

Catalan leader Carles Puigdemont released from German prison

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Former Catalan regional president Carles Puigdemont was released from detention yesterday afternoon in Germany, where he faces extradition to Spain. However, Puigdemont is not completely free, he may not leave Germany until further notice, had to post bail of €75,000 and must report weekly to the police in Neumünster.

On Thursday evening, the Higher Regional Court (OLG) in Schleswig agreed not to extradite Puigdemont to Spain on the charge of rebellion. However, the OLG has upheld the second allegation of misappropriation of public funds and therefore the former Catalan regional president could still be extradited to Spain. The arrest warrant was only “suspended” under certain conditions, a spokeswoman for the court said.

In a press release, the court explained its decision as follows: “The victim’s alleged behaviour is not punishable in the Federal Republic of Germany under the applicable law.” The relevant criminal offence of treason had not been met because it could not be associated with violence.

Thus, the Higher Regional Court very directly contradicted the Attorney General of Schleswig-Holstein, who had declared earlier this week that an admissible extradition request existed, and the risk of Puigdemont fleeing was real. On Tuesday, the Schleswig-Holstein Attorney General announced that an “intensive examination” of the European arrest warrant issued by the Spanish judiciary had revealed that an admissible extradition request existed.

The state prosecutor argued that the charge of rebellion against Puigdemont raised by the Spanish judiciary “essentially involved the allegation of holding an unconstitutional referendum on Catalonia’s independence from Spain, despite the anticipated violent clashes.” This accusation of rebellion found a similar equivalent in German criminal law in paragraphs 81 and 82 of the Criminal Code (High Treason); a verbal likeness of the

German and Spanish regulations was not required by law. It is exactly this assessment that the higher regional court has now rejected.

The decision of the OLG has far-reaching consequences.

Puigdemont can no longer be handed over to Spain for “rebellion.” The court decision is binding on the federal government. On the existing legal basis, Puigdemont cannot be prosecuted in Spain or any other country on this charge. Whether the allegation of breach of trust can be upheld is highly questionable because it is not a charge of personal corruption. The Spanish authorities accuse Puigdemont, as regional president of Catalonia, of having financed the banned independence referendum using €1.6 million of public funds. However, if the referendum was not a call for rebellion, it is highly questionable whether the financing of it actually meets the charge of the misappropriation of public funds.

The first reactions to the verdict in Germany were divided. In a furious editorial, the conservative *Frankfurter Allgemeine Zeitung* stated, despite the verdict, Puigdemont remains “a criminal” who “cannot escape justice.” If he succeeded in escaping extradition, “he will have little choice but to hide from the Spanish courts in Belgium or elsewhere. If he is deported, he will go to jail in Spain.”

Media outlets and politicians who fear that an extradition of Puigdemont could cause violent protests in Catalonia and also in Germany, welcomed the verdict. “If things go well, if things go really well, then the verdict of the German judges is the beginning of a political solution, the beginning of negotiations,” commented the *Süddeutsche Zeitung*.

Gregor Gysi of the Left Party called on the German government to put pressure on Madrid and the judiciary. “Now, I expect that our foreign minister might go to Spain and try to talk them out of certain things, and not

that our government sits there and says we must now execute their arrest warrants for things that are not punishable in Germany.”

In fact, the German government, which yesterday had refused to take a position on the verdict, then did exactly that.

Newsweekly *Der Spiegel* reports that the government had already agreed on its approach during a telephone conference on the day Puigdemont was arrested. According to information held by *Der Spiegel*, on the weekend before Easter, Justice Minister Katarina Barley (Social Democratic Party, SPD), Foreign Minister Heiko Maas (also SPD and former Minister of Justice), Chancellery Chief of Staff Helge Braun (Christian Democratic Union, CDU) and Hans-Georg Engelke, State Secretary in the Federal Ministry of the Interior and former head of “Terrorism/Islamism” at the Federal Office for the Protection of the Constitution (as the secret service is called) held a telephone conference to determine the attitude of the government. It was agreed that the government would not veto any possible extradition of Puigdemont.

A few days later, the Attorney General of Schleswig-Holstein “consulted” with the Ministry of Justice to discuss further action, writes *Der Spiegel*. In other words, when the Schleswig-Holstein Attorney General requested Carles Puigdemont be held in detention at the beginning of this week pending extradition, stating that the charge of rebellion was justified and found “a comparable analogy in German criminal law in paragraphs 81 and 82 of the Criminal Code (High Treason),” this approach and this argument had been agreed with the highest government circles.

Thus, it is clear that the German government not only supported the undemocratic approach of the Spanish government, but wanted to use the arrest of Puigdemont to set a precedent for the prosecution of any form of protest and resistance against the ruling powers.

In particular, the reference to the law relating to High Treason illustrates the tradition in which the German government stands and how consciously it is working to build a European police state. High Treason is aimed at a violent upheaval within society, according to *Rechtslexikon*. It is an offence in which the perpetrator “undertakes to use force or threats of violence to undermine the existence of the Federal Republic of Germany or to change the constitutional order based on the Basic Law [constitution], i.e., to practically bring about an overthrow (revolution).”

The law had already been introduced at the founding of the German Reich in 1871 and since then has been repeatedly employed to persecute and suppress opponents of the imperial authoritarian state and later the Nazi dictatorship. The SPD founder August Bebel was persecuted on this basis as well as the KPD (German Communist Party) leaders Rosa Luxemburg and Karl Liebknecht. During the Nazi period, Hans and Sophie Scholl, along with other members of the White Rose resistance group were sentenced to death and executed on this basis.

Now, the German government is again resorting to these brutal forms of oppression to intimidate and nip in the bud any form of opposition, resistance and protest.

It is no coincidence that the criminalization of resistance and the introduction of police-state measures in Europe coincide with the largest strike movement in France against the labour market “reforms” of the Macron government and increased protest strikes in Germany. In Spain, the economic and social crisis is particularly acute. Not only have Amazon workers gone on strike, but pensioners have been organising mass demonstrations to fight for decent pensions and improved social benefits.

Even if the verdict of the Higher Regional Court in Schleswig-Holstein does not lead to Puigdemont being extradited and charged with “rebellion,” the German government is continuing its right-wing course.

The *World Socialist Web Site* and the Sozialistische Gleichheitspartei (Socialist Equality Party, SGP) have condemned the arrest of Puigdemont from the start and demanded his release. We wrote: “His targeting by the German authorities is a warning. The only way to prevent the establishment of a police state, and a relapse into militarism and war, is through the development of a socialist movement to unite the European and international working class in the struggle against social inequality, dictatorship and war.”



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