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## **The Catalan Crisis Shows No Sign of Abating**

by Nicolas de Sadeleer

The prospects of Catalonian secession are beset by numerous complexities at various levels of government.

Europe has always been subject to antagonistic struggles between centrifugal and centripetal forces. Since 1957, the European Union has been a key driver of European integration; however, a number of its Member States (Spain, Belgium, the UK) have been subject to their sub-entities' requests for greater regional autonomy, and potential secession. This collision between more integration at the central level and more autonomy at the regional level is compounded by the rather recent concept of the European nation-state. For instance, the full integration of Catalonia in the Kingdom of Spain took place in 1714 following the War of Spanish Succession, when the Catalan self-government institutions were abolished in favour of an absolutist unitary kingdom.

In contrast to most other European states, Spain escaped the major continental conflicts of the 19<sup>th</sup> and 20<sup>th</sup> centuries, and accordingly, has not been subject to any territorial changes. That being said, regionalism has always been dogged by controversy in Spain, both as a matter of principle as well as outcome. During the murderous Spanish civil war (1936-1939) republicans and nationalists fought on this issue. While regional separatism in Spain emerged in the 19<sup>th</sup> century, it was not until second half of the 20<sup>th</sup> century that it gave rise to more dramatic and violent manifestation. In Catalonia, the independence movement has been gaining momentum since 2012 with the organisation of local referendums and giant marches protests in that year. In 2017, President Carles Puigdemont ushered in a more aggressive process towards independence that led to the organisation of a referendum on 1 October 2017. Earlier efforts to organise a referendum in 2014 was declared unconstitutional by the Spanish Constitutional Court on the ground that the power to call for a referendum belongs exclusively to the central authority. Similarly, the 2017 referendum was also declared illegal under the Constitution. Nevertheless, it took place under controversial conditions and attracted a turnout of 43 percent, whereby majority of 92 percent of voters supported the secession from Spain.

In light of the referendum results and oblivious to the fundamental principles of the Spanish Constitution, the Catalan regional parliament issued a declaration of independence on 27 October 2017. No state recognised Catalonia's statehood following its unilateral declaration of independence. That same day, the Spanish Government triggered Article 155 of the Constitution that provides for exceptional federal powers, leading to the dissolution of the Catalan Government and the organisation of new regional elections. On 8 November 2017, the Spanish Constitutional Court quashed the unilateral declaration of independence on the grounds that the Constitution enshrines the principle of unity of the state and nation, which are described as "indivisible." Along

the same lines, that Court also nullified several Catalan statutes likely to enhance the rise of an independent state, among others the organisation of an autonomous judicial power, a tax agency and a social security department that would form the basis of a new welfare system.

Key political figures behind the declaration of independence were prosecuted. The former Catalan president Carles Puigdemont sought refuge in Belgium to avoid arrest. Although subject to an international arrest warrant, the Belgian courts have refused to extradite him on the grounds that the accusation of “rebellion” could not be invoked. A similar decision was reached by a German court following Puigdemont’s arrest in Germany in 2018.

The trial of Carles Puigdemont and eight other independence leaders behind the illegal 2017 referendum and the subsequent unilateral declaration of independence took place from 12 February to 12 June 2019 before the Spanish Supreme Court. On 14 October 2019, the Supreme Court handed down jail sentences ranging from 9 to 13 years. Although convicted for sedition, misuse of public funds and disobedience, in relation to their roles in the failed attempt for regional independence, they were nonetheless cleared of the charge of violent rebellion. There is a significant difference between the charges of sedition and rebellion. Whilst the former requires the act of enticing citizens to take part in “tumultuous and public rising in order to prevent the application of the law” (Article 544 Criminal Code), the latter requires the use of violence and is consequently subject to harsher sentences (eight to ten years instead of four to eight years for the former charge). Several of those convicted, including Catalonia’s former vice-president Oriol Junqueras, have been banned by the Supreme Court from holding public office.

It comes as no surprise that the Supreme Court verdict galvanised the independence movement and sparked off violent protests across Catalonia that led to the occupation of Barcelona airport. The reaction of the regional police, *los Mossos d’Esquadra*, was criticised for being disproportionate. In the aftermath of the riots, the independence movement has been somewhat divided. Whilst *Esquerra Republicana de Catalunya* immediately condemned the violence, it took three days for the Catalan President Quim Torra to reprove the rioting.

The crisis is compounding fragmentation within the Spanish electorate. The risk of secession has led many voters of the right-wing party, *Partido Popular*, to support the far-right party *Vox*, who in the 10 November 2019 general elections (Spain’s fourth election in four years) won 15 percent of the vote (52 seats out of 350). The results of last Sunday’s elections highlight the country’s political polarisation.

So far, the political crisis has not affected the regional economy. In the case of independence, Catalonia would become a new state under international public law. As a result, this new state would not be part of the EU. In order to become a new Member State, Catalonia would have to apply for the EU membership, a process that can take many years. In practical terms, Catalonia as an independent state would not be part of the Eurozone, the internal market, nor the Schengen area. Moreover, both the absence of international support for independence as well as potential economic and social consequences compound the difficulties of leaving the Spanish Kingdom.

Inhabitants of Catalonia remain utterly divided on the issue of independence. Opponents of independence claim that the Catalan government of President Quim Torra does not represent the views of all Catalans. In effect, the results of the regional and national elections highlight that there is no majority in favour of independence. Among the 48 Catalan MPs (out of a total of 350), only 23 belong to the three pro-independence political parties (*Esquerra Republicana de Catalunya, Junts per Catalunya, Candidatura d'Unitat Popular*). On the other hand, the support for political parties' independence programs is not necessarily an indication of supporting the independence. Pro-independence parties therefore claim that a new referendum with a 50 percent turnout and a majority in favour of independence will legitimise the push for independence. However, Spanish authorities have refused to allow the organisation of a referendum on Catalan self-determination, considering any possible referendum illegal under the Spanish Constitution.

Given the stand-off between the Kingdom of Spain and its north-eastern region, the only reasonable option would be to negotiate a new institutional relationship. Like other regions, Catalonia is already endowed with a swathe of competences ranging from education to taxation. So far, Catalonia's fiscal system is similar to the other regions that are subject to the standard arrangement, whereby tax revenue is collected by the Spanish state in order to be redistributed among the different regions. Certain independence leaders are yearning for a revenue system closer to the one that already applies to the Basque Country and Navarra, in which revenues are collected by decentralised agencies. However, by ceasing to be a net contributor to the state budget, a more fiscally independent Catalonia is likely to undermine fiscal solidarity between the various regions. This is nothing exceptional. Other wealthy European regions, such as Flanders and Northern Italy, wanting to break free with their federations, expect that economic benefits would accrue from loosening the fiscal knot.

Nothing precludes a modification of the Spanish Constitution with a view to increasing Catalonia's powers without alienating the central state of some of his hard-core competences. The question is how to bring the parties around the table amidst a national political crisis and how to draw the dividing line between core state competences and the wishes of the periphery for greater autonomy.

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