A New Era

The Constitution was passed in 1978. Its first additional provision set out its scope and respect of the historical rights of the charter communities, while it repealed the former legislation of 21 July 1876 and 25 October 1839 for the Basque provinces where they may have been in force. In 1979, the Statue of Autonomy of the Basque Country was passed and established the traditional charter system of the Economic Agreement, which was passed into law in 1981, as the system for the tax relationship between the State and the Basque Country.

The Constitution was approved in 1978 and its First Additional Provision guarantees the protection and respect for the historical rights of the foral territories, and at the same time the old Laws of 21st July 1876 and 25th October 1839, were abolished for the Basque Territories, in the part they might still be of some validity. In the new framework of the State, the Constitution foresees the set up of Autonomies (Title VIII), with initial differences between the historical and the ordinary ones, but in the Basque case, this process comes together with the respect for the historical rights. As Álava hadn’t lost its Economic Agreement regime after the Civil War, the starting point was, in a way, this Agreement dated in 1976 to be restored in Bizkaia and Gipuzkoa. In 1979, with the approval of the Statute of the Basque Autonomous Community, the traditional foral Economic Agreement regime was reestablished as the tax relations system between the State and the Basque Country, which was laid down by the Law of 1981. So since 1981, and after the negotiations among the central Government, the Deputations and the Basque Government, the old foral structure of the Deputations began to be reimplemented.

To start with, the Economic Agreement became the most outstanding particularity of the Basque autonomy and the Quota was fixed as a lump sum for the whole Autonomous Community, made up by the contributions of the three Historical Territories. The distribution of the payment among the three of them and the finance system of the expenses conferred to the common institutions was settled by subsequent agreements between the Basque Country and the Foral Territories within the framework of the subsequent Contributions Laws which determined how much of their tax collection the Foral Deputations had to transfer to the other levels of government, and how much of the Quota each Foral Deputation had to pay, being approximately 50 per cent for Bizkaia, 35 per cent for Gipuzkoa and 15 per cent for Álava.

The main difference between the Quota in 1878 and in 1981 lies in the fact that, in the first case, the Quota was equivalent to the amount the Ministry of the Treasury would have collected
if the common regime had been the applicable one. In the second case, the Quota was the payment of the expenses the central government had to fund in the Basque Autonomous Community, either indirectly in case of services provided in the Community, either in case of services provides in the benefit of their inhabitants (for instance, diplomatic relations or the Army), besides their contribution to the Inter-territorial Compensation Fund.

In order to make the calculation of the amount to be paid as Quota easier, a formula, stated by the Law, was used. It took into account the expenditure of the State that benefited the residents in the Basque Country, usually called non assumed charges of the State, the revenue obtained in the Basque Country by the State and, as to prevent the Quota from meaning an added effort, regardless of the generation of effective resources by the State, the State deficit. The measurement of all these parameters was made using an imputation method. By virtue of the Economic Agreement, the attribution rate or imputation index of the Basque Country was determined in accordance with the income of the Historical Territories relative to that of the State and it was fixed in 6.24%. In addition to the Quota, the financial relations between the State and the Basque Country were also based in other financial flows, such as different adjustments to correct the income imputation or the share of the Basque Municipalities in the non agreed fiscal revenues.

Since 1981, the Economic Agreement has gradually broadened its scope, covering more tax figures and new challenges. As a matter of fact, in 1986, with the accessions to the European Economic Community, the Agreement was amended in order to include the Value Added Tax (VAT). In 1997, the Excise Duties (tobacco, alcohol and so on) were agreed and the legislative autonomy became wider in direct taxation (Personal Income Tax and Corporate Income Tax). One of the most obvious consequences of the 1997 partial amendment of the Agreement was the increase of the Quota. This new capacities weren't enough to prevent the central State from taking tax regulations or Normas Forales regulating such competences to Courts. Indeed, leaving aside the political coexistence problems, the regulatory nature conferred to the Normas Forales, passed by the General Assemblies, made the appeals of these tax regulations to Court easier.