

In defence of Catalonia in Brussels

Blog post by Practice Lead Carmen Bell, 6 October 2017

The European Commission has manoeuvred carefully to avoid being drawn into the dramatic events unfolding in Spain over the last few days. A related plenary debate between European Parliament group leaders in Strasbourg this week was a heated one, with the Commission coming under fire for both passivity and preferential treatment for Madrid. While mainstream leaders focused on solidarity and dialogue, Eurosceptic MEPs charged that the Commission's relatively hands-off approach to Catalonia contrasted with the more aggressive approach in Hungary and Poland. This tone of "we told you so" painted Brussels as a tightknit club, standing by national leaders not only supportive of its pro-EU objectives, but in a position to advance them. How justified is the charge?

To be sure, the Commission has done much more to reprimand Hungary's Fidesz and Poland's Law and Justice (PiS) governments for infractions of Article 2 of the EU Treaties, which define commitments the EU has made to the rule of law. Both governments have been threatened with EU sanctions. The Commission has yet (at least publicly) to condemn Spain.

However, this should not be confused with the Commission's enthusiasm for pushing these member states into line. It took two years after Hungary's attempt to control the media in 2012 before a new EU framework on rule of law was introduced to give the Commission more cover and tackle the situation. It took another two years to execute those rules in the case of Poland. The Commission has never been a proactive enforcer of Article 2, and the Council rarely wants it to be. Its preference has always been to allow member states to de-escalate national crises in the face of firm expressions of dismay and discontent and delayed action. Neither Hungary nor Poland have actually been sanctioned, just criticised.

The Commission's critics argue that Madrid has yet to even be verbally criticised, not only for its unwillingness to negotiate with the Catalan government but for its part in the violence that followed. At the hearing, Polish MEP Ryszard Legutko channelled Orwell and implied that "all member states are equal, but some are more equal than others". But Commission Vice President Frans Timmermans argues it was Catalonia that tried to circumvent the rule of law with an illegal vote. When the law is threatened, he says, a "proportionate use of force" may be defensible.

Charges of differential treatment are nothing new. Eurosceptics highlight the Commission's selective implementation of its enforcement agenda: a tougher line for CEE countries on energy sector competition; identifying tax policies of smaller countries as illegal state aid; and forbearance for France and Germany on fiscal deficits and trade surplus respectively. The Commission has recently taken steps to defuse this, condemning the practices of consumer goods companies in selling inferior goods in Eastern European markets. But this may be a case of "too little, too late" to placate already convinced critics.

In the end, it may not matter who is right. The optics of Brussels favouring "one of its own" - a pro-European, old member state government - is already making an impression and feeding a strain of

discontent. The Commission thus finds itself on the horns of a dilemma. Dutch MEP Marcel de Graaff alleged the EU's respect for national sovereignty clearly applies only to those member states furthering its agenda. It is this thinking that may eventually induce the Commission to attempt to intervene - at least as a moderator - in Spain, if only to shed the image that Brussels takes a selective view of bad behaviour.