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Secession or Solidarity

Catalonia Will Not Get Both Simultaneously

Sabine Riedel

Since the arrest of the former head of the Catalan government, Carles Puigdemont, a solidarity movement has emerged that paints him as a victim of the justice system. However, even if the German government prevents his extradition this is hardly likely to influence the trials against his colleagues remanded in custody in Madrid. The Spanish public prosecutor's office accuses them not only of rebellion, but also of embezzling money from the autonomous communities' liquidity fund (FLA) for their independence campaign. Since the 2012 financial crisis, Madrid has had to subsidise heavily indebted regions, including Catalonia, with loans. Barcelona annually receives between 6.7 billion (2012) and 11.1 billion euros (2015). This financial dependence motivates Catalans to bid for independence, in the expectation that it will lead to direct access to the European Central Bank (ECB). Europeans need to reflect on who should be given their solidarity. A Catalan state would be born with a mountain of debt, which the other Spanish regions and the European taxpayer would ultimately have to shoulder.

On 27 October 2017, the Spanish central government suspended Catalonia's autonomy under article 155 of the Spanish constitution. Even Madrid knew that the conflict over secession would not be resolved via this measure. Instead, new elections were supposed to give all participants the chance to save face and re-engage in dialogue. On [10 October 2017](#), Prime Minister Mariano Rajoy had already agreed to appoint a commission, as proposed by the Socialist leader Pedro Sánchez, to draw up a concept for modifying the Spanish system of autonomy. Among Spain's 17 so-called autonomous communities, several others

also wish for more financial self-administration.

Madrid's offer may have come relatively late, but it was an olive branch nonetheless. Carles Puigdemont and his deposed regional government have still not grasped it. Instead they signed Catalonia's declaration of independence on the very same day to demonstrate that the only thing they were willing to negotiate was statehood. From their perspective, all bridges connecting them to central government had already been destroyed; negotiations could only tackle the terms and conditions of seces-



sion. These talks are supposed to quickly divide up an economic area that has coalesced over centuries.

Puigdemont in European “Exile”

Thus far, the Catalan regional government lacks both the necessary legal basis and the democratic legitimacy to secede. It relies exclusively on its sense of justice and the vague conviction that Europe predominantly considers its movement for independence justified. The EU institutions’ silence in the run-up to the controversial referendum on 1 October 2017 could, indeed, be interpreted as covert solidarity. [European Council President Donald Tusk](#) did not address the Catalan parliament until ten days later, on the day that Catalonia’s declaration of independence was signed. However, he then called on its members to drop their plans and instead seek a constitutional solution through dialogue with Madrid.

It seemed as if this plain speaking gave the Catalan Premier Puigdemont pause for thought. He hesitated before finally declaring independence, knowing perfectly well what legal consequences were looming at the European level: by seceding from Spain, Catalonia would inevitably also leave the EU. This is why, to date, the separatists have still not implemented their declaration of independence. Behind their inaction lies a strategy to bring the crisis to a head, so as to obtain a special status for Catalonia from the EU. They want Brussels to accept the secession without their newly-created state having to leave the Union. This explains why Madrid never received a reply from the Catalan leadership to its question of whether independence was actually going to be put into effect or not. [After 17 days](#), the Spanish government ended the uncertainty by rescinding autonomy temporarily and by suspending the regional government.

Puigdemont escaped arrest by fleeing the country for Belgium with several of his ministers. The only politicians to welcome the escapees with open arms were from

the [New Flemish Alliance](#) (N-VA). They too strive for independence for their (Belgian) region of Flanders. However, their apparently spontaneous solidarity with the Catalan separatists is based on many years of cooperation. The N-VA is part of a Europe-wide network of separatist parties which includes the Republican Left of Catalonia (ERC) – the party of the imprisoned former finance and economy minister Oriol Junqueras – and which calls itself the European Free Alliance (EFA). It currently has 11 MEPs in the European Parliament.

The EFA’s members of parliament have not only granted Puigdemont and his ministers “asylum” since late October 2017; from Brussels they have also organised resistance to his removal from office. Their rhetoric tries to shake the European public’s confidence in the Spanish justice system. They describe Spain as a “neo-Francoist” system and demand that it be excluded from the EU ([EFA, 1 October 2017](#)) or talk of “Erdoganisation” ([EFA, 24 March 2018](#)), ascribing to Mariano Rajoy and his minority government a breadth of powers equal to the Turkish president’s, and drawing parallels with the latter’s policy towards the Kurds. The EFA chairman, the Corsican François Alfonsi, has demanded an EU intervention, calling on the European Council to stop ongoing proceedings against the detained Catalan politicians immediately because they are “political prisoners”. In other words, he wants precisely what he accuses his opponents of: political influence over ongoing lawsuits, despite the fact that only independent judges can verify the charges.

If Spain had remained a dictatorship after Franco’s death in 1975, there would have been no early parliamentary elections in Catalonia. The Spanish government even allowed the imprisoned and exiled politicians to stand for re-election as frontrunners despite the fact that they had not dropped their unconstitutional bid for Catalonia’s secession. On election night (21 December 2017), they were able to portray this as a victory. In fact, the separatist camp lost two seats. The hardliners from the Popular Unity Candidacy (Cat. Candidatura d’Unitat

Popular, CUP), an anarchist-nationalist party, even forfeited six of their ten seats. The real winners that evening were Cuidadanos/Cuitadans (The Citizens – Party of the Citizenry). Their 36 members of parliament fight for Catalonia to remain part of Spain and to reform the autonomy system (Riedel 2018, p. 1).

The CUP Remains the Kingmaker

Nevertheless, the CUP's remaining four members in the regional parliament continue to be kingmakers. In early 2016 the CUP's parliamentarians had already ensured that Puigdemont replaced Artur Mas as premier. They have remained faithful to their idol to this day, and are determined to reinstate him as head of government. Once it became known in early February 2018 that Puigdemont could not be elected in absentia, the CUP successfully prevented the election of compromise candidates from Puigdemont's own party, JxCat (Cat. Junts per Catalunya, Together for Catalonia): first [Elsa Atardi](#), the party's spokeswoman, and then [Jordi Turull](#), spokesman of the deposed regional government.

The CUP's decision not to support Jordi Turull in the initial vote on 22 March 2018 was at first hard to understand: like Puigdemont, Turull is one of the accused members of the independence movement. His arrest shortly after the voting defeat, almost straight out of parliament, further fanned the flames of the Catalan victim myth. However, the CUP did not wish to provide the central government with an opportunity for immediately dissolving the regional parliament if Turull was elected. It seemed to be boycotting the formation of a government as part of a delaying tactic: the vote triggered a legal waiting period of 60 days. Only then can new elections be called – if no new regional premier has been elected in the meantime.

While Turull was being remanded in custody, the examining magistrate of the Spanish Supreme Court, Pablo Llarena, is-

sued [European arrest warrants](#) for six former members of the Catalan government – including Carles Puigdemont – who were in Belgium, the UK and Switzerland. The move thwarted the CUP's plans to create a “Council of the Republic” (*Consell de la República* in Catalan) as a “government in exile” (CUP 28 February 2018). The plan was for Puigdemont as Catalan premier to continue promoting the independence project from the Belgian municipality of Waterloo, a suburb of Brussels.

Puigdemont Pulls the Strings in Berlin

Given that Puigdemont was arrested at the Danish-German border on 25 March 2018, he had to change his plans and prepared himself for possible new elections from Berlin, not Brussels. In a first clue, immediately after he was released from Neumünster prison, he called on his allies in Barcelona to make [Jordi Sànchez](#) the new premier. This appeal could not be taken seriously: [Sànchez](#) is also in custody. Moreover, this former president of the Catalan National Assembly or ANC (*Assemblea Nacional Catalana* in Catalan) is the ideological leader and organiser of the independence movement. His nomination had to be interpreted as a further provocation aimed at Madrid and an attempt to delay new elections.

Germany would certainly be better suited as a political stage than Belgium. In Brussels, the Flemish allies of the Catalan separatists, the N-VA, are currently the biggest parliamentary party and under great pressure. The multi-party coalition led by the N-VA could collapse if the party openly supported the Catalan demands for independence, tipping the country into a governmental crisis. In Germany, by contrast, the parties of the EFA network historically have hardly any influence: the Bavaria Party, the Frisians and the South Schleswig Voters' Association (SSW) all cannot pass the 5% threshold to obtain representation in the regional parliaments. They are represented

only because of exception clauses. Their demands for statehood, whether made openly or covertly ([Bavaria Party, 3 October 2017](#)), are either not noticed or judged to be irrelevant. After all, German federalism already grants the regions and local authorities extensive rights of self-government.

On the other hand, this means that the German public attaches significant weight to regional self-administration and is touchy about solo efforts by federal or state governments. Nevertheless, this does not explain the broad sympathy for the Catalan separatists that is apparent in the media. Alongside the Basques, Catalans already have more autonomy than any other region in Spain – the myth of Spanish hegemony cannot be substantiated by references to Catalonia’s statute of autonomy. Rather it arises out of hostility to the state itself. The institutions of the central state in particular are viewed not as legitimate but as instruments of oppression.

This is what the CUP means when it refers to the “national and social liberation of the Catalan countries” ([CUP 2018](#)). It posits as uncontroversial the status of Catalonia as a separate nation and contrasts it with Spain’s existing nation-state and regional structures. This argument is also used by Quim Torra, who, on Puigdemont’s suggestion, was elected Regional President on 14 May. He likewise claims that Catalonia is oppressed and financially extorted by the Spanish state ([The Telegraph, 11 May 2018](#)). In his parliamentary speech, he promised to push ahead with the secessionist agenda: “A Catalan republic means looking towards Europe” ([El País, 14 May 2018](#)).

Quim Torra sees his role as being strictly an interim president for as long as Puigdemont cannot be selected in absentia – it will take months before the Constitutional Court examines the Catalan Law of 4 May, which should pave the way for his election. Meanwhile, Torra has proclaimed that he plans to establish a constituent assembly to write the constitution for a new Catalan republic and to “[create a state council in exile](#)”, obviously in Berlin. These statements reinforce the suspicions of the opposition

leader in the Catalan parliament, Inés Arrimadas of Cuitadanos, that Torra might only be a Puigdemont puppet.

A “Judicialisation” of the Conflict?

Contrary to the allegations made by the separatists, there are no such fundamental cultural and social differences between the autonomous communities of Spain: Catalonia has been self-administered for about 40 years. Its regional government already bears the majority of the responsibility for the social and economic development of Catalonia, even where cutbacks are concerned. Since 2012, the year of the Spanish crisis, Catalan finance and economy ministers have had to slash expenses. Thus Oriol Junqueras of the Republican Left (ERC) explained at a recent business congress that the regional government had made cuts totalling 3.91 billion euros, a record within Spain ([Ara, 30 May 2017](#)).

Because the three allied separatist parties represent the entire political spectrum, they find it difficult to criticise the central government in specific policy areas, such as financial policy. Consequently, the separatists’ demands for independence contain hardly any factual arguments. Instead, the defenders of statehood emphasise the political “legitimacy” of their regional government. Opposing them, Madrid will not be swayed from its course of keeping separatism at bay by all legal means. It thus insists on the “legality” of political decisions taken within the framework of the current constitution. This explains in part why the conflict over secession has shifted from the political to the legal level. Since this shift plays into the hands of those who want to preserve the nation state, the separatist parties deplore the “judicialisation of politics” (“judicialización de la política”, [La Vanguardia, 18 October 2016](#)).

Their criticism obfuscates the fact that the independence movement has also resorted to “judicialisation”. The start of this strategy can be traced back to the former Catalan Premier Artur Mas. In the autumn

of 2012, Mas dissolved the regional parliament early in order to turn the elections thereby triggered into a plebiscite. He promised to lead Catalonia into independence by 2020. In early 2013, after re-election, he founded a 15-strong legal council, the CATN (*Consell Assessor per a la Transició Nacional* in Catalan), whose task it was to prepare the transferral of central-government competences to the region. This aimed to create a legal framework for the envisaged referendum on independence, but it failed. As a consequence, the vote of 9 November 2014, declared unconstitutional, was re-categorised into a non-binding popular vote (Riedel 2014, p. 11).

When Carles Puigdemont was elected premier in early 2016, he continued his predecessor's strategy. His declared objective was now to use the region's legislative competence to create parallel structures for a quasi-state. In an interview, Puigdemont explained (Die Welt, 5 June 2016):

“We have emancipated ourselves from Spain and make our own laws. We are currently building the structures for the new state because we need legal security, we need to take into consideration international treaties, meaning over 3,000 agreements are valid for us also.”

The plan was eventually to pass “dissociation laws”, on the basis of which new structures – for example Catalonia's own social-security system and foreign ministry – would be created. Since the governing coalition has such a small majority, this required a change in the standing orders of the Catalan parliament.

Since that parliamentary reform was passed on 6 April 2017, the regional government has been able to push through its draft bills in only one reading. The opposition has in effect been neutralised (EITB, 26 April 2017), and now has to rely on the support of Spain's Constitutional Court to defend its democratic right to co-determination. However, the hitherto silent minority has increasingly resisted independence outside of parliament as well. In 2014 various

organisations joined forces to found the Catalan Civil Society (*Societat Civil Catalana*, SCC) to give a voice not bound by party affiliation to those who advocate Catalonia remain part of Spain.

Catalonia: Boycott Instead of Dialogue

The separatists' accusation that Madrid “judicialises” the Catalonia conflict thus rebounds on them. Moreover, the term is meant to distract from the fact that, in this conflict, the separatists are the ones who disregard democratic values as soon as the latter stand in the way of their goal, meaning Catalonia's secession. This is why their demands have neither the necessary “legality” nor – within the framework of a democratic judicial system – the required political “legitimacy”.

This was also true of the preparation and execution of the 1 October 2017 referendum on independence. It was only with the support of the CUP that Puigdemont's government was able to pass a referendum law in early September, with a scant majority in a single parliamentary session. According to Catalonia's statute of autonomy, a quorum of at least two thirds should have been required (Statute of 19 July 2006, Article 222). The result of the vote also seems questionable. It was neither checked nor confirmed by independent observers – nor were 90 percent of votes in favour enough to legitimise the declaration of independence on 10 October 2017 when voter turnout was only 42.3 percent.

Whilst the three separatist parties insist that they are willing to engage in dialogue, they have in fact been dictating terms since the autumn of 2012: their concern is no longer to expand autonomy, but to establish the terms and conditions for secession. This was made clear by newly elected Regional President Quim Torra in his parliamentary address on 14 May. He and his allies demand that central government engage in a dialogue which would question

the constitutional order. However, the electorate has not given Rajoy a mandate for this. Madrid can only offer the Catalan regional government financial-reform negotiations along with Spain's 16 other autonomous communities; it did just that during the autonomous communities' annual Conference of Presidents (Sp. *Conferencia de Presidentes*) in mid-January 2017. After long hard negotiations with the central government, the regions' presidents decided on a "new model of regional financing" (*El País*, 17 January 2017). However, the premiers of Catalonia and the Basque country, Carles Puigdemont und Íñigo Urkullu, refused to join the talks and boycotted the meeting.

So far, the Catalan and Basque governments have also avoided cooperating with the parliamentary commission which is currently examining the Spanish autonomy system and drawing up proposals for reform. The first meeting of this so-called territorial commission (Sp. *comisión territorial*) in mid-November 2017 took place without the 17 deputies of the Catalan separatists in the Spanish central parliament. It is still possible for the commission to reach the two-thirds majority required to drive a new financial order between Madrid and the regions through the Spanish parliament. However, in situations as tense as this, party-political differences of opinion quickly have a negative effect. The Socialists thus view this project as their chance to establish a much more fundamental constitutional reform while the governing Conservatives tend to curb such hopes.

The commission experienced a setback in late March 2018, when Albert Rivera, the chairman of Ciudadanos, ended his party's cooperation. He has accused the Socialists, who want to turn the Spanish nation into a "nation of nations" (*Diario de Ibiza*, 20 March 2018), of making concessions to Catalan nationalism. According to the Socialists, Catalonia should be given nation status alongside the Spanish nation. Rivera is concerned that this would divide Spaniards, a community of shared political values, into groups differentiated along linguistic-cultural lines. It would indeed redefine the political

concept of the nation as an ethnic-nationalist one and further inflame the dispute over existing regional borders and the recognition of official languages (Riedel 2018, p. 7).

Since the election of the hardliner Quim Torra, Ciudadanos, the Socialists (Span. *Partido Socialista Obrero Español*, PSOE) and the ruling Spanish People's Party (Span. *Partido Popular*, PP) have come closer together again. They promised to jointly protect the constitutional order of Spain and put the Catalan separatists in their place. It is therefore doubtful that Catalonia's autonomy will come into force under the new regional government. They face a certain amount of pressure: according to recent surveys, Catalan voters are increasingly turning away from them. The defenders of the Spanish state will be able to reassure them only if they present convincing reforms of the autonomous system. Their success depends very much on the Parliamentary Commission.

Basque Self-Interest

The work of the territorial commission has also been overshadowed by another conflict, namely the new federal budget for 2018. Prime Minister Rajoy heads a minority government and must compromise. However, this year he can no longer depend on the support of the five deputies from the Basque Nationalist Party (Span. *Partido Nacionalista Vasco*, PNV). They have declared their solidarity with the Catalan separatists and demand the reinstatement of the statute of autonomy (*El Mundo*, 2 April 2018). Only political concessions would make them change their minds.

The Basques' alignment with the deposed Catalan regional government is not one of solidarity in the sense of a political or economic link between the two regions. The Basques are mainly concerned with their own financial advantage, which might ultimately increase if they also follow the road to statehood in the slipstream of Catalan separatism. In 2003 the then-Basque Premier Juan José Ibarretxe had already

submitted a political plan for making the Basque country an independent state. As a first step, the PNV demanded that the Basques be recognised as an independent nation (*El País*, 19 December 2003). Only three years later, the Catalans followed the same agenda by submitting a new statute of autonomy to the central government in which they described themselves as a separate nation (*Statute of 19 July 2006, Preamble*). This and other modifications later turned out to be unconstitutional.

Barcelona also looks to the Basques for an example of financial self-administration. During the post-1975 democratisation process, the Basque country and Navarre were able to secure privileges vis-à-vis the other regions. Their autonomy is based on customary rights (*fueros*), which include financial and fiscal sovereignty. By contrast, the other autonomous communities first have to pay the tax revenue they have raised to the central state before they receive funds back as part of regional financial equalisation. This special status is the reason why the Basque and Catalan regional governments show scant interest in a countrywide reform project: they fear that any modification of the asymmetrical autonomy system will leave them worse off than before. And yet federal models exist with win-win solutions for all under the umbrella of a joint Spanish nation (Riedel 2016).

European Solidarity, But with Whom?

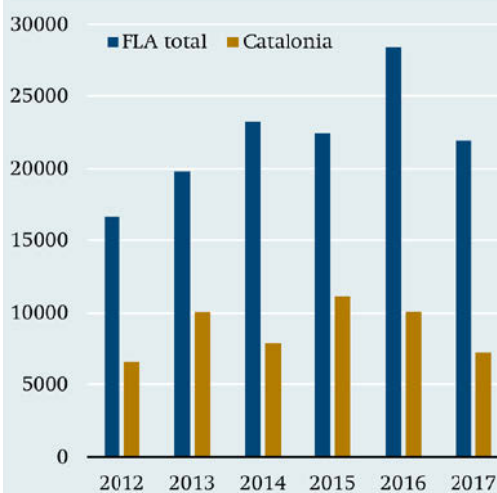
As a result, reforming the Spanish autonomy system is currently wishful thinking. And yet there is no reasonable alternative. If Catalonia or the Basque country seceded, great economic harm would be caused to all. Advocates of secession like to minimise this problem. However, as the Brexit negotiations demonstrate, an economic divorce can be far more expensive than initially depicted. And Brexit is “only” about the United Kingdom leaving the European internal market. In the case of Catalonia, an

economic area that has coalesced over centuries would be divided up.

The close interlinking of Spain’s autonomous communities can be seen particularly in regional revenue sharing. Since the regions have been unable to agree on a common reform, the 2009 system continues to be valid. Under this, half the tax revenues raised — for example from income tax and

Illustration 1

Payments from the liquidity fund of Spain’s autonomous regions (FLA) to Catalonia (2012–2017, in millions of euros)



Source: author’s own compilation based on “Fondo de Liquidez Autónoma” [Regional liquidity fund], *Wikipedia*, https://es.wikipedia.org/wiki/Fondo_de_Liquidez_Aut%C3%B3mica; Los expertos urgen al Estado a cortar el grifo de liquidez a las comunidades [Experts call on the state to reduce the communities’ liquidity], in: *El País*, 3 February 2018, https://elpais.com/economia/2018/02/03/actualidad/1517679470_452325.html (both accessed 27 April 2018).

VAT — flow back to the regions to fund public services, such as education, health and social-security systems. However, since the regions’ financial needs are far greater, they accrued debts with private lenders until, in the crisis year of 2012, the financial markets shut down the money supply. Since then, the communities have borrowed the necessary financial resources at low interest rates from central government. The total amount of loans has grown to about

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232 billion euros in the past six years. Catalonia's share alone is 70.9 bn, representing 30 percent of the total (*El País*, 17 February 2018). This is a higher proportion than Catalonia's contribution to Spain's gross domestic product, which stands at 19 percent (*IfW* 2017, p. 15). Illustration 1 shows Catalonia's annual financial requirements from the regional liquidity fund (FLA), which is an estimated total of 9.4 bn euros for 2018.

If Catalonia secedes, the new state would have a mountain of debt. Without national assistance, it would rely entirely on external lenders. If the independence movement's plan was fulfilled, Catalonia would ideally obtain a special status enabling it to remain in the EU and receive loans from the ECB (Paluzie i Hernández 2015, p. 199). In other words, the separatists hope for both solidarity from the other EU members and a creative interpretation of the EU Treaty and the Maastricht criteria limiting government debt.

Even if Catalonia could receive such European support, a separation from Madrid would not be by mutual consent, but accompanied by disputes over the division of the pan-Spanish debt. If Catalonia refuses any debt obligations, as the former finance and economy minister Oriol Junqueras has already threatened, Spain's government debt would increase from its current 100 percent to 124 percent of gross domestic product. The modest successes of the austerity policy during the past few years would be obliterated (*Wirtschaftswoche*, 9 September 2017). To prevent a relapse into economic and financial crisis, salaries and social-security benefits would need to be cut further. Ultimately, the European taxpayer would also be forced to shoulder the risks of new ECB loans. Then, if not before, the solidarity of EU citizens would be exhausted. Europe's politicians should therefore make it clear to the Catalans that they bear a great responsibility as members of the euro zone, and that they have a duty first and foremost to national solidarity, before they can expect solidarity from Europe.

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Further Reading

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