

AG: Spanish Law on Catalan Amnesty Does Not Violate EU Terrorism Law

Thomas Wahl

According to Advocate General (AG) *Dean Spielmann*, the Spanish law "on amnesty for institutional, political and social normalisation in Catalonia" ("the LOA"), passed in June 2024, which includes an exemption from criminal liability for terrorist offences in the context of the Catalan independence movement is neither in breach of the EU's Directive on combating terrorism nor certain general principles of EU law.

Background to the case

The Audiencia Nacional (High Court of Spain) is conducting criminal proceedings against several supporters of the independence movement of Catalonia. They are accused of being a member of a terrorist organisation and of having possessed, stored and manufactured explosives or substances or destructive devices for terrorist purposes. The Audiencia Nacional (the referring Court) doubts whether the LOA is applicable in the present case, as it includes amnesty for acts that may be classified as terrorist acts under [Directive 2017/541 on combating terrorism](#), and thus may undermine the effectiveness of the Directive. In addition, the referring Court raises several questions on the LOA's compatibility with certain general principles of EU law, such as legal certainty, equality before the law and the primacy of EU law. The case has been referred as [C-666/24 \(Associació Catalana de Víctimes d'Organitzacions Terroristes \(ACVOT\)\)](#).

AG Spielmann's Opinion regarding the compatibility with the EU Directive on combating terrorism

AG Spielmann considers that the question of whether the LOA deprives the Directive on combating terrorism from its full effectiveness "requires several parameters to be taken into account". Ultimately, he finds that none of the parameter lead to the conclusion that the Directive would be compromised by the adoption of the LOA. He argues in detail:

- From the perspective of the EU legal order, amnesty remains a prerogative of the Member States and EU law recognises its existence without harmonising its content or conditions;
- Directive 2017/541 does not contain any provision explicitly prohibiting the use of mechanisms for extinguishing criminal liability, such as amnesty; the ECJ can only assess "external limits" of the justification for a national amnesty measure, i.e., its compatibility with international law, in particular international humanitarian law and case-law standards established by the ECtHR;

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- These standards stipulate that amnesty cannot be granted for serious crimes affecting the guarantees on the protection of life and physical integrity under Arts. 2 and 3 ECHR and that it must be framed with considerations of compensation for victims and, where appropriate, reconciliation.

According to the AG, the LOA is within these limits. In particular, its purpose is political and social reconciliation and it expressly excludes amnesty for acts that intentionally and actually caused serious breaches of human rights. The LOA's failure to formally include all offences covered by the Directive in this exception clause does not contradict the objectives of the directive itself.

AG Spielmann's Opinion regarding the compatibility with general principles of EU law

The AG found no infringements of the amnesty law with regard to certain general principles of EU law as set out by the referring Court. The AG argues in detail:

- The scope of the exclusion clause provided for in Article 2(c) of the LOA is sufficiently defined, since it refers to Arts. 2 and 3 ECHR - thus, there is no breach of the principle of legal certainty;
- There is also no violation of the principles of legal certainty and legitimate expectations, because the LOA complies with the substantive conditions of the "external limits", i.e., possible prosecution for acts against the life or physical integrity; it is not the ECJ's place to assess the material and temporal scope of the LOA, even though it may be considered very broad and vague;
- The principles of equality before the law and non-discrimination are not infringed, because the different treatment of certain acts is based on a precise political and temporal foundation, which is directly linked to the objective pursued;
- Lastly, the principle of the primacy of EU law and the duty of sincere cooperation do not preclude the Spanish amnesty law because Directive 2017/541 does not prohibit Member States from having recourse to amnesties.

Put in focus

The law "on amnesty for institutional, political and social normalisation in Catalonia" is the subject of [heated debate in Spain](#). It was initiated in 2024 by the Socialist Prime Minister *Pedro Sánchez*, who needed the support of Catalan parties to remain in power. The law was deliberately formulated to cover a wide range of acts being exempted from liability, including the organisation of the unofficial referendums in 2014 and 2017, related protests, and administrative decisions, e.g., the handling of public funds. Supporters view the amnesty law as a long-overdue step towards political reconciliation in Spain, whereas critics argued that it is an admission of moral and political bankruptcy sweeping aside serious claims and allegations.

The legality of the amnesty law has been questioned. In June 2025, the Spanish Constitutional Court, however, ruled that it was (with two exceptions) in line with the Spanish Constitution. Other Spanish courts have taken a different approach, seeking to invalidate the law due its potential incompatibility with Union law. While the Spanish High Court questioned its compatibility with the EU's anti-terrorism directive, the Spanish Court of Auditors raised concerns about its compatibility with the Union law on protecting the EU's financial interests in a separate reference for a preliminary ruling regarding the misuse of EU funds in the context of the independence movement (Case C-523/24 → [separate eucrim news](#) on the AG's opinion of the same day).

In both cases, the AG provided arguments to give green light for the Spanish path of reconciliation. However, he emphasised, particularly in his opinion in Case C-523/24, that certain red lines of EU law must be observed. This concerns mainly procedural regulations of the Spanish amnesty law.

The AG's opinions [remain controversial](#), with critics arguing that he has set the limits too strictly and has not taken into account the political context in which certain amnesties are adopted.

It is now up to the ECJ's Grand Chamber to rule on both cases.

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