



PRESIDENCY OF THE GOVERNMENT

In compliance with the Resolution adopted by the Council of Ministers at its meeting held on 11 October 2017, I am addressing Your Excellency to pass on in the attached document the Government's decision relating to the formal demand, pursuant to Article 155 of the Constitution, to comply with your constitutional and legal obligations and to put an end to your actions that are highly prejudicial to the general interests of Spain.

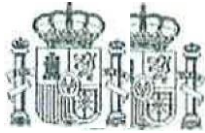
Madrid, 11 October 2017.

THE PRESIDENT OF THE GOVERNMENT

[signature illegible]

Mariano Rajoy Brey

H.E. THE PRESIDENT OF THE REGIONAL GOVERNMENT OF CATALONIA



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Y PARA LAS ADMINISTRACIONES TERRITORIALES**

SORAYA SÁENZ DE SANTAMARÍA ANTÓN, Vice-President of the Government and Minister for the Presidency and for the Territorial Administrations,

HEREBY CERTIFIES: That at the meeting of the Council of Ministers held on 11 October 2017, a resolution was approved by which a formal demand has been drafted, under Article 155 of the Constitution, for H.E the President of the Regional Government of Catalonia, to comply with his constitutional and legal obligations and put an end to his actions that are highly prejudicial to the general interests of Spain. This resolution reads as follows:

I. The purpose of this Resolution is to issue to H.E. the President of the Regional Government of Catalonia the formal demand that precedes the application of Article 155 of the Constitution. It requires the Regional Government of Catalonia to comply with its constitutional and legal obligations, given the serious actions engaged in by the former in the so-called national transition process, all of which are contrary to the framework established by the Spanish Constitution and the Statute of Autonomy of Catalonia, as determined repeatedly by the Constitutional Court, as well as seriously harming the general interest.

II. The essential requirements for a democratic Constitution are recognition of the fundamental rights of citizens and the separation of powers. A democratic State cannot exist as such if it is not governed by the rule of law and does not comply with the requirement that all public authorities are subject to the legal system. This subjection is guaranteed by the separation of powers, and in particular through the guarantee of compliance with judicial decisions, without which the rights and freedoms of citizens cannot be guaranteed.

The attempt to impose unilateral independence by the use of the public powers conferred on the Regional Parliament, the Regional President and the Regional Government of Catalonia and impose a pre-established decision with no democratic control, constitutes an attack on the framework for coexistence established by the Spanish Constitution.

III. Article 155 of the Constitution provides for the case in which an autonomous region obstructs the operation of the rule of law, does not comply with its constitutional or legal obligations, and acts in a way that seriously harms the general interests of Spain. In this case, the government is responsible for proposing to the *Senado* (Upper House of Parliament) the measures that have to be adopted in this exceptional situation, and the matter is decided on by an absolute majority of votes in the Upper House.



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It is clear that the application of Article 155 of the Constitution requires the case to be particularly serious. Such an application leads to a significant modification of the ordinary operation of the public authorities, to the extent that its application is required to guarantee that their constitutional and legal obligations are not violated, and thus to prevent serious harm to the general interest.

The actions of the Regional President and the Regional Government of Catalonia and of the simple majority of the Regional Parliament of Catalonia are so far removed from compliance with their constitutional obligations that if this formal demand is not met there would be a serious risk to the maintenance of the constitutional order; and the Constitution itself has provided for measures to apply in this case.

It is therefore the duty of the Government of the Nation, in compliance with the responsibilities granted thereto by the Constitution itself, to activate the procedure for applying Article 155 of the Constitution if this latest formal demand issued under this Resolution is not met.

IV. The Regional Government of Catalonia has carried out actions related to the so-called secessionist process in recent years that have been challenged by the Government of the Nation on the grounds of constituting a breach of the current legal system.

However, the Regional Government of Catalonia has ignored the judgements of the Constitutional Court. This means, as indicated by the Judgement of the Constitutional Court STC 259/2015, dated 2 December, that it has put “the alleged scope of the democratic mandate received by the Regional Parliament of Catalonia” or the “legitimate and democratic” nature of this chamber before “the legality and legitimacy of the institutions of State, in particular this Constitutional Court.” The Judgement states that the “democratic mandate” referred to “would justify the announcement that the decisions of the Regional Parliament of Catalonia should not subject to the decisions adopted by the institutions of the State as a whole,” and “the initiation of a non-subordinated constituent process, (...),” (i.e. “unilateral”).

V. The unconstitutional application of Law 19/2017, dated 6 September, on the referendum for self-determination, is an essential part of this secessionist drive, as it is based on the declaration of the sovereignty of Catalonia and the attribution of the representation of such sovereignty in the Regional Parliament, or in more precise terms, to a simple majority in that chamber.

In turn, Law 20/2017, dated 8 September, on the judicial transition and foundation of the Republic, is radically contrary to the sovereignty of the Spanish people and constitutes the basic step towards the creation of a Catalan Republic. It establishes a transitional legal system for the Catalan Republic applicable in case of a declaration of the independence of Catalonia by the Regional Parliament.

The Constitutional Court has already declared the admission of both laws for their



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parliamentary passage by the Board of the Regional Parliament of Catalonia to be unconstitutional, and both have been suspended by the Constitutional Court.

The Regional Government of Catalonia immediately approved the call for a referendum on self-determination and the additional rules for its organisation, and the Regional Parliament appointed the members of the Electoral Board to make the illegal referendum effective. All these decisions were also suspended by the Constitutional Court.

VI. Regardless of the considerations specified in the area of internal law, the actions of the Regional Parliament of Catalonia and the Regional Government of Catalonia not only lack the support of international law, but are in fact a frontal attack on it. The various United Nations resolutions dealing with the right to self-determination of peoples do not in any case admit the right to self-determination of a part of a territory governed by the rule of law, as is the case with Spain, in which there is a democratically adopted and accepted Constitution that incorporates mechanisms for its reform.

At a European level, the European Commission for Democracy through Law (the Venice Commission) - a consultative body of the Council of Europe - expressly warned in its letter of 2 June 2017, addressed to the President of the Regional Government of Catalonia, that it “has consistently emphasised the need for any referendum to be carried out in full compliance with the Constitution and applicable legislation”.

Furthermore, the conditions for approving the various laws for the referendum on self-determination, the transitional process and the foundation of the Republic, respectively, have violated the minimum democratic guarantees and standards of States in whose geopolitical context Spain is included. Such guarantees and standards do not include the unilateral secession of a part of a territory by the mere will of a minority of a regional parliament, nor the confusion in the separation of powers, or action by regions that are part of a State as subject to international law.

VII. All this once more led the Government of the Nation to challenge all these actions, and the Constitutional Court to immediately suspend the validity of all the provisions challenged, with corresponding court orders including other decisions determining the immediate conclusion of the secessionist process and the prevention of the holding of the illegal referendum.

Despite the judicial prohibitions against continuing with the organisation and holding of the illegal referendum, the Regional Government of Catalonia has promoted the referendum and avoided the action of the justice system where possible, calling on citizens to participate in the referendum.

Finally, the aim has been to implement the holding of the referendum on 1 October with the full backing of the Regional Government of Catalonia, with repeated appearances by its Spokesperson, a manifest, obstinate and deliberate breach by the Regional



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Government of Catalonia of the judicial resolutions that have repeatedly prohibited such a referendum being called and held.

VIII. Although it is impossible to consider a referendum to have taken place, as it is illegal, lacking in any guarantees, without a census, without an independent electoral administration, without judicial control, without an impartial institutional campaign, and despite the evidence of the absolute impossibility of approving such actions as a referendum, the Regional Government of Catalonia and the simple majority of the Parliament of Catalonia have presented, as a result of these actions, the purpose previously established of declaring the independence of Catalonia, in an unprecedented action in the European context and any advanced democracy.

Having breached the neutrality required from any public authority, and having eliminated the separation of powers by the systematic non-compliance with court judgements, and violated the rights of citizens through the use of personal data without any guarantees, the result of the desired culmination of the secessionist process has been to create a serious risk for democratic co-existence, the operation of the institutions and constitutional order.

The culmination of this process took place with the declaration by the President of the Regional Government of Catalonia before the Regional Parliament of Catalonia on 10 October 2017. This action, which was deliberately confusing, together with the signing by the President of the Regional Government of Catalonia, his Government, and the parliamentary parties Junts pel Sí and CUP of a supposed manifesto that same day for the constitution of a Catalan Republic, requires a clarification from the President of the Regional Government of Catalonia as to what the actual content and scope of his actions are.

If these actions on 10 October 2017 are considered by the President of the Regional Government of Catalonia to constitute a declaration of independence for Catalonia, whether or not it is in force, they would be further to the actions consisting of approval of the suspended laws 19 and 20, 2017, at the sittings of the Regional Parliament of Catalonia on 6 and 7 September 2017.

These actions have not included any democratic guarantees, the aim being to replace them by unilateral declarations, votes for approval of these laws by simple majorities, and extra-parliamentary actions consisting of declarations of independence made by Members of the Government and the Members of Parliament with a simple majority, in the full knowledge they were violating the Constitution, the Statute of Autonomy, the Regulation of the Regional Parliament of Catalonia and repeated judgements by the Constitutional Court.



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IX. The procedure for Article 155 of the Spanish Constitution has been analysed by the Constitutional Court in its Judgement dated 18 December 2014, in which it has stated that Article 155 of the Constitution “operates as a measure of last resort by the State in the case of a manifest, obstinate, deliberate or negligent violation by a certain autonomous region, which has not adopted the appropriate measures to correct the violation in which it has incurred, initially on its own initiative and then on a legal demand from the State.”

In accordance with the background above, the government considers that if the President of the Regional Government of Catalonia confirms the declaration of independence of Catalonia, whether or not it is in force, and if he does not comply with this formal demand, the grounds needed to apply Article 155 of the Constitution will be in place.

The use of the method provided for in Article 155 is a legitimate and constitutional form of action in the case of a manifest, obstinate and deliberate breach of the current constitutional order, such as the declaration by the Regional Parliament of Catalonia that it will set up a republic to be independent of the Spanish State, which replaces the constitutional regime, of which the Statute itself forms part, by initiating a constituent process.

Therefore we repeat that if the existence of a declaration of the independence of Catalonia is confirmed by the President of the Regional Government of Catalonia, and this formal demand is not responded to, it will be necessary to apply Article 155 of the Spanish Constitution in order to guarantee the constitutional order, democratic life and the normal operation of institutions and public services, without prejudice to the possibility of restoring the normal operation of the institutions once this situation of serious disorder ends.

If this formal demand is not responded, the government will immediately request approval by the *Senado* (Upper House of Parliament) for the measures needed to preserve the general interest of the Spanish Nation, also under Article 155 of its Constitution.

By virtue of the above, at the proposal of the President of the Government, the Council of Ministers, at its meeting on 11 October 2017



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HEREBY AGREES

A. Pursuant to Article 155 of the Spanish Constitution, to require His Excellency the President of the Regional Government of Catalonia, as the highest representative of the Government of Catalonia and lawful representative of the State in Catalonia, to act as follows:

1. The President of the Government of Catalonia must confirm whether any authority of the Regional Government of Catalonia has declared the independence of Catalonia and/or whether his declaration of 10 October 2017 before the plenary session of Parliament implies a declaration of independence, regardless of whether or not it is in force.

2. He must notify his affirmative or negative response to the Government of the Nation by any means with proof of receipt before 10:00 hours on 16 October.

B. If the response is affirmative (and for these purposes the lack of an answer and/or any answer other than a simple affirmative or negative response is considered to be a confirmation) formally to require him, in accordance with Article 155 of the Constitution, as follows:

1. The Regional President and Government of Catalonia must revoke or order the revocation of the said declaration of independence in order to restore the constitutional and statutory regime, ordering the end to any action aimed at the promotion, continuance or completion of the so-called constituent process leading to the declaration and organisation of Catalonia as a State independent from the rest of Spain, with full compliance with the resolutions issued by the Constitutional Court.

2. He must notify this request to the Speaker and the Board of the Regional Parliament of Catalonia, also requiring them to restore the constitutional and statutory order, in the same terms as for the Regional President and Government of Catalonia.

3. He must notify the Government of the Nation, in a form that provides proof of receipt, of the full compliance with this formal demand both by the Regional Government of Catalonia and the Regional Parliament of Catalonia, before 10:00 hours on 19 October.

C. To make the President of the Regional Government of Catalonia aware, as the highest representative of the Regional Government of Catalonia and legal representative of the State in Catalonia, that if he does not comply with this formal demand, the Government of the Nation, in compliance with the functions attributed to it by the Constitution, shall propose to the Upper House the adoption of the measures needed for compliance by the autonomous region with its constitutional obligations and for the protection of the general interest, pursuant to Article 155 of the Spanish Constitution, to restore the violated constitutional and statutory regime.



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In witness whereof and for the necessary purposes, this document is issued and sealed in
Madrid on 11 October 2017.