

# Spanish Constitutional Court rules country's second lockdown was illegal

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Last week, Spain's Constitutional Court (CC) ruled that the second state of alarm imposed in Spain from October 2020 to May this year was unconstitutional. The challenge to the state of alarm was brought by the far-right Vox party.

The CC judges ruled by six votes to four that the second state of alarm, which extended a measure first implemented in March last year, represented an unjustifiable undermining of the functions of parliament, and handed undue powers to autonomous regional governments.

Vox's legal case is intended as a signal that the Spanish ruling elite will tolerate no further necessary health restrictions, no matter how serious the evolution of the pandemic may be. It is a juridical expression of the homicidal policies of mass infection pursued by capitalist governments across Europe and the world, whatever their nominal political coloration.

The ruling, drafted by right-wing judge Antonio Narváez, declared that the state of alarm deprived the Spanish Congress of its decision-making powers and oversight by allowing regional authorities to adopt pre-approved coronavirus measures in their own territories, without the direct say-so of the national parliament and government.

"The extension [of the state of alarm] was authorised when the measures restricting rights included in the [Government's] request were not going to be applied directly by the Government, but would be subject to decisions made by the presidents of the Autonomous Communities," the ruling states. Therefore, "authorisation was given without [the Government] knowing what measures were going to be implemented to combat the pandemic."

This is the Constitutional Court's third ruling in favour of Vox. It issued a July judgement that the first

state of alarm in Spain (imposed from March to June 2020) was unconstitutional, as the restrictions implemented under this measure allegedly exceeded its legal remit. In October, it also ruled that a temporary suspension of Spain's Congress in the early days of the pandemic in spring 2020 violated the rights of congresspeople.

The ruling Socialist Party (PSOE) and the "left-populist" Podemos parties have bowed to the Court's reactionary decision, making a few merely rhetorical statements of opposition. "The Government respects, the Government complies with, but the government does not share the decision of the Constitutional Court," PSOE Justice Minister Pilar Llop declared. The Executive "respectfully disagrees" with the ruling, she continued.

This is only the latest in a series of craven capitulations by the PSOE-Podemos government to Vox, which increasingly calls the shots within the ruling elite. The supposedly "left" government has adopted Vox's policies on issues ranging from its demands to end all coronavirus restrictions to its brutal agitation against impoverished migrants fleeing to Spain. Its response to the Constitutional Court judgement illustrates its indifference to the dangers posed by COVID-19 and the far right.

The Court ruling comes as the PSOE-Podemos government continues to play down the impact of the pandemic, instead trying to force the Spanish population to "live with the virus." Last week, Fernando Simón, director of the Centre for the Coordination of Health Alerts and Emergencies (CCAES), and one of the government's key advisors during the pandemic, continued dismissing the "small increase" in COVID-19 cases across the country as unimportant.

Attempting to conceal his demands for the abandonment of mitigation measures behind calls for caution, Simón told a press conference in Santander, “we must be prudent, we must take it step by step. *We can continue relaxing measures, probably much quicker than what we had thought a few months ago,* but we must evaluate the impact of each relaxation we make [emphasis added].”

Simón predicted that it would soon be possible to impose far less restrictive measures. The infection rates “make us think that it is the appropriate time to establish possible new measures which will allow us to return to a much more normal life compared to what we had previously.”

Now that most older people in Spain are vaccinated, Simón continued, “we can accept a certain number of cases in younger people, where there is a much smaller health impact.”

Last Tuesday, at a conference organized by the UGT trade union, Simón again insisted, without any opposition from the union bureaucrats in front of him, that young people are not seriously affected by the virus. Justifying why under-12-year-olds don’t need to be vaccinated, he said that “serious doubts” exists if they need to be vaccinated because children “are affected very little by the virus,” saying that secondary effects may be worse.

This criminal statement goes beyond mere complacency but speaks to the active policy pursued by the ruling class of trying to reach immunity by mass infection of children and youth.

Simón’s statements epitomize the drive of the entire Spanish ruling establishment to “normalise” COVID-19 and relax health restrictions that are critical to limiting the spread of the virus. He has attacked lockdowns imposed at the beginning of the pandemic as an overreaction, comparing them to “shooting a fly with a bazooka.”

Almost a year ago, last November, as infections reached their highest numbers since the spring, Simón appeared in a press conference for the Ministry of Health to insist that no lockdown would be implemented, even though it could save tens of thousands of lives.

“What we have right now in Spain is not a [stay-at-home] lock-down, and this will probably not be necessary,” he stated. “If we carry out a real and full

confinement and nobody leaves their house for any reason, within around 15 days we would have this under control, perhaps within a month. But this is impossible. There are people who need to work, to buy things, who need to leave... Total confinement is impossible.”

Since then, at least 52,000 more people have died of COVID-19, bringing Spain’s total fatalities to nearly 88,000 by official counts, and over 100,000 according to excess death calculations. This massive death toll is the responsibility of the PSOE-Podemos government’s criminal refusal to pursue a scientific strategy of eliminating the coronavirus.

Daily COVID-19 infections in Spain currently number around 2,000, while approximately 30 people die of the virus each day. Infections are rising again, however, as incidence rates and hospital and Intensive Care Unit (ICU) admissions slowly begin to climb, as well.

The incidence rate has grown from its low point of 40 per 100,000 people in mid-October to just under 50 this week. A rate of 50 per 100,000 is the threshold after which the government considers Spain to be at “medium risk” from the virus. The number of new weekly hospitalisations due to the virus is slowly growing again, reaching 703 last week.

Meanwhile, the so-called “Delta Plus” sublineage of the Delta variant of the virus, AY.4.2 —first detected in the UK several months ago—has also begun to spread in Spain. Four confirmed cases of “Delta Plus” have been detected in the Madrid region, with a further 35 possible cases under observation across the country, as of last week. The AY.4.2 sublineage is estimated to be 10 to 15 percent more transmissible than the original Delta strain.



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