

Constitutional Development of the Francoist Spain

Summary in English

The aim of the thesis is to describe political regime, legal order and especially the constitutional laws applicable in Spain during the governance of Francisco Franco Bahamonde between the years 1936 and 1975.

Franco took part in the military uprising against the Second Spanish Republic and soon became the leader of the nationalist troops. As the head of state he constructed a „New State“ inspired by the fascist, falangist and traditionalistic ideas. Under the influence of international circumstances after the Second World War he was forced to change his allies – Mussolini’s Italy and Hitler’s Germany was replaced by the United States – but his autocratic regime did not change a lot. It was still him who disposed of the unlimited power and whose status was unchangeable. The free competition of the political parties was disabled as the only legal party was Francoist FET y de las JONS (later known as National Movement).

During his reign Franco adopted seven constitutional laws which confirmed human rights and ideological principles of the regime and organized the state administration and public authorities. First of these laws was Labour Charter, adopted in 1938, followed by Law on the Cortes in 1942, Charter of the Spaniards in 1945, Law on the Referendum in 1945, Law on Succession in 1947, Law on the Fundamental Principles of the National Movement in 1958 and the Organic State Law in 1967.

However, much of the content of these laws remained unaplicable until the moment of Franco’s death. The human rights could’t be claimed in trials and the government was entitled to suspend them any time by mere own decision.

In 1947 Franco introduced monarchy as a new form of government. He did not appoint himself as a king but he created institutions typical for a kingdom, i.e. Council of Kingdom, an advisory body participating in the decisions of the head of state, or Court of Accounts of Kingdom. In 1969 he designated Juan Carlos de Borbón as his successor.

The composition of the legislative institution of the regime, Cortes, was based on so-called „organic representation“ which ment representation of the natural groups of the society – the municipality, the family and the trade union. Nevertheless, the Cortes did not restrict Franco’s own legislative competency.

The aim of the whole complicated structure of public institutions was to obscure the fact, that the only leader of Spain is Franco, whose power continued to be unlimited until his death in 1975.