

SINGLE READING, THE REFORM OF THE REGULATION OF THE CATALAN PARLIAMENT AND DEMOCRACY

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Many years ago, Benjamin Constant said that respect for the procedures is necessary to prevent arbitrariness. Procedures are established in order to determine the adoption of decisions, the general processes that guarantee pluralism, participation, debate and the search for the best decision possible. Procedures are not a burden that could be disregarded on the grounds of expediency but, on the contrary, a safeguard against bad governance and maladministration.

Parliamentary debates are the central axis of the democratic system. Their rules are laid down by specific regulations, the maximum expression of the chambers' organizational and functional autonomy. Their content and reform should consequently be addressed with caution and good judgment.

Being cautious involves respect for the democratic values that are inherent to legislative procedures. The intended unilateral and arbitrary reform of Article 135.2 of the Regulation of the Catalan Parliament has not complied with the above, as recalled by the Catalan Council of Statutory Guarantees through its well-founded, balanced Opinion 7/2017, of 6 July.

What is the aim of the reform of Article 135.2 of the Regulation? It intends to make it easy to deal with non-government bills through the single-reading mechanism. It is well known that dealing with legislative proposals through this mechanism implies the elimination of specific steps in a fast-track procedure. It is an exceptional procedure as it significantly reduces the minorities' possibility to participate and, consequently, it reduces pluralism and debate.

This procedure has been commonly accepted by the Parliaments of our cultural environment. The problem is to establish the requirements allowing this exceptional measure and the guarantees that might be reduced or even eliminated.

The intended reform stresses the need to suppress all references to the authorization requirements. The Parliament's Plenary is now fully legitimized to decide on which proceeding to take. The previous limits to the single-reading procedure were the "convenience given the project's nature or the simplicity of the formulation". Now there are no limits whatsoever.

The Council of Statutory Guarantees' opinions are clear and remarkable. Resorting to the single-reading procedure is exceptional and cannot be left in the hands of the Plenary. For this reason, the Regulation of the Parliament needs to lay down the overall cases where this procedure is applicable. Both the procedure and the content of the Regulation must avoid

arbitrariness -taking for granted that the Plenary may also act in an arbitrary manner. The Council reasserts its previous opinions (Opinion 1/2015) when it states that the authorization requirements consisting in the nature or simplicity of the bill are material limits to the single-reading procedure and shall not be suppressed by the reform of the Regulation. Consequently, this procedure “is not applicable if the reform aims to adopt laws with a complex content, to significantly innovate a sphere of the legal system or to apply structural changes to the institutional system”. The Opinion sets forth that the reform violates Articles 23 of the Spanish Constitution and 29.1 of the Catalan Statute of Autonomy inasmuch as it omits the “convenience given the project’s nature or the simplicity of the formulation” requirement.

The Opinion offers a set of conclusions and recommendations. We highlight the fact that the single-reading procedure does not preclude the parties from requesting an opinion of the Council.

The Opinion has a significant value if we bear in mind the context of the reform. It is the basis of laws that the Parliament will try to adopt soon such as the law on the independence referendum, which according to the Council cannot be adopted through the single-reading procedure. Leaving aside the illegal nature of the content, the law would violate the Constitution and the Statute of Autonomy, following the Council’s opinions. In addition, if the parties resorted to the Council this institution should deliver a new opinion and declare that this law is against the Constitution and the Statute of Autonomy due to the implementation of the single-reading procedure. The process towards independence would then be completely outside the law. And this time the Constitutional Court would not be the only one declaring this.

To summarize, a temporary parliamentary majority is trying to impose an authoritarian and arbitrary reform of a regulation, thus violating the principles of the rule of law and democracy. It is consequently necessary to underline the importance of respecting the procedures. This unilateral reform should be prevented, and there are different supervisory institutions that were created to this aim – in Catalonia, the Council of Statutory Guarantees. This Council has fulfilled its duty by warning about the violations of the Constitution and the Statute of Autonomy that this reform promoted by the parliamentary majority groups entails. We truly hope the Catalan Parliament will comply with its obligations and drop the idea of reforming Article 135.2 of the Regulation of the Parliament.