	<i>Partido Socialista de Euskadi-Euskadiko Ezkerra</i> (PSOE) (Socialist Party of the Basque Country- Basque Country Left (PSOE))
UPyD	<i>Unión, Progreso y Democracia</i> (Union, Progress and Democracy)