

A (Revisited) Brief Guide to the Catalan Crisis

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1. Spain is a full democracy. In a 1-9 scale on The Economist Democracy index, it scores 8: that ranks Spain together with the UK or Germany and higher than France, Italy, the US or Japan.

<https://www.economist.com/blogs/graphicdetail/2017/01/daily-chart-20>

Its courts are independent and its press is among the freest in the world.

2. Catalonia (pop. 7.500.000) is an autonomous region within Spain, that is to say, it exercises political powers pretty much the sort of a Canadian province or a German Land. For a quick glance, www.gencat.cat

Amongst this array of powers are to be noted the most important levers of today's welfare, including health and education. Catalonia (on a comparable basis, only the Basque country and Navarre as well) is also fully responsible for security within its borders: a 17.000-manned police force is in charge of this.

Catalonia elects a Parliament every four years. Its President is designated by this Parliament. Its President in turn appoints the government. A Regional Constitutional Court takes care of checking the validity of regional laws vis-à-vis the Spanish Constitution and the regional Constitution.

Catalonia is a very prosperous region, it accounts for 20% of the Spanish GDP.

3. In 2006, both Catalonia and the Spanish Parliament passed a thorough revision of the Catalan regional constitution. Four years later in 2010, the Constitutional Court validated most of the text, although it also struck down some of its most controversial features, notably those leading to placing Catalonia on an equal foot with Spain as a whole.

4. Shortly after, the nationalist forces in Catalonia began to strive for a referendum as the only way out of their aspirations for more political power, let alone full independence. According to reliable polls, around 80% of the Catalan people support their right to decide upon their own future, irrespective of the rest of Spain; this percentage goes down to around 15% among the rest of Spaniards, approximately 80% contending that the whole of the country and not only Catalans should decide upon this.

A popular "consultation" was promoted by the Catalan government in the Fall of 2014 (the word "referendum" was deliberately avoided for the reason explained below). The government in Madrid considered this illegal, for according to the Constitution only the Spanish Parliament is entitled to call a referendum. In an injunction the Constitutional Court stayed the legal framework for the consultation after holding it inapplicable. Yet the Spanish government allowed the vote to actually take place. Votes for independence were 80,76%. Turnout was 37,02%.

As a result of the use of public resources, the President of the Catalan government at the time and several cabinet members were prosecuted in court (also by the Spanish Parliament dependent equivalent of the Accounting Office) under several allegations, including misappropriation of government funds.

5. In the regional elections of September 2015, the nationalist parties joined forces under the slogan "Together for Yes", with a view to turn the election into the referendum Catalonia had not been allowed to carry out. These parties obtained 62 seats in Parliament; the other pro-independence party (CUP) obtained 10: 4 seats above the absolute majority (68). However, the popular vote obtained by all of them accounted for 47,8% of the popular vote. 52,2% of the voters did not support them. Turnout was very high as compared to other previous elections: 77,3%.

6. With support from CUP, the "Together for Yes" parties designated the current President and cabinet of Catalonia. The core of their political agenda was a new referendum for independence. Outright independence has been openly envisaged by the President and his cabinet since in power, should the referendum be won. Catalan government resources and efforts have ever since been devoted to preparations for independence.

The two critical pieces of legislation paving the way for this process are the one calling the referendum and the one providing for transition measures once independence should be declared.

Both were passed in application of a previous revision of the Parliament's rules of procedure that had been stayed by the Constitutional Court. This revision made it possible for these two bills to be passed in a single seating and hence in one day and after granting the opposition parties a two-hour term to amend them. Texts had been kept away from public scrutiny until that very day. This was done against the views of the two Clerks of the Catalan Parliament, who warned of potential criminal consequences. The opposition parties requested their right to have the Regional Constitutional Court issue an opinion on these laws. The Regional Constitutional Court published a statement that very day whereby they declared that such an opinion was compulsory according to the Regional Constitution. The Regional Constitutional Court ended up not being consulted.

All the opposition parties (52 seats) except for Catalunya Sí que es Pot (11 seats) left the room before the vote took place. The reforms were passed with the votes from the pro-independence parties, namely "Together for Yes" and CUP. Catalunya Sí que es Pot voted against.

One of said laws proclaims the sovereignty of the Catalan people and as a result its right to self-determination and of secession from the rest of Spain. According to the Spanish Constitution, sovereignty lies with the Spanish people as a whole; this is obviously the case with similar constitutions, even those following a federalist pattern.

The UN restricts the scope of the right to self-determination to former colonies, egregious human rights violations and foreign invasions. Two Constitutions in the world enshrine the right of self-determination of a region within their own territory: Ethiopia's and Saint Kitts and Nevis' (in the Caribbean).

The other law establishes the main rules for the referendum among the Catalan people: no reinforced majority needed, no minimum turnout needed for independence to be declared.

7. Again the Spanish government challenged these legislative measures before the Constitutional Court, with support from the main opposition party in Spain (PSOE) and the fourth biggest (main opposition force in Catalonia itself, Ciudadanos). The third national force instead (Podemos) supports the referendum.

One further step: Spain's Attorney General pressed charges before the relevant criminal courts against the high-ranking officers, other officials and other citizens allegedly involved directly in the referendum's organization. These courts have ordered arrests as a result of these actions. Police forces following court orders in this context include the Catalan autonomous Police.

8. Other measures ordered by the courts include banning access to certain websites displaying contents related to the referendum's organization.

And notably the imprisonment of the two leaders of the two main pro-independence civil society organizations (ANC and Omnium Cultural), Jordi Sánchez and Jordi Cuixart (popularly known as "Los Jordis"), under allegations of sedition after leading a massive demonstration while the Spanish Police would carry out searches related to the referendum's organization in certain Catalan government premises. A Spanish Police vehicle was destroyed during that demonstration while the judicial clerk taking part in the search had to wait around four hours once her work had been completed, before she was forced to leave the building at midnight running through roof tops, as several thousand people still stood outside. Under the same sedition charges, the Commander-in-chief of the Catalan Police, Major Trapero, was turned loose subject to strict surveillance conditions as the alleged crime investigations follow course.

9. In the wake of these facts, events sky-rocketed. The referendum actually took place on October 1st. Turnout was 43%. 90% of voters supported independence. However, these figures are far from being trustworthy, since no reliable census was available; the "universal census" having been made available to citizens in the very same morning of the vote would have been made through the processing of personal data of millions of citizens without their previous consent. Widespread evidence was shown of an undetermined number of persons voting several times at different stations. No independent, reliable authority was in charge of validating the results, the one having been officially appointed having been previously disqualified by a Constitutional Court order. An ad-hoc "Committee of experts" designated amongst pro-independence academia members was the only authority charged with this task.

October 1st is nonetheless way more renowned for the fact that the Spanish Police ended up using force in order to prevent the vote from actually taking place. The Catalan Police, at previous coordination meetings with the Spanish Police had vowed to keep all proposed polling stations closed and free from potential voters latest by 6am that morning. This commitment never took place. Thousands of voters were free to enter the stations as of 9 am (as a matter of fact, hundreds of pro-independence militants had spent the two previous nights and days at many schools designated as polling stations). Images of injured, bleeding people, over a thousand, literally went around the world in a matter of seconds. While of course some of them were real, also many others were fake, proven to have been taken at various demonstrations from the past. (Please refer to point 10 below on the involvement of Russian hacking networks in the spreading of fake news). By the morning of October 2nd, only one of those over a thousand persons remained in hospital.

The Catalan President Carles Puigdemont, in a first appearance before the Catalan Parliament after the vote, avoided an outright declaration of independence to be proclaimed, as set forth in the Transition laws, by the plenary itself. All 72 "Together for Yes" deputies nonetheless signed out an officious document declaring the establishment of Catalonia as "an independent, sovereign,

democratic, social State in the form of a republic” and urged the UN and States across the world to recognize it.

The government in Madrid in turn urged the Catalan government to clarify whether independence had indeed been declared and hinted that, had this been the case, direct rule under article 155 in the Spanish constitution might be imposed.

Mr. Puigdemont refused to provide a clear answer to that question. The government in Madrid, acting in accordance with PSOE’s and Ciudadanos’ leaders (only Podemos among the four main national parties was against), decided to enforce article 155.

Article 155 in the Spanish Constitution is the equivalent of among others its main inspirational example, article 37 in Germany’s Fundamental Law (*Bundeszwang*), making such direct rule possible in cases of very serious breaches of constitutional or statutory commitments having been incurred by regions. The Spanish provision makes it also possible to enforce direct rule where regions might “very seriously act against the general interest of Spain”. This provision had never been enforced in the previous 39 years since the Spanish Constitution was enacted.

As constitutionally required, the Senate of Spain passed the relevant proposal from the government on October 27th. Although an absolute majority (134) would have sufficed, 214 senators voted for, and 47 against the government’s proposal (one senator abstained).

Only minutes earlier, 70 deputies in the Catalan Parliament, from “Together for Yes” and CUP, had formally adopted independence. An additional deputy from a different group may have joined them. It will never be known for sure, since the vote was held by ballot, that is to say, on a secret basis. 10 deputies (presumably from Catalunya Sí que es Pot, the Catalan branch from Podemos) voted against. Two deputies abstained. Again all MPs from Ciudadanos, PSC (PSOE) and PP had left the plenary room before the vote. The Catalan Parliament is made up of 135 deputies. The Constitutional Court will presumably stay this declaration of independence, once seized to do so by the Spanish Government that same day.

The government’s proposal to enforce article 155 included two main sets of measures.

One of them provided for the removal of Mr. Puigdemont and the Catalan Vicepresident Mr. Oriol Junqueras, as well as of the other Catalan Cabinet members among other senior officers in the Catalan Administration, notably those in charge of the Catalan Police, the financial and the digital governance areas.

The other subjected the Catalan Parliament to a severe limitation of powers, concerning the appointment of a replacement Catalan President and legislative proposals.

Minutes after the Spanish Cabinet meeting finally adopting direct rule, Prime Minister Mariano Rajoy made a public appearance where he announced the removal of Mr. Puigdemont and the rest of his Catalan Cabinet members and other senior officers. However, in a surprising move, the immediate dissolution of the Catalan Parliament together with Catalan elections on December 21st, 2017 were also announced: according to the proposal passed by the Senate, such an election might have taken place up to 6 months following the approval date of October 27th.

While all this happened, close to 20,000 demonstrators still celebrated the declaration of independence adopted by the Catalan Parliament around 3 pm that day, near the Catalan government building in Barcelona. In a number of Catalan cities and villages, similar demonstrations were held as well, including Girona and Sabadell; there – and in a number of other towns and villages too- Spanish flags were taken down from town-hall facades.

Also in Barcelona, several thousands began to rally against independence. As was the case on Sunday October 29th, when hundreds of thousands marched against independence and in favor of Spain's unity in a massive demonstration headed by the leaders of Ciudadanos, PSC (PSOE and PP).

In the meantime, over 1,800 companies had moved out of Catalonia, by placing their legal bases at different cities across Spain since October 1st. That number increased to almost 2,400 one month and a half later. One out of three companies of over 50 workers is already out.

The heads of the European Commission, European Council and European Parliament, while attending an official event in Oviedo (Northern Spain) in front of King Philip VI and Prime Minister Rajoy on October 20th, showed their support to Spain's unity and the unequivocal need to respect the terms of the Spanish Constitution and laws, prior to any solution excluding violence and involving dialogue.

Neither the UN, the EU, the U.S. or any of the countries having ousted their will in this regard since independence was declared have recognized the "Catalan Republic", if such an entity – born in open breach of Spain's Constitution, the Catalan regional Constitution and other laws- could actually be deemed to exist. This includes Russia, Germany, the UK, France, Italy, Mexico, Argentina... among many others. So far, only South Ossetia, a republic seceded from Georgia in 2009 (in turn recognized by four countries, namely Nicaragua, Nauru, Russia and Venezuela) has declared its intention "to study a possible recognition" of the "Catalan Republic".

On Monday October 30th none but one of the removed Catalan Cabinet members intended to resume his former official tasks. The one who did, gave up minutes later when invited to do so by members of the Catalan Police.

After initial hesitations, former "Together for Yes" member parties announced they would participate in the election called by means of article 155. CUP eventually decided to do so too. No doubt pro-Union parties will take part as well.

Spain's Attorney General announced that same day that charges for rebellion, sedition and misappropriation of government funds would be pressed against the former Catalan President, his former Cabinet members and the Catalan Parliament's President, Mrs. Carme Forcadell.

The former Catalan President himself, together with seven of his former Cabinet members, had fled to Belgium the day before. Three of them returned to Spain a few days later.

On November 2nd, a judge at the National High Court in Madrid decided to imprison former Vicepresident Junqueras, and the seven former members of the Catalan Cabinet in Spain at the time, under charges of rebellion, sedition and misappropriation of government funds. In the meantime, Mr. Puigdemont and the remaining former Cabinet members stayed in Belgium; a day after, the same judge issued a European arrest warrant against all of them.

The Catalan Parliament's President, Mrs. Forcadell, together with four members of the Parliament's Bureau, who had not opposed to putting the declaration of independence to vote by the Plenary, were also sent to prison by a Supreme Court judge in Madrid on November 9th. The Supreme Court (and not the National High Court) is competent to adjudicate on this issue because these five persons retain their condition as members of the Catalan Parliament. All five of them left nevertheless prison the next day, after having been bailed out with funds from pro-independence organization ANC.

10. In an op-ed contribution from October 2nd, The Washington Post referred to Catalonia having "held an independence referendum", one that "Russia would have won". In a number of pieces as of that date, that newspaper has been denouncing propaganda from Russian hackers backed by the Kremlin. So have many other media, notably The Economist in their November 4th issue. It is also the case of Spanish media, particularly El País, which has referred to Russia's use of Venezuelan "chavista" networks to this end; also according to El País, pro-Russian Twitter networks saw a 2000% increase in their activity in the hours prior to the October 1st referendum.

Likewise noteworthy are links between prominent leaders of the Catalan secession propaganda machinery and worldwide renowned activist Julian Assange. Since late August 2017, Assange has issued dozens of messages from profiles under his control on social media in favor of Catalan independence. On November 9th, Oriol Soler, one of those propaganda leaders, held a three-hour long interview with Assange at the Ecuadoran embassy in London.

Probably as a result of the Russian involvement, some members of the US Senate began investigating early in November connections of Russia with pro-independence movements in Catalonia, having been mainly spurred by biased content disseminated through social networks.

On November 10th, the Spanish government recognized such involvement of hackers "from Russian (and Venezuelan) territory" in the Catalan crisis. Ultimate goal would be, not only destabilizing Spain, but the European Union as a whole.

A Council of ministers of foreign affairs of the EU held on November 13th discussed this matter, in relation to Catalonia and other instances. The very same day, the EU Commission launched a public consultation on fake news and online disinformation and set up a High-Level Expert Group to address the problem and explore possible solutions.