German court authorises extradition of Catalan leader Carles Puigdemont to Spain on embezzlement charges

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The German High Court in Schleswig-Holstein ruled Thursday that former Catalan regional president Carles Puigdemont could be extradited to Spain—but only on the lesser charge of embezzlement of public funds.

The German court threw out the charge of "rebellion" requested in Spain's European Arrest Warrant (EAW), arguing that "violent clashes with the Civil Guards or the National Police did not reach a point where the constitutional order was under threat in Spain."

A court spokesperson said, "The court decided this morning that an extradition due to the accusation of misuse of public funds is permissible. Therefore, the court rejected the German state prosecutor's argument that the Spanish charge of 'rebellion,' which according to Spain's penal code may apply only to those who 'violently and publicly' try to 'abrogate, suspend or modify the Constitution, either totally or partially,' could be equated with the German penal code's charge of 'high treason.'"

Puigdemont still faces up to 12 years in prison if extradited and convicted of embezzlement in Spain. His lawyer has announced an appeal to the German Constitutional Court on the grounds that the former regional president cannot receive a fair trial at home.

On Saturday, a 100,000-strong demonstration was held in Barcelona called by the nationalist organisations Òmnium Cultural and Catalan National Assembly (ANC) and attended by leaders from all the Catalan nationalist parties and the pseudo-left Catalunya en Comú-Podem ["Catalonia in Common–We Can"]. Under the slogan "No Jail, Nor Exile, we want you back home," the march demanded freedom for the eleven secessionist leaders still held in custody in Spain on rebellion charges for their part in last year's declaration of independence and for Puigdemont and other former ministers to be allowed to return without fear of reprisals.

The new Catalan president, Quim Torra, told the protestors that the court decision proved that the accusation of rebellion was a "fictional story" and that the independence movement "will come out again and again until the prisoners and 'exiles' return home."

In Spain, the Supreme Court has yet to respond. If it rejects the ruling, Puigdemont would be free in Germany (but facing arrest if he leaves that country, as the warrant remains in effect elsewhere in Europe). If the Supreme Court accepts the ruling, it would throw into confusion the fate of the imprisoned secessionist leaders. Their lawyers have now called for their release, insisting that the decision of the German court "should have an impact."

Puigdemont declared the court ruling a victory. He tweeted, "We have defeated the main lie upheld by the state [Spain]. German justice denies that the referendum on October 1 was rebellion," adding, "Every minute spent by our colleagues in prison is a minute of shame and injustice. We will fight to the end, and we will win!"

In Germany, the press concluded much the same as Puigdemont. The *Frankfürter Allgemeine Zeitung* declared, "Puigdemont triumphs—a little." *Der Spiegel* pointed out the "strange" anomaly created whereby Puigdemont could not be judged on the same charges as those imprisoned in Spain, while the *Süddeutsche Zeitung* warned that Germany had become "involuntarily an actor in the conflict in Catalonia, in which the German government had largely stayed on the sidelines."

In Spain, the newly installed minority Socialist Party (PSOE) government announced it would abide by the ruling, although it is a clear rebuke to the line the party has pursued in the Catalan crisis. In October last year, the PSOE supported the right-wing Popular Party (PP)

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government's crushing of the referendum in Catalonia, leaving 1,000 protestors injured, the imposition of an unelected government in the region and the arrest of the Catalan nationalists.

Reacting to the German ruling, Prime Minister Pedro Sánchez said "the important thing in terms of Spanish justice" was that those involved in the independence bid last year "are judged by the Spanish courts." He added that the situation in Catalonia needed "much dedication" and patience and "will not be resolved in a day, two months or five months."

To that end, on Monday, Sánchez and Torra agreed to relaunch bilateral committees between the two governments, which have been inactive for the past seven years. Negotiations are also taking place on Catalonia being granted greater control over its financing, railroad and airport facilities.

The separatist parties—Puigdemont's Together for Catalonia (JxC) and Catalan Republican Left (ERC)—have in practice abandoned unilateral independence and are seeking to strike a deal with Madrid that will result in greater regional powers. These forces agree that though there is no Catalan state yet, running day-to-day affairs in this way would be good because it constitutes "making a republic."

One of Torra's main demands is the reinstatement of over a dozen Catalan laws suspended by the Constitutional Court on the instigation of the former PP government. "We're ready to lift the vetoes on those laws," said PSOE Deputy Prime Minister Carmen Calvo, while warning against any attempts to resurrect the independence process.

While Torra celebrated the German court ruling and demanded freedom for the political prisoners "now more than ever," Spain's main opposition parties, the PP and Citizens, and the Madrid-based media reacted furiously.

PP spokesperson in the European Parliament, Esteban González Pons, urged Sánchez to "suspend the application of the Schengen Treaty in Spain as many other countries of the [European] Union have done, until we clarify whether the EAW serves for something or does not serve at all."

Citizens leader Albert Rivera also attacked the EAW, saying it was "regrettable" that it seemed to be "an instrument for the benefit of fugitives." He welcomed as "good news" the ruling that Puigdemont could be extradited for embezzlement, because he would have to "face" Spanish justice and "pay" for spending public money on a "coup d'état."

El País, the pro-PSOE celebrated daily Puigdemont would be jailed if he were extradited, but declared, "The truth is that the German decision places the Spanish judicial system in a blind alley."

The newspaper commented that if the Spanish courts "surrender" and accept the ruling, "it will be impossible to apply the principle of legal equality, since the prisoners of the [independence] process will be judged for rebellion, while the former regional premier, charged for the same cause, would be judged for a misdemeanor of embezzlement."

The right-wing *El Español* appealed to Supreme Court judge Pablo Llarena to reject the extradition with "the firm idea that the fugitive should be judged on rebellion."

It warned that the ruling "gives oxygen to the jailed coup plotters and helps to weaken the accusation against the pro-independence activists. All this at a very delicate moment, with a weak government in Spain that may be tempted to use this ruling … to promote detente with the Catalan government."

The only national party to welcome the ruling was Podemos. Elisenda Alamany, spokesperson for Catalunya en Comú-Podem, asked Spain's prosecutor to "withdraw" the charges of rebellion against Puigdemont leader because they "no longer hold up." Alamany insisted that the judicialisation of politics "brings no solution."

The pseudo-left party is acting as the main bridge between the Sánchez government and the Catalan nationalists in efforts to strike a deal, fearing that amid growing strike action by workers throughout Spain, anger over the Catalan crisis could prove politically explosive for the Spanish ruling elite—derailing the austerity and militarism agenda of the PSOE government.

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