The Catalan Labyrinth
Independence or constitutional reform?

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Catalonia is at a crossroads between independence and remaining part of the Spanish state. This question will be at the centre of the early regional elections on September 27, 2015. Nevertheless, further development of the matter will not only depend on the distribution of power within Catalonia, but also on the results of the Spanish parliamentary election, which is scheduled to take place at the end of the year. The fact that the separatists' influence has grown was confirmed with November 9th vote, which was organised against Madrid’s will. Slightly more than one-third of the Catalan population took part in the non-binding vote. The result was clear: Four-fifths declared themselves to be in favour of an independent Catalonia, 10 percent for a sovereign state within Spain and only 4.5 percent against both options. The vote was not representative but it strengthened the position of Catalan President Artur Mas.

2015 – a super election year for Spain – is unlikely to offer new approaches that could lead to a solution. However, should the government constellation in Madrid change, offers to Catalonia and discussions about a constitutional reform could become quite possible in 2016. If such a development does not take place, a possible separation of Catalonia from the Spanish State can no longer be ruled out.

There was a lot of going back and forth between the regional president Artur Mas and Oriol Junqueras, leader of the left republican party ERC, before they finally agreed on January 14th to hold early elections in Catalonia. The two men are partners within the independence movement. However, at the same time, they are also political competitors. Mas, who chairs the ruling, and most important Catalan party CDC (Democratic Convergence of Catalonia), came to an agreement with Junqueras that there will be a kind of general – "broad base" – list for the elections. This list will include community leaders as well as outside experts, as well as representatives of the CDC and its sister party UDC (Democratic Union of Catalonia). The ERC (the Republican Left of Catalonia) will run for election separately and not put up any independent candidates. In addition, both party leaders agreed on including the independence of Catalonia as a common plank in their election platforms, despite standing separately. Furthermore, according to their joint "road map", the foundation for an eventual independence shall be built during the coming months including reforms to be made in tax management and social systems. The elections will be treated like a “plebiscite” and thus produce an important decision on Catalonia’s future legal and political situation.
The agreement for the new elections shows that the urge for self-determination and sovereignty continues unabated. While the central government refuses to negotiate and has even initiated judicial proceedings against members of the Catalan government, Catalonia is increasingly annoyed about Madrid’s rejection of reform; this feeling was exacerbated by the preceding events and the course of the popular vote on November 9th. In the “participatory process” – as the action was called officially – Catalan citizens were asked whether the region should become a state and whether this state should become “independent”. The vote was controversial, in part, because it took place within a legal grey area. In April 2014 the Spanish parliament had voted against allowing an official referendum. Five months later the Constitutional Court acted on a petition of the Spanish Government and suspended a national vote promulgated in accordance to Catalan law. Hence, only volunteers were involved in the organisation of the vote, and no official census data for the elaboration of electoral lists were provided beforehand. Though the central government tried to prevent the vote, in the end it opted for avoiding open confrontation.

Artur Mas’ road to independence

Regional president Mas was able to set an important milestone by holding the vote. At the same time he got out of a difficult situation. On the one hand he had promised to all those who wanted to vote to make it possible for them to do so. On the other hand, he operated under his own understanding that he was acting legally since indeed it was not an official referendum. Both the holding of the vote as well as the vote’s results can be claimed as a success for the pro-independence forces. The fact that Mas held his word and allowed the vote to be celebrated has strengthened his position within Catalonia as well as his position with respect to Madrid. It would have been a personal failure for him if the turnout had been less than 1.8 million people, that is, the number who participated in the massive demonstration on Catalonia’s National Day, September 11. The fact that about 2.3 million people took part in the vote in spite of possible sanctions for civil servants, however, showed that the movement for self-determination has by no means lost strength, and on the contrary, has maintained a high degree of mobilisation. In Madrid neither the government nor the opposition could ignore the political signal which was sent on November 9th.

On November 25th, 2014, Mas presented his road map. He suggested that he would only call early elections in Catalonia if the supporters of independence agreed on a common list of representatives of political parties, community leaders, and experts with a single platform of voting the question of Catalonia’s independence. In case of an electoral victory this alliance of independence supporters would have an 18-month period to set up Catalonia as its own state. Only then would the parties stand in the new elections.

The idea of plebiscitary elections in Catalonia was sharply criticised by the government in Madrid and rejected as “antidemocratic”. However, in Catalonia the proposal found support from relevant players of the independence movement, though there was disagreement about the basic conditions and the date for the elections. In addition, the ERC opposed having a single list. For electoral-tactical reasons ERC
preferred to maintain its distance from governing parties such as CiU (Convergence and Unity), the conservative party alliance under the leadership of Artur Mas, that has taken the brunt of the responsibility for budget cuts and other affairs. Once other highly influential civil organisations got involved – the Catalan National Assembly (ANC), the Òmnium Cultural association and the Municipal Association for Independence (AMI) – a compromise was reached, which freed the way for new elections in autumn, 2015. Now Mas is able to present himself as a uniting figure of a non-party list; on the other hand, ERC is able to address more social issues in contrast with CiU.

As a consequence of the November 9th vote CiU reached first place in opinion polls, slightly ahead of ERC for the first time in a while. In the European elections in May, 2014 CiU only received 21 percent of the votes. The alliance was under heavy pressure because of a corruption scandal surrounding Jordi Pujol who had been a leading figure of CiU for decades and Catalan president until 2003. Now Mas has won political manoeuvring room thanks to the celebration of the national vote and the announcement of new elections.

**Rajoy and Mas – politicians under pressure**

Reinforced by the result of the November 9th vote, Mas demanded once again in a letter to the Spanish Prime Minister, Mariano Rajoy, that there be real dialogue with the question of an official referendum at the centre of discussion. Rajoy answered by announcing before the Spanish Parliament that there will be no negotiations about such a referendum and that the sovereignty of Spain cannot be questioned. When the Prime Minister travelled at the end of November to Catalonia, the only objective was to shore up the opponents to self-determination, which beside Rajoy’s own People Party (PP), also include the Spanish Socialist Labour Party (PSOE) as well as their Catalan sister party PSC, the Catalan party Ciutadans and the civil organisation Societat Civil Catalana (SCC). There were neither offers for negotiations nor other gestures of conciliation to the growing number of the Catalans who wish to have their own state.

Instead, the central government embarked on a legal collision course. After November 9th, the Spanish State Prosecutor began proceedings against Mas and two other members of the Catalan government on grounds of abuse of authority, perversion of a legal process, misappropriation of public money, and disobedience. This will certainly not contribute to a negotiated solution. Instead, it pushes independence supporters to stand closer together and strengthens Artur Mas’ position, particularly as his future as a politician has now turned into a matter of national importance for Catalonia. Since Mas can count on an alliance for Catalonia’s sovereignty with a clear majority in his parliament, the distance between Mas and Rajoy has grown just as much as the polarisation between nationalists in Madrid and the separatist forces in Catalonia. The central government barricades itself behind the constitution instead of negotiating, and with it delegates its political responsibility to the judiciary. The Constitutional Court and the Public Prosecutor have become the last authority in the quarrel between Catalonia and Madrid.
Furthermore, both sides are being pressured by their own sides. Rajoy has lost support among his own followers because of countless corruption scandals and the persistent economic crisis. In October a national survey of the CIS research institute showed that 61 percent of the citizens do not trust him and 41 percent consider his government "very bad". Meanwhile, he is under enormous pressure from the mighty "barons" from the regional organisations of the PP, the far right-wing faction of his party including ex-premier Aznar, as well as the centralist party UPyD. As he faces a tight electoral calendar in 2015 – with local and regional elections early in the year and parliamentary elections near the end – Rajoy can hardly make far-reaching concessions to Catalonia.

Artur Mas, for his part, must contend with the demands of those who are determined to hold a vote on independence with or without Madrid’s approval. Among them are the ERC, which led in the opinion polls for a long time; the radical left List of the National Union (CUP) as well as the organised civil society and parts of the media. The goal of ERC and the CUP is that the newly agreed snap elections become a binding political mandate for Independence. At the same time, however, Mas must integrate Catalonia’s more moderate forces, which prefer a negotiated solution and demand territorial reform without wanting a complete separation of the region from Spain. To this group belong many Christian democrats within CiU, but also representatives of federal Catalanism within the eco-socialist party alliance ICV-EUiA.

The Catalan independence process in the super election year 2015

What will happen now, depends on two questions – the outcome of the elections in Catalonia and whether Madrid makes an offer. The latter depends again on the results of the Spanish general parliamentary elections. The basis of possible talks could be the 23-point-list that Mas presented to the Spanish Prime Minister as a first attempt at dialogue in July 2014. At that time the wish list included (like Scotland’s recently agreed-on devolved powers) stronger financial autonomy for Catalonia, more money for infrastructure, and more power for the regional government over education and social politics. To this day there has been no answer from Madrid. In view of the running election campaigns in this super election year of 2015, hardly any statement of this kind – and probably none – can be expected before the forming of a new Spanish government at the beginning of 2016.

Concerning the situation in Catalonia, the result of the elections is rather open. Artur Mas has two possible advantages with his "broad base" list: On the one hand he can run a "presidential" election campaign suited to his personality; on the other hand the image problems that his party suffers from can be compensated by independent candidates with excellent reputations. The ERC again has the chance to distinguish itself as a social-patriotic powerhouse and thus bring in the highly competitive left electoral segments. There is also the pro-independence anarcho-syndicalists CUP, the eco-socialists of the ICV-EUiA and the Spain-wide party Podemos. This brand new left-oriented radical party experienced a meteoric rise in 2014 and is also enjoying increasing popularity in Catalonia. At the end of December its chairperson Pablo
Iglesias made a special trip to Barcelona where he made a cleverly positioned and skilfully staged foundational speech.

Regarding the matter of Catalan independence, Podemos has proven to be quite pragmatic. The party recognises the Catalans’ right of self-determination in general but insists that a “constitutional process” is necessary to allow for a referendum on independence. Podemos clearly prefers to keep Catalonia within Spain, a “country of countries, a nation of nations”, according to the party. Hence, the party says it wants to build “bridges” instead of “raising walls”. However, Podemos’ first priority is to solve economic and social questions as well as to fight against the “corrupt caste” (in both Spain and Catalonia), while focusing on “social” sovereignty. Podemos may attract part of the leftist vote in Catalonia and thus weaken the independence movement. At any rate, it’s not at all unlikely that Catalan politics will be dominated in 2015 not only by the independence question, but by social-economic subjects which will have a bigger weight than in 2014.

For Madrid, however, the calendar for the general Spanish elections plays an important role. Taking into account the internal situation of Rajoy’s People’s Party (PP), the conservative government will be careful to not raise any suspicion that it might make concessions to Catalonia. The central government will present itself rather as a guarantor of stability and reliability – against the system-critical and capitalism-critical rhetoric of Podemos, but also against Catalan separatism. Hence, during the election year the government will probably not make any substantial offers to Catalonia, nor is it interested in an escalation of the independence question. Nevertheless, should the PP come under pressure by negative economic data or unexpected election results (possibly by a success of the PSOE in possible new elections in Andalusia or clear losses for the PP in important regions), the government party could emphasize the Catalan question as a way to pursue a kind of counter-mobilization.

It is not clear what will happen after the regional elections in Catalonia. Artur Mas explained immediately after his announcement of the electoral date, that a clear absolute majority in the new parliament would be required to continue with the independence process. Nevertheless, he was not explicit about how big this majority would have to be, which leaves him a certain amount of room for manoeuvring. Moreover, there are substantial differences between Mas and his competition at ERC with regards to possible plans of action after the elections. ERC’s preference—if they win an electoral victory—is to work as quickly as possible towards Catalonia’s complete independence, with a goal of 2016. The party supports a unilateral declaration of independence; the only thing left to do with Madrid would be to divvy up the State’s assets and liabilities. Mas, on the other hand, considers it necessary, in the event of a successful election result, to first explain the political will of the Catalan people to the European and international communities. He has not named a target date for Catalonia’s independence. It is very likely that the regional government formed after the September 27th elections will maintain a holding position until a new Spanish executive is being formed – because they would like to know who is the interlocutor and official contact in Madrid.
**Constitutional reform as a “third way”?**

The separatist trends in Catalonia are part of a whole scale political innovation process in Spain. Six years after the beginning of the economic crisis, the traditional two-party system heretofore controlled by the social-democratic PSOE and the conservative PP has been shaken to its roots. According to recent surveys, the newcomer Podemos could gain a similar or higher percentage of votes in the elections as the PSOE. Therefore, Podemos would be a possible coalition partner for the socialists – or a strong opposition party. In addition, smaller forces like the Union, Progress and Democracy UPyD or the United Left (IU) bely a more extreme fragmentation of the Spanish party spectrum. Regarding Catalonia, PSOE and Podemos represent the so-called “third way” between independence and regional unionism. While both parties defend a reform of the Constitution, they do so from different angles. Podemos leader Pablo Iglesias wants to create a direct democracy with civil participation and referendums and thus end the “regime of 1978” (founding year of the Spanish Constitution). In this way, Iglesias supports holding a referendum – as he did with the November 9th vote – while he rejects the creation of an independent state.

PSOE, like the PP, is categorically against Catalan independence. It does not allow for any right to a plebiscite on the national question. On account of inner-party interests the PSOE is also against restructuring the internal Spanish financial system, since important provinces for the party like Andalusia would be unlikely to accept the release of Catalonia, a net-payer region.

Nevertheless, the PSOE is open to reforms. Under chairman Alfredo Pérez Rubalcaba (2012-2014), the party advocated for so-called “asymmetrical federalism”. In July 2013 the party defined a new territorial pact with its “Declaration of Granada” according to which, a "21st century autonomy-based" federalist model should be established, including a territorial second chamber and a clear regulation of devolved powers between the central government and the 17 autonomous communities in the Spanish state. The truth is that "federalism" represents a compromise that hides serious opinion differences within the party. Thus Catalonia is not recognised by the Spanish socialists as "a nation", while the Catalan party members, under guidance of the regional party leader Miquel Iceta thrive for "plurinationality".

A constitutional reform would help solve not only the territorial question, but also bring forth other political reforms. The conflict about Catalonia’s future is part of a wide-reaching debate about the Spanish Transition model and the Constitution adopted in 1978 by referendum, which reflected the pact between the former followers and opponents of the Franco dictatorship. The need for reform does not only have to do with the legal status of the “regions and nations” (as they are called in the Constitution) but is also necessary for dealing with issues like a non-proportional elections law (which favours large parties and conservative constituencies), the relation between the State and the Catholic church, or the Parliamentary Monarchy, which is currently under scrutiny.
A constitutional reform could create new rights for Catalonia. However, this would require a national consensus, which does not seem very likely at this time. To begin with, most Spanish citizens do not consider the territorial question urgent. A survey (CIS) published in October 2014 showed that only 3.4 percent of the general population considered the nationalism of single regions as one of the country’s three biggest problems. Further, there is no majority in favour of a federal solution: 36 percent of the interviewees prefer the present autonomy statute, 13 percent are in favour of extending the regions’ devolved powers, and 11 percent would fancy a new statute which would also allow the independence of the “historical nations” (Galicia, the Basque Country, and Catalonia). This opinion contrasts with the polarised debate between unionists and independence supporters.

Without the approval of the PP, however, even a mostly left wing government in Madrid would be unable to present a persuasive offer for state reform or a federal solution to the Catalan side. The hurdles for a constitutional reform are high. A three-fifths majority in both parliament chambers is required. If this is not achieved, an absolute majority in the Senate and a two-thirds majority in the Congress is needed, followed by the approval via referendum of the changed or new constitution.

A Catalan State in Europe?

Supporters of Catalan independence are not only not opponents, but are enthusiastic followers of integration with Europe and membership of a future Catalan state in the EU. It was not by chance that during a recent interview Artur Mas stressed that Catalonia could exist without Spain, but not without the EU.

The question of whether an independent Catalonia would be a member of the EU or how it could join the union in case of non-membership, is the subject of intense debate. It is also part of the political process in Catalonia and Spain. The central government is anxious to set the costs for secession from the Spanish state as high as possible. Hence, it asserts that Catalonia would have to leave both the EU and the Eurozone in the event of secession. Indeed, from a formal point of view, it may be so that an independent Catalan Republic would initially be outside the EU. Nevertheless, there are specific mechanisms that would keep Catalonia from falling into the void, outside the sphere of the EU’s integration policy, due to secession.

In the first place, the interests of the involved parties – of Catalonia, Spain as well as the EU and most of her member states – would change in the event of Catalan independence. Each of these parties, including Spain, would have a certain interest in finding the most flexible solution possible, which is why it’s probably a good idea for them to avoid forming hard dividing lines, with respect to circulating merchandise or the four freedoms of the domestic market. This is also valid and just as likely in terms of the most complicated question – the currency of the new state. It can be assumed that the countries of the Eurozone which are intertwined, in part very closely, with the Catalan economy would not watch passively while Catalonia was excluded from any solidarity and auxiliary mechanisms because of currency politics and therefore encounter economic difficulties.
If Spain, or other EU member states, take a hard position and refuse to recognize or open diplomatic relations with Catalonia, Madrid could continue to consider its inhabitants as Spanish citizens (and therefore as citizens of the European Union) and basically ignore the new border. This would possibly lead to an ambiguous legal situation in which a de facto regime exists whose territory, from the Spanish and presumably also from the EU’s point of view, would still legally be part of the EU, without being represented as a state subject. However, even such a – hardly desirable – situation would still leave room for flexible negotiations about problems regarding the secession.

It’s important to remember that Spain, as an EU member-state would have more political influence than an independent Catalonia. However, if there are no gestures of negotiation for a compromise-based separation and Madrid refuses to recognize the new state, Catalonia could reduce the imbalance by, for example, refusing to take on its proportional share of the national debt.

The secession of a EU member state would be a first. The ties between such a new state and the community is not regulated in EU law. Hence, a purely legal view of the matter is of little use. The way will have to be cleared, in any case, mainly through a political solution – if it is an "internal" enlargement after a shortened procedure according to article 49 of the EUV, an alteration of contract procedure according to article 48 of the EUV or a temporary partial integration with a lower status than the full membership. One would imagine that Brussels and the member states not directly affected by the secession would at least be inclined to make an offer from Europe and to encourage friendly cooperation and integration.

In any case, it is still not clear whether the secession of Catalonia will occur. Presently, the question is more focused on how Spanish and Catalan internal dynamics will evolve. Should the confrontation between the Spanish central Government’s "obstructionism" and a growing desire for self-determination in Catalonia persist, if political tensions continue unabated, there will probably be economic complications as well. Maintaining the territorial status quo would not be a prerequisite for guaranteeing stability, but instead a cause for instability within the EU. Nevertheless, from the EU’s point of view, safeguarding stability and being able to respond adequately have to be a priority. In particular, it is recommended that both sides be encouraged to open or continue dialogue and negotiations.

**Ways out of the Catalan labyrinth**

The Catalans’ demand for a legal and democratic way to express their will about their political future was definitively rejected by Madrid. The result was a bigger alienation of Catalonia from Spain. The positions of both sides can only be turned into a constructive dialogue if the central government makes a substantive, credible offer of structural reforms.
If there are no negotiations or their results are not satisfying from the nationalist parties’ and the Catalan civil society’s point of view, the independence of Catalonia will continue to be a pressing issue. Spain’s strategy of remaining silent, of legal roadblocks and of selective recentralisation has decisively contributed to the fact that in Catalonia the original demand for more autonomic rights has turned into a call for self-determination and finally grown into the urge for independence. It has produced, even among the most cautious elements in Catalan politics, a dynamic which makes giving up on the secession scenario ever more difficult. Madrid’s hope, that Catalans’ struggle for sovereignty will wear itself out with time, has not yet come true, though the possibility that some fatigue symptoms could appear in Catalan society should not be completely ruled out.

A federal constitution that grants the three historical nations—the Basque Country, Galicia and Catalonia—more rights and devolved powers than the remaining 14 autonomous communities, could be a possible answer to the Catalan question. Besides, a constitutional amendment would also have the advantage of bringing all those involved, including the regional governments, to the negotiating table in order to also undertake other political reform projects in addition to the territorial one. Nevertheless, this is a long-term scenario, which might come up for debate at the earliest in 2016. In the 2015 election year it is unlikely that the necessary measure of consensus, responsibility and rationality will be present. On the other hand, a new political balance of power between Catalonia and Spain might bring a solution to the separatism question. The Spanish parliamentary elections at the end of 2015 will probably reflect growing party pluralism and strengthen the regional parties as well as leftist forces like Podemos. This development could offer a way out of the Catalan labyrinth, or at least break up the present standoff.

If Madrid is unrelenting in the long term and fails to make a substantial offer for constitutional reforms, two scenarios are possible. On the one hand discontent in Catalonia may grow further and with it the support for a break from Spain. On the other hand it would be conceivable that the “Catalanist” movement divides – into a radical part in favour of a unilateral declaration of independence and into a pragmatic part, oriented around negotiation. In both cases the future development of the Catalan question would be extremely uncertain.

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