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The Legality of the Catalan Independence Referendums

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Summary

During the last decade the separatist activities of the Catalan nationalists have intensified. Despite the enactment of the Statute of Autonomy in 2006, extending the existing autonomy of the Autonomous Community, Catalonia's governing political parties strived for total independence. In view of the consistent attitude of the central government in Madrid refusing any concessions on the extension of autonomy or independence, the Autonomous Government of Catalonia (Generalitat) appealed to the institutions of direct democracy, calling twice for a Catalan referendum on independence. In both cases, the Spanish Constitutional Court declared the referendum unlawful. In spite of this, Catalonia declared independence after the referendum of October 1st, 2017, although the effects of the declaration were also suspended – a situation so far unknown to law.

Streszczenie

Prawomocność katalońskich referendów niepodległościowych

W ostatniej dekadzie wzmożła się działalność separatystyczna nacjonalistów katalońskich. Pomimo uchwalenia Statutu Autonomicznego w 2006 r. rozszerzającego dotychc-

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zasowe uprawnienia Wspólnoty Autonomicznej, rządzące Katalonią ugrupowania polityczne dążyły do pełnej niepodległości. Wobec konsekwentnego stanowiska rządu centralnego w Madrycie, odmawiającego jakiegokolwiek ustępstwa w sprawie poszerzenia autonomii lub niepodległości, autonomiczny rząd Katalonii (Generalitat) odwołał się do instytucji demokracji bezpośredniej, zwołując dwukrotnie katalońskie referendum niepodległościowe. W obu przypadkach hiszpański Trybunał Konstytucyjny uznał referendum za niezgodne z prawem. Pomimo tego Katalonia ogłosiła niepodległość po referendum z 1 października 2017 r., choć jednocześnie zawiesiła skutki tej deklaracji – sytuacja dotychczas nieznaną w prawie.

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I. Referendum in the political system of Spain

In line with existing practices in democratic states, direct democracy institutions have also been implemented in Spain. The Spanish Constitution of 1978, adopted after the democratic transition, allows the participation of all citizens in political, economic, cultural and social life². It also lists among their fundamental rights the participation in public affairs, directly or through representatives freely elected in periodic elections by universal suffrage³.

Among other forms of direct democracy⁴, the Constitution of Spain lists three types of referendums⁵. The referendum is convened in specific cases: approval of the draft Statute of Autonomy (Art. 151), constitutional referendum for amending the Constitution (Art. 167 and 168) and a consultative referendum (*referéndum consultivo*, Art. 92). The regulation mentioned last states that: political decisions of special importance may be submitted to all citizens

² Constitución Española, del 27 de diciembre de 1978 (further: CE), Art. 9.2.

³ CE, Art. 23.1.

⁴ Direct democratic institutions, in addition to the referendum, include also a popular legislative initiative (Art. 87.3) and an open concil (*consejo abierto*) system in the area of local administration (Art. 140).

⁵ Regarding the place of referendum in the constitutional system of Spain see more: J. Oliver Araujo, *El referéndum en el sistema constitucional español*, "Cuadernos de la Facultad de Derecho" 1986, núm. 15, Palma de Mallorca, pp. 95–148.

in a consultative referendum⁶. Particular attention is drawn to the wording “special importance”. It results in a fact, that not every case can be submitted to a referendum, but only that of the highest significance. Equally important seems to be the fact that the referendum applies to all citizens without exception (of course those, entitled to vote in general elections). In view of the above it is clear that the referendum cannot therefore be organized only for a selected part of the population, whether it is for territorial, ethnic, social or any other reasons. The Constitution states that: the referendum shall be called by the King on the President of the Government’s proposal after previous authorization by the Congress of Deputies (lower chamber of the Spanish Parliament)⁷. The authors of the Constitution predicted that the terms and procedures of the different kinds of referendum should be regulated, so the last regulation of Art. 92 refer to a future organic law⁸.

The above act, to which the Constitution refers, in which different kinds of referendum are regulated, is the Organic Law of 2/1980 from January 18th, of the Regulation of the Different Referendum Modalities⁹. It regulates several different forms of referendum mentioned in the Constitution. However it was adopted above all to enable the procedure provided for in Art. 151 of the Constitution, required for convocation of referendums for the approval of the Autonomous Statutes for the Basque Country, Catalonia, Galicia and Andalusia, of the then autonomous communities that have already constituted themselves. The remaining forms of referendum provided for in the Organic Law 2/1980 were: the consultative referendum mentioned in Art. 92 of the Constitution, as well as the constitutional referendum for amending the Constitution of Art. 167 and Art. 168 of the Constitution.

All the above-mentioned referendum forms of convocation lie in the exclusive jurisdiction of the state¹⁰. It should be added that after the introduction of the Constitution a nationwide consultative referendum based

⁶ CE, Art. 92.1.

⁷ CE, Art. 92.2.

⁸ CE, Art. 92.3.

⁹ Ley orgánica 2/1980, de 18 de enero, sobre regulación de las distintas modalidades de referéndum, BOE núm. 20, 23.01.1980. See more about Spanish direct democratic institutions: M. Llorens Ferrer, *La consulta popular como mecanismo para revitalizar el urbanismo democrático*, “Revista catalana de dret públic” 2013, núm. 46, pp. 164–167.

¹⁰ Ley orgánica 2/1980, Art. 2.

on Art. 92 was convened only twice: in 1986 on Spain to remain in NATO and in 2005 when the question of establishing a Constitution for Europe was considered¹¹. Constitutional referendum for amending the Constitution mentioned in Art. 167 and Art. 168 of the Constitution has not yet taken place.

Spanish law knows other cases of norms which do not appear directly in the Constitution, and have features of direct democracy, having the same structure as the referendum mentioned in Art. 92 of the Constitution. These include: the so-called popular consultations (*consultas populares*), which are listed in the only available additional provision of the Organic Law 2/1980. The norms of this act do not regulate popular consultations that may be convened by the local councils (*Ayuntamientos*) in the area of the municipalities subordinate to them, and refer to relevant matters in accordance with applicable local law and in any case with the state authorization that is exclusive to the consent to those consultations.

Moreover, some Autonomous Statutes provide for the organization of popular consultations for the Autonomous Communities concerned¹². Appropriate standards for convocation of popular consultations are available in Andalusia¹³, Asturias¹⁴, La Rioja¹⁵, Murcia¹⁶, Canary Islands¹⁷, Extremadura¹⁸

¹¹ Previously, a national referendum was convened twice during the Francisco Franco dictatorship (1947 and 1966) to legitimize itself in power and also in 1976 regarding political reforms, and in 1978 for the ratification of the Constitution. See more: J.L. López González, *El Referéndum en el sistema español de participación política*, Valencia 2005.

¹² See more: P. Requejo Rodríguez, *El referendun consultivo en España: reflexiones críticas y algunas propuestas de future*, "Estudios de Deusto" 2014, vol. 62/1, Bilbao, pp. 268–269.

¹³ Art. 30 c), 78, 117, Ley Orgánica 2/2007, de 19 de marzo, de reforma del Estatuto de Autonomía para Andalucía, BOE núm. 68, de 20 de marzo de 2007.

¹⁴ Art. 11.11, Ley Orgánica 7/1981, de 30 de diciembre, de Estatuto de Autonomía para Asturias, BOE núm. 9, de 11 de enero de 1982.

¹⁵ Art. 9.7, Ley Orgánica 3/1982, de 9 de junio, de Estatuto de Autonomía de La Rioja, BOE núm. 146, de 19 de junio de 1982.

¹⁶ Art. 11.8, Ley Orgánica 4/1982, de 9 de junio, de Estatuto de Autonomía para la Región de Murcia, BOE núm. 146, de 19 de junio de 1982.

¹⁷ Art. 32.5, Ley Orgánica 10/1982, de 10 de agosto, de Estatuto de Autonomía de Canarias, BOE núm. 195, de 16 de agosto de 1982.

¹⁸ Art. 9.50, Ley Orgánica 1/2011, de 28 de enero, de reforma del Estatuto de Autonomía de la Comunidad Autónoma de Extremadura, BOE núm. 25, de 29 de julio de 2011.

and Catalonia¹⁹. In no case, however, can the popular consultations be called a referendum, since the running of the institution is reserved by the Constitution only for the organs of the state. The Catalan nationalists, who decided to appeal to the citizens of the region, would have interpreted the Constitution in a different way in order to push ahead with their political plan to separate from Spain and declare the independence of the Republic of Catalonia.

II. The rise of separatist sentiment in Catalonia

The establishment of a new, even more widespread autonomy, Statute for Catalonia in 2006 did not result in the cessation of some politicians to emancipate the region from the Spanish state structures. The independence doctrine of Catalan nationalists was fed by the economic crisis that began around 2008. Observers willingly pointed at Gross Domestic Product, where Catalonia invariably exceeds the national boundary of 18% over the years, and remains the leader of the Autonomous Communities²⁰. Catalan nationalists have argued against the further need to support the poorer regions of Spain financially. Since the adoption of the new Statute, Catalan politicians have tried to force the central government to introduce the so-called “fiscal pact” (*pacto fiscal*), similar as the Basque Country has. It would impose on the autonomous institutions all public finance competences, which so far remain the responsibility of the state organs²¹. The Spanish government consistently rejects the possibility of negotiating any concession to Catalonia in this regard, believing that the precedent would apply to more autonomous communities and thus the complete financial decentralization, which would be very dangerous for the state economy²².

¹⁹ Art. 29.6, 122, Ley Orgánica 6/2006, de 19 de julio, de reforma del Estatuto de Autonomía de Cataluña, BOE núm. 172, de 20 de julio de 2006.

²⁰ *Catalunya aporta más que la Comunidad de Madrid al PIB español*, “La Vanguardia”, 09/09/2016. <http://www.lavanguardia.com/economia/20160909/41203304522/catalunya-madrid-pib-espana.html> (18.10.2017).

²¹ Coca M.T., *A qué aspira Cataluña con el pacto fiscal*, “El Mundo” 20/09/2012, <http://www.elmundo.es/elmundo/2012/09/19/barcelona/1348077306.html> (18.10.2017).

²² García L.B., *Rajoy rechaza un concierto fiscal y un nuevo Estatut pero ofrece “más inversiones”*, “La Vanguardia”, 26/01/2017. <http://www.economiadigital.es/politica-y-sociedad/rajoy>

The dissonance between the political positions of the central government and of the autonomous authorities has for several years caused both sides to move away from each other and resulted in bilateral escalation of demands. The Catalan nationalists decided to appeal to direct democratic institutions to implement their plans for the independence of the region. Looking for arguments of a legal nature, they referred to the Art. 92.1 of the Constitution for a consultative referendum. Of course, the Catalans interpreted the above regulation in such a way that it would be limited only to citizens of the Autonomous Community which would apply for a referendum. The Constitutional Court rejected the possibility of referring to direct democracy in matters of identity and state unity²³. Therefore, in the light of existing regulations, it was not possible to carry out a binding referendum only in Catalonia. On the other hand, such an initiative could have taken place if all the Spanish citizens were authorized to vote or if the government of Madrid had transferred the competences to hold a referendum to the autonomous government in Barcelona (called Generalitat) under Art. 150.2 of the Constitution. This would be possible by adopting an organic law (*Ley orgánica*) by an absolute majority of the two chambers of the national parliament. Nevertheless, taking into account the adamant position of the central government in Madrid which opposed the secession, this situation seems unlikely.

In view of the fragile constitutional basis for convocation of an independent referendum, the Catalan government adopted Law 4/2010²⁴ allowing for regional “social consultations” (*consulta popular*). The new institution was to apply to cases of major political importance and would, of course, be used exclusively in the Autonomous Community. The legal strategy applied by Generalitat makes it possible to conduct consultations, which have attributes similar to a referendum, only in Catalonia without the participation of the state authorities in a process. The central government would only autho-

rechaza-el-pacto-fiscal-con-cataluna-para-no-romper-espana_188601_102.html (18.10.2017).

²³ An exception is the constitutional amending through a referendum based on Art. 167 and 168 of the Constitution. Sentencia Tribunal Constitucional 103/2008, de 11 de septiembre de 2008, BOE núm. 245, de 10 de octubre de 2008.

²⁴ Ley 4/2010, de 17 de marzo, de consultas populares por vía de referéndum, BOE núm. 93, de 17 de abril de 2010.

alize the final results of the vote²⁵. Again, the Constitutional Court has indicated the distinction between public consultations and a referendum, ruling that the referendum lies in the exclusive competence of the state, excluding the possibility of being carried out by the autonomous authorities²⁶.

Finally, the government of Catalonia, unable to convoke a legal referendum on independence, decided to use the Art. 122 of the Autonomous Statute on popular consultations as a legal basis for voting in the spirit of direct democracy. The above mentioned regulation stipulates that Generalitat has the exclusive competence to convoke popular consultations, except as provided for in Art. 149.1.32 of the Constitution, which is authorization for popular consultations through the holding of referendums. The Constitutional Court has issued the following judgement on this regulation: “However, such an exception can not be limited to state authorization for convening popular consultations by referendum, but must extend to the entire discipline of that institution, that is, to its establishment and regulation”. In addition it was called “a game of words”²⁷. Of course, the Generalitat did not agree with the sentence.

Unfavorable judgements of the Constitutional Court led to the largest national demonstration in Barcelona on the National Day of Catalonia September 11, 2012. According to estimates from 0.6 to 1.5 million protesters went to the streets²⁸. Such large society support intensified the activity of the Catalan nationalists. Following the autonomous elections of late 2012, a declaration of sovereignty was adopted. According to the authors, it meant that the

²⁵ E. Martín Núñez, *The referendum and popular consultations in the Autonomous State*, “Perspective on Federalism” 2012, vol. 4, issue 1, p. 145.

²⁶ STC 31/2010, de 28 de junio de 2010, BOE núm. 172, de 16 de julio de 2010. The main differences between referendums and popular consultations are: the ability to vote (in the case of consultations from the age of 16, as well as foreign residents), the use of the official state register of voters in the case of referendums and a register of participation according to regional data, civil consultations do not require the consent of the government. They also do not have the guarantee of state Electoral Commissions (*juntas electorales*), but only the autonomous Committee of Control (Comisión de Control). See: M. Barceló, *Diferencias entre un Referéndum y una Consulta*, “El Diario”, 23/09/2014, http://www.eldiario.es/agendapublica/reforma-constitucional/Diferencias-Referendum-Consulta_0_306220129.html (18.10.2017).

²⁷ STC 31/2010.

²⁸ J. Oms, V. Mondelo, G. González, *El clamor independentista colapsa Barcelona*, “El Mundo”, 11.09.2012. <http://www.elmundo.es/elmundo/2012/09/11/barcelona/1347377095.html> (18.10.2017).

Catalan society has sovereign political and legal subjectivity²⁹. Subsequently, the Autonomous Parliament of Catalonia recognized that it had the right to “carry out bilateral dialogue with the central government”³⁰. It would be equal to recognize the Catalan side as an equal authority to the central government in Madrid. Of course, both acts were first suspended by the Constitutional Court, and subsequently considered unconstitutional and invalid. In the justification it was stated that “the Autonomous Community can not unilaterally convoke a referendum on self-determination, which would decide its integration within Spain”³¹. This has not affected the proceedings of Generalitat, which was preparing to organize popular consultations on independence.

III. Non-referendum popular consultations 2014

At the beginning of 2014, the Parliament of Catalonia once again tried to initiate a referendum procedure in according to the Constitution and sent a petition to the Congress of Deputies on the transfer of competences for the referendum to the Autonomous Community authorities pursuant to Art. 150.2. The Congress of Deputies rejected the petition of the Catalans with a decisive majority (299:47)³². The government of Catalonia did not give up and continued preparations for popular consultations. It was clearly supported by the

²⁹ M. Colomer, *La declaració de sobirania ja fa via al Parlament*, “Ara”, 22.01.2013 http://www.ara.cat/politica/declaracio-sobirania-Parlament-CiU-ERC-ICV_0_851914901.html (18.10.2017).

³⁰ *Resolució 17/X del Parlament de Catalunya, sobre la iniciació d'un diàleg amb el Govern de l'Estat per a fer possible la celebració d'una consulta sobre el futur de Catalunya*, <https://www.jakin.eus/uploads/albistek/dossierak/katalunia/1.%20Resolucio%CC%81%2017X.pdf> (18.10.2017).

³¹ “Una Comunidad Autónoma no. puede unilateralmente convocar un referéndum de autodeterminación para decidir sobre su integración en España” STC 42/2014, de 25 de marzo de 2014, BOE núm. 87, de 10 de abril de 2014.

³² Boletín Oficial de las Cortes Generales (further: BOCG), Congreso de los Diputados, serie B, núm. 158–1, de 24 de enero de 2014; BOCG, Congreso de los Diputados, serie B, núm. 158–2, de 11 de abril de 2014. It is interesting that in favor of the petition of Generalitat voted other regional nationalist parties (from the Basque Country, Navarre and Galicia) represented in the national parliament. About regional parties see more: M. Myśliwiec, *Pozycja partii regionalnych w systemie politycznym współczesnej Hiszpanii*, Katowice 2014.

Catalan society. On the National Day of Catalonia 2014, more than a half of million demonstrators returned to the streets³³. In the same month, the Parliament of Catalonia adopted the “Law on non-referendum popular consultations and other forms of civic participation”³⁴. The day following the publication of the regulation in the information bulletin of the Parliament of Catalonia (*Diari Oficial de la Generalitat de Catalunya*, September 27th, 2014), an independent consultation was convened on November 9th. In response, the central government appealed the Catalan law for consultation to the Constitutional Court, which suspended two articles of the act, which granted Generalitat the possibility of organizing public consultations. Ultimately, in February 2015, the Constitutional Court unanimously decided the unconstitutionality of the suspended regulations, noting that in fact the “non-referendum popular consultations” were the same as a referendum is, which is exclusively reserved for the central government³⁵.

The poll finally took place under the name of the “Citizen Participation Process on the Political Future of Catalonia”. Voters answered two questions, but only if the first answer was affirmative. In the case of a negative response the plebiscite ended with a single question for the voter. The first question was “Would you like Catalonia to become a State?” If the answer was “yes”, the second part of the question was “Would you like this State to be independent?”³⁶ Due to the inability of using official electoral lists, it is difficult to accurately estimate the attendance. More than 2.3 million people participated in the vote (which is slightly less than 40% eligible for consultation³⁷).

³³ M.P., *El Gobierno cifra en 520.000 los participantes en la «V» y la Guardia Urbana en 1,8 millones*, “ABC”, 11/09/2014. <http://www.abc.es/catalunya/politica/20140911/abci-independentista-llena-centro-barcelona-201409111656.html> (18.10.2017).

³⁴ Ley 10/2014, de 26 de septiembre, de consultas populares no. referendarias y otras formas de participación ciudadana, BOE núm. 64, 16.03.2015.

³⁵ STC 32/2015, de 25 de febrero de 2015, BOE núm. 64, 16.03.2015.

³⁶ “¿Quiere que Cataluña sea un Estado? En caso afirmativo, ¿quiere que este Estado sea independiente?” The questions of the referendum were edited after prolonged negotiations between various Catalan political groups. See M. Noguer, ¿Quiere que Cataluña sea un Estado? Y ¿que sea un Estado independiente?, “El País”, 12/12/2013. https://elpais.com/ccaa/2013/12/12/catalunya/1386848019_314345.html (18.10.2017).

³⁷ It is estimated that about 6.3 million people were eligible to vote, out of which 5.4 million of the official state electoral lists, 0.77 million foreigner residents and 0.13 million

The supporters of separatism were definitely winners, reaching just over 80% of the votes, positive for both questions. In the face of such overwhelming odds, then-President of the Catalan government Arturo Mas assured that he would strive to organize a final and legal referendum about the future independence of Catalonia. In response, the General Prosecutor appealed against the organizers of the plebiscite for disobedience to the State and the embezzlement of public funds. In March 2017 they were convicted by the Supreme Court of Justice of Catalonia (*Tribunal Superior de Justicia de Cataluña*), penalized with a ban on public office and a fine³⁸.

IV. Independence referendum 2017

Generalitat's secessionist efforts have been intensified after the 2015 regional elections won by the coalition of radical independence groups Juns Pel Sí, which then entered into a coalition with another separatist group Candidatura de Unidad Popular, therefore giving them the majority in the Parliament of Catalonia. During the first session after the elections, the Parliament of Catalonia adopted a resolution on the formal start of the process of creating an independent State of Catalonia³⁹. In response, the central government in Madrid filed a complaint against the resolution to the Constitutional Court, which quashed it, declaring it to be incompatible with the principle contained in Art. 2 of the Constitution on the "indissoluble unity of the Spanish nation". A similar sentence has been predicted by the Parliament of Catalonia, as the resolution calls for disregard the contrary judgement of the Constitutional Court by the regional government⁴⁰. This situation fully reveals the confrontational attitude of Catalan politicians who do not intend to give up once they have taken the road to independence.

minors allowed to vote (16–17 years old). http://www.gesop.net/images/pdf/ca/BREUS%20DE%20DADES/22.%20BreuDades_9NProcesParticipatiu.pdf (18.10.2017).

³⁸ Text of the judgement: <http://www.elperiodico.com/es/politica/20170313/texto-integro-fallo-sentencia-9n-5893943> (18.10.2017).

³⁹ Resolució 1/XI del Parlament de Catalunya, sobre l'inici del procés polític a Catalunya com a conseqüència dels resultats electorals del 27 de setembre de 2015, Butlletí Oficial del Parlamento de Catalunya núm. 7, 09.11.2015.

⁴⁰ Resolució 1/XI..., sec. 6.

The next referendum was scheduled for October 1st, 2017. The only question the Catalans answered was: “Do you want Catalonia to become an independent state in the form of a republic?” Mariano Rajoy, Spanish Prime Minister, said he would not allow any referendum that was inconsistent with the Constitution and added that the state services were prepared in the event the Catalan government did not comply with the existing law⁴¹. In view of the relentless attitude of both sides of the conflict, on the day of voting there have been numerous incidents involving the state police, who intervened in numerous polling stations to prevent a referendum by the Catalans.

Before the vote, the Constitutional Court suspended the laws adopted by the Parliament of Catalonia on the establishment of an illegal referendum: the Law on the Referendum on Self-determination, the Law of juridical transition and foundation of the Republic, and the Catalan Tax Code. The first was found finally unanimously unconstitutional by the Constitutional Code on October 17th, because of its violation of state competence. It also overstated the primacy of the Constitution, the indissoluble unity of the Spanish nation and the national sovereignty⁴². The verdict of the Constitutional Court finally resolved the legality of the plebiscite of October 1st, 2017.

According to the official results provided by the Catalan government, more than 42% of eligible voters took part in the vote. More than 90% of the votes were in favor of the secession. However, there were numerous abnormal situations in the polling stations, among others: some ballot-boxes were confiscated by the national police; there were cases of multiple voting of same persons in different polling places, or even voting of unauthorized persons, especially foreigners⁴³. Within a few days the government of Catalonia was to declare independence, which it also did, but at the same time

⁴¹ *El Gobierno no. descarta medidas coercitivas para impedir el referéndum*, “La Vanguardia”, 1.02.2017, <http://www.lavanguardia.com/politica/20170201/413901214977/gobierno-constitucion-referendum-ilegal.html> (18.10.2017).

⁴² Full text: http://www.ara.cat/2017/10/17/sentencia_TC_referendum.pdf?hash=94ee-118c8e94e9113dc6441683a25891a3313ac8 (18.10.2017).

⁴³ *Irregularidades en el referéndum: gente que vota cuatro veces, votos ‘extranjeros’...*, “El Confidencial”, 01.10.2017, https://www.elconfidencial.com/espana/cataluna/2017-10-01/irregularidades-votaciones-referendum-cataluna_1453255 (18.10.2017).

decided to suspend it⁴⁴. Generalitat was pressured by the international opinion that was inclined to resolve the situation through dialogue. This was also a reaction on the attitude of many banks and Catalan companies that, in the face of the political crisis, decided to move their headquarters outside of Catalonia.

According to the, then-suspended by the Constitutional Court, Catalan referendum law, a formal declaration of independence should take place during the ordinary session of the Parliament of Catalonia. The results were not presented by the electoral commission (*sindicatura electoral*), because it was dissolved earlier due to the pressure of the central government. The document of declaration was not debated, voted, or registered. It was announced by the president of the Catalan government Carles Puigdemont, and subsequently signed by 72 of the 135 Catalan parliamentarians⁴⁵. In the face of procedural irregularities, not only against the state law of Spain, but also against the unconstitutional Catalan law, the question arises: is the declaration of independence a binding legal act?

This way the situation remained stalled because the referendum was held despite the fact that the activities of the Catalan government were incompatible with the Constitution. It was pronounced by the verdicts of the Constitutional Court and explicit bans by the central government in Madrid. Catalan nationalists regard the results of the referendum as binding, but according to Spain's internal law, and in the eyes of international opinion, there has been a violation of the applicable law and no unilateral declaration of Catalan independence has been recognized. The seriousness of this act was further weakened by his immediate suspension, which is a curiosity and is a practice unknown to the law.

⁴⁴ D.G. Sastre, *Puigdemont propone suspender la declaración de independencia de Cataluña y pide negociar*, "El Mundo", 11.10.2017, <http://www.elmundo.es/cataluna/2017/10/10/S9d-cebe146163f77748b4653.html> (18.10.2017).

⁴⁵ A. Castedo, *Qué significa la suspensión de la declaración de independencia de Cataluña y qué efectos puede tener*, "BBC Mundo", 11.10.2017, <http://www.bbc.com/mundo/noticias-internacional-41577329> (18.10.2017).

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