

RULE OF LAW IN CATALONIA

REPORT OF “IMPULSO CIUDADANO” REGARDING THE SITUATION OF THE RULE OF LAW IN CATALONIA (SPAIN) IN THE FRAMEWORK OF THE 2020 RULE OF LAW REPORT- EUROPEAN COMMISSION

ENGLISH SUMMARY

Introduction

“Impulso Ciudadano” is a non-governmental organization created in 2009 whose purpose is promoting and defending political, ideological, linguistic and cultural pluralism within Spain; defending the values of the Spanish Constitution of 1978, promoting the cohesion and the relationships between all the citizens and regions in Spain; and bolstering the necessary measures to improve the functioning and rationalizing of the public administration.

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“Impulso Ciudadano” congratulates the European Commission for the initiative of elaborating the 2020 Rule of Law Report and is delighted to share its concerns and information about the situation of the rule of law in Catalonia, Spain.

The attached report is originally written in Spanish. In this summary, we provide some information in English about the main guidelines of the full report.

II. Legal and political framework

The report explains that Spain is a decentralized country, in some ways a federal country, in which there are certain institutions that exercise their powers in all the country (the king, the government of Spain, the national parliament, the Constitutional Court and the Supreme Court) and 17 Autonomous Communities with their own regional parliaments and regional governments. Catalonia is one of these autonomous communities. Its regional parliament and government rule over issues such as health, education, prison policy, police, infrastructures, commerce, social welfare, etc. In some of these fields, it is the competence

of the Spanish Government and the Spanish Parliament to coordinate the different autonomous communities and to establish the general basis of the regulation.

However, the key feature of the whole system is that all the authorities and administrations must always respect the Spanish Constitution.

The relevance of the competences assumed by the regional institutions implies that the “real”, the everyday administration in Catalonia is the regional administration. The direct power of the Spanish Government in Catalonia is strictly limited, reduced to control over borders, tax administration, the army, the airport and port of Barcelona and just a few more competences.

It is important to consider what has been mentioned above because the serious damage done to the rule of law explained in the report is mainly a consequence of the action of the regional institutions, not the result of the action of the Spanish government or the Spanish Parliament.

The breaking of the rule of law is a consequence of the determination of the authorities that control the regional institutions and many local administrations in Catalonia to use the public powers in their hands ignoring the framework of the Spanish Constitution in order to make of Catalonia a new independent State.

In 2017, these same public authorities promoted a rebellion against the Spanish Constitution and Spanish institutions aimed at obtaining the independence. As you know, at the end, the Spanish Government and the Spanish Senate used the extraordinary powers conferred by the Constitution in order to end up the rebellion of the Catalan regional institutions, but nowadays, as we show in the report, these institutions continue refusing to act within the framework of the law and, as it is shown in the report, this is causing a serious damage to the rule of law in Catalonia.

III. Rule of Law in Catalonia

First. Regional and local authorities in Catalonia declare themselves freed from the limits established in the Constitution and in the laws. The mere declaration of the public power of its will to act outside the framework of the law is a break of the rule of law and a threat to the citizens, who deserve that the public power respects the authority of the law and of the Constitution.

Second. Symbols in support of Catalan nationalism have systematically filled the public space, including regional buildings (the seat of the regional government), municipal buildings

and even schools. The use of partisan symbols in public buildings is against the rule of law and an infringement of the Spanish Constitution and the Spanish law. Despite this, the regional authorities and local authorities decided to use these symbols also during electoral processes. In some occasions, even after receiving express orders from the electoral administration in order to remove those symbols from public buildings, the public authorities decided to maintain them. This is, not only did they break the rule of law by using partisan symbols, but also by disobeying the orders of the electoral administration.

Third. The regional and local authorities use the regional and the local police to prevent the activity of those opposed to nationalism. According with the law and regulations, it is not possible to place symbols at your will and with no restrains on the streets, but the Catalan nationalist authorities allow the placement of nationalist and pro-independence symbols on the streets. When the symbols placed show disapproval of the nationalist movement (e.g. a Spanish flag), the authorities immediately remove the symbol and fine the authors of the placement. Even more, when somebody removes pro-independence symbols from public spaces, the police investigate and, eventually, report the incident. In some occasions, the police have arrested those who have removed nationalist symbols from the streets.

Fourth. The use of nationalist symbols in public spaces, even in public buildings, is part of a strategy aimed to restrain the action of those opposed to nationalism and secession. This includes attacks against political rallies of parties and organizations who defend the Spanish Constitution and refuse secession. In some occasions, political rallies of parties opposed to secession have been banned by the local authorities in Catalonia, in what is a clear act of discrimination based on political reasons.

Fifth. Schools are used as tools to indoctrinate students. Several reports give details on this indoctrination and the Spanish Ombudsman (“Defensor del Pueblo”) has mentioned cases in which nationalist and pro-independence symbols have been placed in schools. Schools were also used as a political instrument in the illegal referendum held on the 1st October 2017 and during the following days.

Sixth. Regional authorities refuse to allow the use of Spanish as teaching language at schools. According with the courts, at least 25% of the classes must be given in Spanish, but nowadays less than 9% of the classes are taught in Spanish. This is a clear law infringement.

Notwithstanding this, the regional administration goes on doing it because the only way to make it obey and apply the law is through the courts, which implies expenses and endless legal proceedings that may take years. The administration discourages the claims of families and nationalist organizations and political parties harass those families who demand the application of the law in the schools.

Seventh. Public universities show nationalist symbols on their websites and in their buildings. Those students who openly show their opposition to nationalism are not allowed to speak freely in the campus, to the point of even expelling one of the student organizations who defends the constitutional values from the official list of associations recognized by the university. The courts decided that this expelling implied the infringement of the students' right not to be discriminated by their ideology, the students' right to freedom of thought, freedom of speech and their right to the education.

Eighth. In Catalonia, the authorities tolerate and even, in some occasions, encourage political violence. Violent groups limit the freedom of speech of those who oppose nationalism with the approval or silence of public authorities. What is more, the regional government tries to show that violence is caused by non-nationalist groups, which is completely counter-factual.

Ninth. The regional government controls public radio and television in Catalonia, and also has a great influence in private newspapers and digital media as a consequence of the public money granted to private media. That implies a limitation of pluralism in the media (public and private).

Tenth. The regional ombudsman is not protecting the rights of those who oppose nationalism. In fact, the regional ombudsman is more a tool used by nationalism to limit the rights of those who demand, for example, the use of Spanish language in the regional administration.