The application of Article 155 of the Spanish Constitution

Let’s review just a few facts about the present situation in Catalonia.

The Spanish Constitution

Article 155

- Within the Constitution of 1978, Article 155 was included to ensure the fulfillment of constitutional obligations by all Autonomous Communities, including Catalonia.
- Similar norms exist in the German (article 37), Swiss (article 52), Italian (article 126), Austrian (article 100), Portuguese (article 238) and US (article 4.4) Constitutions.
- Article 155 allows the Government to take measures in exceptional cases to restore constitutional order or to prevent any great damage to the general interests of Spain, while preserving and respecting the existence of the Autonomous Community, its Law of Autonomy, and its Institutions.

Why is Article 155 being applied?

The Government of Spain is applying Article 155 in response to the Catalanian government’s manifest, obstinate and deliberate violation of its own constitutional and statutory obligations. These violations include:

- The initiation of an illegal process for the secession of Catalonia from Spain, violating the principle of territorial integrity established in article 2 of the Spanish Constitution (in similar terms to Article 4 of the Finnish Constitution).
- A rebellious, systematic and conscious disregard for the requests and decisions of the Spanish Constitutional Court;
- The adoption of a law to convene an illegal referendum of self-determination and a law to establish procedures towards the creation of a Catalan Republic.
A violation of Catalan Law

These laws were approved by the Catalan Parliament with total disregard for due process:

- The rules of procedure were changed to pass the laws without allowing opposition parties sufficient time to examine the proposed laws or to introduce any amendments.
- The majority parties disregarded the Parliament’s Legal Counsel’s and Secretary General’s advice, as well as the opinion of the Catalanian Council of Statutory Guarantees. These bodies stated that the Catalanian Government did not have the powers to pass these laws.
- Both laws were immediately suspended by the Constitutional Court.
- The first law has been declared null and void by decision of the Constitutional Court on October 17, 2017. The final decision on the second law is pending.

Consequences of the Catalanian Government’s actions

- After conducting the illegal referendum, with no guarantees for fairness, the Catalan Government (“Generalitat”) is using the “results” to claim they have a mandate to declare independence.
- The declaration of independence was made by the President of the Government of Catalonia, Mr. Puigdemont, in his appearance before the regional Parliament on October 10, and in a written declaration signed by him, all the members of his Government, and the Speaker of the Parliament, Ms. Carmen Forcadell.
- Mr. Puigdemont has refused to respond to the Central Government’s request to state whether or not he has declared independence.
- These actions by the present Catalanian Government have created deep social divisions among Catalans.
- The Separatist Parties represent a minority of the population of Catalonia but have ignored the majority of Catalans who do not agree with their separatist project.
- By attempting to establish the Autonomous Community of Catalonia as a sovereign entity, these parties have caused great damage to the social harmony among Catalans.
- They have violated the rights of all Spanish people, who are the holders of national sovereignty.
- They have damaged the social and economic wellbeing of all Catalans and Spaniards, jeopardizing Catalonia’s and Spain’s economic recovery.
Dialogue?

Recently, many have called for dialogue, including Mr. Puigdemont. However...

- Mr. Puigdemont refused an invitation by the Spanish Parliament - which represents all Spanish people - to come and present his case. He can still appear before the Senate if he so wishes.
- In spite of the many offers for dialogue by the Central Government, Mr. Puigdemont has refused to discuss anything except the referendum for independence, which is not allowed by the Spanish Constitution, and cannot, therefore, be authorized.

Goals of the application of Article 155

The Spanish Government’s goals for applying article 155 are:

- to restore constitutional and statutory legality
- to ensure institutional neutrality
- to maintain public services and economic growth
- to defend the rights and freedoms of all Catalans

Catalonia’s autonomy has not been suspended.

Measures submitted for the approval of the Spanish Senate

- Authorize the Spanish Government to remove the President of the Generalitat from office, along with the Vice-President and the “Consellers” (regional ministers).
• The corresponding duties will be assumed temporarily by the authorities appointed or created by the Government of Spain for the aforementioned purpose.

• The Catalonian Administration shall continue exercising its administrative and executive powers. In doing so, it shall act in accordance with instructions from the bodies and authorities appointed by the Government of Spain for that purpose.

• These instructions will encompass all acts, resolutions and provisions; as well as appointing, temporary substituting and removing personnel, and all publications in the Generalitat’s Official Bulletin.

• Special measures may be taken in some areas such as security and public order, management of economic, financial, fiscal and budgetary matters, telecommunications and electronic and audiovisual communications.

Measures concerning the Parliament of Catalonia

The Parliament of Catalonia shall continue to perform its representative duties.

However…

• The Speaker will not be able to submit a candidature to the Presidency of the Generalitat, nor hold a voting thereof, until the constitution of a new parliament after regional elections.

• While it will continue holding its legislative powers, the Catalonian Parliament will have to do so with utmost respect for the Spanish Constitution and Catalonia’s Statute of Autonomy, under the supervision of the authorities designated by the Spanish Government.

Duration, revision and entry into force of the measures

• The measures shall remain in place and apply until a new Catalanian government has assumed office, following the corresponding elections to the Parliament of Catalonia.

• If necessary, the Spanish Government may submit to the Senate modifications or updates for the measures initially approved.

• The Spanish Government shall have the authority to advance the cessation of these measures if the causes for which they were established cease to exist. If this were the case, it would inform the Senate of that decision.

• The measures approved by the Senate shall be notified to the President of the Generalitat of Catalonia, to the Vice-President and to the Consellers that form the Government Council, as well as to the Speaker and the Parliamentary Assembly.

• The measures for the application of Article 155 will enter into force when published in the Official State Bulletin.