



Declaration by Spain on Democracy and the Rule of Law in Spain  
Session of the OSCE Permanent Council Vienna, 12 October 2017

Mr. Chairman,

I take the floor for the third consecutive week in this Permanent Council to inform, at my own request, about the situation of Democracy and the Rule of Law in Spain.

Since my last intervention, last Thursday, several events related to the separatist challenge in Catalonia have taken place in my country. Among them, I would like to mention, in the first place, the new challenge to the constitutional order posed by the appearance of the President of the Government of Catalonia, on Tuesday October 10<sup>th</sup>, in a plenary session of the Parliament of that Autonomous Community, to present the results of the so-called referendum on October 1<sup>st</sup>, that would give way to the unilateral declaration of independence (UDI).

Allow me to expose in a succinct manner the dimension of this challenge:

1. The UDI is being made on the basis of the results of the so-called referendum on 1 October, which derives from the laws calling for the “Referendum” and of “Transition and Foundation” of the “Republic”, adopted by the Catalan Parliament last 6 and 7 October, and which were ruled unconstitutional by the Constitutional Court. These are two laws which, as I’ve had the occasion to explain in previous interventions to this Council, violated the most basic and democratic parliamentary rules. From this ruling of unconstitutionality of the laws, it is clear that the referendum on 1 October is null and void.
2. In spite of this, the Government of Catalonia went on with its plan to carry out the referendum and stage the breaking off with the established order. The Venice Commission warned in two occasions that the “referendum” planned on 1 October didn’t meet the criteria of the Commission and was contrary to the Constitution and the law. Furthermore, the so called referendum took place with a high number of irregularities, unbecoming to a democratic vote. I have also had the opportunity to present to this Council on last October 5<sup>th</sup> some examples of these irregularities, such as the change of the rules of the vote 15 minutes before it began, the documented existence of multiple votes, ballot-boxes in the streets and in private houses, opaque ballot-boxes and stuffed with ballot papers beforehand, anomalous recount, or irregularities in the electoral roll. On

the basis of this illegal and fraudulent act which doesn't have the smallest guarantees, the President of the Catalan Government pretended on last Tuesday to legitimate the proclamation of independence.

3. Thirdly, the results of such referendum officially shown by its organizers cast a result of 38'47% (including the multiple votes) of the electoral roll in favor of independence. According to these data, the UDI would be thus based on the position of a minority of Catalans (two million) who would seek to impose their will on a majority (three million).

By no means can we give validity to a law that is unconstitutional, to a referendum that is null and void and without guarantees or to the abduction of the will of the majority of Catalans. The UDI based on the afore mentioned facts is an obscene mockery of democracy and deserves a strong refusal by the International Community and by the International Organizations which, like the OSCE, are based on the values and principles of Democracy and the Rule of Law.

Mr. Chairman,

I would also like to refer briefly to other two events that have taken place this last week and that illustrate the nonsense of this separatist drift.

On the one side, the demonstrations on last Sunday, October 8<sup>th</sup>, in several places of Spain and which gathered almost a million people in Barcelona. These concentrations have given voice to thousands and thousands of Catalans who have taken out to the streets to defend legality and the framework of coexistence that the Constitution of 1978 represents. There has been much talk about the "silent" majority but also about the majority "silenced" in the last few years by the separatists' plans. The Catalan institutions have shown no respect for the law and a non-existent uniformity has been imposed. Inclusion and plurality, which are features that by definition characterize democratic regimes, have been put aside.

Another event of last week that is worth noting is the transfer of numerous companies from Catalonia to the territory of other Autonomous Communities in Spain. This is but another consequence of the breaking off of legality and the legal insecurity that derives from the imposition, from the arbitrary nature of the pro-independence coalition, as well as from its appetite to raise walls around Catalonia.

Mr. Chairman,

In the last few weeks separatists have not ceased to make reference to Democracy and Human Rights, in a well-orchestrated communications strategy

based on simple messages that hide a profoundly antidemocratic reality. To begin with, they confront the legitimacy of the alleged votes with legality, ignoring that their own legitimacy comes precisely from the Constitution of 1978, a pact among all the Spaniards which got more than 90% of the votes of Catalan citizens in a referendum that was impeccable.

Since we are in a city bathed by the Danube, allow me to quote Claudio Magris in a reflection that is very pertinent to the case: *“to set legitimacy and legality against each other appealing to warm values (the community, the affective immediateness) against the Weberian disenchantment of the world and the coldness of democracies, means to destroy the rules of the political game... To invoke love against the law is the profanation of love that is used as an instrument to deprive other men of freedom and even love”*.

Also, the concept of assembly democracy advocated by the pro-independence process places itself out of any axiological framework, alien to the values and principles that inspire our coexistence, based on the Constitution and the laws. The idea of the person as subject of fundamental freedoms and rights that cannot be arbitrarily denied by any power is the basis of our democracy. That's why to attack the law and the judicial decisions is such a blatant violation of fundamental rights and freedoms. There is no democracy outside the law. The democratic institutions have the duty and the responsibility to respond to these attacks in a calm and firm manner.

I would also like to recall at this point that the Spanish Democracy has a well accredited trajectory that places it among the countries that enjoy a highest degree of freedom and where the biggest guarantees for the protection of fundamental rights exist. The Constitution and the laws that develop it are the basis of this reality, as well as its enforcement by the judges.

Mr. Chairman,

The Government of Spain is ready today to dialogue as it was in the past, but for this dialogue to take place it's necessary to return to democratic legality and to constitutional loyalty. The Council of Ministers has made a formal request to the President of Catalonia to pronounce himself and clarify the reach of the declaration of independence announced and subscribed on October the 10th. The Rule of Law in Spain is showing an undeniable restraint to give time to the Government of Catalonia to go back to legality.

Yesterday, October 11th, the President of the Government also reaffirmed in his appearance to the Spanish Parliament his availability for dialogue and he warned of its limits. He pointed out that it is possible to talk about the reform itself of the Constitution. It's not a perfect law and it can be modified. The President referred to the necessity to “aspire to find again that sort of Catalanism willing to reach agreements and to integrate that has given to

Catalonia its best moments” and he stressed the importance of the unity of all democrats.

Mr. Chairman,

We thank the statements by numerous leaders of the International Community and International Organizations in defense of Democracy and the Rule of Law in Spain. Their support is basic for that unity of democrats that the President of the Government referred to, so necessary in this moment. Only the constitutional framework and the respect to legality can offer the necessary conditions to mend the social and political fracture that the separatist drift has provoked in Catalonia. Be assured that the Spanish democratic institutions will not disappoint you.

Thank you very much.

Mr. Chairman,

I'd be very grateful if you could attach the text of this declaration the Journal of the Day.