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EU court rules jailed Catalan nationalist Junqueras had immunity

On Thursday, the European Union Court of Justice (ECJ) ruled that former Catalan deputy regional premier and leader of the Catalan Republican Left (ERC), Oriol Junqueras, had had parliamentary immunity from the moment he was elected to the European Parliament last June. Junqueras ran in the election from prison, where he has been held since the police crackdown on the peaceful 2017 Catalan independence referendum.

Junqueras won 1.7 million votes and a seat in the EU parliament, after Spain's Electoral Commission allowed him to stand in the 2019 European elections. However, he was in pretrial detention, facing fraudulent charges of rebellion, sedition, and misuse of public funds. The Spanish Supreme Court therefore denied him permission to leave prison to attend the swearing-in ceremony, asking the ECJ to resolve whether the immunities provided for in Article 9 of the Protocol on privileges and immunities of the European Union applied to his case.

Thursday's ruling found that Junqueras enjoyed immunity since the moment he was elected, making clear that Madrid violated European law by continuing to detain him. It states, "The purpose of that immunity is to allow such persons to ... travel to and take part in the inaugural session of the newly elected European Parliament."

Spanish officials had argued that an MEP only enjoys parliamentary immunity once the swearing-in is concluded.

Nevertheless, the EU acquiesced to the show trial of Junqueras, organized by the minority Socialist Party (PSOE) government, backed by the pseudo-left Podemos party, and involving participation from the fascistic Vox party.

In order to evade this widely expected ECJ ruling, the Spanish Supreme Court fast-tracked the show trial so that decision would appear before the ECJ's decision. It condemned Junqueras and eight other political prisoners to between 9 and 13 years in prison, provoking mass protests in Catalonia. Junqueras himself was found guilty of sedition and misuse of public funds and sentenced to 13 years in prison.

The PSOE government has given no indication after the ECJ ruling that it will free Junqueras, however. On Saturday, acting PSOE deputy prime minister Carmen Calvo stated that "court decisions must be obeyed and complied with ... whatever the ruling, this ruling as well, which also binds our Supreme Court." She did not say when or if Junqueras would be freed.

Podemos, whose general secretary Pablo Iglesias has pledged "loyalty" to the PSOE in "matters of state," virtually remained silent on the ruling. Iglesias posted an ambiguous Tweet criticising the "judicialisation of the Catalan political conflict" which "has removed a resolution [of the conflict] and has harmed the image of our justice [system]." Endorsing ongoing PSOE repression in Catalonia, Iglesias added, "Now a new stage of dialogue has emerged ... to move towards reconciliation that our country needs."

The ECJ ruling does, however, affect former Catalan regional premier Carles Puigdemont, and regional health minister Toni Comín, both of the right-wing Together for Catalonia party. Having fled the Madrid's crackdown, they are now both political exiles in Belgium. On Friday, the two received accreditation to sit as members of the European Parliament, after being denied entry to the Parliament since June.

Considered objectively, the ECJ ruling is an exposure of Spanish and EU policy. It underscores that the Spanish police's bloody assault on peaceful voters in the Catalan referendum and the repeated police crackdowns on mass protests in Catalonia were carried out in blatant violation of the law. It also implicates officials of the EU and the leading EU member states, who abetted Madrid's policies and are complicit in them. In June, the EU Parliament and Commission echoed Madrid's fraudulent argument that Junqueras first had to attend the swearing-in before enjoying immunity.

That is, both the EU Parliament and the EU Commission allowed Spain to deprive 1.7 million people of their vote.

The Catalan nationalists nonetheless hailed the ECJ ruling, however, contrasting its supposed “independence” to the Spanish Supreme Court. José Antich, the director of *El Nacional*, claimed the ECJ ruling was “a severe blow to the Spanish justice system... Once again, sadly, it ends up that the Catalan independence movement only finds justice on the other side of the Pyrenees.”

From the Catalan government's delegation in Brussels, Puigdemont called for annulling Junqueras’s sentence and freeing him and investigating “malpractice in the Spanish justice system.” Claiming that the EU had “provided the guarantee of protection of the fundamental values of democracy that we have always respected and placed our trust in,” Puigdemont claimed this “historic ruling” would “reinforce the founding values of the Union.”

This pro-EU propaganda is a sham. Having taken shape as an economic community under the wing of the anti-communist NATO alliance during the Cold War, the EU has grown into a brutal military-police regime. While imposing austerity programmes that have devastated the living standards of hundreds of millions of European workers, it is seeking to build itself up now as a military rival of Washington while jailing hundreds of thousands of refugees.

The EU’s cynical role in relation to the jailing of Junqueras is of a piece with its broader attacks on democratic rights.

While Puigdemont sang the EU’s praises, his lawyer Gonzalo Boye gave a more sober assessment of the situation. He recommended that Puigdemont and Comín be “prudent” and not return to Spain for fear of arrest, despite the ECJ ruling that they enjoy immunity. “Given the situation with Mr Junqueras, I believe that the immunity that the Supreme Court could offer is not to be trusted,” Boye told Basque station Radio Euskadi.

The crisis is exposing the bankruptcy of Catalan nationalism, as well as of the PSOE and Podemos. The Catalan nationalists’ chief concern is not to free Junqueras and repel Madrid’s austerity policies and attacks on democratic rights, but to steady the very same PSOE government that is repressing them, without provoking too much opposition among their voters.

With its 15 parliamentarians now key swing votes in Spain’s Congress, the ERC has approved, by a vote of 93 percent of its members, a “roadmap” for negotiations with the PSOE to provide a parliamentary majority to PSOE leader and acting Prime Minister

Pedro Sánchez. Junqueras told Catalunya Radio: “negotiations should not stop in any case, independently of whether I’m in prison or not.”

For now, the ERC has announced that it is stopping talks until the PSOE reacts to the ruling and reveals the position of the PSOE-nominated Public Prosecutor. So far it has remained silent, though only hours after the ruling appeared, state prosecutors announced that the ruling had no legal effects. Acting PSOE government spokeswoman Isabel Celaá claimed the Public Prosecutor is “studying the ruling.”

Fearing the ERC might now refuse to support Sánchez, Celaá appealed to two right-wing parties, the Popular Party and Citizens, to support Sánchez’s investiture.

On the day of the ruling, events showed that Madrid is continuing its crackdown in Catalonia. Spain’s High Court of Justice convicted Catalan regional premier Quim Torra of disobedience and banned him from holding public office for eighteen months, on the bogus grounds that during the elections, he did not have a banner removed that expressed support for political prisoners. Torra has appealed.

The State Prosecutors Office also demanded that investigations of the police crackdown targeting the 2017 independence referendum, that left over 1,000 injured, be closed. It claimed police did not act “disproportionately,” and were compelled to use force, faced with a “resistant and hostile attitude of hundreds or thousands of citizens.”

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