



The process for holding the consultation regarding the political future of Catalonia: an evaluation

Executive summary

**Report
number 19**

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The paper '*The process for holding the consultation regarding the political future of Catalonia: an evaluation*' summarizes the steps taken over recent years by the Catalan institutions to respond to on the strong demand emerging from large sectors of the citizenship about the political future of Catalonia. This process is characterized by its peaceful, democratic nature, in full respect of individual and minority rights, with a clear will to seek dialogue and political agreement with the Spanish State and to follow all existing legal paths under the current legal framework.

The Spanish state has refused so far to engage in any kind of political dialogue with the Catalan authorities. It has blocked also all the legal mechanisms currently available to organize a mutually agreed political consultation about the future status of Catalonia. This has included the piling of criminal charges against the President and two members of the Government of Catalonia.

Background

The Catalan Parliament, abolished in 1714, re-established in 1931 under the Spanish Second Republic and suppressed by Franco's dictatorship, has passed as many as eight resolutions calling for the right of self-determination since its restoration in 1980. Indeed, the



“catalanist” political movement has always considered Catalonia as a nation, though this nature was never explicitly recognized neither by the Spanish Constitution of 1978 nor by the Catalan Autonomy bill (“Estatut”) of 1979.

In September 2005, the largely shared assessment that the “State of autonomies” did not properly address the aspirations and needs of Catalonia led to a proposal to reform the “Estatut” endorsed by 89% of the members of the Catalan Parliament. Further discussions in the Spanish Parliament led to a substantially less ambitious draft, which was nevertheless approved by the Catalan people in a referendum on 18 June 2006.

However, the new “Estatut” was challenged by the Spanish Partido Popular before the Constitutional Court. It took four years to the Court, with several obscure episodes that casted a shadow on its independence, to issue a negative ruling which frustrated all the efforts of the previous five years. This episode marked a turning point and triggered massive mobilisations by the Catalan civil society in favour of independence.

In 2010 a demonstration in Barcelona gathered one million people calling. A similar demonstration on 11 September 2012 saw one-and-a-half million people on the streets of the Catalan capital calling for “Catalonia, next State in Europe” (the total population of Catalonia is 7.5 million people). Ever since, the number of demonstrators responding to the call by the civil rights groups hasn’t stopped increasing. The huge mobilizations have been characterized by their civic, peaceful and inclusive nature.

Meanwhile, all attempts by the Catalan Government to engage into political dialogue with Spanish government have systematically crashed against a wall of refusal. That was notably the case when in September 2012 a last proposal for a fairer fiscal pact by the Catalan Government was rejected by Mr Rajoy’s Government though this was based on keeping solidarity mechanisms in place for the financing of other Spanish regions.

That episode was the last drop that precipitated the call by President Artur Mas for early elections on 25 November 2012 so as to form a new Parliament that would better reflect the evolution of the Catalan political landscape and to obtain a renewed mandate, in particular on the issue of exercising the “right to decide”. The newly established Parliament on 23 January 2013 approved a “declaration of sovereignty” with 85 votes in favour, 41 against and 2 abstentions, calling for “exercising the right to decide for the citizens of Catalonia to decide



on their collective political future “. Only a few weeks later, on 13 March, the Parliament called on the Catalan Government to “initiate a dialogue with the State’s Government to enable the organization of a consultation on the future of Catalonia”, with an ever bigger majority (104 votes in favour). The Catalan Parliament has 135 members.

The way to the 9N consultation

The resolutions by the Catalan Parliament and the mass demonstrations were again dismissed by the Spanish authorities and such proposed dialogue never saw the light. Against this background, and following-up on the Parliament’s mandate, on 12 December 2013 six political parties representing 64% of the seats in the Catalan Parliament, from the whole political spectrum, agreed on a date and the questions of a referendum (9 November 2014). The Spanish Prime Minister criticized what he considered to be a “unilateral” decision which made impossible any negotiation with the Catalan government (‘Generalitat de Catalunya’), while dismissing any use of the provisions in the Spanish Constitution which would enable such a process.

It is worth noting that the Advisory Council on the National Transition, independent interdisciplinary group set-up to provide advice to the Catalan institutions on these issues, which has made the [“White Paper. The National Transition of Catalonia”](#), had previously identified not less than five ways in which such consultation could be organized under the current legal framework.

In the meantime, the civil society groups continued to mobilize an increasing number of supporters: on 11 September 2013, a 400 kilometre-long human chain crossed the Catalan territory from North to South, mobilizing around 1.6 million people.

A further attempt in early 2014 to request the delegation of the competence to organize a consultative referendum (as foreseen by art. 150.2 of the Spanish Constitution SC) was equally rejected by a large majority of the Spanish Parliament (8 April 2014). It is important to recall that the proposed draft bill underlined the aim of the Catalan Government to seek an agreement with the State as well on the holding a consultation as and the implementation of its result. The draft also stressed that any decision on the political future of Catalonia should

be based, as it was the case with similar cases (Québec and Scotland), on the EU democratic principle (art. 1.1) and the possibility of consultative referenda (art. 92 SC).

The main argument used by the Spanish Government essentially consists in denying such 'right to decide' for the Catalan people only as this would be an issue that affects the Spanish sovereignty and should therefore be for all Spanish citizens to decide upon.

However, the decision of the Spanish Constitutional Court on 25 March 2014 (ruling 42/2014), as discussed in detail in the extended version of this report, made it plausible to conclude that, even though Catalonia was not sovereign to decide on its political future unilaterally, its citizens could be consulted on this issue within the Spanish Constitutional framework.

On the political aspects, Catalan President Artur Mas has often called the Spanish authorities to follow the British example, and he repeatedly offered to engage into political talks, signalling his readiness to even reopen the terms, the date and the question of the referendum. Such offers were systematically dismissed.

The popular support has been a constant feature of the process. Again, on the National Day of 11 September 2014, 1.8 million people took the streets of Barcelona. At that point in time, more than 3000 entities had already joined the so-called 'National Pact for the right to decide' and 920 municipalities out of a total 947 had passed resolutions in support of the holding of a consultation.

As all attempts to engage into a negotiated solution had been blocked, the 'Generalitat' resorted to the last legal tool at its disposal, a regional law on non-referendum type consultations, as foreseen in art.122 of the 'Estatut'. This was approved by the Catalan Parliament on 19 September 2014, with 106 votes in favour and 28 against. As a follow-up to the approval of this law, the Catalan President two weeks later signed a decree calling a "popular consultation of a non-referendum type on the political future of Catalonia" on 9 November. The questions submitted were the ones agreed earlier in December 2013 by six political parties: *"Do you want Catalonia to become a State? If yes, do you want this State to be independent?"*

Both the law and the decree were immediately challenged by the Spanish Government before the Constitutional Court. The appeals were speedily received by the Court, with as a



result the immediate suspension of the consultation. Later on, on 25 February 2015, the Court issued negative rulings on both, confirming its increasingly restrictive interpretation of the Constitution, and even of its own jurisprudence on these matters, fully accommodative with the Spanish Government 'line-to-take'.

After intense political debates in Catalonia, on 13 October 2014 President Mas conceded it was impossible to hold the consultation under the suspended law 10/2014 and the subsequent decree 129/2014, but the next day he announced the holding of a 'participative process' on the same date, 9 November, mainly driven by the Catalan civil society, with the logistical support of municipalities and the Generalitat. That resulted on the opening of 1250 polling stations with 6400 tables operated by volunteers.

Once again, the Spanish Government had previously challenged this new development before the Constitutional Court with the aim of suspending all the operations, and threatened the Catalan authorities with prosecution.

The 9N 'participation process' and its consequences

Despite these actions and threats, on 9 November more than 2.34 million Catalan citizens participated in this consultation in a festive, peaceful atmosphere, with a huge attention by national and 125 international media outlets, and in presence of teams of international observers. Almost 1.9 million people voted "yes" (80.9%) to both questions, 235 000 voted "yes/no" (10.1%), 105 000 voted "no" (4.5%) and the rest were blank or invalid ballots.

Again no incidents were registered and the role of the 40 000 volunteers was key to ensure a smooth and transparent voting process. The only incident to be noticed was a massive wave of cyber-attacks launched on that day against the Catalan Administration but that did not affect significantly the normal functioning of the its Departments.

Once again and on the very same day, President Artur Mas reiterated in writing to the Spanish Prime Minister, Mariano Rajoy, to reiterate his will to initiate a dialogue to agree on the terms of a definitive, legally binding referendum. The answer was again negative. So the



Catalan President, in accordance with other political forces in favour the right of self-determination, announced the call for early elections to the Parliament of Catalonia the next 27 September, which will be discussed this issue as element central.

The Spanish Government reacted by filing criminal charges against the Catalan President, the Vice-President and the Catalan Minister for Education. Following a serious clash between the Catalan attorneys and the State's Attorney office, the charges were received on 21 November for their alleged responsibilities in the participative process of 9N. The charges (disobedience, misuse of public funds) could eventually lead to suspension and disqualification from public office and even to prison.

