

Dossier

Proposal to expel full member party PDeCAT

ALDE Party Council meeting

27 October 2018, 11.30h – 14.30h

Thon EU Hotel, rue de la Loi 75

Brussels, Belgium

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1. Executive summary

This document outlines the ALDE Party Bureau's recommendation to the ALDE Party Council to expel the full member party PDeCAT.

The structural, financial and political corruption charges relating to PDeCAT and its predecessor entity CDC, the denial that PDeCAT is the political successor entity to CDC, and actions of its representatives in the Council of Europe are considered contrary to the interest and the values of the Association and incompatible with ALDE Party membership.

In recent years, numerous leaders of CDC have been investigated and convicted of corruption while they were holding positions of responsibility in the Government of Catalonia. Many of these cases involved the Pujol family, founders of CDC, but the major political scandal in Catalonia revealed the creation of a specific structure in order to illegally fund the political party through money transfers hidden as donations. The money transfers were made by companies in exchange of fixed public contracts. The case Palau and the case 3% show this structure.

Furthermore, some of these legal proceedings against CDC were also extended to PDeCAT.

Several high-profile individuals have also been linked to corruption cases, such as Mr. Jordi Xuclà who was accused of corruption and forced to resign from his position as President of ALDE Group in the Parliamentary Assembly of the Council of Europe in October 2017.

PDeCAT is considered as CDC's successor by the ALDE Party, thus bearing political and legal responsibility. At the Congress in Warsaw in 2016 "*Partit Demòcrata Europeu Català was reconfirmed as full member legally succeeding Convergència Democràtica de Catalunya and thereby the continuation of this membership in ALDE Party*".

Moreover, a Spanish court stated that there is substantial proof that confirms PDeCAT as the successor of CDC. The main arguments outlined are the following: when PDeCAT was founded the governing board resembled the former CDC board; a great number of members of PDeCAT kept the positions that they were holding under CDC and PDeCAT took over the cooperation agreements CDC had with external entities; PDeCAT uses building properties owned by CDC; and, both parties share profiles in social media.

The view that the PDeCAT structure is the continuation of CDC is supported by the automatic transfer of positions of senior individuals such as Mr. Artur Mas, Ms. Neus Munte, Ms. Marta Pascal, and Mr. David Bonvehí.

2. Introduction and recommendation from the Bureau

This document outlines the ALDE Party Bureau's recommendation to the ALDE Party Council to expel the full member party PDeCAT.

In the convening notice to the ALDE Party Council sent on 26 September 2018, the following grounds were put forward by the Bureau to substantiate the proposal to expel PDeCAT as full member of ALDE PARTY:

“The disaffiliation proposal is based on grounds that (i) PDeCAT is engaging in acts that are contrary to the interest and the values of the Association in general, (ii) by doing so PDeCAT does not abide by the Articles of Association or the Internal Regulations, and (iii) its membership is politically no longer compatible with ALDE Party's principles as stipulated in art. 3 of the Statutes”.

(i) PDeCAT is engaging in acts that are contrary to the interest and the values of the Association in general

In view of structural, financial and political corruption charges relating to PDeCAT's and its predecessor entity CDC, in addition to the denial that PDeCAT is the political successor entity to CDC, and actions of its representatives in the Council of Europe, it is considered that these charges are contrary to the interest and the values of the Association are not compatible with ALDE Party membership.

(ii) by doing so PDeCAT does not abide by the Articles of Association or the Internal Regulations, and (iii) its membership is politically no longer compatible with ALDE Party's principles as stipulated in art. 3 of the Statutes.

It is also and therefore considered that the membership of PDeCAT is not in accordance with article 6 §1 of ALDE Party's [Statutes](#) that provides that *“membership of the Association is open to all political parties in Europe and individual citizens that accept these Articles of Association, the Internal Regulations of the Association, the policy programmes of the Association and the Stuttgart Declaration”* and for reasons as stipulated in article 9 §7 (point IV) that *“acts is contrary to the interest and the values of the Association in general”*.

3. Background information and timeline

Convergència Democràtica de Catalunya (hereafter CDC) was founded on 17 November 1984.

CDC applied and joined the ALDE Party (then ELDR) as a full member party at the ELDR Council meeting in May 2005.

CDC hosted the ELDR Party Congress in Barcelona in November 2009. At this Congress, Mr. Marc Guerrero was elected as one of the ELDR Vice Presidents. After being re-elected twice, his third mandate concluded at the Congress in 2015, when Ms. Marta Pascal, a member of CDC, was elected as one of the Vice Presidents of the ALDE Party.

In July 2016, CDC President Artur Mas announced the formation of a new party. The *Partit Demòcrata Europeu Català* (hereafter PDeCAT) was founded on 16 July 2016. The Spanish Ministry of the Interior announced that the name *Partit Demòcrata Europeu Català* had been officially registered on 29 September 2016. The name was ratified by the party members in a ballot conducted on 21–22 October 2016.

At the ALDE Party Council on 1 December 2016 in Warsaw, PDeCAT was then re-confirmed as a full member of the ALDE Party in accordance with Internal Regulations that stipulate that a member needs be reconfirmed should it change legal status into a new legal entity either via a merger or as a successor party.

PDeCAT representatives Mr. Jordi Xuclà and Ms. Marta Pascal presented the case in Warsaw and the minutes of meeting approved without amendment at the next meeting of the Council in 3 June 2017, confirm that the Council re-approved membership based on the evidence given that PDeCAT succeeded CDC as a political entity to all effects. As a consequence, the minutes of that meeting of the Council state that: “*Partit Demòcrata Europeu Català was reconfirmed as full member legally succeeding Convergència Democràtica de Catalunya and thereby the continuation of this membership in ALDE Party*” (see **Annex 1**). For these reasons, in its relations with ALDE Party, PDeCAT is and must be considered as CDC’s successor.

Prior to the ALDE Congress in December 2017, PDeCAT informed ALDE Party that it would not attend the Congress in disagreement with ALDE’s overall line on the political situation in Spain. A similar position was communicated prior to the Council meeting in Sofia in April 2018.

Following continuous news stories, the ALDE Party Bureau during its meeting on 27 April 2018, decided to investigate charges of alleged corruption in PDeCAT. Subsequently, attempts to arrange for a meeting were made but none of the suggested dates were taken up by PDeCAT.

During this time, numerous media articles and a text message by then general coordinator Ms. Marta Pascal, made it clear that PDeCAT was ready to consider leaving ALDE Party over political disagreements. Subsequent attempts to seek clarifications on this have resulted in a lack of response to formal letters sent first to Marta Pascal on 3 July, and later to the newly-elected PDeCAT leader Mr. David Bonvehí on 1 August (see **Annex 2**).

These communications also included requests to provide explanations on numerous high-profile corruption cases of PDeCAT's predecessor entity CDC that seemed to be of structural nature rather than cases of individual wrong-doing.

PDeCAT failed to pay their annual membership fee to the ALDE Party before the deadline in 2018 and only following reminders did they pay their annual membership fee in full on 6 September 2018.

Failing to offer sufficient responses, the ALDE Party Bureau in its meeting on 7 September 2018 gave the party a deadline of 14 September 2018 for a physical meeting at leadership level in Brussels to explain itself.

PDeCAT responded to this deadline through the presence of the party's international officer on 14 September 2018 with notification given less than 24 hours before the meeting in Brussels. He was received for the meeting at senior level of ALDE Secretariat members.

The explanations offered at the meeting, as well as the level of attendance, was considered unsatisfactory, and the ALDE Party Bureau voted by unanimity to propose expulsion of the party.

The following dossier presents the reasoning to substantiate the Bureau's recommendation for expulsion.

4. Corruption

In recent years, numerous leaders of CDC have been investigated for corruption cases committed while they were holding positions of responsibility in the Government of Catalonia. Some of those cases have already been resolved by the Courts, and some others are currently being investigated.

However, these are not not the only corruption scandals affecting the party. Several high-profile individuals have also been linked to corruption cases, such as Mr. Jordi Xuclà who was accused of corruption and forced to resign from his position as President of ALDE Group in the Parliamentary Assembly of the Council of Europe in October 2017 (see later).

Cases of corruption – Ruled cases

Case Palau

In 2010, this case, involving Mr. Félix Millet Tusell and Mr. Jordi Montull Bagur, the Catalan cultural officials from the *Palau de la Música* concert hall and CDC, developed into one of the major political scandals in Catalonia after information revealed the illegal funding of the political party via money transfers from the concert hall hidden as donations.

As set out in the judgement rendered by the Provincial Court of Barcelona on 29 December 2017, between 2001 and 2009, Ferrovial, a commercial company, entered into several sponsorship agreements with two entities - *Fundació Privada Orfeó Català-Palau de la Música* and *Asociació Orfeó Català* - managed by Mr. Millet and Mr. Montull. To this end, both managers in agreement with the treasurer of CDC, Mr. Carles Torrent —and, with his successor, Mr. Daniel Osàcar - established a structure to transfer the funds – as an illegal commission - to the political party in exchange for awarding public contracts.

The system included (i) € 3.7 million in cash hidden in the accounts of the entities of the *Palau de la Música*; (ii) € 630.655 through collaboration agreements with *Fundació Ramón Trias Fargas*, currently named *Fundació Catalanista i Democràta (CatDem)*— corporate and financially linked to CDC; and (iii) € 2.3 million delivered to CDC by means of the payment of false invoices to six companies —Mail Rent, New Letter Directo, Letter Graphic, S.L., Altraforma Hispart, S.A. and Publicitat—, that transferred the funds to the party, whether in cash, donations or services delivered to CDC.

It has been proven that Ferrovial paid the estimated amount of €6.6 million in exchange for the award of public contracts.

On 15 January 2018, the judge sentenced Mr. Millet and Mr. Montull to nine years and seven and a half years of imprisonment respectively for misappropriation of public funds, falsification of documents, money laundering, and other related offenses. However, the main officials of Ferrovial were absolved (see **Annex 3.1.1**).

The CDC party was found guilty of illegal funding and corruption and ordered to repay the €6.6 million they received between 1999-2009. Mr. Daniel Osàcar was sentenced to four years and

five months of imprisonment after admitting to have rigged public tenders in exchange for commissions to illegally finance the party.

Currently, fifteen offices owned by CDC have been seized by the Courts to guarantee its financial responsibilities. Depending on whether these assets are enough to pay the amount stated in the Judgement Case Palau, there will be a legal debate, in court, to determine if this responsibility shall be assumed by PDeCAT.

Case ITV

On 25 July 2018, the Provincial Court of Barcelona with public jury (hereinafter referred as “**Judgment case ITV**”) sentenced Mr. Oriol Pujol, the former secretary general of CDC (2012-2013) to two and a half years in prison as part of the ITV case (see **Annex 3.1.2**).

As established in the Judgment case ITV, the corruption scheme consisted on Mr. Pujol facilitating mercantile operations for businessmen who were close to the Pujol family, taking advantage of his position as MP and general secretary of CDC.

Mr. Pujol was sentenced for influence peddling to benefit his closest business friends, fraud in commercial document and bribery. Moreover, he acknowledged to have received illegal commissions for the offshoring of companies such as Sony and Yamaha, allegedly this is stated in an Agreement reached between the Spanish Prosecution Service (Ministerio Fiscal) and Mr. Pujol, but the content of this Agreement does not appear in the Judgement.

Likewise, Mr. Josep Tous, former number two of CDC in Barcelona in 2012, who also benefited from this corruption scheme, was sentenced to five months of prison for bribery. However, he never entered into prison.

Case Pretoria

In 2009, Mr. Macià Alavedra and Mr. Lluís Prenafeta, high-rank politicians appointed by Jordi Pujol for his government between 1989 and 1997, were sentenced to prison in the Judgement rendered by Provincial Court of Barcelona, on 29 June 2018.

The corruption scheme between 2002 and 2009 involved the participation of both politicians in different urban operations with the purpose of obtaining high economic profits for real estate developers and private investors, undermining the public interest.

In this regard, Mr. Alavedra and Mr. Prenafeta were sentenced for influence peddling and money laundering (see **Annex 3.1.3**) to a one year and eleven months of imprisonment, as well as the to the payment of fines amounting to €3,243,103.28 and €5,378,770.01, respectively. Notwithstanding, both politicians were released from prison after paying the correspondent bail imposed by the Courts.

Cases of corruption – Ongoing cases

Case 3% (Caso tres por ciento)

On 24 February 2005, a scandal emerged involving CDC in which the political party allegedly awarded public contracts to an approximated value of €1.8 billion in exchange for donations and

illegal commissions. The commissions were said to be around 3% of the public contract value and this money was used to fund the political party.

During the presidency of Mr. Artur Mas under CDC, the Government of Catalonia established a system to skip the Administration's control and award public contracts. According to an article in *El Español*, this procedure was done through GISA, a public agency created to guarantee the good practices in every public contract process.

The legal proceedings against CDC – some of them also extended to PDeCAT – have confirmed that the leadership of these parties created a specific structure in order to fund the political party through donations from several companies that were close to the party to foundations such as *Fundació Ramón Trias Fargas*, renamed as *Fundació Catalanista y Democràta (CatDem)* on 2009, *Nous Catalans*, and *Fòrum Barcelona* attached to CDC.

Mr. Daniel Osàcar, former treasurer of CDC and who was involved in the Palau case, was also suspected to be involved in this case. Moreover, Mr. Germà Gordó, deputy of CDC during Mr. Mas government, is being investigated for influence peddling and misuse of public funding (see **Annex 3.2.1**). In 2015, the investigation was reopened and is still ongoing. In September 2018, one representative of CDC and another one of PDeCAT were called to testify by Judge De la Mata. Both parties are being judicially investigated for the 3% scandal.

Case Pujol

Since 2014, members of the Pujol family have been subject to investigations for several crimes such as money laundering, corruption, influence peddling, and tax evasion.

On 25 July 2014, Mr. Jordi Pujol, the main founder of the party, stated that he had no regularised money in different locations abroad. Consequently, it is under investigation that around €3 billion were distributed in different tax heavens, mainly in Switzerland and Andorra, or laundered with the creation of companies. This would imply that the Pujol Family would have benefited of almost €70.4 million in unpaid taxes since 1990.

It has been investigated by Judge De la Mata that at least one of the electoral campaigns of CDC was financed by the Pujol family with illicit money. Additionally, the Judge ruled there was a relation between the CDC accounts and the illegal funds of the Pujol family (see **Annex 3.2.2**).

On 25 April 2017, the judge sentenced Mr. Jordi Pujol Ferrusola, son of the founder of the party, to prison through a Judicial decision in the framework of the investigation carried out. However, after nine months of imprisonment, he was released after paying bail of €500,000.

Boreas operation

In November 2014, a new investigation was initiated into the scheme of corruption cases associated to CDC. In this case, the President of the Provincial Council of Lleida and Mayor of Fondarella, Joan Reñé, and other high-level officials of the Council were accused of receiving payments and commissions in exchange for the award of public contracts. The approximate amount allegedly received is €11,000 in cash. The investigation was initiated after it was discovered that a construction company *M y Gruas* gave a commission to Mr. Reñé in order to

receive a public contract in this municipality. Additionally, this company was a regular donor of CatDem, the foundation associated to CDC. In three years, the amount gave in donations was €42.500. in three years, this company gave a total amount of €42,500 (see **Annex 4**).

When the investigation was opened, Mr. Reñé was President of the Provincial Council of Lleida under the banner of CDC. Currently, he maintains this position but under the banner of PDeCAT.

On 2 October 2018, Mr. Reñé was arrested in the framework of the Boreas operation (see **Annex 3.2.3**), however, he was later released with charges.

Representation in the Council of Europe Parliamentary Assembly

Mr. Jordi Xuclà was the Secretary General and President of the Nationalist Youth of Catalonia that was linked to CDC from 1998 to 2002, In 2000, he was elected Senator and four years later, he became a MP under the banner of CDC, revalidating his mandate until today under the name of PDeCAT.

Since 2008, he is a member of the Spanish Delegation to the Parliamentary Assembly of the Council of Europe and in January 2014, was elected the President of the ALDE Group in the Parliamentary Assembly.

He was forced to resign from this position following an investigation of the Council of Europe in 2017, which established he seriously breached the institution's Code of Conduct.

In the report of the Independent Investigation Body (see **Annex 3.3**) concluded that Mr. Xuclà was involved in acts of corruption within the Parliamentary Assembly and that he used his role as President to further his own personal interests and participated on a mission - completely detached from the Council of Europe, the Government of Spain and the Spanish Parliament - to Syria upon the invitation of the Syrian Parliament, and met with Bashar al-Assad (see **Annex 3.3**).

Furthermore, in 2017, Mr. Xuclà was instrumental in the formation of a new group – *Free Democrats Group* - in the Parliamentary Assembly aiming to seize several delegations from the ALDE-PACE group.

5. PDeCAT as successor entity to CDC

PDeCAT was created in 2016 when CDC was politically dissolved after being involved in several corruption scandals. According to the website of the Spanish Ministry of Interior (see **Annex 5.3**), CDC still exists as a legal entity but politically no longer exists.

On 14 September 2018, Mr. Joan Maria Piqué, the new international officer of PDeCAT, met with the ALDE Party Secretariat and stated the following:

- The corruption cases are entirely the responsibility of CDC and not PDeCAT. The current board has nothing to do with them.
- Legally, PDeCAT is not the successor to CDC.
- CDC continues to exist and has a board and membership.
- PDeCAT has a new party charter, and many other parties have politically emerged from CDC.
- No member of the current board of PDeCAT was a member of any board of *Convergència*
- It is now an entirely new generation of people in charge that have had nothing to do with CDC. Everyone had to individually join the new party.
- No member of the board of PDeCAT has any link with corruption cases.

However, there is evidence that establishes the political successorship.

At the ALDE Party Council on 1 December 2016 in Warsaw, PDeCAT was then re-confirmed as a full member of the ALDE Party in accordance with ALDE Party Statutes that stipulate that a member needs be reconfirmed should it change legal status into a new legal entity either via a merger or as a successor party.

PDeCAT representatives Mr. Jordi Xuclà and Ms. Marta Pascal presented the case in Warsaw and the minutes of meeting, approved without amendment at the next meeting of the Council in April 2017, confirm that the Council re-approved membership based on the evidence given that PDeCAT succeeded CDC as a political entity to all effects.

Additionally, Judge De la Mata, who is conducting the criminal investigation for the 3% corruption case (see above), indicates that the creation of PDeCAT can be identified as a transformation or a change of appearance of its predecessor CDC to avoid legal responsibility of the corruption and money laundering cases where the latter was involved. He ruled that PDeCAT preserves a substantial identity with the structure, functioning, and human and material resources that CDC used to work with (see **Annex 5.1**). Even Mr. Artur Mas, President of CDC and later President of PDeCAT, through different declarations considered PDeCAT as the “*son of Convergència*”. Mr. Artur Mas was also elected first President of PDeCAT in 2016, later succeeded by Mr. Carles Puigdemont, confirming the political successorship (see **Annex 5.2**).

The main arguments outlined by Judge De la Mata in the last Court resolution of 27 July 2018 are the following:

Identity of PDeCAT and CDC structure

A great number of members of PDeCAT kept the positions that they were holding under CDC. Following the party's foundation, the governing board strongly resembled the former CDC board.

Staff and agreements with other entities

When CDC was dissolved as political party, an Employment Regulation Order was enacted and personnel that had current contracts with CDC, were assigned tasks related to PDeCAT. Moreover, PDeCAT took over several cooperation agreements with external entities and connections linked to CDC before. For instance, the Nationalist Youth of Catalonia (JNC – *Juventud Nacionalista de Catalunya*) was always attached, ideologically and functionally, to CDC since its foundation. When PDeCAT was created, JNC ceased all connections with CDC and signed a new agreement with PDeCAT under the same terms as it had with the old party.

PDeCAT uses building properties owned by CDC

PDeCAT headquarters have been located in one of the CDC building properties. In the registry of political parties of the Ministry of the Interior, both parties have the same address (c/ Provença, 339, Barcelona) as their headquarters (see **Annex 5.3**).

Moreover, one of the terms of the agreement signed with JNC was that they could use the properties belonging to PDeCAT. The list of building properties shows that, in fact, 37 of the 42 properties are owned by CDC but are being used by PDeCAT.

Profiles in social media and phone lines

Most of the social media profiles of PDeCAT were created before the creation of the new party meaning that they were used by CDC. This shows that when the new party was created, only the profile picture and name of the former CDC profiles was changed and adapted by PDeCAT. In fact, 123 out of 172 Facebook profiles were linked to CDC and existed before the creation of the new party in 2016. Moreover, the Twitter profiles of both parties (@ConvergenciaCAT and @Pdemocratacat) belong to the same e-mail account.

Currently, CDC is the owner of the phone lines that PDeCAT uses in 21 of its properties. The contact details of the new party and its territorial delegations are the same details that CDC had before its dissolution.

In addition to the findings of Judge De la Mata, additional research shows that numerous national MPs, Councillors and Mayors elected as CDC are now exercising their positions as PDeCAT.

The view that the PDeCAT structure is the continuation of CDC can also be expressed through the automatic transfer of positions of the following senior individuals:

Mr. Artur Mas was the President of the Government of Catalonia from 2010 to 2016 and the President of CiU (Convergència i Union - Convergence and Union), a coalition in government that included CDC and UDC (Unió Democràtica de Catalunya – Democratic Union of Catalonia). In 2016, during the Congress of CDC he founded a new political party, PDeCAT. Mr. Mas remained president of the new party until January 2018 when he stepped down and Mr. Carles Puigdemont

became the new party leader. Already as PDeCAT leader and later with his newly founded movement 'Crida', he calls for a unilateral declaration of independence of Catalonia, thus going against ALDE's position.

Ms. Neus Munte was Vice President and spokesperson of the Government of Catalonia when CDC was governing. When the new party was created she remained Vice President until 14 July 2017 when she was replaced by Mr. Jordi Turull.

Ms. Marta Pascal became the spokesperson of CDC on 19 July 2015. She was elected as an ALDE Party Vice President and representative of CDC at the Congress in December 2015, for a two-year mandate ending on December 2017. When the ALDE Party Council re-confirmed the membership of PDeCAT as the successor to CDC in December 2016, she maintained her position as ALDE Party Vice President as a representative of PDeCAT.

Mr. Marc Guerrero was an elected Vice President of the ALDE Party from 2009 under the banner of CDC and maintained this position until 2015. He was a candidate for *Junts pel Si* (Together for Yes) for Barcelona in 2015 and currently, he has an important role in the creation of the *Crida Nacional per la Republica*, a new political movement created by the main leaders of PDeCAT: Mr. Carles Puigdemont, former president of the Government of Catalonia and Mr. Quim Torra, current president of the Government of Catalonia.

Mr. David Bonvehí was elected the new party leader at the last Congress of PDeCAT in July 2018. He is a supporter of Mr. Carles Puigdemont and wants to create a new political party called *Crida Nacional per la Republica*. When PDeCAT was created, he agreed to jointly lead the new party with Ms. Marta Pascal. From 2012 until 28 October 2017, he was an MP in the Parliament of Catalonia under CDC.

Mr. Carles del Pozo was part of the team responsible for the finances of CDC. In 2015, he was arrested in the *Operation Petrum* and held by the police during the investigation the 3% case, but he was released.

In the framework of the autonomic elections of 2017 in Catalonia, Mr. Del Pozo, as representative of CDC and the current PDeCAT party leader, signed the registration of ***Junts per Catalunya (Together for Catalonia)*** - an electoral coalition formed by CDC, PDeCAT and independents. The creation of the coalition enabled PDeCAT to get the subsidies destined to CDC for their results in the elections of 2015 - before the creation of PDeCAT - to finance its electoral campaign (see **Annex 6**).

6. ALDE Party expulsion procedure

As stipulated in Article 16 of the ALDE Party Statutes (see **Annex 7**), the expulsion of any full or affiliate member is a power restrictively reserved to the needs to the authority of the Council. All full member parties, having paid the annual membership fee, individual member delegates and Bureau members are entitled to vote.

As per Article 9 of the Statutes, a majority of **two-thirds of the votes cast** is needed to proceed with the expulsion. Should the majority of votes be reached, the Secretary General sends a copy of the decision to the expelled member by any written means, within 15 calendar days. The expulsion shall come into force immediately, but the expelled member shall remain liable for its financial obligations vis-à-vis the Association until the end of the financial year.