

On far-right Vox party's appeal, Spanish court rules lockdowns unconstitutional

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In a deeply reactionary decision, Spain's Constitutional Court ruled this month that COVID-19 lockdown measures imposed from March to June 2020 were unconstitutional. The legal challenge to the health restrictions was brought by the far-right Vox party. The Court ruled by six votes to five that restrictions implemented to halt the spread of the coronavirus exceeded the remit of the state of alarm, the juridical mechanism used to impose social distancing measures such as lockdowns.

Vox is expected to shortly win a second victory in the Constitutional Court, this time in its challenge to the six-month extension to the second state of alarm passed by Congress in October. Right-wing Magistrate Antonio Narváez has drafted a judgment declaring this extension unconstitutional, which will be voted on by the Court on September 14.

The ruling in Spain represents an escalation of the “herd immunity” policy pursued by the entire European bourgeoisie. This policy of keeping non-essential workers at work, letting the virus spread so as to avoid any slowdown in the flow of corporate profits, will lead to thousands more COVID-19 deaths. This was most crudely expressed by UK Prime Minister Boris Johnson, who allegedly demanded last year in a leaked private cabinet meeting: “No more f...ing lockdowns—let the bodies pile high in their thousands.”

This comes as coronavirus cases in Spain surge to levels not seen since the start of February. Despite the clear and growing threat posed by the Delta variant, the PSOE-Podemos government has rejected any significant measures to contain the virus and instead threw Spain open to tourism, allowing bars, restaurants and other businesses to operate with no restrictions. As a result, the seven-day rolling average for infections is currently at more than 25,000 a day, as over 200 people

died of the virus last week. Hospitalisations rose by 33 percent over the same period.

The ruling, Vox's first major victory at the Constitutional Court, must serve as a warning to the working class on the growing threat of the far right in Spain and internationally. Vox has been promoted and emboldened by the right-wing and conciliatory policies of all the bourgeois parties, above all, the ruling Socialist Party (PSOE) and the pseudo-left Podemos party. Though Vox has only a small minority of the vote, it holds immense sway over the state machine.

The PSOE-Podemos regime has repeatedly bowed to Vox, capitulating to its calls to end COVID-19 restrictions and for violent anti-migrant policies. Its response to the Constitutional Court illustrates its contempt for the democratic rights and its indifference to the dangers posed by COVID-19 and fascistic politics in Spain. Refusing to criticise the ruling, it instead issued meek statements emphasising its “respect” for the Court's decision.

“The Government respects but does not share the judgment on Vox's appeal,” Justice Minister Pilar Llop declared, arguing that lockdown measures imposed under the state of alarm “allowed us to save hundreds of thousands of lives.”

“The Government's duty was to take immediate, urgent and proportional measures in the face of the spread of an unknown virus,” Llop continued. She cited “various international studies” showing that lockdown measures “prevented the deaths of more than 3 million people from COVID-19.”

While lockdowns undoubtedly saved millions of lives, the PSOE-Podemos government's account of its pandemic policy rings hollow. Its decision to implement lockdown measures last spring did not stem from a desire to save lives but was forced upon the

European bourgeoisie by a continent-wide wave of wildcat strikes in March and April. The PSOE-Podemos government was hostile to these strikes, sending police to assault Sidenor steelworkers striking in the Basque country to demand the right to shelter at home.

Since then, all the European governments have worked might and main to roll back restrictions and force the population into a “new normal” of coexistence with the virus. Due to this criminal refusal to carry out a scientifically-guided pandemic response, over 1.1 million people across Europe and over 100,000 in Spain have died. Millions more have lost family members and friends or suffer from debilitating long-term illness.

Constitutional Court Judge Cándido Conde-Pumpido, a member of the five-judge minority, denounced the ruling for blocking a scientific policy against the virus. “It does not resolve but creates a serious political problem, disarming the state before the pandemic,” he said, adding that the ruling “does not fulfill genuine legal criteria.”

Vox’s lawsuit represents a continuation of its policy of using the pandemic to press for police-state rule. It responded to the ruling by calling for Prime Minister Pedro Sánchez to resign and issuing a virulent tirade against lockdowns as the “biggest infringement on rights in history.” Its leader, Santiago Abascal, falsely claimed on Twitter: “Only Vox voted against it.” In fact, Vox deputies demanded the imposition of a state of alarm in March 2020 and voted for its extension when it was put to the Spanish Congress.

Once the strike wave had subsided, Vox ferociously opposed any measures to contain the pandemic, denouncing lockdowns as a “social-communist” attack on Spanish freedom. In October, it organised protests across Spain against a shelter-at-home policy, denouncing health restrictions as “totalitarian and absurd.”

The Spanish courts are politically complicit in Vox’s campaign for dictatorship. The judgment on the March state of alarm does not rule on whether lockdown measures were an appropriate response to the pandemic, instead basing itself on a legal technicality. According to the Court, the state of alarm did not grant the government sufficient powers to impose far-reaching restrictions. Instead, it argued, social

distancing can only be imposed under the far more stringent state of exception.

A state of exception has never been imposed since Spain’s transition to parliamentary democracy in 1978. It would grant the government dictatorial powers. Under this mechanism, the government could detain individuals and search private homes without a warrant; prohibit strikes; close down media and communication networks; and tap private phones without the permission of a judge. It would also enable the authorities to expel foreigners from Spain, evict Spanish citizens from their homes and cities, seize weapons and set up armed stations in the streets.

The court’s argument that only a fascistic police state can enact scientific public health policies is a political lie, through which the ruling elite is laying out plans for dictatorship. It is clear that the spread of the Delta variant threatens to swamp Spanish hospitals and lead to a new surge in deaths. The court ruling must serve as a warning for workers in Spain and internationally.

Should the ruling class find itself again compelled to adopt measures to contain the virus, most likely due to a new upsurge of the class struggle, powerful forces in the capitalist establishment will respond by seeking to impose a fascistic police state. They would be acting from a position not of strength but of immense weakness, having been discredited by the political criminality of their pandemic policies. However, workers cannot oppose this drive towards fascistic rule by supporting Podemos and its various political and trade union satellites.

The key task is to mobilise the working class independently and on an international scale, against capitalist “herd immunity” policies and the growing danger of police-state rule. This means building independent safety committees in workplaces and schools to educate workers and youth on the virus and fight the spread of the disease and building sections of the International Committee of the Fourth International (ICFI) in Spain, across Europe and internationally.



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