



**Declaration by Spain on Democracy and the Rule of Law in Spain
Session of the OSCE Permanent Council
Vienna, 28 September 2017**

Mr Chair,

I would like to make the following declaration regarding the situation of democracy and the rule of law in Spain.

Spain is, above all, a democratic State under the rule of law. Today, our democracy is facing one of the most important challenges in our constitutional history. The Parliament of the Autonomous Community of Catalonia passed two laws on 6 and 7 September: the Independence Referendum Act and the Act on the Legal Transition and Founding of the Republic. Both laws have been declared unconstitutional by Spain's Constitutional Court. In passing these Acts, the Catalan Parliament has violated the most basic parliamentary norms, silencing the opposition groups and disregarding warnings from the Catalan institutions themselves as to their lawfulness. This action represents an attempt to repeal the Spanish Constitution and even the Statute of Catalonia, without having the necessary votes to do so, bypassing the established legal mechanisms. It is for this reason a profoundly antidemocratic action.

Mr Chair,

In recent weeks, we have seen a smear campaign targeting Spanish institutions. These are institutions that have distinguished themselves for their commitment to democratic values; to the principles of international law; to the principles and values of the Charter of the United Nations and the Helsinki Final Act; and to the defence and promotion of respect for human rights and fundamental freedoms.

In the past few days, we have heard statements by leading politicians from the Government of the Autonomous Community of Catalonia which are not only

untrue, but strictly false. Regrettably, some media outlets have given credit to these declarations, presenting an account of the situation in Spain that is completely unmoored from reality. We cannot fail to mention that part of this disinformation being disseminated is carefully targeted and seeks to achieve specific objectives. Therefore, please allow me to offer you, in a spirit of democratic transparency, accurate and substantiated information on the sequence of events and the action of the authorities of the central government in Spain to confront this separatist challenge.

Allow me to do so by rebutting some of the grave assertions that have been made:

1. First, I must say that *the Government of Spain has NOT suspended the self-government or autonomy of Catalonia:* The Constitutional Court has ruled that the Catalan Parliament's Acts on the referendum and transition are unconstitutional, violating Articles 1 and 2 of the Spanish Constitution. The Court warned the Catalan authorities that they should prevent any action aimed at holding this referendum. The consequences of repeated violations and noncompliance with the law, and with the opinions and judgments of the Constitutional Court, have been that both the State Prosecutor General and the courts in Catalonia have opened procedures against the organization of the referendum. Therefore, the purpose of these actions has not been the suspension or intervention of Catalan autonomy, but rather to avoid the holding of this referendum. These actions did not occur at the initiative of the central Government, but rather due to judicial warrants from the State Prosecutor's Office and the courts of Catalonia, to uphold the law. However, I must point out here that the Spanish Constitution establishes in Article 155.1 that "if an Autonomous Community does not fulfil the obligations imposed upon it by the Constitution or other laws, or acts in a way seriously prejudicing the general interests of Spain, the Government, after lodging a complaint with the President of the Autonomous Community and failing to receive satisfaction therefor, may, following approval granted by the overall majority of the Senate, take the measures necessary in order to compel the latter forcibly to meet said obligations, or in order to protect the above-mentioned general interests."

2. Another aspect of the situation regarding which evident untruths have been spread refers to the nature of the security forces which have acted: These security forces have acted within the framework of the aforesaid legal proceedings, and have done so as "judicial police", following the orders of judicial authorities who are independent from the executive branch of government. At no time has there been any action by some "military police". The security forces encompassing the Civil Guard, the National Police and the Mossos d'Esquadra regional police force are acting in a coordinated manner, respecting the scope of authority of each one.

3. The third aspect that I would like to rebut refers to allegations of indiscriminate suppression and general violations of citizens' rights and freedoms, in particular freedom of expression and of assembly. Neither the central government, nor the judicial authorities, have at any time ordered general or indiscriminate measures restricting those rights and freedoms. The confiscation of material related to the referendum, the arrests made and the closure of websites have all been carried out in compliance with court rulings, on a case-by-case basis proportional to a single purpose; that is, preventing the consultation from being held. All of the individuals who were arrested (14) have already been released after testifying, although these proceedings are still in course. The right of assembly and demonstration has not been restricted, beyond basic measures to maintain public order. There has been no state of emergency. The State Security Forces have shown outstanding moderation in discharging their duties, in spite of the difficult conditions of harassment and even assault from demonstrators that they have had to face. These acts of harassment and assault have also been aimed against politicians and civil servants who do not support the referendum, as well as against private individuals in Catalonia.

4. Finally, Mr. Chair, the Catalan authorities have called the Spanish State an antidemocratic and intransigent State that prevents its citizens from exercising their right to vote: Unfortunately, this gratuitous statement harms my country's reputation, and not only is it false, but also deeply unjust. It is certainly difficult to imagine that a generous, liberal democracy such as Spain's could be portrayed in such terms. Please allow me to offer you some facts. Since the first democratic elections of 1977, Catalans have participated in 35 democratic

elections at different levels: local, regional, national, and European. Their political parties are fully represented, not only in the Catalan Parliament, but also in the Spanish Parliament, the European Parliament, and in the OSCE Parliamentary Assembly. They have also participated in three referendums: the ratification of the Constitution, and of two Statutes of Autonomy.

But voting is only synonymous with democracy when it is done in accordance with the law and with respect for the rights of all. I would like now to answer the question: Why is holding this referendum unconstitutional—and therefore, antidemocratic?

The Spanish Constitution was approved in 1978 with the vote of 90.4% of the citizens of Catalonia. It establishes the fundamental principles of our social harmony. Among these principles, sections 1 and 2 stand out because of their relevance. The first establishes that “National sovereignty is vested in the Spanish people, from whom the power of the State emanates.” The second establishes that “The Constitution is based on the indissoluble unity of the Spanish Nation, the common and indivisible homeland of all Spaniards; it recognizes and guarantees the right to self-government of the nationalities and regions of which it is composed, and solidarity among them all.”

Our Constitution does not, therefore, recognize the right to self-determination or secession of one part of the country. Neither is it recognized by the constitutions of practically every Western democracy, which establish the supremacy of the constitution or the federal law and recognize the power of the central government over federated or regional entities, as in the case of the Basic Law of Bonn (Articles 31 and 37), the Italian Constitution (Article 126), or the Constitution of the United States of America (Article VI).

As to my country, only the entire Spanish people are the holders of national sovereignty, and only they are entitled to decide on an issue with such far-reaching consequences as the definition of what Spain is, through the procedures enshrined in the Constitution, which include a referendum.

Certainly, the act of voting constitutes the clearest expression of democracy; but that is not enough. Many non-democratic regimes have tried to use votes as a source of legitimacy. Others have done so by circumventing the law, as is the case of the Catalan Parliament. I would like to stress here that the independentist coalition that voted in favour of the Catalan Parliament's breakaway laws did so with a simple majority, with a bare minimum of seats, and without the support of the majority of votes cast in the latest regional elections. One cannot vote to break the law. Laws must be changed through licit means.

Mr Chair,

The Spanish State has the mechanisms and instruments necessary to defend the law, and also to hold accountable those who would put in danger the social harmony of all. We stand ready to do so. The central Government is providing support to the mayors, councillors, civil servants and local police in Catalonia who are being threatened, insulted, and hounded, merely because they refuse to break the law. To those who aim to weaken our institutions, generating instability in the streets, the State will respond with the law, and with the rule of law.

The Spanish Government's openness to dialogue and understanding has been and remains complete. Democracy always has ways to defend any political position, but this must be done through legal channels. As the President of the Government of Spain said in his institutional statement of 20 September, "What is at stake here is not a political demand, which has channels for expressing and defending itself; what is in question at this time represents the very foundations of our democracy."

We hope that those responsible for taking this radical independentist course reconsider their intention to impose on all citizens a segregating project that excludes them, that deepens differences and cleaves in two a plural society like that of Catalonia. We trust that law, democracy, and dialogue will return, in order to guarantee that all may live together in peace and freedom,

Mr Chair,

My delegation stands ready to provide any information on this question that may be requested from the delegations of OSCE participating States or institutions. Our actions are guided by a commitment to transparency and cooperation, in order to ensure that democratic guarantees and the rule of law are respected in Spain and throughout the OSCE space.

At this juncture in the history of my country, Spain hopes that its partners and the international organizations of which it is a member, and to which it contributes, all stand firmly and unequivocally in defence of democracy and the rule of law in Spain.

Mr Chair,

I would be very grateful if you would include the text of my declaration in the Journal of today's Plenary Meeting

Thank you very much.