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Advocate General's Opinion in Case C-523/24 | Sociedad Civil Catalana

Advocate General Spielmann considers that certain provisions of the Spanish amnesty law on exemption from liability in respect of public funds may be incompatible with the right to effective judicial protection

However, the extinction of liability provided for in the amnesty law for acts relating to public funds that harm the financial interests of the European Union is not contrary to EU law

On 10 June 2024, the Spanish Parliament adopted a law on amnesty for institutional, political and social normalisation in Catalonia. ¹ It amnesties acts giving rise to criminal or administrative liability or liability in respect of public funds carried out in connection with the unlawful referendum on the independence of Catalonia of 1 October 2017, and those acts carried out in connection with the Catalan independence process. However, the amnesty does not cover offences affecting the financial interests of the European Union.

The Spanish Court of Auditors is hearing an action against a number of people charged with the handling of public funds and accused of having caused losses estimated at approximately €5 million to the public assets of the Autonomous Community of Catalonia. The money was spent on holding the referendum and promoting Catalonia's independence at international level between 2011 and 2017.

Having doubts about the compatibility with EU law ² of certain provisions governing the amnesty, the Spanish Court of Auditors referred the matter to the Court of Justice.

In his Opinion today, Advocate General Dean Spielmann considers that **the protection of the financial interests of the European Union does not preclude the extinction of liability provided for by the Amnesty Law in respect of public funds affecting the financial interests of the European Union, since there is no direct link between those acts and the reduction, actual or potential, in the revenue made available to the EU budget.** ³

The Advocate General then examines whether certain aspects of the amnesty law comply with the requirements of the **right to effective judicial protection**.

Under the **amnesty law, any decision on its application** in a given case must be taken within a **maximum period of two months. That time limit may be too short** to determine whether or not the situation is covered by the amnesty, depending on the origin of the funds (national or European) and their effective use to promote the independence of Catalonia outside of Spain. The Advocate General states **that a time limit that is excessively short and restrictive may infringe the requirement for judicial independence**. While recalling that that assessment is a matter for the Spanish Court of Auditors, the Advocate General observes that **the Spanish Government stated that the time limit in question is purely indicative, which was not refuted by any of the interested parties**.

The amnesty law requires national courts to hear only the public sector entities adversely affected by the loss

of public funds linked to the amnestied acts **and the State Counsel's Office** before issuing a decision exonerating the persons concerned from liability, **without mentioning the parties who brought the action in the public interest**. The Advocate General considers that, if the law were interpreted as meaning that those parties do not have to be heard before the decision is taken, that **would prevent** them from engaging in an **adversarial debate** on the matters of fact and law which are decisive for the outcome of the proceedings. ⁴ The Spanish Court of Auditors must verify whether, even if the parties who brought the action in the public interest are not mentioned in the amnesty law, that law must nevertheless be interpreted as meaning that they have a right to be heard.

On the other hand, **requiring national courts to adopt a decision exonerating** the defendants **without having had the opportunity** to assess the evidence to **determine whether those persons committed the acts** of which they are accused **is consistent with the obligation to ensure effective judicial protection**. According to the Advocate General, that legal mechanism appears to be inherent in any amnesty: where it is established that the conduct in question falls within the scope of the amnesty, the court before which the action was brought may not proceed with the examination of the case before it.

Finally, the Advocate General considers that **it is not compatible with EU law to require** national courts to adopt an exemption decision and to **lift the interim measures ordered** at an earlier stage of the proceedings **within a maximum period of two months, even if the Court of Justice, hearing a request for a preliminary ruling, has not yet given its decision**. Such an obligation would render the preliminary ruling procedure ineffective. The Spanish Court of Auditors will have to determine whether the amnesty law can be interpreted in a way that guarantees the effectiveness of the Court's response when a reference for preliminary ruling is made.

NOTE: The Advocate General's Opinion is not binding on the Court of Justice. It is the role of the Advocates General to propose to the Court, in complete independence, a legal solution to the cases for which they are responsible. The Judges of the Court are now beginning their deliberations in this case. Judgment will be given at a later date.

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of EU law or the validity of an EU act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

Unofficial document for media use, not binding on the Court of Justice.

The [full text](#) of the Opinion is published on the CURIA website on the day of delivery.

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¹ The Spanish Constitutional Court declared this law to be compatible with the Spanish Constitution in a ruling of 26 June 2025, with the exception of two provisions.

² The protection of the financial interests of the European Union, provided for in particular in Article 325 TFEU, and the principle of effective judicial protection enshrined in the second subparagraph of Article 19(1) TEU.

³ The Advocate General considers that, even though the Court's case-law on the subject demonstrates a broad interpretation of the protection of the financial interests of the European Union, it does not permit a direct link to be established between the unlawful activities at issue and the European Union's own resources. Those illegal activities do not relate to the system for making the European Union's own resources available. First, the misappropriated funds were not subject to an obligation to make them available to the EU budget. Second, the defendants were not responsible for collecting those funds and making them available to that budget. Moreover, to consider that the illegal activities at issue potentially harmed the

financial interests of the European Union, in so far as the reduction in Spain's gross national income would lead to a reduction in that Member State's contribution to the EU budget, would unduly extend the scope of EU law.

⁴ It is therefore incompatible with the principle of equality of arms and the adversarial principle.