



**Discrimination and the State:**  
Language Discrimination, Hate Speech,  
Institutional Discrimination  
and Lawfare Practices

**assemblea**



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## ALTERNATIVE REPORT TO THE COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION (CERD)

### Discrimination and the State: Language Discrimination, Hate Speech, Institutional Discrimination and Lawfare Practices

*The purpose of this submission is **not to assert definitive findings of ICERD violations**, but to provide **documented, evidence-based information** so that the Committee may undertake its own assessment within the framework of its mandate.*

#### Submitting Organisations:

The **Unrepresented Nations and Peoples Organisation (UNPO)** is an international, nonviolent and democratic membership organisation. Its Members are indigenous peoples, minorities, unrecognised States and occupied territories that have joined together to defend their political, social and cultural rights, to preserve their environments and to promote their right to self-determination.

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**Geneva for Human Rights (GDH-GHR)** is a training organisation that aims to bridge the gap between international standards and realities and to empower all those involved in the promotion and protection of human rights. Its main partners are the defenders, victims, witnesses and their organizations, those who constitute, with their reliable information and essential proposals, the major engine for UN Special procedures, treaty bodies and UPR.

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The **Assemblea Nacional Catalana (ANC – Catalan National Assembly)** is a legally registered grassroots organisation founded on 10 March 2012 which promotes, in peaceful and democratic ways, the attainment of the independence of Catalonia and is a key actor of civil society in the current political process.

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## Executive Summary

This executive summary **presents the key findings and recommendations** contained in this alternative report submitted to the Committee on the Elimination of Racial Discrimination (CERD) **concerning the situation of the Catalan people within the Kingdom of Spain.**

It is structured to align with Spain's obligations under the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).

### Key Issues Identified

The Catalan people face a **systemic pattern of discrimination** in Spain, affecting their cultural, political, and civil rights across multiple domains. The issues are interrelated, reinforcing each other, and collectively undermine equality, self-determination, and social inclusion:

- 1. Linguistic Discrimination:** Persistent erosion of Catalan language rights in education, public services, and administration. Court rulings and state regulations disproportionately privilege Spanish, undermining Catalan immersion education and restricting access to services in Catalan.
- 2. Hate Speech and Hostile Attitudes:** Normalization of anti-Catalan rhetoric in politics and media, including demeaning narratives and dehumanizing language. Inadequate state responses contravene Article 4 ICERD.
- 3. Institutional Discrimination and Lawfare:** Selective prosecutions, arbitrary application of laws, and political manipulation of judicial institutions undermine equality before the law (Article 5(a)). The 2024 Amnesty Law has been applied inconsistently, further entrenching discriminatory practices.
- 4. Restrictions on Political Participation and Civil Society:** Disqualification of elected representatives, interference with Catalan institutions, surveillance of activists, and repression of civil society organizations contravene Article 5(c) and (d) ICERD.
- 5. Surveillance and Espionage:** The 'CatalanGate' spyware scandal revealed unlawful targeting of Catalan politicians, activists, journalists, and lawyers, raising concerns under Articles 5(d) and 5(e) ICERD, as well as the right to privacy.
- 6. Economic Discrimination and Unequal Public Infrastructure:** Persistent underinvestment in Catalonia's public services and infrastructure disproportionately affects Catalan residents, particularly lower-income workers and students. These disparities undermine economic rights protected under Article 5(e) ICERD, including the right to work, fair conditions of employment, and access to essential public services.

These interrelated issues demonstrate a **pattern of structural discrimination**: cultural and linguistic rights are undermined, political and civil participation is curtailed, hostile narratives, surveillance and persistent underinvestment intensify social exclusion. Together, these measures erode the community's capacity to preserve its identity, engage in democratic processes, reduce social inequalities, and enjoy equal treatment under the law.

## Recommendations

In line with ICERD obligations and relevant UN and Council of Europe recommendations, CERD is urged to call on Spain to:

- **Ensure equal enjoyment of linguistic rights** by reinstating the Catalan immersion model and guaranteeing access to public services in Catalan.
- **Refrain from misusing anti-terrorism and criminal law provisions** against peaceful activists, artists, and political representatives.
- Strengthen measures to **counter hate speech and hate crimes**, including adoption of a comprehensive law against racism and xenophobia.
- **Safeguard political participation rights** by ending selective prosecutions and judicial interference in Catalan institutions.
- **Conduct independent investigations** into unlawful surveillance (CatalanGate) and provide remedies to victims.
- Fully **implement the 2024 Amnesty Law** in a consistent and impartial manner.
- Address **structural economic discrimination and unequal public infrastructure**, and ensure equitable public investment across all regions, including Catalonia.

Spain should also be encouraged to engage in meaningful dialogue with Catalan institutions and civil society to address systemic discrimination and ensure compliance with ICERD.

## 1. Summary

This submission is respectfully presented to the **Committee on the Elimination of Racial Discrimination (CERD)** in the framework of its mandate under the **International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)**. It concerns the situation of the **Catalan population within the Kingdom of Spain**, with a particular focus on the State's obligations to prevent and eliminate discrimination in law and practice against the Catalans.

The issues raised in this submission reflect a **systemic pattern of discrimination** against the Catalan population, spanning multiple interrelated areas under ICERD. **Linguistic discrimination**, particularly in education, public administration, and access to essential services (Article 5(e)(vi)), undermines cultural identity and limits participation in public life, creating vulnerabilities that intersect with other forms of exclusion. **Hostile public discourse and hate speech**, including their normalization in political rhetoric and media, reinforce social marginalization and exacerbate the impact of legal and administrative inequalities (Article 4). **Judicial and institutional practices**, including selective prosecutions and the inconsistent application of the 2024 Amnesty Law, further curtail equality before the law (Article 5(a)) and restrict the Catalan population's ability to advocate for their rights. **Limitations on freedom of expression, association, and political participation**, compounded by **surveillance, legal harassment, and restrictions on civil society organizations** (Article 5(d)), interact with these other forms of discrimination, collectively undermining the community's capacity to preserve its language, culture, and political representation. Finally, persistent underinvestment in Catalonia's public services and infrastructures disproportionately affects Catalan lower income workers

and students. Taken together, these interrelated issues demonstrate a holistic pattern of structural discrimination affecting Catalans across cultural, civil, economic, and political domains.

This submission builds upon findings from:

- **UN Special Procedures and Treaty Bodies**, including the Special Rapporteur on Minority Issues (A/HRC/46/57, 2020; communication AL ESP 3/2022), the Human Rights Committee (CCPR/C/135/D/3162/2018, 2022; CCPR/C/ESP/CO/7, 2025), and the Working Group on Arbitrary Detention (Opinions 6/2019 and 34/2019).
- **Council of Europe mechanisms**, including the Parliamentary Assembly of the Council of Europe (Resolution 2381 (2021); Resolution 2513 (2023)), the Commissioner for Human Rights (2019, 2021) and the Sixth Evaluation Report on Spain by the Committee of Experts on European Charter for Regional or Minority Languages (2024).
- **Judicial precedents**, notably decisions of the **European Court of Human Rights** (e.g., Otegi Mondragón v. Spain, 2011; Bateragune v. Spain, 2018).
- **Independent research and monitoring**, such as investigations by Citizen Lab (2022), Amnesty International (2019–2024), the Barcelona Observatory of Discriminations (2022), and the European Parliament’s PEGA Committee (2023).

Catalonia, a minority community in north-eastern Spain with a distinct language, culture, and traditions, has historically been subject to restrictive measures on self-government and language rights. The **2010 Constitutional Court ruling (STC 31/2010)** limiting the Statute of Autonomy and the **police repression of the 2017 referendum** have marked turning points, intensifying patterns of discrimination.

Despite Spain’s binding obligations under ICERD and other international instruments, documented practices indicate persisting forms of discrimination against Catalans, including:

- legal and administrative measures that undermine linguistic rights;
- hate speech and incitement targeting Catalan identity;
- judicial practices amounting to lawfare;
- selective and inconsistent application of amnesty provisions;
- and disproportionate restrictions on political participation and civil society activity.

In light of these concerns, the submission highlights the need for **urgent reforms** to ensure full compliance with ICERD, including:

- aligning the Penal Code with international standards to safeguard freedom of expression, assembly, and association;
- ensuring accountability for acts of hate speech and hate crime by both state and non-state actors;
- restoring and safeguarding the Catalan language immersion model;
- dropping **unfounded criminal charges**, including terrorism-related charges;
- and providing effective remedies to those affected by discriminatory or arbitrary prosecutions.

**For reference and further context, a supplementary annex accompanies this submission, providing more detailed data, case studies, and supporting information on the issues presented.**

## 2. Background

### Historical and Legal Context

Catalonia is an **autonomous community of Spain**, located in the north-eastern Iberian Peninsula, with approximately 8 million inhabitants. It comprises four provinces (Barcelona, Girona, Lleida, and Tarragona) and 947 municipalities. Catalonia has its own Parliament, civil law tradition, police force, and distinct cultural identity.

The **Catalan language**, a Romance language with deep historical roots, is spoken not only in Catalonia but also in Valencia, the Balearic Islands, Andorra, Northern Catalonia (France), and Alghero (Italy). Within Spain, Catalan holds co-official status alongside Spanish in Catalonia, Valencia, and the Balearic Islands.

Historically, the Catalan language and institutions have faced **recurrent restrictions**:

- The **Nueva Planta Decrees (1715)** abolished Catalan institutions and imposed Castilian as the sole official language.
- During the **Franco dictatorship (1939–1975)**, Catalan was prohibited in public life, including education, administration, and cultural expression.
- While the **1979 Statute of Autonomy** restored co-official status to Catalan, and the **2006 Statute** reinforced linguistic and institutional rights, the **2010 Spanish Constitutional Court ruling (STC 31/2010)** annulled or reinterpreted key provisions, particularly concerning language, identity, and fiscal matters. This decision is widely recognized as a turning point that intensified demands for greater autonomy and independence.

The **2017 referendum on independence**, declared unconstitutional by the Constitutional Court, was followed by police interventions, criminal prosecutions of Catalan leaders, and international concern expressed by UN mechanisms and Council of Europe institutions.

According to findings of UN Special Procedures and Treaty Bodies, as well as the Council of Europe, these events have had **lasting consequences** for the enjoyment of rights guaranteed under ICERD, particularly in relation to:

- **equality before tribunals and all organs administering justice** (Article 5(a));
- **freedom of expression, assembly, and association** (Article 5(d)(viii)–(ix));
- and **cultural rights, including language rights** (Article 5(e)(vi)).

### Applicability of ICERD to Catalans

The State party has historically contested the applicability of the ICERD to Catalans, asserting that they constitute a “regional culture” rather than a group protected under Article 1 of the

Convention. In light of this position, it is necessary to clarify the applicability of ICERD to Catalans at the outset.

The Committee has previously treated Catalans as a group of relevance under the Convention. In previous reporting cycles, the Committee explicitly identified Catalans as a group requiring monitoring. For example, in 1974, the Committee expressed the wish for Spain to include "information about the situation of minorities, such as the Basques and Catalans".<sup>1</sup> In 1976, the Committee "regretted that no information was supplied... about the number and status of the Basques and the Catalans".<sup>2</sup>

Spain stated in response that "There were no "national minorities" in Spain; there were, however, diverse "regional cultures" which were recognized and respected in the Spanish State."<sup>3</sup> CERD returned to the issue in 1979: 'It was recalled that, during the consideration of the fourth report, members of the Committee had requested particulars of the lot of such peoples as the Basques and the Catalans and, since the Spanish Government had still not met that request, it was hoped that the omission would be made good in the next report'. In 1982 Spain, again, categorically rejected the Committee's characterization, expressing that 'the Basques and the Catalans... were not treated as separate races and, therefore, did not fall within the scope of the Convention.'<sup>4</sup>

This difference was not resolved at the time. Following the early 1980s, issues relating to Catalans ceased to be addressed explicitly in Spain's State reports and in the Committee's concluding observations. This subsequent silence should not be understood as a determination that Catalans fall outside the scope of the Convention. Rather, it reflects the State party's categorical rejection of applicability at the time and the absence of sustained engagement with the issue in later reporting cycles. The lack of recent consideration should not negate the Committee's earlier recorded position or preclude renewed examination in light of contemporary developments.

The State party's narrow interpretation unilaterally restricts the scope of Article 1(1) of the ICERD: by focusing only on "race," the state party deliberately seeks to make the other pillars of Article 1(1) (descent, national origin, ethnic origin) invisible. Such an approach is inconsistent with the Committee's established interpretation of Article 1(1) and has the effect of excluding Catalans from the Convention's protective framework. Catalans constitute a distinct group characterised by a shared language, historical continuity, and cultural identity. This gives rise to an enduring national identity that aligns with the protected ground of 'national origin' under Article 1(1) of the Convention.<sup>5</sup> Furthermore, as affirmed in General Recommendation No. 8, the identification of a protected group should be based on self-identification rather than State recognition. Accordingly, where differential treatment, exclusion, or hostility is directed at individuals on the basis of their association with the Catalan group, such conduct engages the protections of ICERD as discrimination based on national or ethnic origin.

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<sup>1</sup> UN Doc. A/9618 (1974) para 225

<sup>2</sup> UN Doc. A/31/18 (1976) para 140

<sup>3</sup> UN Doc. A/31/18 (1976) para 143

<sup>4</sup> UN Doc. A/37/18 (1982) para 287.

<sup>5</sup> Application of the ICERD (Qatar v. UAE), Judgment, 4 Feb 2021, para. 81. The Court held that "national origin" is distinct from "nationality", and denotes a person's bond to a national or ethnic group at birth.

Accordingly, this report proceeds on the basis that Catalans fall within the scope of ICERD. The practices and patterns of concern identified below therefore engage the obligations of the State party under the Convention.

### 3. Language Discrimination

#### Historical Context

The Catalan language has been subject to **longstanding restrictions and suppression**. Following the **Nueva Planta Decrees (1715)**, Catalan was excluded from administration and education, consolidating Castilian as the sole official language.

During the **Franco dictatorship (1939–1975)**, the repression intensified: the use of Catalan in schools, public administration, and official communications was prohibited, cultural symbols were banned, and self-government institutions, briefly restored during the Second Republic (1931–1939), were dissolved again. School names were translated from Catalan to Spanish, and students were instructed to sing *Cara al sol*, “Facing the sun”, the anthem of the fascist regime.<sup>6</sup> **Spanish became the language of instruction**, and speaking Catalan was prohibited. At the civil registry, families could only give Spanish names to their children; Catalan thinkers and prominent writers, key pieces in the Catalan cultural landscape, were forced to exile themselves to France and the rest of Europe or Mexico and other Latin American countries. This period is recognized by historians and human rights monitors as one of the most severe in terms of cultural and linguistic suppression<sup>7</sup>.

After the Franco dictatorship, Catalan entered the post-Franco period in a very fragile state after decades of repression and limited public use. The revitalisation efforts and supportive language policies that followed were essential for its recovery and survival: the **1979 Statute of Autonomy** restored Catalan’s co-official status, and the **2006 Statute** reinforced linguistic rights. However, the **2010 Spanish Constitutional Court decision (STC 31/2010)** annulled or reinterpreted key provisions, including those related to the preferential use of Catalan in public administration. Scholarly analyses and the Council of Europe’s Committee of Experts on the European Charter for Regional or Minority Languages observed that this ruling weakened the security of linguistic rights.

Although the democratic transition (1975–1980) led to partial recognition of cultural rights, developments in the 2010s, such as the 2010 ruling of the Spanish Constitutional Court that rejected Catalan as the sole language of instruction and required equal treatment for Spanish, have been widely viewed as a renewed imposition of restrictions. These measures have been especially significant in the educational sphere, where the prominence of Catalan in the classroom has gradually been reduced.

Under **Article 5(e)(vi) ICERD**, States are obligated to ensure equal enjoyment of cultural rights, including the preservation and promotion of minority languages. The historical trajectory of Catalan illustrates persistent challenges in fully realizing these obligations.

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<sup>6</sup> Diari Ara, *Vuit eines de repressió del català durant el franquisme*, available at: [https://www.ara.cat/societat/vuit-repressio-catala-durant-franquisme\\_1\\_1881072.html](https://www.ara.cat/societat/vuit-repressio-catala-durant-franquisme_1_1881072.html)

<sup>7</sup> Josep Pich Mitjana, *Catalanofòbia: Una immersió ràpida* (Barcelona, 2025)

## International Standards

- **ICERD Article 5(e)(vi)**: Obligates States to ensure full enjoyment of cultural rights, including the preservation and promotion of minority languages.
- **CERD General Recommendation No. 35 (2013)**: Confirms that restrictions on minority languages in education may constitute racial discrimination.
- **UN Special Rapporteur on minority issues (A/HRC/46/57, 2020)**: Recommends Spain adopt policies ensuring minority languages are not disadvantaged in education and public life.
- **Council of Europe Sixth Evaluation Report of the Committee of Experts on European Charter for Regional or Minority Languages on Spain (MIN-LANG (2024) 17)**: Highlights the need to protect minority languages in practice and emphasizes Spain must guarantee the right to education in co-official languages

## Current Challenges

Reports from independent monitoring bodies indicate that linguistic discrimination persists in Spain.

The **Barcelona Observatory of Discriminations (2024<sup>8</sup>)** noted that reported cases of linguistic discrimination in Catalonia have increased for yet another year, with more than 192 cases filed in 2024. This represents an increase of over 52% in comparison from the previous year. The Observatory signaled that linguistic discrimination is the fourth most common type of discrimination, only after racism, gender, and LGBTIQ+phobia.

Similarly, **Plataforma per la Llengua (2025<sup>9</sup>)** launched a campaign in April 2025 to document how many cases of linguistic discrimination are Catalan people experiencing when shopping or going out. In just two weeks, Plataforma compiled over 450 complaints of individuals who experienced different types of discrimination for using Catalan when shopping.

At the regional level, political changes in the **Balearic Islands** and the **Valencian Community** have resulted in legislation reducing the presence of Catalan/Valencian in education and cultural institutions. Civil society organizations have argued that these measures represent a **rollback of previously consolidated protections**, undermining progress made since the democratic transition.

In 2025, conservative leader Carlos Mazón, president of the **Valencian Community**, organised a vote to have families decide if they wanted their children to be taught in Valencian or in Spanish. Mazón **claimed that Valencian had been imposed in the school system**, and that families had the right to choose whether or not Valencian should be a language of instruction. **50.53% of**

<sup>8</sup> Ajuntament de Barcelona, *Barcelona Discrimination Observatory Report 2024: Executive Summary*, Directorate of Human Rights, Global Justice and International Cooperation Services; Area for Social Rights, Health, Cooperation and Community, Barcelona City Council, 2025, available at:

[https://ajuntament.barcelona.cat/dretsidiversitat/sites/default/files/ResumExecutiu2024\\_Online\\_Definitiu\\_CAT.pdf](https://ajuntament.barcelona.cat/dretsidiversitat/sites/default/files/ResumExecutiu2024_Online_Definitiu_CAT.pdf)

<sup>9</sup> El Punt Avui, *Plataforma per la Llengua insta al govern a posar fre a discriminacions del català al comerç*, 2025, available at:

<https://www.elpuntavui.cat/societat/article/10-administracions/2568385-pxl-insta-el-govern-a-posar-fre-a-discriminacions-del-catala-al-comerc.html>

**families voted YES for Valencian** after months of intense advocacy campaigns organised by Valencia's civil society<sup>10</sup>.

Other recent political moves by Mazón include **excluding renowned Catalan authors from school curricula**. Two examples include **Ramon Llull**, a philosopher, mystic and poet in the 13<sup>th</sup> and 14<sup>th</sup> century, and **Mercè Rodoreda**, a key Catalan language writer of the 20<sup>th</sup> century, who wrote her most important novels while exiled from Franco's Spain. He also **changed** the name of the Valencian Academy of Language to *Academy of the Valencian Language*, a change that challenges the unity of Valencian and Catalan, which are philologically the same language.<sup>11</sup>

In the **Balearic Islands**, Catalan is also experiencing several linguistic rollbacks. In May 2025, conservative parties VOX and PP approved **a new law reform which ensures Spanish will be the vehicular language of instruction in schools**<sup>12</sup>, and students will not have to pass Catalan exams. The move has ensured many are not effectively learning the language at school, as **Spanish has taken over** in both the formal and informal education spheres.

VOX and PP also **eliminated the requirement to know Catalan**<sup>13</sup> to work in the health sector of the islands. The new approach reframes Catalan language knowledge as a merit rather than a requirement.

International human rights mechanisms have expressed concern. The **UN Special Rapporteur on Minority Issues (A/HRC/46/57, 2020)** recommended that Spain strengthen guarantees ensuring that minority languages are not disadvantaged in education and public life. Similarly, the **Council of Europe Sixth Evaluation Report of the Committee of Experts on European Charter for Regional or Minority Languages in Spain (MIN-LANG (2024) 17)** stressed that Spain must ensure the right to education in co-official languages, including Catalan. More specifically, the Committee of Experts considers the ruling from the Catalan High Court ordering the implementation of a minimum of 25% of classes in Spanish in Catalan schools to be "incompatible" with commitments ratified by Spain under the Charter and asks the Spanish authorities to take "all necessary measures" to remedy the situation. In Valencia, the report finds that Catalan is in a "worrying situation, especially in State administration and the judiciary", and adds that the Law on plurilingual education of 2018 is not in conformity with the Charter as it makes immersion programme models impossible. In the Balearic Islands the Committee expresses its concern with the closing down of the Bureau for the Defence of Language Rights, which had operated between 2019 and 2023. In its place, the authorities announced their intention to create an "Office for Linguistic Freedom" – explicitly aimed at, "reestablishing normality in the free and guaranteed use of Castilian in the Balearic Islands."

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<sup>10</sup> ElDiarioes, *Autogol de Mazón en su referéndum escolar: el valenciano gana y le deja sin bandera ni capital político*, 2025, available at:

[https://www.eldiario.es/comunitat-valenciana/autogol-mazon-referendum-escolar-valenciano-gana-le-deja-bandera-capital-politico\\_129\\_12109627.html](https://www.eldiario.es/comunitat-valenciana/autogol-mazon-referendum-escolar-valenciano-gana-le-deja-bandera-capital-politico_129_12109627.html)

<sup>11</sup> El País, *Mazón asume las tesis anti universitarias de Vox y anuncia un cambio legislativo en la Acadèmia de la Llengua sin tener suficientes votos*, 2025, available at:

<https://elpais.com/espana/comunidad-valenciana/2025-09-23/mazon-asume-las-tesis-antiuniversitarias-de-vox-y-cambiar-la-academia-de-la-lengua-promovida-por-zaplana.html>

<sup>12</sup> 3CatInfo, *PP i Vox arraconen el català a les Balears i fan el castellà llengua vehicular a l'educació*, 2025, available at:

<https://www.3cat.cat/3catinfo/pp-i-vox-arraconen-el-catala-a-les-balears-i-fan-el-castella-llengua-vehicular-a-leducacio/noticia/3354364/>

<sup>13</sup> 3CatInfo, *El requisit del català no va impedir cobrir les places de metges i infermeres a les Balears*, 2025, available at:

<https://www.3cat.cat/3catinfo/el-requisit-del-catala-no-va-impedir-cobrir-les-places-de-metges-i-infermeres-a-les-balears/noticia/3364260/>

The Spanish Constitution establishes Spanish as the only official language of the State and imposes a duty on all citizens to know it. While Catalan is recognized as co-official within Catalonia, this constitutional framework has been used to legitimize legislation that privileges Spanish. According to civil society reporting, in 2022 alone, **146 new State regulations were linguistically discriminatory**, 85% of them concerning the public sector, some also extending to the private sector, thus **shaping a structural hierarchy between linguistic groups**

This legal framework effectively creates a **hierarchy between languages**, which may translate into systemic disadvantages for speakers of minority languages such as Catalan. Such practices are of concern under **Article 2 and Article 5(e)(vi) ICERD**, which obligate States to eliminate discriminatory laws and ensure cultural rights without distinction based on language or national origin.

### Language Discrimination in the Education System

The **Catalan linguistic immersion model**, established in the 1980s, has been recognized by international experts, including **UNESCO** and the **UN Special Rapporteur on Minority Issues (A/HRC/46/57, 2020)**, as a successful form of bilingual education. It ensures full competence in Spanish while safeguarding Catalan as the main vehicular language, thereby protecting cultural rights.

However, successive judicial decisions have constrained its implementation. The **Spanish Supreme Court (STS 1668/2015)** confirmed the previous rulings of the Superior Court of Catalonia which required that at least 25% of subjects be taught in Spanish. Subsequent jurisprudence, reiterated by the **Superior Court of Justice of Catalonia (2022)**, mandated its enforcement despite opposition from regional institutions. Civil society organizations, including *Plataforma per la Llengua* (2022<sup>14</sup>), have documented that these rulings significantly weakened immersion practices, undermining both linguistic diversity and equality of opportunity.

Sociolinguistic studies illustrate the consequences of these restrictions. For example, surveys of 15–16-year-old students in Catalonia show that the habitual use of Catalan in group activities fell from **67% in 2006 to 21.4% in 2021**. Among youth aged 15–34, use of Catalan as the common language dropped from **43.1% in 2007 to 25.1% in 2022**, while Spanish use increased in the same period. In 2024, *Plataforma per la Llengua* (2024)<sup>15</sup> signalled that only **12.1%** of young people in Catalonia used Catalan exclusively to communicate on a daily basis, while **47.1%** used it very often.

International human rights mechanisms have consistently underlined the need for corrective measures. The Council of Europe (**MIN-LANG (2024) 17**) urged Spain to guarantee access to education in co-official languages as part of the right to education. **CERD General Recommendation No. 35 (2013)** confirms that restrictions on the use of minority languages in education may constitute racial discrimination.

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<sup>14</sup> *Plataforma per la Llengua, Report de legislació lingüísticament discriminatòria aprovada el 2022*, available at: [https://www.plataforma-llengua.cat/media/upload/pdf/novetats-legislatives-en-materia-linguistica-aprovades-el-2022-que-afecten-els-territoris-d\\_1694692448.pdf](https://www.plataforma-llengua.cat/media/upload/pdf/novetats-legislatives-en-materia-linguistica-aprovades-el-2022-que-afecten-els-territoris-d_1694692448.pdf)

<sup>15</sup> InformeCAT. 50 dades sobre la llengua catalana, *Plataforma per la Llengua*  
[https://www.plataforma-llengua.cat/media/upload/pdf/informecat-2024\\_1720081974.pdf](https://www.plataforma-llengua.cat/media/upload/pdf/informecat-2024_1720081974.pdf)

In recent communications, the **UN Special Rapporteur on Minority Issues (2020, 2023)** stressed that judicial rulings reducing Catalan immersion risk creating a “**serious trend of exclusion**” for a linguistic minority. He recommended that Spain review practices that diminish the presence of minority languages in schools and adopt policies that guarantee daily exposure and equal access to education in Catalan.

These developments raise concerns regarding Spain’s compliance with **Article 5(e)(vi) ICERD**, which protects the right to education and cultural life without discrimination.

### Language Discrimination in Public Life

Available monitoring indicates persistent barriers to the effective use of Catalan in essential public services. The **Barcelona Observatory of Discriminations (2024)** documented **192 cases of linguistic discrimination**, with recurrent incidents reported in **healthcare, policing, and administrative procedures**.

Many individuals indicated they were **required to switch to Spanish** to obtain services. Civil society reporting by *Plataforma per la Llengua* (2023) identified specific cases in **hospitals, courts, and law-enforcement interactions**, and noted limited follow-up by authorities on complaints—particularly where **police officers** were implicated.

These patterns suggest de facto exclusion from the use of Catalan in areas central to equal citizenship, engaging **Article 5 ICERD** (equality before the law and equal access to public services) and **Article 2 ICERD** (duty to review and amend laws and practices that create or perpetuate discrimination). Where individuals are compelled to abandon their language to access services, the effect may be **indirect discrimination** on grounds related to **national or ethnic origin and language** (see **CERD General Recommendation No. 35**).

Recent **regional policy changes** have intensified these concerns. In the **Valencian Community** and the **Balearic Islands**, measures have **reduced Catalan/Valencian in education and public life**, including eliminating **minimum classroom percentages** in certain areas, promoting **linguistic segregation** based on parents’ choices, and reversing **Catalan to Spanish** municipal toponyms. Civil society organizations consider these steps a **rollback of acquired protections**, with likely adverse impacts on **intergenerational transmission** and **public-service accessibility** in Catalan. From an ICERD perspective, such rollbacks warrant **heightened scrutiny** where they disproportionately affect a **historical linguistic minority**.

Under **Article 5(e)(vi) ICERD**, Spain is obliged to ensure the **equal enjoyment of cultural rights**, which includes the practical ability to use Catalan in public life without disadvantage. Sustainable compliance requires (i) **clear administrative protocols** guaranteeing service in Catalan, (ii) **effective complaint mechanisms** and **remedial measures** when discrimination occurs, and (iii) **training** for frontline personnel—particularly in healthcare, courts, and policing—to prevent language-based exclusion.

## 4. Hate Speech and Hostile Attitudes

### International Standards

- **Article 4 ICERD** obliges States parties to criminalize incitement to racial discrimination and prohibit racist propaganda.
- **CERD General Recommendation No. 35 (2013)** underlines that hate speech targeting persons on grounds of language or national/ethnic origin is a form of racial discrimination.
- The **UN Strategy and Plan of Action on Hate Speech (2019)** identifies stigmatization of minorities in political discourse and media as a matter requiring urgent state response.

## Documented Concerns

### 1. Political discourse

- The **UN Special Rapporteur on minority issues (A/HRC/46/57, 2020)** documented allegations of hate speech against Catalans, particularly in the aftermath of the 2017 referendum, noting the absence of firm condemnation by political leaders.
- In its most recent Concluding Observations (**CCPR/C/ESP/CO/7, para. 14, 2025**), the UN Human Rights Committee explicitly identified "**the Catalan communities**" as a group facing a "prevalence of hate speech" and "neo-fascist" rhetoric, noting a disturbing increase in formal complaints regarding such discourse.
- Civil society monitoring noted the recurrent use of terms such as "traitors" or even analogies with "Nazis" to describe Catalan pro-independence actors. Such rhetoric risks **dehumanizing political expression**, contrary to ICERD obligations.

### 2. Media narratives

- The **Barcelona Observatory of Discriminations (2022)** documented that **negative stereotyping in the media** perpetuated hostile attitudes towards Catalans, contributing to **interpersonal discrimination**.
- A study by **Aix Global Justice (2020)** found that **80% of hostile online discourse** monitored during the period targeted Catalans, with framing that portrayed them as **disloyal or extremist**.

### 3. Selective application of laws

- The **Council of Europe Commissioner for Human Rights (2019, 2021)** raised concerns that Spanish authorities have **disproportionately applied criminal law** to restrict expressions by Catalan activists, while **hostile expressions directed at Catalans often remained unaddressed**.
- The **European Court of Human Rights** has underlined that **political expression, including provocative speech, merits the highest level of protection** (e.g., *Otegi Mondragón v. Spain*, 2011).

## Analytical Note

From an ICERD perspective, two interrelated issues warrant the Committee's attention:

- Whether the **failure to sanction hate speech** directed at Catalans is compatible with **Article 4 ICERD** obligations.

- Whether the **asymmetry in prosecuting Catalan activists while not addressing hate speech against them** constitutes a breach of **Article 5(a) ICERD**, concerning equality before the law.

### Illustrative Patterns of Concern

Civil society and independent observers have documented instances where hostile narratives against Catalans appear to normalize discriminatory practices:

- **Public rallies and slogans** following the October 2017 referendum frequently included chants such as “Go get them” and derogatory references to Catalan leaders. In some cases, such chants were echoed by members of law enforcement.
- The term “*lazis*” (linking Catalan independence activists to Nazism) has been widely used in public discourse and social media, creating a stigmatizing environment equating democratic demands for self-determination with extremism.
- Statements by political leaders and public figures, such as calls to “disinfect” Catalonia or hyperbolic references to bombing Catalonia, have not resulted in effective accountability measures.
- In January 2024, public announcements by political parties proposing the banning of all pro-independence civic and political organizations raised further concerns regarding stigmatization and exclusionary narratives.

### Implications under ICERD

The persistence and normalization of **Catalanophobic rhetoric** in political and media discourse contribute to an environment in which violence and discrimination become more acceptable. This trend is particularly concerning under **Article 4** (prohibition of incitement to racial discrimination) and **Article 5** (equality before the law and protection from discrimination in political participation and public life).

## 5. Institutional Discrimination and Lawfare Practices

### a. Undermining the Right to a Fair Trial and Equality Before the Law

#### History and Context

Since the 2010 Spanish Constitutional Court ruling that curtailed key provisions of the Catalan Statute of Autonomy, Catalan institutions and representatives have faced increasing judicial scrutiny and political pressure. Following the 2017 independence referendum, these dynamics intensified: prosecutions of Catalan leaders, preventive detention, and selective disqualification from office became recurrent tools of state response. Several mechanisms—such as the Court of Auditors’ financial liability proceedings and repeated extradition requests—have been criticized nationally and internationally as politically motivated. These developments have contributed to what civil society and international observers describe as the strategic use of judicial processes (“lawfare”) to weaken Catalan self-government and political participation.

## International Standards

- **Article 5(a) ICERD** guarantees equality before tribunals and all organs administering justice.
- **Article 5(c) ICERD** protects equal participation in political life and public affairs.
- The **Human Rights Committee** (CCPR/C/135/D/3162/2018, 2022; 2023) found that Spain's suspension of Catalan MPs contravened the right to political participation and due process under Article 25 ICCPR.
- The **UN Working Group on Arbitrary Detention** (Opinions 6/2019 and 34/2019) concluded that imprisonment of Catalan political leaders was arbitrary.
- The **Council of Europe's Parliamentary Assembly** (Resolution 2381, 2021; Resolution 2513, 2023) and several European courts stressed concerns about Spain's extradition requests and judicial independence.

## Documented Concerns

### 1. Equality before the law (Article 5(a) ICERD)

- Courts in Belgium, Germany, Italy, and the UK refused Spain's European Arrest Warrants against Catalan leaders, citing risks of unfair trial and disproportionate punishment.
- The Court of Auditors pursued financial claims against Catalan officials in cases criticized for lacking independence.
- The 2024 Amnesty Law, intended to address past prosecutions, has been applied inconsistently. While limited numbers of Catalan activists and officials have benefited, amnesty has been extended to security forces accused of disproportionate violence during the 2017 referendum, despite exclusions for torture and ill-treatment.

### 2. Political participation (Article 5(c) ICERD)

- Several MPs were suspended or barred from office based on ongoing prosecutions rather than final convictions.
- Operation Catalonia, a covert initiative involving state authorities and media outlets, reportedly relied on fabricated evidence and smear campaigns to discredit Catalan leaders, undermining electoral integrity.
- Disqualification from office, as in the cases of Presidents Carles Puigdemont and Quim Torra, and restrictions on parliamentary procedures, illustrate systemic interference with Catalan democratic institutions.

### 3. Surveillance and intimidation

- Independent investigations (Citizen Lab, 2022; Amnesty International, 2022–2023) revealed extensive use of Pegasus spyware against Catalan representatives and civil society actors.
- The UN Human Rights Committee (CCPR/C/ESP/CO/7, 2025) has since validated these concerns, formally regretting the "absence of an official investigation" into the

targeting of 65 Catalan figures and criticizing the use of undercover agents under the 1968 Official Secrets Act.

- o These practices, combined with police infiltration of civic organizations, have contributed to a climate of fear and inhibited participation in political and social life.

## Recent Developments

The **Amnesty Law adopted by the Spanish Parliament in May 2024** was intended to annul sentences against Catalan pro-independence activists and representatives. However, implementation has been marked by judicial obstruction. For instance, rulings by the **Spanish Supreme Court (July 2024)** refused to apply the law to charges of misuse of public funds, despite the law's explicit provisions. Reports indicate that internal judicial communications have instructed judges on strategies to limit the law's application.

By May 2025, data collected by civil society indicated that of **394 Catalans that were eligible for amnesty and requested it**, only **178** received it. During this same period of time, the law has been successfully applied in favour of **170 Spanish police officers**, despite the legal exclusion of cases involving excessive force. This selective implementation raises questions regarding compliance with the principle of **equality before the law (Article 5(a) ICERD)**.

## Analytical Note

Patterns of selective prosecution, politicized judicial decisions, and inconsistent application of amnesty measures highlight institutional discrimination against Catalans. These practices undermine Articles 5(a) and 5(c) of ICERD by denying equality before the law and impeding equal participation in political life. The convergence of judicial, administrative, and security measures against Catalan representatives and institutions suggests a systemic use of "lawfare" as a tool of repression, raising serious concerns regarding Spain's compliance with ICERD obligations.

### b. Undermining the Right to Political Participation

#### International Standards

- **Article 5(c) ICERD** guarantees equal participation in political life.
- The **Human Rights Committee (2022, 2023)** emphasized that Spain's suspension of Catalan MPs contravened **Article 25 ICCPR**.
- The **Parliamentary Assembly of the Council of Europe (PACE, Resolution 2381/2021)** urged Spain to reform laws used against Catalan politicians and to end disproportionate prosecutions.

#### Documented Concerns

- Several Catalan parliamentarians were suspended or prevented from taking office based on pending criminal cases related to the referendum, despite the absence of final convictions.

- The **Council of Europe Commissioner for Human Rights (2019; 2021)** raised concerns regarding disproportionate measures against Catalan representatives.

## Patterns of Interference

Civil society and independent investigations have documented a systemic pattern of judicial and administrative measures undermining political participation:

- **Operation Catalonia (2012–2018)** allegedly involved police and administrative structures engaging in investigations and dissemination of unverified allegations against pro-independence leaders, contributing to reputational harm.
- Following the **2014 and 2017 referenda**, Catalan leaders and officials faced sanctions including disqualification from office, significant financial penalties, and prison sentences, raising concerns about the use of judicial mechanisms as a form of political deterrence.
- In **2019–2020**, elected Members of the European Parliament from Catalonia were prevented from taking office until the **Court of Justice of the European Union (CJEU)** recognized their rights and immunities.

These practices indicate a broader trend of **lawfare**, whereby judicial mechanisms are deployed in a manner that disproportionately impacts one group, raising concerns under **Article 5(a) and (c) ICERD**.

### c. Repressive Surge During and After the October 2017 Independence Referendum

#### Context and Immediate Consequences

On **1 October 2017**, the Catalan authorities organized a referendum on independence, and on **27 October** the Catalan Parliament adopted a declaration of independence that was not implemented. On the same day, the Spanish Senate invoked **Article 155 of the Constitution**, dissolving the Catalan Parliament and imposing direct rule.

On **2 November 2017**, several members of the Catalan Government were placed in pre-trial detention by the Spanish National Court on charges of rebellion, sedition, and embezzlement. European Arrest Warrants were also issued for those in exile, including President **Carles Puigdemont** and several ministers. Courts in **Germany, Belgium, and Scotland** rejected these warrants, finding insufficient legal grounds. Notably, in **January 2021**, the **Brussels Court of Appeal** rejected the extradition of Lluís Puig, citing a “risk of human rights violation.”

#### Impact on Political Participation

The dissolution of the Catalan Parliament suppressed the mandate of an elected pro-independence majority. Nevertheless, elections imposed by Spanish authorities on **21 December 2017** again resulted in a pro-independence majority. Judicial interventions continued: on **30 January 2018**, the Constitutional Court restricted the re-election of Carles Puigdemont by prohibiting proxy voting or remote investiture without judicial authorization.

Further restrictions followed. In **March 2018**, Supreme Court Judge Pablo Llarena denied imprisoned MP **Jordi Sánchez** permission to attend his own investiture, citing a “risk of

reoffending.” This decision contrasted with more lenient treatment of former ETA member Josu Antoni Urrutikoetxea, who was allowed to serve as a parliamentarian while in detention in 1998 and with that of Juan Carlos Yoldi, an Herri Batasuna elected parliamentary, on pre-trial detention accused of participating in an ETA cell that had attacked railway infrastructure, who was authorised to leave prison to run for lehendakari (Basque president) in 1987.<sup>16</sup> Shortly thereafter, Judge Llarena also prevented the investiture of MP **Jordi Turull** by ordering his pre-trial detention.

Eventually, on **14 May 2018**, Quim Torra was sworn in as President, after three earlier candidates had been judicially blocked. His mandate was later cut short: in **September 2020**, the Supreme Court disqualified him from office and imposed a fine for refusing to remove a banner advocating respect for civil and political rights. This sequence illustrates sustained judicial interference in the functioning of Catalonia’s elected institutions.

### Findings of the UN Human Rights Committee

The **UN Human Rights Committee (2022)** found that Spain had violated **Article 25 ICCPR** by suspending four Catalan MPs – Oriol Junqueras, Raül Romeva, Josep Rull, and Jordi Turull – while in pre-trial detention. In **March 2023**, the Committee further held that the suspension of Carles Puigdemont’s removal as deputy, “was not established by law” and aimed at preventing the election of leaders associated with the 2017 events, thereby violating the Covenant.

### Role of the Court of Auditors

The **Spanish Court of Auditors** has played a key role in the imposition of economic sanctions linked to the 2014 and 2017 referenda, and to Catalonia’s foreign action policy between 2011 and 2017.

- In **December 2018**, it initiated proceedings on the costs of the 2017 referendum.
- In **March 2019**, it expanded its investigation to foreign affairs expenditures.
- By **June 2021**, the Court issued an interim settlement requiring bail totalling over **5 million euros** from 35 officials, including ministers and diplomats. The Catalan Institute of Finances (ICF) was required to guarantee these amounts.

The proceedings, still ongoing, have been widely criticized for their lack of independence and for imposing **severe moral, financial, and social burdens** on those targeted. Even though the Amnesty Law (Ley Orgánica 1/2024) provided for the extinction of accounting liability for acts connected with the Catalan independence process. The councillor of the Court of Auditors responsible for the case, Elena Hernández, suspended the application of the amnesty to the 35 affected individuals and submitted eight questions for the CJEU to determine whether the amnesty – which includes the accounting liability she was due to rule on – is contrary to EU

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<sup>16</sup> “Juan Carlos Yoldi, el preso de ETA que intentó ser lehendakari durante un permiso penitenciario”, El Independiente(  
<https://www.elindependiente.com/politica/2017/12/09/juan-carlos-yoldi-presos-eta-lehendakari/>)

norms requiring member states to engage in effective and dissuasive action against fraud and any illegal activity affecting the financial interests of the European Union.<sup>17</sup>

It is worth noting that the Court of Auditors' reference was not the only one. The Audiencia Nacional also submitted a preliminary reference on the case of the CDR activists accused of terrorism, while the High Court of Justice of Catalonia submitted a further reference on the conduct of former senior officials of the Generalitat. In total, four preliminary references on the Amnesty Law have been submitted to the CJEU by different Spanish courts.<sup>18</sup>

## Analytical Note

The events following the 2017 referendum illustrate a **pattern of repression combining criminal prosecution, judicial restrictions, and financial penalties**. These measures have had a profound impact on the **right to political participation (Article 5(c) ICERD)** and **equality before the law (Article 5(a) ICERD)**. International bodies – including the **UN Human Rights Committee** – have already found Spain in violation of its obligations. The role of the Court of Auditors adds an additional layer of **institutional discrimination**, where financial sanctions operate as a tool to silence political dissent and delegitimize Catalan institutions.

## Implications under ICERD

The selective use of judicial processes, the inconsistent application of the Amnesty Law, and the suspension of elected officials highlight **structural obstacles to equality before the law and equal participation in public life** for Catalans. Taken together, these practices suggest an environment where **legal and institutional tools are used in ways that may exacerbate discrimination** against a minority group on the basis of language, national origin, or political identity.

### d. Economic Discrimination and Unequal Public Infrastructure

#### History and Context

Economic grievances have long formed part of the broader debate regarding Catalonia's relationship with the Spanish state. Catalonia is one of Spain's most economically productive regions and contributes a significant share of national tax revenue. However, Catalan institutions and civil society actors have repeatedly raised concerns regarding the fiscal arrangements governing redistribution and public investment.

While fiscal redistribution is a legitimate feature of many state systems, concerns arise where such arrangements are perceived to disproportionately disadvantage a distinct national or ethnic group. Catalan stakeholders have therefore framed the issue not solely as an economic

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<https://thecorner.eu/54/the-court-of-auditors-goes-to-the-cjeu-for-the-amnesty-law-on-the-grounds-that-it-affects-european-interests/115888/>

<sup>18</sup> <https://www.catalannews.com/politics/item/catalan-amnesty-eu-court-hearing-july-15-2025>

dispute but as part of a broader pattern of structural inequality affecting Catalonia's economic development and institutional autonomy.

## International Standards

Article 5(e) of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) obliges States parties to guarantee, without distinction based on national or ethnic origin, the enjoyment of economic, social and cultural rights, including the right to work, fair conditions of employment, and equal access to public services. Long-standing underinvestment by the Spanish state in Catalonia's commuter rail network (Rodalies), and the resulting deterioration of the system, raises serious concerns regarding the equal enjoyment of these rights by the Catalan population when compared with other communities in Spain, particularly Madrid.

Importantly, proof of discriminatory intent is not required under the Convention. The Committee has consistently examined whether policies or practices produce "*an unjustifiable disparate impact upon a group distinguished by race, colour, descent, or national or ethnic origin.*" Furthermore, CERD General Recommendation No. 32 confirms that the Convention encompasses **structural disparities and de facto inequalities resulting from historical circumstances** that continue to disadvantage particular groups. The long-term infrastructure deficit affecting the Catalan commuter rail system raises questions that fall within this analytical framework.

## Documented Concerns

Available data indicates a persistent gap between planned and executed public infrastructure investment in Catalonia. Analyses of public investment figures estimate that Catalonia has accumulated approximately €40 billion less in infrastructure investment than projected since 2009.<sup>19</sup>

The commuter rail (Rodalies) has been especially affected. The *Plan de Rodalies de Barcelona* (2008–2015) committed approximately €4 billion for the modernisation and expansion of the system. However, only around 13.5 per cent of the planned investment was ultimately executed.<sup>20</sup> Budget execution figures similarly demonstrate a substantial discrepancy between announced and implemented investments. Between 2010 and 2023, approximately €11 billion was budgeted for the Iberian-gauge rail network in Catalonia, while actual investment amounted to roughly €5.5 billion.<sup>21</sup>

The operational performance of the Rodalies network reflects the consequences of this sustained underinvestment. In 2023 alone, more than 25,000 incidents were recorded across commuter and regional services, and between January and August of that year, only 44 days

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<sup>19</sup> 3CatInfo, *Catalunya acumula 42.500 milions menys d'inversió pública del que caldria des del 2009, segons Foment*, 2024, available at: <https://www.3cat.cat/3catinfo/catalunya-acumula-42500-milions-menys-dinversio-publica-del-que-caldria-des-del-2009-segons-foment/noticia/3303611/>

<sup>20</sup> Ibid

<sup>21</sup> Joaquim Coello, "Catalonia's Trains: Segregating the Networks," *ARA*, March 2026, available at: [https://en.ara.cat/opinion/catalonia-s-trains-segregating-the-networks\\_129\\_5657242.html](https://en.ara.cat/opinion/catalonia-s-trains-segregating-the-networks_129_5657242.html)

passed without a recorded disruption affecting the network.<sup>22</sup>In the first half of 2025, service interruptions generated more than 1,500 hours of delays affecting approximately 1.1 million passengers.<sup>23</sup>

The deterioration of infrastructure has also generated safety concerns. In January 2026, a derailment near Gelida resulted in the death of a train engineer after a containment wall collapsed onto the tracks following heavy rainfall, prompting the suspension of rail services across the region.<sup>24</sup>

Spanish authorities have publicly acknowledged the severity of the situation. Spain's Transport Minister publicly acknowledged that Catalonia's is *"the most deteriorated commuter train network in the country,"* having received the *"worst treatment"* from authorities.<sup>25</sup> The Spanish Secretary of State for Transport also admitted the network is *"overwhelmed"* due to years of underinvestment, and identified approximately twenty sections at risk of collapse or accidents. A nationwide rail strike followed in February 2026, directly attributed by unions to chronic underinvestment and outsourced maintenance.<sup>26</sup>

Comparing Catalonia infrastructure development to other regions further highlights disparities in public investment. For example, the last major infrastructure work on Rodalies in Barcelona was the Aragó–Passeig de Gràcia tunnel link completed in 1975. By contrast, Madrid's Cercanías network has grown by 65.2 kilometres since 1984 because of sustained state investment, with new sections opening every two to five years.<sup>27</sup>

Finally, it is important to note that the failure of the Rodalies network does not affect all social groups equally. For lower-income workers and students who depend on the affordable commuter rail service, repeated shutdowns have meant long delays, higher costs, and in some cases the inability to travel at all. This is significant under Article 5(e)(i) ICERD, which protects the right to work and fair working conditions. The ability to reach one's workplace is a prerequisite for the enjoyment of this right. When commuter rail infrastructure is allowed to deteriorate to the point of routine cancellations and safety failures, it is precisely those without

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<sup>22</sup> El País, *Rodalies: más de una década llegando tarde a todos los sitios*, 2025, available at: <https://elpais.com/podcasts/hoy-en-el-pais/2025-04-01/podcast-rodalies-mas-de-una-decada-llegando-tarde-a-todas-partes.html>

<sup>23</sup> Ibid

<sup>24</sup> Eimear Kempeneer, "Traffic on Barcelona's Rodalies Commuter Rail Network Collapses in the Wake of Deadly Train Crash Last Month," *The Olive Press*, February 24, 2026, available at: <https://www.theolivepress.es/spain-news/2026/02/24/traffic-on-barcelonas-rodalies-commuter-rail-network-collapse/>

<sup>25</sup> "Spanish Minister Acknowledges Catalonia's Is Most Deteriorated Commuter Train Network," *Catalan News*, September 4, 2025, available at: <https://www.catalannews.com/politics/item/spanish-minister-acknowledges-catalonias-is-most-deteriorated-commuter-train-network>

<sup>26</sup> Natàlia Vila, Gemma Garrido Granger, and Sònia Sánchez, "The Commuter Rail Service Is Operating Partially Despite the Announcement That It Would Be Suspended This Saturday," *ARA*, January 25, 2026, available at: [https://en.ara.cat/society/the-commuter-rail-service-is-operating-partially-despite-the-announcement-that-it-would-be-suspended-this-saturday\\_1\\_5627327.html](https://en.ara.cat/society/the-commuter-rail-service-is-operating-partially-despite-the-announcement-that-it-would-be-suspended-this-saturday_1_5627327.html)

<sup>27</sup> "Rodalies Ha Recibido La Mitad de Obras Que Cercanías Madrid en 30 Años," *El Economista*, September 7, 2015, available at: <https://www.eleconomista.es/catalunya/noticias/7017532/09/15/Rodalies-ha-recibido-la-mitad-de-obras-que-Cercanias-Madrid-en-30-anos.html>

access to private transport – typically lower-income residents – who bear the severest consequences.

### Analytical Note

Long-standing disparities in infrastructure investment and public services affecting Catalonia should therefore be relevant to the Committee’s assessment of whether the Catalan population enjoys equal access to public services and economic opportunities. As recognised in CERD General Recommendation No. 32 and in the Committee’s jurisprudence, including *L.R. et al. v. Slovakia* (CERD Communication No. 31/2003), policies that result in structural disparities in access to infrastructure or public services may fall within the scope of the Convention where they produce a disproportionate impact on a protected group.

## 7. State Response

### History and Context

Spain has long presented itself as a consolidated democracy with a strong constitutional framework for the protection of rights. However, in relation to Catalonia, state responses have often emphasized security, unity, and constitutional order over the protection of minority rights. Since 2017, authorities have repeatedly resorted to judicial and administrative measures rather than dialogue-based approaches. At the international level, Spain has been subject to sustained scrutiny from UN human rights mechanisms, the Council of Europe, and independent observers. Despite this, official state reports—such as the 2025 submission to the Universal Periodic Review—have consistently omitted substantive discussion of the human rights situation in Catalonia.

### International Standards

- **Article 2(1) ICERD** requires States to refrain from any act or practice of racial discrimination and ensure that public authorities do likewise.
- **Article 5 ICERD** obliges States to prohibit and eliminate discrimination and to guarantee equality before the law without distinction as to ethnic or national origin.
- The **UN Human Rights Committee** (2022, 2023) expressed concern over disproportionate restrictions on freedom of expression, assembly, and political participation of Catalans, and highlighted the need for effective remedies.
- The **Special Rapporteur on minority issues** (2020, 2023) recommended Spain strengthen protections for linguistic minorities and adopt comprehensive anti-discrimination legislation.
- The **Council of Europe** has repeatedly called for reforms to ensure judicial independence and impartiality in politically sensitive cases.

### Observed Practice

Despite this clear obligation, evidence indicates that **discriminatory practices against Catalans persist**. The jurisprudence of the **Spanish Supreme Court**, particularly in relation to the Catalan language immersion model, combined with continued political prosecutions and administrative sanctions against Catalan representatives and civil society actors, reflects not only insufficient remedial action by the State but also the **active role of certain state institutions** in sustaining and aggravating discriminatory patterns.

## Documented Concerns

### 1. Non-engagement in international review processes

- o Spain's 2025 UPR submission omitted references to Catalonia, despite the wealth of reports by UN bodies and civil society. This omission reflects a lack of constructive engagement with international oversight mechanisms.

### 2. Inadequate response to hate speech and hate crimes

- o Prosecutorial authorities have frequently declined to pursue cases of hate speech against Catalans, while criticism of state authorities has at times been prosecuted as hate crimes.
- o This selective approach undermines Spain's obligations under Article 4 ICERD to condemn and sanction hate speech and incitement to discrimination.

### 3. Surveillance and excessive use of force

- o Investigations into spyware surveillance (CatalanGate) and disproportionate policing during demonstrations have not resulted in effective accountability.
- o Amnesty International (2024) and the UN Special Rapporteurs (2022) noted the lack of impartial investigations and remedies for victims of surveillance and excessive force.

### 4. Implementation gap

- o The Human Rights Committee and other mechanisms have emphasized Spain's limited implementation of earlier recommendations, particularly regarding the decriminalization of defamation, excessive reliance on sedition/terrorism charges, and the need for anti-discrimination legislation.

## Analytical Note

Spain's current state response demonstrates a pattern of omission, denial, and selective enforcement of international standards. While formal commitments to ICERD remain in place, the absence of meaningful engagement in monitoring mechanisms and the persistence of discriminatory practices undermine these commitments. The lack of impartial investigations into surveillance, police violence, and hate speech, coupled with the omission of Catalonia from official reports, reflects systemic resistance to addressing institutional discrimination. This raises significant concerns about Spain's willingness to fully comply with its obligations under Articles 2 and 5 of ICERD.

## Lack of State Engagement

In its **2025 Universal Periodic Review (UPR) national report**, Spain omitted any reference to the situation of the Catalan people. This omission, coupled with limited implementation of previous treaty body recommendations, indicates a **pattern of non-engagement** with underlying human rights concerns.

### **Implications under ICERD**

The combination of judicial encroachment, failure to address hate speech, selective implementation of amnesty provisions, and omission of minority concerns in international reporting suggests **systemic weaknesses in Spain's compliance with its obligations under Article 5 ICERD**. Rather than providing effective protection, the State's approach has contributed to an environment in which discrimination and hostility toward Catalans remain entrenched.

## **8. Conclusion and Recommendations**

This submission has examined the extent to which the Kingdom of Spain complies with its obligations under the **International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)** in relation to the Catalan people.

The Catalan people, as a distinct linguistic and cultural community, have historically faced periods of institutional repression and restrictions on their rights. Since the events of 2010 (Constitutional Court ruling on the Statute of Autonomy) and especially the 2017 referendum, discriminatory practices have intensified. Despite Spain's ratification of ICERD and commitments under international human rights law, measures adopted by state institutions have often exacerbated, rather than mitigated, patterns of exclusion, stigmatization, and legal harassment directed at Catalan society.

The cumulative evidence indicates that Spain's obligations under ICERD remain insufficiently fulfilled in relation to the Catalan population. While formal legal frameworks exist, discriminatory practices in language policy, judicial proceedings, and political participation, combined with inadequate responses to hate speech and surveillance abuses, raise questions about systemic discrimination. The persistence of these patterns demonstrates the need for targeted reforms, accountability measures, and comprehensive anti-discrimination legislation.

### **Recommendations to CERD**

The Committee may wish to call on the Kingdom of Spain to:

#### **1. End unfounded prosecutions & ensure accountability and remedies**

- o Drop all unfounded criminal charges, including terrorism-related charges, against Catalan activists, elected representatives, civil society organizations, journalists, and artists.

- o Guarantee proportionate legal remedies and reparations to all victims of arbitrary detention, unlawful surveillance, and unfair prosecution.

## **2. Reform the Penal Code and related laws**

- o Repeal provisions enabling misuse of terrorism, rebellion and riot's charges.
- o Decriminalize defamation and insult, transferring these matters from criminal to civil law.
- o Repeal the "Gag Law" (Ley Mordaza) provisions restricting freedom of expression and assembly.

## **3. Address hate speech and discrimination**

- o Ensure the prosecution of hate speech and hate crimes irrespective of the status of perpetrators (state or non-state actors).
- o Adopt a comprehensive law against racism, racial discrimination, xenophobia, and related intolerance, in line with recommendations from the UN Special Rapporteur on minority issues.
- o Clarify the definition of hate speech, ensuring that legitimate political dissent and civil society activity are not targeted under hate speech provisions.

## **4. Protect linguistic rights**

- o Reinstate and protect the Catalan immersion model in education.
- o Guarantee the availability of judicial and administrative services in Catalan, in line with Article 5(e)(vi) ICERD.

## **5. Promote inclusive education and social cohesion**

- o Develop and implement inclusive education programmes fostering respect for cultural and linguistic diversity across Spain.
- o Provide training for public officials, law enforcement, and the judiciary on ICERD obligations and minority rights.

## **6. Address structural economic discrimination and unequal public infrastructure**

- o Ensure equitable public investment across all regions, including Catalonia, in accordance with Article 5(e) ICERD, to prevent disproportionate impacts on Catalan residents.
- o Assess public spending policies and infrastructure projects for potential discriminatory effects, and adopt corrective measures to remedy long-standing disparities.

The Committee's engagement is essential to ensure that Spain fulfils its positive obligations under Articles 4 and 5 ICERD and provides genuine protection against discrimination for the Catalan people.

# APPENDIX

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## 1. Hate Speech and Hostile Attitudes

The UN Strategy and Plan of Action on Hate Speech defines hate speech as “any kind of communication in speech, writing or behaviour, that attacks or uses pejorative or discriminatory language with reference to a person or a group on the basis of who they are, in other words, based on their religion, ethnicity, nationality, race, colour, descent, gender or other identity factor.”<sup>1</sup> As stated by international NGO Rights for Peace, hate speech becomes a human rights violation if it incites discrimination, hostility or violence towards a person or a group defined by their race, religion, ethnicity or other factors.<sup>2</sup> In the case of Spain’s actions against Catalans, and against the Catalan pro-independence movement, during the last decade the growth of the cases of hate speech that have occurred, and the intensification of a Catalano-phobic environment, has made disproportionate police violence and prosecutions against elected representatives and activists more acceptable for the Spanish general public. Since the 2017 Catalan independence referendum political repression has been accompanied by a surge in attempts to stigmatize the Catalan nation, with mass media serving as one of its primary vehicles. False accusations against Catalan leaders and activists are not only made in courts but through smear campaigns in the press, occasionally arising from leaks intentionally distributed by the police.<sup>3</sup> Many Spanish political parties also often use Catalanophobia as a political tool. The normalization of Catalanophobia in the media and rhetoric of political parties has resulted in a growing trend of hate speech and intolerance directed against Catalans and the Catalan language. This reinforces the political hostility, repression and criminalization that Catalans have faced for centuries.

As mentioned before, in order to prevent the holding of the referendum on October 1, 2017, the government mobilized thousands of Civil Guards from all over Spain to Catalonia. This mass mobilisation served to manifest the animosity that in certain sectors of Spain is professed towards the Catalan people. The disproportionate violence used can be viewed as a manifestation of the increased hostility. In several cities, during the departure of various agents of the Guardia Civil, citizens acclaimed them with cheers and proclamations such as “Go get them”, “Catalonia is Spain”, “Puigdemont, go to jail”, “Up Spain”.<sup>4</sup> Far from being mere proclamations by some citizens, these harangues were also sung by members of the Guardia Civil themselves.<sup>5</sup>

After the October 2017 events, it began to become popular among Spanish nationalist sectors to label Catalan pro-independence activists as “laci”. This new wording is a combination of the word nazi, and “lazo”, the Spanish word for “ribbon”, as yellow ribbons had become a symbol among Catalans of solidarity against Spanish repressive actions targeted at pro-independence leaders. The word “laci” rapidly became a widespread offensive tool used in media, public discourses, and social media, to systematically equate Catalan pro-independence ideas with Nazism, dehumanizing the defense of self-determination (an entirely democratic and legitimate project), and the millions of Catalans, most of the Catalan society, that defended it.<sup>6</sup>

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<sup>1</sup> UN Strategy and Plan of Action on Hate Speech [https://www.un.org/en/genocideprevention/documents/advising-and-mobilizing/Action\\_plan\\_on\\_hate\\_speech\\_EN.pdf](https://www.un.org/en/genocideprevention/documents/advising-and-mobilizing/Action_plan_on_hate_speech_EN.pdf)

<sup>2</sup> What is hate speech?, Rights for Peace <https://www.rightsforpeace.org/hate-speech>

<sup>3</sup> El juez cree que Interior filtró datos de los CDR, El Mundo <https://www.elmundo.es/espana/2019/10/04/5d964a90fdddf5348b45f1.html>

<sup>4</sup> Vítores a policías que van a Catalunya con gritos de «a por ellos», El Periódico <https://www.elperiodico.com/es/politica/20170925/despiden-policia-nacional-catalunya-gritos-6310462>

<sup>5</sup> Vídeo: Guardias civiles también cantaban «a por ellos» cuando iban hacia Catalunya, El Nacional [https://www.elnacional.cat/es/politica/video-guardia-civil-a-por-ellos\\_199542\\_102.html](https://www.elnacional.cat/es/politica/video-guardia-civil-a-por-ellos_199542_102.html)

<sup>6</sup> Alba Sidera Gallart: “La indiferencia permite que el fascismo gane terreno”, ELA Euskal Sindikatua <https://www.ela.eus/alda/alba-sidera-gallart-201cla-indiferencia-permite-que-el-fascismo-gane-terreno201d>

Public discourses and speeches by Spanish politicians and journalists, in which they resort to hate speech against Catalans, have become more common. On December 16, 2017, Josep Borrell, a veteran Spanish socialist politician, now High Representative of the Union for Foreign Affairs and Security Policy, said that the pro-independence leaders must be held accountable and assured that “the wounds must be disinfected before sewing them” and considered that a divided country such as Catalonia is a “sick” country.<sup>7</sup> In May 2018, the famous radio broadcaster Federico Jimenez Losantos proposed the bombing of Catalonia. Among insults to Quim Torra, current president of the Catalan parliament, the radio commentator stated that “We can bomb Barcelona, your house and your office” with the “70,000 police officers, 90,000 civil guards and 50,000 perfectly armed soldiers” that the central executive has.<sup>8</sup> Recently, in January 2024, Spanish right party PP, and far-right party Vox, announced that they are considering banning all Catalan pro-independence political and civic organizations, including the Catalan National Assembly, once they are able to form a government in the future.<sup>9</sup>

Such inflammatory, dehumanizing and even violent statements contribute to the Catalanophobic narrative, which serves to deepen animosities and prejudices against Catalans. This is evident in the alarming increase in ultra-nationalist violence against Catalan citizens in favour of self-determination that have taken place since the Catalan independence referendum, which often go unreported and unpunished. Of those reported, between 8 September and 11 December 2017, 139 violent incidents, including 86 assaults against Catalans<sup>10</sup> were officially recorded. These attacks continued regularly throughout 2018. The generation of mis-information and ‘fake news’ by Spanish media and political parties has been another tool used to discredit and delegitimize Catalans and the pro-independence movement, especially at an international level. The most relevant cases are the fake stories created to build the narrative of a so-called “Russian interference” to promote the Catalan independence movement, which, as an investigative committee of the British Parliament found out in 2018, was in fact false.<sup>11</sup>

Despite this, they were used as bases for prosecution of some Catalan activists and high officials, such as the case of the head of office of president Carles Puigdemont, Josep Lluís Alay. A case ultimately was dismissed in July 2022 due to the lack of evidence.<sup>12</sup>

Online, there is also a clear Catalanophobic character in content published across all social media in Spain, especially on Twitter. According to a 2020 analytical report published by Aix Global Justice,<sup>13</sup> from May 24th-31st, 2020, out of a total of 130,000 conversations about Catalonia, 33% had negative connotations. Many Catalanophobic messages were spread on Twitter (now X), where tweets appeared such as: “fucking Catalans, I wish everyone from Catalonia dies and that Catalonia burns”, “Look, I would put all of the Catalans from el Camp Nou in a concentration camp for them to die slowly and suffer”, “Death to Catalonia and that all of the Catalan people burn to the ground, let’s pee on their graves”, as well as messages

<sup>7</sup> Borrell: «Antes de coser las heridas hay que desinfectarlas», El Periódico <https://www.elperiodico.com/es/politica/20171216/borrell-desinfectar-heridas-independentistas-indulto-iceta-6499385>

<sup>8</sup> “Federico Jiménez Losantos plantea bombardear Cataluña”, YouTube [https://www.youtube.com/watch?v=yoGNmfyf\\_90](https://www.youtube.com/watch?v=yoGNmfyf_90)

<sup>9</sup> PP y Vox plantean ilegalizar partidos que promuevan referendums de independencia en sus enmiendas a la ley de amnistía, Deia <https://www.deia.eus/politica/2024/01/03/pp-plantea-disolver-partidos-promuevan-7703482.html>

<sup>10</sup> Els silencis mediàtics de 2016-2017, Anuari Mèdia.cat [https://www.media.cat/wp-content/uploads/2018/02/Anuari2016-2017\\_webok.pdf](https://www.media.cat/wp-content/uploads/2018/02/Anuari2016-2017_webok.pdf)

<sup>11</sup> Un informe para el Parlamento británico sobre ‘fake news’ desmonta la injerencia rusa en el procés catalán, Público.es <https://www.publico.es/sociedad/noticias-falsas-informe-parlamento-britanico-fake-news-desmonta-injerencia-rusa-proces-catalan.html>

<sup>12</sup> Archivada la causa al asesor de Puigdemont investigado por negocios con rusos, El País <https://elpais.com/espana/catalunya/2022-07-29/archivan-la-causa-al-asesor-de-puigdemont-investigado-por-negocios-con-rusos.html>

<sup>13</sup> Hate speech against the Catalan minority, Legal Reports, Aix Global Justice <https://www.aixglobaljustice.org/en/rapportsju-ridiques>

declaring they wish they could bomb Catalonia<sup>14</sup>. Additionally, seven out of ten of the most relevant Spanish influencers on this platform at that time published negative comments on Catalonia.

More recently, ongoing negotiations for Catalan to become an official EU language have been stalled by the *Partido Popular* (PP) and *VOX* parties in Spain, who have lobbied across the European Union to ensure Catalan does not become an official language at the European level.<sup>15</sup> Civil society groups dedicated to the protection of the Catalan language have asserted that becoming an official language would protect Catalan from extinction and discrimination.

In his 2020 report, SR on minority issues Fernand de Varennes<sup>16</sup> noted that Spain, along with San Marino, were the only two members of the Council of Europe not to have an independent equality body. While there is the Spanish Council for the Elimination of Racial or Ethnic Discrimination, it cannot yet be considered an independent entity, and engages in very few activities with little resources at its disposal.

In relation to the events that took place in Catalonia in 2017, the Special Rapporteur stated that he received reports that showed an “increase in hate speech, vilification, vandalism, physical threats and even assaults against members of the Catalan minority”, and called on Spanish authorities to “address these cases more forcefully, both in terms of practice and in terms of what is permitted under current legislative and regulatory schemes”.

He also highlighted that hate speech against Catalans had increasingly been appearing in social and other media as a result of the 2017 events, and of “politicians and others outside the region painting Catalans as a threat and traitors who had to be dealt with severely, at times using violent language”. For this reason, he called on Spanish authorities to consider “adopting a comprehensive law against racism, racial discrimination, xenophobia and related intolerance, including hate speech published on the Internet and in other media”. In particular, the Special Rapporteur recommended more action to counter the rise of hate speech, xenophobic nationalism targeting minorities, including historical communities such as the Catalans. However, these calls have been systematically ignored, and a narrative that amounts to hate speech against the Catalan people continues to prevail in the Spanish State.

Under article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination the Spanish state has the obligation to condemn every attempt to promote racial hatred and discrimination in any form and undertake to adopt immediate and positive measures to eradicate all incitement to, or acts of, discrimination. Despite this obligation, the reaction of the Spanish prosecutor to defend the dignity and honour of Catalan pro-independence activists against these attacks has been non-existent. In a harsh contrast, in May 2019 the State Prosecutor announced that according to its criteria Nazi militants could be considered victims of hate crimes, which in Spain also hold Spanish nationalist and anti-Catalan views.<sup>17</sup> In a similar vein, few days after the October 2017 Catalan independence referendum, Spanish Interior Minister Juan Ignacio Zoido qualified as “hate crimes” all sort of criticism received by Spanish riot police officers that took part in the violent repressive actions against peaceful voters during the 2017 independence referendum, and he threatened to undertake legal measures to defend them.<sup>18</sup>

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<sup>14</sup> Josep Pich Mitjana, *Catalanofòbia: Una immersió ràpida* (Barcelona: Tibidabo Ediciones, 2025)

<sup>15</sup> El PP justifica su derecho a incidir en la UE para que el catalán no sea oficial, La Vanguardia <https://www.lavanguardia.com/politica/20250527/10723034/pp-justifica-derecho-incidir-ue-catalan-sea-oficial.html>

<sup>16</sup> Visit to Spain - Report of the Special Rapporteur on minority issues, UN HRC [https://imatges.vilaweb.cat/nacional/wp-content/uploads/2020/03/A\\_HRC\\_43\\_47\\_Add.1\\_AdvanceEditedVersion.pdf](https://imatges.vilaweb.cat/nacional/wp-content/uploads/2020/03/A_HRC_43_47_Add.1_AdvanceEditedVersion.pdf)

<sup>17</sup> La Fiscalía considera delito la incitación al odio hacia los nazis, La Vanguardia <https://www.lavanguardia.com/politica/20190522/462408935254/fiscalia-considera-delito-incitacion-odio-nazis.html>

<sup>18</sup> Zoido: «El Gobierno va a defenderos a todos y no consentirá que se produzcan delitos de odio como los que hemos visto estos días atrás», La Moncloa <https://www.lamoncloa.gob.es/serviciosdeprensa/notasprensa/mir/Paginas/2017/081017patrona.aspx>

Prosecution for hate crimes has actually become an additional tool to repress Catalan pro-independence activism. Such is the case of Catalan police officer and pro-independence activist Albert Donaire, who is facing an extravagant indictment for a crime of incitement to hatred against “the politics of constitutionalist ideology” applying article 510 of the Penal Code in a sui generis manner. The penalty requested by the prosecutor is three years in prison and disqualification for passive suffrage, and a fine of 3,600 euros, plus six years of special disqualification. His crime: to express positions in social media in favour of Catalan independence and against language discrimination by Spanish police officers.<sup>19</sup>

## 2. Institutional Discrimination and Lawfare Practices

### Undermining the Right to Fair trial and Equality Before the Law

In Spain, a systemic lack of judicial independence and the politicization of the judiciary have severely eroded the right to fair trial and equality before the law for hundreds of Catalan pro-independence representatives. Since 2018, courts in several European countries—Germany, Belgium, the United Kingdom and Italy— have consistently rejected Spanish judges’ extradition requests for Catalan independence leaders through European Arrest Warrants (EAW).

In 2020 and 2021, Belgian courts refused to execute an EAW against Lluís Puig, a former minister of the Catalan Government, as they saw significant risks to his right to a fair trial<sup>20</sup>, taking into account the UN WGAD’s 2019 findings in relation to the already imprisoned Catalan civil and political leaders.<sup>21,22</sup> In January 2023, the Court of Justice of the European Union ruled that an EAW may be refused “on account of systemic or generalized deficiencies in that Member State or deficiencies affecting an objectively identifiable group of persons to which the person concerned belongs”,<sup>23</sup> therefore paving the way to recognize systemic discrimination before the law of the Catalan pro-independence movement as a collective group.

On May 30th, 2024, an Amnesty Law<sup>24</sup> was approved by the Spanish Congress which technically annulled the sentences issued against hundreds of Catalan pro-independence activists and representatives that occurred between 2011 and 2023. This was because in order to pass legislation, the current Spanish Central Government needed the parliamentary support of two major Catalan pro-independence parties. However, the implementation of this law ultimately depends on the will of a highly politicized judiciary.

For instance, on 1 July 2024, Spanish Supreme Court Judge Pablo Llarena issued a decision refusing to apply the Amnesty Law, explaining in his judgement through a distorted interpretation of the legislation that the amnesty provisions were not applicable to the crime of misuse of public funds; even though the law itself explicitly states otherwise. In effect, this led to the internal/national arrest warrants issued against

<sup>19</sup> A juicio un mossos independentista por «odio» a la «ideología constitucionalista», El Món

<https://elmon.cat/es/politica-es/tribunales/juicio-mosso-independentista-odiar-ideologia-constitucionalista-821044/>

<sup>20</sup> Belgium officially denies Spain’s bid to extradite Catalan politician Lluís Puig, CatalanNews

<https://www.catalannews.com/society-science/item/belgium-officially-denies-spain-s-bid-to-extradite-catalan-politician-llu%20is-puig>

<sup>21</sup> Opinions adopted by the Working Group on Arbitrary Detention at its eighty-fourth session, 24 April–3 May 2019 Opinion No. 6/2019 concerning Jordi Cuixart I Navarro, Jordi Sánchez I Picanyol and Oriol Junqueras I Vies (Spain)

[https://ap.ohchr.org/Documents/dpage\\_e.aspx?si=A/HRC/WGAD/2019/6](https://ap.ohchr.org/Documents/dpage_e.aspx?si=A/HRC/WGAD/2019/6)

<sup>22</sup> Opinions adopted by the Working Group on Arbitrary Detention at its eighty-fourth session, 24 April–3 May 2019 Opinion No. 12/2019 concerning Joaquín Forn I Chiariello, Josep Rull i Andreu, Raúl Romeva I Rueda and Dolores Bassa I Coll (Spain)

<https://documents.un.org/doc/undoc/gen/q19/212/78/pdf/q1921278.pdf>

<sup>23</sup> Judgment of the CJEU Grand Chamber on the Case In Case C-158/21

<https://curia.europa.eu/juris/document/document.jsf?text=&docid=269942&pageIndex=0&doclang=EN>

<sup>24</sup> 122/000019 Proposición de Ley Orgánica de amnistía para la normalización institucional, política y social en Cataluña

[https://www.congreso.es/public\\_oficiales/L15/CONG/BOCG/B/BOCG-15-B-32-10.PDF](https://www.congreso.es/public_oficiales/L15/CONG/BOCG/B/BOCG-15-B-32-10.PDF)

Catalan political leaders including Mr. Puigdemont, Toni Comin, Lluís Puig being kept in place.<sup>25</sup> It has been reported that official internal communication channels of the Spanish Judiciary Authority (CGPJ) were used to instruct Spanish judges on how to obstruct the implementation of the Amnesty Law,<sup>26</sup> thus undermining the right to equality before the law for Catalan pro-independence advocates.

As a result of the judicial obstructions during the first two months of its implementation, in May 2025, a year later after the enactment of the amnesty law, it is reported that 45% of amnesty applications in criminal or accounting matters have been granted, while 40% have been rejected or are suspended due to challenges before the Constitutional Court of the Court of Justice of the European Union.<sup>27</sup> This means that of the 1,610 people eligible for amnesty, 726 are in the criminal fields—of which 394 have requested amnesty. From those, 178 people have been granted amnesty, and 158 have not yet been given institutional absolution. Nonetheless, during this same period the law has been successfully applied in favour of 170 Spanish policemen, despite the fact that technically the Amnesty Law excludes cases of torture and inhuman and degrading treatment.<sup>28</sup> Only 4 Spanish policemen have not been granted amnesty; yet, most of them are investigated for disproportionate police violence against peaceful protesters during the October 2017 independence referendum.

These figures illustrate a clear imbalance in how the Amnesty Law is being applied, favouring state agents over activists and political figures. The implementation of the law therefore appears to reinforce, rather than redress, existing asymmetries in accountability between state actors and citizens.

## Undermining the Right to Political Participation

Article 21 of the Universal Declaration of Human Rights states the right of every person to participate in the affairs of their country, either directly or by selecting representatives. In a similar vein, Article 25 of the International Covenant on Civil and Political rights establishes that every citizen shall have the right and the opportunity to take part in the conduct of public affairs, directly or through freely chosen representatives; to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors; and to have access, on general terms of equality, to public service in their country.

Since the democratic Catalan pro-independence movement became truly mainstream in 2009-2010, Spanish authorities have continuously perceived it as an existential threat. Authorities have incessantly worked to interfere and undermine Catalonia's democratic process, targeting institutions and elected representatives to suppress the ability of the Catalan government to implement the policies of its successive pro-independence majorities.

## Operation Catalonia

A few weeks after the first mass pro-independence protest was held in Barcelona in September 2012 on the Catalan National Day, the secretive "Operation Catalonia"<sup>29</sup> was launched by the Spanish government. The

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<sup>25</sup> Spain: Supreme Court upholds Puigdemont arrest warrant, DW

<https://www.dw.com/en/spain-supreme-court-upholds-puigdemont-arrest-warrant/a-69531773>

<sup>26</sup> Los jueces reciben un email con la guía para recurrir la ley de amnistía en Europa y en el Constitucional, La Razón

[https://www.larazon.es/espana/jueces-reciben-email-guia-recurrir-ley-amnistia-europa-constitucional\\_202405256651f6cf2e4fc400017173d0.html](https://www.larazon.es/espana/jueces-reciben-email-guia-recurrir-ley-amnistia-europa-constitucional_202405256651f6cf2e4fc400017173d0.html)

<sup>27</sup> The failure of amnesty: 40% of separatists still do not have it a year later, Ara.cat

[https://en.ara.cat/politics/40-of-separatists-still-do-not-have-amnesty-one-year-later\\_1\\_5396056.html](https://en.ara.cat/politics/40-of-separatists-still-do-not-have-amnesty-one-year-later_1_5396056.html)

<sup>28</sup> The failure of amnesty: 40% of separatists still do not have it a year later, Ara.cat

[https://en.ara.cat/politics/40-of-separatists-still-do-not-have-amnesty-one-year-later\\_1\\_5396056.html](https://en.ara.cat/politics/40-of-separatists-still-do-not-have-amnesty-one-year-later_1_5396056.html)

<sup>29</sup> Què se'n sap, de «l'Operació Catalunya»? Hi està implicat Mariano Rajoy?, Regió 7 <https://www.regio7.cat/arreu/catalunya/2024/01/15/sen-sap-loperacio-catalunya-hi-96929552.html>

'operation' aimed at targeting the pro-independence movement, utilizing the police and other bureaucratic institutions and apparatus to manipulate electoral results through public opinion. This involved illegal investigations, the construction of false evidence, and collaboration with journalists from Spanish nationalist media, who colluded to publish false reports of pro-independence leaders as credible information, thereby tarnishing their reputation, and consequently that of the entire movement. This operative structure functioned until 2018, when Mariano Rajoy's government lost power by a motion of censure. Until then, police and media apparatus had targeted dozens of public representatives and several political parties, playing a key role in the national and municipal elections in 2012 and 2015 respectively. False accusations against the pro-independence candidate and mayor Xavier Trias, alleging use of Swiss bank accounts for instance, are largely considered one of the causes of his electoral defeat.<sup>30</sup> In addition to negatively affecting the active and passive right to political participation for many Catalans, the actions of Operation Catalonia also infringed upon the rights to privacy and human dignity of the political leaders and elected representatives targeted in the defamatory campaigns.

The non-binding independence plebiscite that was held by the Catalan authorities in November 2014 marked the beginning of a renewed systematic recourse to lawfare by Spanish courts against Catalan elected representatives.

In March 2017 the High Court of Justice of Catalonia condemned the former Catalan president Artur Mas, and of his former ministers Joana Ortega and Irene Rigau, for disobedience in relation to the organization of the November 2014 non-binding plebiscite. The court imposed two years disqualification from office and 36,000 euros fine for Artur Mas; a one year and nine months of disqualification from serving in public office and a 30,000 euro fine for Joana Ortega; and a year and a half disqualification and a 24,000 euro fine for Irene Rigau. The Spanish Supreme Court sentenced the Catalan MP (and former Catalan minister) Francesc Homs to 13 months of disqualification from public office and a fine of 30,000 euros for the same event, being stripped of his seat held in the Spanish parliament.

In May 2017, the Spanish organizations Societat Civil Catalana and Abogados Catalanes por la Constitución submitted a complaint to the Spanish Court of Auditors against Artur Mas, Joana Ortega, Irene Rigau and Francesc Homs in relation to the organization of the 9 November 2014 non-binding plebiscite with public funds. In July 2017, the Court of Auditors began an investigation.

In November 2018, the Court of Auditors issued its judgment on the accounting trial concerning the organization of the 9 November consultation. It calculated that the consultation caused 4.946 million euros in damage to Catalan government funds. This amount was distributed among Irene Rigau, Joana Ortega, Francesc Homs, and five senior officials in the Catalan Government, with former Catalan president Artur Mas being held responsible for the total amount and ultimately accountable for the 9 November consultation.<sup>31</sup> The sentence was issued by auditor Margarita Mariscal de Gante Mirón, former minister of justice in the Spanish conservative PP government (1996-2000). It is worth noting that the Court of Auditors is one of the most politicized courts in Spain, greatly influenced by the two large parties, PP and PSOE, which have been agreeing to distribute the positions and place individuals from their orbit in this body. This includes cases such as the presidency of the Court held from 2018 to 2021 by María José de la Fuente, niece of former Francoist minister Licinio de la Fuente, appointed at the proposal of the PP. As such, the

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<sup>30</sup> Trias denuncia que les «mentides» sobre els comptes a Suïssa van influir en la seva derrota electoral, Nació Digital <https://www.naciodigital.cat/noticia/133370/trias-denuncia-mentides-sobre-comptes-suïssa-van-influir-seva-derrota-electo11>

<sup>31</sup> Artur Mas y tres exconsellers, condenados a pagar 4,9 millones por la consulta del 9-N, La Vanguardia <https://www.lavanguardia.com/politica/20181112/452875699000/tribunal-de-cuentas-artur-mas-condenado-consulta-9n-cataluna.html>

Court has played an important role in the repressive campaign against the Catalan pro-independence movement, especially in terms of economic repression against elected representatives and high officials.

The fine was, ultimately, fully covered by the Caixa de Solidaritat (Catalan Solidarity Fund) in 2019<sup>32</sup>, an entity created in 2017 jointly by the pro-independence civil society Organization Catalan National Assembly, and the Catalan cultural and human rights NGO Òmnium Cultural. The Catalan Solidarity Fund aims at funding legal costs and/or economic responsibilities involving individuals facing legal repressive actions in the framework of the Catalan self-determination process.

## **Repressive Surge During and After the October 2017 Independence Referendum**

On October 1st, 2017, the Catalan independence referendum was organized, and on October 27th the Catalan parliament voted a declaration of independence that was not implemented. On the same day as the declaration, the Spanish Senate voted to activate Article 155 of the Spanish Constitution, resulting in the central government disbanding the Catalan parliament and taking direct rule over Catalonia. On November 2nd several prominent Catalan members of the Catalan government were imprisoned on pre-trial by order of the Spanish National Court upon being charged with crimes of rebellion, sedition, and embezzlement. A European Arrest Warrant was issued against members of government who went into exile: Carles Puigdemont, Toni Comin, Lluís Puig, Meritxell Serret and Clara Ponsatí, for the same crimes.

During the subsequent years, courts in countries such as Germany, Belgium, and Scotland, deemed that there were no legal grounds to extradite them to Spain, as Spanish prosecutors were requesting. In the case of Lluís Puig, in January 2021 the Brussels Court of Appeal went as far as rejecting his extradition arguing a “risk of human rights violation”, considering the situation of other former members of the Catalan government that were imprisoned and tried by Spanish courts.<sup>33</sup>

The dissolution of Catalan Parliament on October 27th, 2017 suppressed an elected pro-independence majority that expressed the democratic will of the Catalan people. Despite this, in the elections in Catalonia imposed by Spanish authorities on December 21st, 2017, the pro-independence forces again held their majority. The intromissions of the Spanish courts were maintained, and a few weeks later, on January 30th of 2018, the Spanish Constitutional Court imposed several restrictions in order to prevent Carles Puigdemont from being re-elected president of the Catalan government. These restrictions included prohibiting holding an investiture debate that was not in person, prohibiting the investiture plenary session in Parliament with Puigdemont present without judicial authorization, as well as banning the delegation of votes by MPs with an arrest warrant. An encroachment in the democratic functioning of the Catalan parliament that constituted a clear violation of the right to political participation of all the elected representatives, and the millions of voters that had elected them.

Following the prohibition of Puigdemont’s investiture, on March 9th, Spanish Supreme Court judge Pablo Llarena rejected the request by Catalan civil leader, Jordi Sánchez (who was in pre-trial detention for the 2017 events and an elected MP), to obtain an extraordinary permit to leave prison to attend the investiture in Parliament, and be able to be invested as the 131st president of the Government of Catalonia. The judge cited a ‘risk of criminal re-offence’ as the basis for the rejection. This draconian decision represented a harsher treatment than that received by former ETA member Josu Antoni Urrutikoetxea in 1998, when while being imprisoned he was permitted by Spanish courts to leave his detention centre to gather his accreditation as MP in the Basque Parliament, and to participate in parliamentary debates and works.<sup>34</sup> On March 24th the same judge prevented the investiture of another imprisoned MP, and former member of Catalan government, Jordi Turull, by sending him to pre-trial detention.

<sup>32</sup> Caixa de Solidaritat – Catalan Solidarity Fund webpage <https://caixadesolidaritat.cat/en>

<sup>33</sup> La traducció al català de la sentència humiliant de Bèlgica denegant l’extradició de Lluís Puig, Vilaweb <https://www.vilaweb.cat/noticies/sentencia-belgica-lluís-puig-euroordre-catala/>

<sup>34</sup> Josu Ternera y Etxebarria, a Nanclares para acreditarse [https://elpais.com/diario/1998/11/17/espana/911257207\\_850215.html](https://elpais.com/diario/1998/11/17/espana/911257207_850215.html)

Finally, on May 14th, 2018, Catalan pro-independence MP Mr. Quim Torra was sworn in as the 131st president of the Government of Catalonia. Despite being the fourth option, and his investiture a reflection of the Spanish judiciary's meddling in Catalan parliament activity and decisions, the intromissions continued. However, in September 2020, Mr. Torra was later banned from office for a year and a half and fined 30,000 euros by the Spanish Supreme Court for refusing to withdraw a banner from the balcony of the main building of the Catalan government calling for the respect of civil and political rights of Catalans.<sup>35</sup> For a second time in a row, elections to the Catalan Parliament were called due to non-democratic procedures, therefore harming the right to passive and active suffrage of Catalans.

The impact on rights to political participation arising from the suspension of the four Catalan former Parliament members from public duties while in pre-trial detention was, in August 2022, raised by the United Nations Human Rights Committee. The Committee found that Spain had violated Article 25 of the International Covenant on Civil and Political Rights, establishing that the right to participation in public affairs of the four Parliament members (former Vice-President of Catalonia Oriol Junqueras, and former ministers Raül Romeva, Josep Rull and Jordi Turull).<sup>36</sup>

Likewise, in March 2023 the Committee stated that the suspension of Carles Puigdemont's candidacy for the presidency of Catalonia by Spanish Constitutional Court, as well as his suspension as deputy in the Parliament of Catalonia, "was not established by law" and that "the State party's true goal was to prevent the election of the author or of anyone who participated in the events of September and October 2017", which according to the Committee represented a violation by Spain of article 25 of the Covenant.<sup>37</sup>

Repeating what happened via the Court of Auditors following the November 9th, 2014, non-binding plebiscite, the Spanish Court of Auditors also played a significant role in activating repressive measures of economic character against members of the Catalan government and high officials in relation to the October 1st, 2017, referendum. Special efforts by the Court were also made in relation to the activity of the Catalan Foreign Affairs Ministry from 2011 to 2017, and of the Catalan Council for Public Diplomacy, formerly known as Diplocat.

On December 18th 2018, the Court of Auditors began its investigation into the costs of the October 2017 independence referendum, a task that once again fell to former Spanish justice Minister and PP member Margarita Mariscal de Gante Mirón, who was the author of the ruling on the costs of the November 9th, 2014, non-binding plebiscite.

On 29th March 2019, the Court of Auditors began as well to investigate the Government of Catalonia's foreign expenditures.

The plenary session of the Court of Auditors approved an audit report finding indications of criminal and accounting misconduct in relation to the Government of Catalonia's foreign affairs expenses between 2011 and 2017. In November 2019 the Court of Auditors joined the proceedings for the referendum and the foreign affairs expenses.

In June 2021, the Court of Auditors publicly released the report of interim settlement, concluding the pre-trial stage of proceedings. The report claimed bails amounts totalling several million euros against 35

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<sup>35</sup>El Tribunal Supremo confirma la condena de un año y medio de inhabilitación al president de la Generalitat, Joaquim Torra, por delito de desobediencia, Poder Judicial España <https://www.poderjudicial.es/cgpi/es/Poder-Judicial/Tribunal-Supremo/Noticias-Judiciales/El-Tribunal-Supremo-confirma-la-condena-de-un-ano-y-medio-de-inhabilitacion-al-president-de-la-Generalitat-Joaquim-Torra-por-delito-de-desobediencia>

<sup>36</sup> Spain violated former Catalan Parliament leaders' political rights, UN Human Rights Committee finds, UN OHCHR <https://www.ohchr.org/en/press-releases/2022/08/spain-violated-former-catalan-parliament-leaders-political-rights-un-human>

<sup>37</sup> Views adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communication No. 3165/2018, UN Human Rights Committee <https://digitallibrary.un.org/record/4035858>

former government members

and high officials under of presidents Artur Mas and Carles Puigdemont's administrations. The Court requested the higher amounts to former general Diplocat Secretary Albert Royo (around 3.8 million euros) and former general Catalan government auditor Mireia Vidal (3.3 million euros). Other representatives affected by the bails include the former Ministers of Economy Oriol Junqueras and Andreu Mas-Colell, the former Minister of Foreign Affairs Raül Romeva, the former Foreign Affairs general secretary Aleix Villatoro, the former Presidency Minister Francesc Homs, the former Presidency general secretaries Joaquim Nin and Jordi Vilajoana, as well as the former Delegates of the Catalan government to several countries. The accused had to provide 5.4 million as bail, after carrying out a provisional liquidation, an amount that was guaranteed by the Catalan Institute of Finances (ICF).

At the time of writing, the final ruling on this case by the Court of Auditors is expected to take place soon.<sup>38</sup> The

Spanish Prosecutor is, currently, claiming a figure of up to 3.1 million euros. So far, the process has already inflicted significant moral, economic and social harm for the 35 persons prosecuted.

### **Abuses of the Right to Political Participation in Elections to European and Spanish Parliaments**

The right to political participation in public affairs of Catalan representatives, and therefore, of their voters, was also restricted during the elections to the Spanish Congress in April 2019, and to the European parliament in May 2019.

On April 29th, the Spanish Central Electoral Board announced that it had agreed, following a complaint from Spanish nationalist parties PP and Ciudadanos, to bar Carles Puigdemont, Antoni Comín and Clara Ponsatí from standing in the 26 May European elections as candidates for Junts per Catalunya – Lliures per Europa, as "they were not residents of the municipalities where they are registered, but rather have been outside the national territory for two years to escape justice."<sup>39</sup>

A few days later the Supreme Court noted that since there were no grounds for finding Puigdemont, Comín and Ponsatí ineligible, they could not be disqualified as candidates. Despite this, after being elected, the Central Electoral Board denied their democratic right to take office by prohibiting them from making remote declarations of allegiance. This was also the case of elected Member of the European Parliament (MEP), Oriol Junqueras, who was in pre-trial detention.<sup>40</sup>

After Oriol Junqueras was prevented from taking the oath of allegiance, a preliminary question was raised by the Supreme Court in July 2019 to the Court of Justice of the European Union (CJEU). On December 2019 the Court of Justice of the European Union (CJEU) ruled that Oriol Junqueras was an MEP from the moment of being elected, and as such, enjoyed parliamentary immunity.<sup>41</sup> As such, the conviction of Junqueras to 13 years of imprisonment on October 14th occurred while he was an MEP and therefore without respect of his immunity. The CJEU ruling therefore also allowed Carles Puigdemont and Toni Comín to enter the European Parliament with temporary MEP credentials. Clara Ponsatí followed suit, despite the fact that, for six months, they were unable to carry out their duties as elected representatives due to the Spanish court's blocking, therefore leaving more than a million Catalan voters unrepresented at the European Parliament. In spite of the CJEU ruling, Oriol Junqueras was still denied by the Spanish authorities the democratic right to take office as an elected Member of the European Parliament (MEP). 34

<sup>38</sup> La Fiscalía mantiene su petición de 3,1 millones de euros por el 1-0 y la acción exterior del Govern, El Periodico <https://www.elperiodico.com/es/politica/20240416/fiscalia-tribunal-cuentas-mantiene-cifra-3-1-1-0-101140398>

<sup>39</sup> La Junta Electoral no permite las candidaturas de Puigdemont, Comín y Ponsatí a las elecciones europeas, El Mundo <https://www.elmundo.es/cataluna/2019/04/29/5cc6e87421efa042388b45b5.html>

<sup>40</sup> Judgment of the Court (Grand Chamber) of 19 December 2019. Criminal proceedings against Oriol Junqueras Vies, CJEU <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62019CJ0502>

<sup>41</sup> Judgment of the Court (Grand Chamber) of 19 December 2019. Criminal proceedings against Oriol Junqueras Vies, CJEU <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62019CJ0502>

In January 2020, twenty-two MPs of the Parliamentary Assembly of the Council of Europe issued a public statement<sup>42</sup> in relation to the situation of the Catalan MEPs, denouncing the “worrying steps taken by Spanish authorities, which clearly affect the fundamental right to political representation in Catalonia”. They also expressed their concern with regards to the situation of elected members of the Spanish Congress (Jordi Sanchez, Josep Rull and Jordi Turull) and Senate (Raul Romeva), who in May 2019 were stripped of their seats by the respective chamber Bureaus, a few weeks after the elections, on the grounds that they were being prosecuted for a crime of rebellion.

Carles Puigdemont and Toni Comín later filed a case to the General Court of the Court of Justice of the European Union, against the refusal of the former President of the European Parliament to recognise their status as Members of the European Parliament and their associated rights in May and June 2019, due to the actions of Spain’s Electoral Commission. On July 6th, 2022<sup>43</sup>, the General Court considered the case as inadmissible. Mr Puigdemont and Mr Comín then brought an appeal before the CJEU.

On April 11th 2024, Advocate General of the Court of Justice Maciej Szpunar took the view that the allegations of the General Court in respect of the instruction of 29 May 2019 were unfounded, and that in his act of 27 June 2019, the President of the European Parliament, called into question the officially declared election results, and gave effect to the suspension of the prerogatives of Mr Puigdemont and Mr Comín which derived from their status as Members of the European Parliament, in breach of EU law.<sup>44</sup>The final ruling on the case by the Court of Justice of the European Union is expected to be announced in the Fall of 2024.

## **Lengthy Prison Sentences Against Elected Representatives**

In May and June 2019, the UN Working Group on Arbitrary Detention (WGAD) issued two Opinions<sup>45</sup>, in which it stated that the purpose of the criminal charge and the resulting trial on the Catalan civil and political leaders imprisoned was “to coerce them on account of the political opinions they have expressed”. The WGAD also called on the Spanish authorities to immediately release them, award them reparations, and make legislative amendments to harmonize Spanish laws and practices with their international obligations. The Working Group considered the deprivation of freedom to be arbitrary when it is targeted at repressing members of political groups to silence them in their pursuit for self-determination. In 2019, the Working Group issued 85 opinions on the arrest of 171 people in 42 countries, with Spain being the only European Union member state included in the report.

However, instead of releasing them, on 14 October 2019, the Spanish Supreme Court imposed severe sentences on the nine Catalan civil and politicians’ leaders responsible for the 2017 referendum on independence for Catalonia. Although the Supreme Court dismissed the charges of fomenting rebellion, it imposed severe prison sentences for the crime of sedition and in some cases misuse of public funds, ranging from 9 to 13 years, based on false accusations of violence.

Moreover, the peaceful nature of the Catalan pro-independence movement was underlined by the Parliamentary Assembly of the Council of Europe (PACE) in the Resolution 2381 approved in June 2021, where referring to the October 2017 Catalan independence referendum and related events, stated that “it is undisputed that none of the [Catalan] politicians [...] called for violence. On the contrary, it is recognized, also by the prosecution, that they called on demonstrators to refrain from any violent acts. Indeed, on

<sup>42</sup> Protecting the right to political representation in Catalonia, Written declaration No. 207, Parliamentary Assembly of the Council of Europe [https://int.assemblea.cat/wp-content/uploads/2020/07/COE\\_Parliamentary\\_Assembly\\_Right\\_PolRepCat\\_310120.pdf](https://int.assemblea.cat/wp-content/uploads/2020/07/COE_Parliamentary_Assembly_Right_PolRepCat_310120.pdf)

<sup>43</sup> Judgment of the General Court in Case T-388/19 | Puigdemont i Casamajó and Comín i Oliveres v Parliament <https://curia.europa.eu/jcms/upload/docs/application/pdf/2022-07/cp220116en.pdf>

<sup>44</sup> Advocate General’s Opinion in Case C-600/22 P | Puigdemont i Casamajó and Comín i Oliveres v Parliament <https://curia.europa.eu/jcms/upload/docs/application/pdf/2024-04/cp240065en.pdf>

<sup>45</sup> Opinions adopted by the Working Group on Arbitrary Detention at its eighty-fourth session, 24 April–3 May 2019 - Opinion No. 6/2019 concerning Jordi Cuixart | Navarro, Jordi Sánchez | Picanyol and Oriol Junqueras | Vies (Spain) <https://docs.un.org/en/A/HRC/WGAD/2019/6>

several occasions, hundreds of thousands of people demonstrated without any violent incidents”.<sup>46</sup> The resolution also called on Spanish authorities for the release of the Catalan political prisoners, among other measures.

A few days after the vote of Resolution 2381 by the PACE, the Spanish government formally pardoned the nine Catalan leaders, who had all served at least 3 years and 4 months of their prison sentences. The decision did not however over turn the prisoners’ ban on holding office. The pardons are seen as “conditional” and “reversible” according to the Spanish authorities.<sup>47</sup> A year later, the follow-up report on the PACE Resolution 2381, elaborated by rapporteur Boriss Cilevics, pointed out that the prosecution of representatives had not ceased, and called on Spain to also drop the remaining prosecutions of the lower-ranking officials involved in the 2017 referendum, and refrain from sanctioning the successors of the imprisoned politicians for symbolic actions that merely express their solidarity with those in detention.<sup>48</sup>

The report made reference to the situation of the hundreds of other elected representatives, public officials, and mayors, that were being persecuted for their pro-independence positions. In total, they make up 2,632 persons.<sup>49</sup> The Catalan Parliament, among other Catalan institutions, has been operating under a constant threat over the past decade. This was clearly expressed in the lawsuit that former vice president of Parliament Mr. Josep Costa filed to the UN Human Rights Committee (which is still pending at the time of writing), in which he claims he received threats of persecution, and even of imprisonment, by the Spanish government and Constitutional Court, aimed at blocking the investiture of president Carles Puigdemont in early 2018, with the purpose of “changing the will of the majority of the parliament”.

Article 25 of the ICCP lies at the core of democratic government. In Spain, systemic lack of judicial independence, and its politicization, have a serious effect on the right to active and passive participation of Catalans in public affairs, therefore eroding one of the basic principles of democracy. Many Catalans are afraid to engage in institutional politics, and those that do so act permanently coerced by the threat of intervention, and even persecution, by the Spanish judiciary, including the Constitutional Court. Thus, democratic majorities in favour of self-determination cannot have political value and effect due to a pervasive fear and a chilling effect that impacts all political activity in Catalonia. This seriously hinders democracy, rendering it a mere formality.

## Repression of Civil Society Organizations

Catalan civil society organizations have also been the target of repressive actions. This is the case of the Catalan National Assembly (ANC), the most prominent pro-independence organization, which has been subject to frequent harassment by the authorities. Its two former chairs were imprisoned for their legal personality of being (former) presidents of the ANC. Jordi Sànchez was the president of the ANC at the time of the referendum and was condemned to 9 years of imprisonment for sedition for his role in the peaceful meetings to support the referendum. Amnesty International issued a statement on November

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<sup>46</sup> Committee on Legal Affairs and Human Rights Should politicians be prosecuted for statements made in the exercise of their mandate? Report, Parliamentary Assembly of the Council of Europe <http://assembly.coe.int/LifeRay/JUR/Pdf/TextesProvisaires/2021/20210603-ProsecutionPoliticians-EN.pdf>

<sup>47</sup> Sánchez condiciona los indultos a que los condenados no reincidan: «No se les pide cambiar sus ideas, pero sí respetar la ley», Heraldo <https://www.heraldo.es/noticias/nacional/2021/06/22/gobierno-indultos-proces-sanchez-independentistas-catalanes-1501341.html>

<sup>48</sup> Committee on Legal Affairs and Human Rights Should politicians be prosecuted for statements made in the exercise of their mandate?: follow-up of Resolution 2381 (2021) Follow-up report on the implementation of Resolution 2381 (2021), Parliamentary Assembly of the Council of Europe <https://assembly.coe.int/LifeRay/JUR/Pdf/DocsAndDecs/2022/AS-JUR-2022-15-EN.pdf>

<sup>49</sup> No tothom podria ser amnistià: Omnium xifra els possibles beneficiats en un miler, 324 <https://www.ccma.cat/324/no-tothom-podria-ser-amnistià-omnium-xifra-els-possibles-beneficiats-en-un-miler/noticia/3247084/>

19th, 2019 requesting his immediate release.<sup>50</sup> In the case of the former speaker of the Catalan Parliament, Ms Carme Forcadell, her role as a former president of the ANC was used as a reason for accusing her of sedition. The threat of imprisonment has had a serious effect on subsequent directions of the ANC as well as on its members. Similarly, on the day of the 2017 referendum, the civil society organisation's campaign materials on independence – e.g. t-shirts with a SI (YES) on it – were confiscated, and campaign stands disassembled, all without a specific court order.

After the referendum the offices of ANC were searched twice by Spanish police officers. In March 2019, in what is believed to be a retributive move, the Catalan National Assembly (ANC) received fines of 40,000 and 200,000 euros because, according to the Spanish National Court, the organization did not protect the data of its own members.<sup>51</sup> In addition, the Spanish Data Protection Agency also imposed a fine of 200,000 euros on Òmnium Cultural, another major Catalan organization that defend the right to self-determination, for events which occurred prior to the 2017 referendum.

Moreover, on October 17th, 2022, the Mercantile Court 11 of Barcelona ordered the closure of the ANC's website created for the "Strategic Consumption" campaign aimed at favoring pro-Catalonia firms, a ruling aligning with the lawsuit made by the major pro-Spain business association in Catalonia, Foment del Treball.<sup>52</sup> ANC filed an appeal to the Provincial Court of Barcelona against this decision, which was dismissed on March 5th, 2024. On April 10th, the decision was appealed by the ANC to the Spanish Supreme Court.

On June 17th, 2022, the National Authority for Markets and Competition (Comisión Nacional de los Mercados y la Competencia - CNMC) closed the file in the disciplinary case that it had opened in 2019 against the ANC for the strategic consumer campaign, also in response to a complaint by Foment del Treball.<sup>53</sup>

These legal and administrative actions brought against the "Strategic Consumption" campaign undermine the right to freedom of assembly and the right of association, as well as the right to ideological freedom. Moreover, they infringe the pre-eminence of freedom of expression when confronted with freedom of business, in opposition to judgement n° 15271/16 of the ECHR of June 11, 2020, Baldassi v. France.<sup>54</sup>

### **Impunity for Perpetrators and a Growing Chilling Effect in Catalan Society**

To date, only 45 police officers are being investigated for the mass violence that occurred in October 2017, and 37 for the police violence that occurred in October and November 2019.<sup>55</sup>

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<sup>50</sup> Spain's conviction for sedition of Jordi Sánchez and Jordi Cuixart threatens rights to freedom of expression and peaceful assembly <https://www.amnesty.org/en/latest/press-release/2019/11/spain-conviction-for-sedition-of-jordi-sanchez-and-jordi-cuixart-threatens-rights-to-freedom-of-expression-and-peaceful-assembly/>

<sup>51</sup> L'Audiència Nacional confirma les multes de 240.000 euros a l'ANC per la 'gigaenquesta' del 9-N i l'atac d'Anonymous, La República <https://www.larepublica.cat/noticies/politica/nacional/audiencia-nacional-confirma-les-multes-de-240-000-euros-a-lanc-per-la-gigaenquesta-del-9-n-i-latac-d-anonymous/>

<sup>52</sup> Judge orders closure of ANC website for consumer campaign favouring pro-Catalonia firms, El Nacional [https://www.elnacional.cat/en/politics/judge-orders-closure-catalan-pro-independence-website-consumer-campaign\\_902304\\_102.html](https://www.elnacional.cat/en/politics/judge-orders-closure-catalan-pro-independence-website-consumer-campaign_902304_102.html)

<sup>53</sup> Competència arxiva l'expedient sancionador contra l'Assemblea per la campanya de Consum Estratègic, Assemblea Nacional Catalana <https://repressio.assemblea.cat/2022/06/17/competencia-arxiva-lexpedient-sancionador-contra-lassemblea-per-la-campanya-de-consum-estrategic/>

<sup>54</sup> ECtHR Rules Right to Boycott is Protected by Right to Freedom of Expression, European Legal Support Center <https://elsc.support/case/baldassi-vs-france-2020/>

<sup>55</sup> 45 policías en el banquillo por las cargas del 1-O: «La cogió del brazo y la lanzó al aire», El Confidencial [https://www.elconfidencial.com/espana/cataluna/2023-01-27/policias-banquillo-1o-torturas\\_3564220/](https://www.elconfidencial.com/espana/cataluna/2023-01-27/policias-banquillo-1o-torturas_3564220/)

None of them has been officially condemned yet. Not even one Spanish official or public authority has been investigated, and even less prosecuted and sentenced, for crimes related to the human rights abuses against Catalans.

The actions by Spanish authorities since 2017 have had a negative impact on an array of fundamental rights, including freedom of press, the rights to liberty and security of persons, and the right to a fair trial. The rights most widely harmed are of freedom of expression, of association, and of assembly.

In its resolution 2381 calling on Spanish authorities to release the nine Catalan political prisoners, the Parliamentary Assembly of the Council of Europe stated that freedom of expression and freedom of assembly and association “must be enforced without discrimination on any grounds”. The Parliamentary Assembly also notes that in the case of Catalonia, the expression of pro-independence views was being prosecuted. Two years earlier, a few weeks after the announcement of the October 2019 prison sentences to the Catalan political leaders, Amnesty International stated that the use of crime of sedition to imprison Catalan civil leaders could have a chilling effect that could prevent people from participating in peaceful protests without fear.<sup>56</sup>

All individuals targeted were not committing any form of serious crime when targeted. On the contrary, they were carrying out legitimate activities within the scope of their rights to freedom of expression, participation in public life, and freedoms of association and assembly. Despite being protected under international human rights law, the disproportionate reaction of the Spanish state, and the criminalization of self-determination, as the right to have a say and participate in decision-making that concerns a people through non-violent and lawful means, has in fact created a chilling effect in Catalan civil society and leadership, negatively affecting their willingness to exercise fundamental rights due to fear of repression.

## **Espionage and Infiltration Practices**

On April 18th, 2022, the Canadian University of Toronto research laboratory, Citizen Lab, responsible for many detections, analyses and reports of cases of the use of spyware Pegasus and Candiru occurring worldwide, publicly revealed that

during seven consecutive years (2015-2021), a significant number of attacks, infections and hacking were carried out against at least 65 Catalan elected representatives, civil society leaders, activists, lawyers, journalists, high-tech specialists, and their relatives.<sup>57</sup>

This information was confirmed by Amnesty International and also reported by The New Yorker story.<sup>58</sup>

Following the revelations, Amnesty International called on EU authorities to put an end on Spain's spyware abuse. In a case that became known as the ‘CatalanGate’, it can be interfered with high certainty that illegal espionage was carried out by Spanish authorities in order to ascertain the steps of the pro-independence movement during and after the 2017 Catalan independence referendum, with the intention of repressing them.

Six of the targets were members of the Catalan National Assembly, including two of its former presidents, Jordi Sanchez (2015-2017) and Elisenda Paluzie (2018-2022), whose spyware surveillance was granted by court order, as was that of the expert in digital voting and decentralization, Jordi Baylina, two members of

<sup>56</sup> Spain's conviction for sedition of Jordi Sánchez and Jordi Cuixart threatens rights to freedom of expression and peaceful assembly, Amnesty International <https://www.amnesty.org/en/latest/press-release/2019/11/spain-conviction-for-sedition-of-jordi-sanchez-and-jordi-cuixart-threatens-rights-to-freedom-of-expression-and-peaceful-assembly/>

<sup>57</sup> CatalanGate: Extensive Mercenary Spyware Operation against Catalans Using Pegasus and Candiru, CitizenLab <https://citizenlab.ca/research/catalangate-extensive-mercenary-spyware-operation-against-catalans-using-pegasus-candiru/>

<sup>58</sup> How Democracies Spy on Their Citizens, The New Yorker <https://www.newyorker.com/magazine/2022/04/25/how-democracies-spy-on-their-citizens>

its National Board (Arià Bayè and Sònia Urpí) and one member of a local branch (Jordi Domingo). The Spanish government allegedly purchased the Pegasus spyware in the first half of the 2010s for an estimated amount of €6 million.<sup>59</sup>

Pegasus is a highly intrusive surveillance spyware created and owned by the Israeli company NSO, which grants the user complete and unrestricted access to all sensors and information on the targeted mobile phone. It turns the smartphone into a 24-hour surveillance device, accessing the camera and microphone, geolocation data, e-mails, messages, photos, videos, passwords, and applications. While some spyware requires some action on the part of the victim, such as clicking on a link, or opening an attachment, Pegasus is installed through a so-called “zero-click attack”. Given its unprecedented level of intrusiveness into the private life of the targeted individual and all their contacts, the Council of Europe Commissioner for Human Rights<sup>60</sup> and the European Data Protection Supervisor<sup>61</sup> have expressed serious doubts as to whether its use could ever meet the proportionality requirement and therefore be human-rights compliant.

In May 2022, the Spanish authorities admitted to targeting 18 individuals with court authorisation<sup>62</sup> out of the 65 persons related to the Catalan pro-independence movement targeted with Pegasus and/or Candiru. The National Intelligence Center (CNI) questioned the rigor of Citizen Lab’s investigation and stated that the monitoring was individualized and always under judicial control. Shortly afterwards, and after the refusal of the Congress of Deputies to establish a specific investigation commission<sup>63</sup> to find out in detail the involvement of State institutions in the alleged espionage, the Official Secrets Committee of the Congress was called. However, this committee, characterized by secrecy and obscurantism, did not seem to be the appropriate place to investigate alleged human rights violations.

The European Parliament established an inquiry committee on April 19th, 2022, in order to investigate the use of Pegasus and other spyware in EU countries. In the draft report of investigation, the MEP and rapporteur Sophie in’t Veld denounced that the cases filed in Barcelona by Catalan victims of spyware were moving at a slow pace, in contrast with the fast-paced nature of the case of espionage against Spanish Prime Minister Pedro Sanchez and other members of his government.<sup>64</sup>

In the final report of May 2023, the PEGA committee stated that the Spanish government has so far provided limited information on their role in this targeting, invoking the need for confidentiality for national s

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<sup>59</sup> Catalonia calls for EU ‘protection’ from Pegasus cyber snooping, Politico <https://www.politico.eu/article/catalan-president-stronger-eu-rules-against-digital-espionage/> And El CNI compró el sistema Pegasus para espiar en el extranjero, El País <https://elpais.com/espana/2022-04-20/el-cni-pidio-comprar-el-sistema-pegasus-para-espiar-en-el-extranjero.html>

<sup>60</sup> Highly intrusive spyware threatens the essence of human rights, Council of Europe Human Rights Commissioner <https://www.coe.int/en/web/commissioner/-/highly-intrusive-spyware-threatens-the-essence-of-human-rights#:~:text=The%20targeting%20of%20journalists%20with%20spyware%20endangers%20the%20confidentiality%20of%20a%20pluralist%20media%20environment.>

<sup>61</sup> Preliminary Remarks on Modern Spyware, European Data Protection Supervisor [https://www.edps.europa.eu/data-protection/our-work/publications/papers/edps-preliminary-remarks-modern-spyware\\_en](https://www.edps.europa.eu/data-protection/our-work/publications/papers/edps-preliminary-remarks-modern-spyware_en)

<sup>62</sup> Spain’s CNI admits spying on Aragonès and on Puigdemont’s circle, with court approval, El Nacional [https://www.elnacional.cat/en/politics/spain-cni-admits-spying-catalan-independence-judge\\_752448\\_102.html](https://www.elnacional.cat/en/politics/spain-cni-admits-spying-catalan-independence-judge_752448_102.html)

<sup>63</sup> PSOE, PP, Vox y Cs tumban la comisión de investigación, pero Sánchez tendrá que comparecer en el Congreso, Huffington Post [https://www.huffingtonpost.es/entry/tumban-comision-investigacion-pegasus-pero-sanchez-comparecera-congreso\\_es\\_62710b97e4b029505df65703.html](https://www.huffingtonpost.es/entry/tumban-comision-investigacion-pegasus-pero-sanchez-comparecera-congreso_es_62710b97e4b029505df65703.html)

<sup>64</sup> DRAFT REPORT of the Investigation of alleged contraventions and maladministration in the application of Union law in relation to the use of Pegasus and equivalent surveillance spyware (2022/2077(INI)), European Parliament Committee of Inquiry to investigate the use of Pegasus and equivalent surveillance spyware, Rapporteur: Sophie in’t Veld [https://www.europarl.europa.eu/doceo/document/PEGA-PR-738492\\_EN.pdf](https://www.europarl.europa.eu/doceo/document/PEGA-PR-738492_EN.pdf)

security and legal reasons. This is especially alarming in the case of the 47 out of 65 victims of the attacks with the Pegasus spyware for whom it remains unclear whether or not they were targeted by the CNI with a Court order or whether or not another authority had received Court orders to legally target them. In the 18 cases for whom, according to Spanish government, a court order was issued, including the case of former president of the civil society organization Catalan National Assembly, Elisenda Paluzie, the European Parliament called the Spanish government to provide adequate access to the judicial authorisation issued by the Supreme Court to the Spanish National Intelligence Agency.<sup>65</sup>

As denounced in the report, their adequacy, exceptional nature, proportionality and necessity can only be verified by a court. Despite this, the Spanish Ministry of the Interior has so far denied access to information both to victims and their lawyers, as well as to judges investigating these cases, despite of the fact that it has been requested in several occasions, and that they represent a key element of the legal defences and the proceedings, in order to assess whether human rights such as the right to privacy, and freedom of assembly and of association were violated.

In a similar vein, the May 2023 report of the PEGA committee of the European Parliament denounced that judicial proceedings by the individuals targeted are progressing slowly, which does not provide transparency and access to meaningful legal remedy. This was noted as well by Amnesty International's yearly report 'The state of the world's human rights (2024)', issued in April 2024. In the section devoted to the right to privacy in Spain, the international human rights NGO denounced that, concerning the Pegasus scandal against the Catalan pro-independence movement, there was no progress in the investigation of at least 13 lawsuits into the use of spyware filed in several Spanish courts.<sup>66</sup>

In April and May 2022 several organisations had filed complaints to several UN human rights special rapporteurs, among them Catalan National Assembly, jointly with the Unrepresented People's Organization (UNPO).<sup>67</sup> In June 2022, the United Nations special rapporteur on Freedom of Association and Peaceful Assembly, Clément Voule, urged states to stop using Pegasus, calling for a "moratorium on the sale of this type of spyware."<sup>68</sup> A few months later, in October 2022, three UN special rapporteurs addressed a communication to the Spanish government<sup>69</sup>, expressing "very serious concerns" about what is reported to be "an extensive and well-coordinated spy program on activists and prominent public figures of the Catalan minority that appears to be an interference in their right to freely hold and express their views, exchange and disseminate information and ideas, to peacefully assemble and participate in associations, to have a private life and privacy in correspondence, and to be equal before the law and entitled to equal protection of the law without any discrimination".

In their address, the UN special rapporteurs also expressed concern on the risk that widespread use of this type of spyware software could lead to an "increase in self-censorship, which has a chilling effect on the

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<sup>65</sup> REPORT of the investigation of alleged contraventions and maladministration in the application of Union law in relation to the use of Pegasus and equivalent surveillance spyware, European Parliament Committee of Inquiry to investigate the use of Pegasus and equivalent surveillance spyware [https://www.europarl.europa.eu/doceo/document/A-9-2023-0189\\_EN.html](https://www.europarl.europa.eu/doceo/document/A-9-2023-0189_EN.html)

<sup>66</sup> The state of the world's human rights (2024), Amnesty International <https://www.amnesty.org/en/documents/pol10/7200/2024/en/>

<sup>67</sup> The Spanish Government's Use of NSO Group's Pegasus Spyware to Surveil Catalonia's Self-Determination Movement, UNPO and ANC submission to UN special rapporteurs <https://int.assemblea.cat/wp-content/uploads/2023/01/ANC-UNPO-Catalan-gate-complaint.pdf>

<sup>68</sup> UN Special Rapporteur highlights 'relevance' of Catalangate and calls for Pegasus spyware ban, Catalan News <https://www.catalannews.com/politics/item/un-special-rapporteur-highlights-relevance-of-catalangate-and-calls-for-pegasus-spyware-ban?fbclid=IwAR15iqdmT8QtKZc20w1681iJa9hirTT3F-yCz3GC2jNAldUhkbaTLjZzpqQ>

<sup>69</sup> Ref.: AL ESP 8/2022, Mandatos del Relator Especial sobre cuestiones de las minorías; de la Relatora Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión; y del Relator Especial sobre los derechos a la libertad de reunión pacífica y de asociación <https://int.assemblea.cat/wp-content/uploads/2023/01/UN-Catalangate-resolution.pdf>

enjoyment of the right to freedom of opinion and expression in Catalonia generally". They also requested Spain to provide all available information on possible official investigations by the Spanish authorities into the allegations of espionage activities on the aforementioned victims, and on their plans to remedy any inconsistencies with international human rights standards.

A year after, in April 2023, Amnesty International denounced that the CatalanGate revelations had had "very few consequences" and, above all, "had left an atmosphere covered in clouds and the victims waiting for justice."<sup>70</sup> In October

2023 the Parliamentary Assembly of the Council of Europe passed the resolution 2513 on the use of Pegasus by five European countries, one of them being Spain.<sup>71</sup> In it, the Parliamentary Assembly called on Spanish authorities to inform the Assembly and the Venice Commission about the use of Pegasus, Candiru and similar spyware, within three months; conduct effective, independent and prompt investigations on all confirmed and alleged cases of abuse of spyware and provide sufficient redress to targeted victims in cases of unlawful surveillance; refrain from using blanket secrecy rules to deny oversight mechanisms' and targeted persons' access to information on the use of spyware; and apply adequate sanctions, either criminal or administrative, in cases of abuse.

More recently, on April 22nd, 2024, the U.S. State Department released its 2023 Country Reports on Human Rights Practices. In the report devoted to Spain, in the section Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence, the use of Pegasus illegal spyware by Spanish authorities is raised, as well as the fact that in January 2023 three UN human rights Special rapporteurs demanded the Spanish government thoroughly investigate the alleged spying operation against Catalan leaders and activists. The report also mentions the fact that the Spanish constitution prohibits such actions, and the reports showing that in some cases the Spanish government may have failed to respect these prohibitions.<sup>72</sup>

The 65 cases of confirmed victims of the Catalan Gate scandal are, at the time of publication, being investigated. Many questions remain unanswered. Meanwhile, new revelations have shown that the real extent of the espionage scandal was even greater than anticipated, targeting many more activists, journalists and representatives.

It was revealed that in 2020, the Spanish Central Court of Instruction authorized the infiltration of the mobile phones of former MPs and activists David Fernández, Quim Arrufat, and former MP and journalist Albano Dante Fachin, among others. The spyware used has not been disclosed, however it is understood that it allows access to the following information: contact book, record of video calls or IP calls, email account associated with the terminal, communications through the aforementioned accounts, web browsing history, communications on social networks, messaging and chats applications, file tree [...], and the possibility of activating the microphone installed on the device in order to capture and record oral communications.

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<sup>70</sup> Un año después, ni rastro de Pegasus..., Amnesty International

<https://www.es.amnesty.org/en-que-estamos/blog/historia/articulo/un-ano-despues-ni-rastro-de-pegasus/>

<sup>71</sup> Pegasus and similar spyware and secret State surveillance Resolution 2513 (2023), Parliamentary Assembly of the Council of Europe <https://pace.coe.int/en/files/33116/html>

<sup>72</sup> 2023 Country Reports on Human Rights Practices: Spain, U.S Department of State <https://www.state.gov/reports/2023-country-reports-on-human-rights-practices/spain/>

The illegal use of Pegasus spyware adds to the five cases of Spanish police officers' infiltration in pro-independence and other social movements between 2020 and 2022, that have been revealed thanks to investigations by the independent media

La Directa. The investigations exposed four cases of police infiltration by agents of the Spanish National Police in organizations linked to pro-independence and social movement, one in Girona<sup>73</sup>, two in Barcelona<sup>74</sup>, and a fourth one in Valencia<sup>75</sup>.

The cases were acknowledged and justified by Spanish Interior Minister in March 2023.<sup>76</sup> Besides the breaching of the right to freedom of assembly and association that it entails, these practices constitute a serious abuse of the right to privacy, as in all cases the police officers engaged in sexual relations with activists to gain their confidence and obtain more information. In some of the cases they even engaged in long-term relationships with activists, getting to know their relatives and coexist with them, thus provoking a deep psychological trauma once the truth was revealed. A forensic analysis based on the Istanbul protocol on victims of police infiltrations in Catalonia published in January has revealed that 90% of those affected suffer from insomnia and 70% from nightmares and suicidal thoughts.<sup>77</sup>

Concerningly, Amnesty International's annual report for 2024, "The State of the World's Human Rights", released in April, highlighted the absence of investigations into instances where police officers had infiltrated social movements, such as the Catalan pro-independence movement, under the guise of sexual and intimate relationships.<sup>78</sup>

## Unfounded Terrorism Charges to Silence Independence Narratives

In 2015 provisions of Article 578 (which criminalises "glorifying terrorism" and "humiliating victims of terrorism") were broadened. This included increasing the penalties to three years of imprisonment and introducing aggravating subtypes. As a result, the Supreme Court has produced quite confusing and unclear jurisprudence regarding these offences. Five UN human rights Special Rapporteurs raised concerns about these amendments to the Criminal Code as they "could criminalise behaviours that would not otherwise constitute terrorism and could result in disproportionate restrictions on the exercise of freedom of expression, amongst other limitations".<sup>79</sup> In her December 2018 comments the Council of Europe Human

<sup>73</sup>

Destapen que una policia va estar infiltrada tres anys en moviments socials de Girona, 324 <https://www.ccma.cat/324/destapen-que-una-policia-va-estar-infiltrada-tres-anys-en-moviments-socials-de-girona/noticia/3240828/>

<sup>74</sup>Un segon policia nacional s'hauria infiltrat durant 2 anys als moviments socials de Barcelona, 324 <https://www.ccma.cat/324/un-segon-policia-nacional-shauria-infiltrat-durant-anys-als-moviments-socials-de-barcelona/noticia/3209577/> And Policies

infiltrats en entitats? Quan es pot fer i amb quins límits segons la llei, 324 <https://www.ccma.cat/324/policies-infiltrats-en-entitats-que-quant-es-pot-fer-i-amb-quins-limites-segons-la-lei/noticia/3169018/>

<sup>75</sup>Destapen un tercer policia nacional infiltrat en moviments socials, ara a València, 324 <https://www.ccma.cat/324/destapen-un-tercer-policia-nacional-infiltrat-en-moviments-socials-ara-a-valencia/noticia/3212147/>

<sup>76</sup>Marlaska justifica les infiltracions policials en moviments socials a Catalunya, Nació Digital <https://naciodigital.cat/politica/marlaska-justifica-les-infiltracions-policials-en-moviments-socials-a-catalunya.html>

<sup>77</sup>El 90% de les víctimes d'infiltracions policials a Catalunya presenten insomni i el 70% malsons o pensaments suïcides! La Mañana <https://www.lamanyana.cat/el-90-de-les-victimes-dinfiltracions-policials-a-catalunya-presenten-insomni-i-el-70-malsons-o-pensaments-suicides/>

<sup>78</sup>The state of the world's human rights (2024), Amnesty International <https://www.amnesty.org/en/documents/pol10/7200/2024/en/>

<sup>79</sup>"Two legal reform projects undermine the rights of assembly and expression in Spain" - UN experts, UN OHCHR <https://www.ohchr.org/en/press-releases/2015/02/two-legal-reform-projects-undermine-rights-assembly-and-expression-spain-un?LangID=S&NewsID=15597>

Rights Commissioner labelled Spain as a “case in point” for a country misusing its anti-terrorism framework.<sup>80</sup> She made specific reference to Article 578 of the Spanish Criminal Code, which during the last few years has been used by Spanish authorities in a manner that represses freedom of opinion and expression.

According to Amnesty International, 84 persons were convicted under Article 578 between 2015 and 2017, while previously from 2011 and 2013 only 23 persons had been convicted based on this provision.<sup>81</sup> One of the most absurd cases is the one of Casandra Vera, a young Spanish student and social media user that in March 2017 was convicted by the High National by Court to one year imprisonment for glorification of terrorism. This came about due to her social media posts, including several posts joking about the fascist Prime Minister under dictator Francisco Franco, Luis Carrero Blanco, who in 1973 was 134 assassinated by the Basque armed group ETA.<sup>82</sup> A year later, in March 2018 the conviction was overturned by Spanish Supreme Court.<sup>83</sup> In 2018, Amnesty International also denounced how ordinary social media users as well as musicians, journalists and even puppeteers have been prosecuted on grounds of national security, creating “a profoundly chilling effect, an environment in which people are increasingly afraid to express alternative views, or make controversial jokes”.<sup>84</sup>

However, Article 578 is not the only tool used by the Spanish authorities to use antiterrorist legislation to repress opinions and political dissent. The concept of “collaboration” with terrorist activity according to Article 577 of the Spanish Criminal Code (which criminalizes “committing, soliciting or facilitating any act of collaboration with the activities or aims of an armed group or terrorist group or organization) is excessively wide-ranging and has been interpreted in manners resulting in the prosecution of individuals for the legitimate, non-violent exercise of rights enshrined in international law. This is the case for activists and professionals in the Basque Country, where for decades conducts such as trade unionism, the practice of the profession of lawyer, or independent journalism, that cannot reasonably constitute “terrorism” have been criminalized as such, therefore criminalizing individuals who, by non-violent means, advocate for self-determination of the Basque Country in a democratic manner. For decades hundreds of Basque pro-independence activists and political leaders belonging to several unions, political and youth organizations have been prosecuted, accused of collaboration with terrorist activity. These actions included the ban of political parties such as Herri Batasuna (HB), Euskal Herritarrok, Batasuna o Acción Nacionalista Vasca (ANV), thereby by violating the right to active and passive political participation of hundreds of thousands Basque<sup>85</sup>, 136 closure of media in Basque language such as Egunkaria<sup>86</sup>, severely harming freedom of free press.

This punishment of peaceful expression of views has persisted despite the Basque Organization ETA’s declaration of a permanent ceasefire in 2017, followed by its total disarmament in 2017. One of the most

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<sup>80</sup> Misuse of anti-terror legislation threatens freedom of expression, Council of Europe Commissioner for Human Rights <https://www.coe.int/en/web/commissioner/-/misuse-of-anti-terror-legislation-threatens-freedom-of-expression>

<sup>81</sup> Sal a la calle...si te atreves - Tres años de la aplicación de la Ley Orgánica de Seguridad Ciudadana, Amnesty International <https://doc.es.amnesty.org/ms-opac/recordmedia/1@000030148/object/38826/raw>

<sup>82</sup> These are the tweets about Carrero Blanco for which the National High Court sentenced Cassandra Vera to prison, Diaro Publico [https://www.eldiario.es/politica/carrero-blanco-condenado-carcel-cassandra\\_1\\_2248138.html](https://www.eldiario.es/politica/carrero-blanco-condenado-carcel-cassandra_1_2248138.html)

<sup>83</sup> Spanish student has conviction for Twitter joke overturned, The Guardian <https://www.theguardian.com/world/2018/mar/01/spanish-student-cassandra-vera-conviction-twitter-joke-overturned>

<sup>84</sup> Spain: Counter-terror law used to crush satire and creative expression online, Amnesty International <https://www.amnesty.org/en/latest/news/2018/03/spain-counter-terror-law-used-to-crush-satire-and-creative-expression-online/>

<sup>85</sup> Las prohibiciones que dibujaron la Cámara actual, Noticias de Gipuzkoa <https://www.noticiasdegipuzkoa.eus/politica/2012/06/19/prohibiciones-dibujaron-camara-actual-4387479.html>

<sup>86</sup> 20 años del cierre de Euskaldunon Egunkaria: cuando la libertad de prensa vasca fue amordazada, EITB <https://www.eitb.eus/es/radio/radio-euskadi/programas/boulevard/detalle/9114121/por-que-cerraron-periodico-egunkaria/>

significant cases is known as Beteragune, in which the historical leader of Basque pro-independence movement Arnaldo Otegi and four other political leaders of the Basque leftist pro-independence movement were sentenced by the Spanish Supreme Court to 6- 6.5 years, accused of membership to terrorist organizations.<sup>138</sup> They went on to serve their sentence in full, however in 2018, the European Court of Human Rights ruled that the trial was not impartial and that Article 6.1 of the European Convention on Human Rights, which establishes the right to a fair trial, had been violated.<sup>139</sup> On July 27, 2020, the Supreme Court of Spain annulled the ruling in the Beteragune case, after assuming the ruling of the European Court of Human Rights. <sup>141</sup>

Terrorism charges have also been misused to repress the peaceful and democratic movement for independence in Galicia. During the past two decades, dozens of activists have been prosecuted<sup>140</sup>, and in some cases even imprisoned, such as the case of Roberto Rodrigues Fialhega, a Galician pro-independence activist who spent 12 years in prison, accused of belonging to the so-called armed organization “Resistencia Galega”, of which there was no factual evidence. As the researcher at the University of Santiago de Compostela, Helena Domínguez, demonstrated in her doctoral thesis, the treatment of “Resistencia Galega” in the press, and the attribution of this name to an alleged terrorist structure, was a media and judicial construction aimed at repressing peaceful activism.

### **Unfounded Terrorism Charges in Catalonia**

Following a consistent pattern in Spain’s approach to civic movements advocating for territorial self-determination, the Catalan pro-independence movement has been repeatedly labelled as violent by Spanish authorities over the past decade, and several activists and political leaders have been and are being persecuted for alleged crimes of terrorism. Spanish authorities have criminalized the Catalan democratic pro-independence movement by characterizing it as terrorist in its judicial doctrine. In the Annual report of the Spanish Attorney General 2022<sup>87</sup> and 2023<sup>88</sup> the so-called “violent Catalan pro-independence movement” was included in the section referred to terrorist threats. In a similar vein, in 2023 the Spanish Ministry of Internal Affairs requested Europol to include the Catalan pro-independence movement in the yearly edition of the report “The European Union (EU) Terrorism Situation and Trend Report (TE-SAT)”. Specifically, it was included in the section “Ethno-nationalist and separatist terrorism” stating that “in Spain, the Catalan and Basque independence movements are currently the most active and violent within the Spanish separatist scene.<sup>89</sup> A few pages before, in the section “Left-wing and anarchist terrorism”, the document stated that “Overlap between left-wing extremists and separatists was noted in the EU”. One example is the often-unclear delineation between left-wing extremists and separatists in the Basque region and Catalonia in Spain, particularly in terms of motivations for attacks.”<sup>90</sup> Labelling activists as terrorists and falsely accusing them of using violence has served and still serves the purpose of criminalizing the right to protest and stifling political dissent, therefore undermining rule of law, and creating a chilling effect that threatens the right to freedom of assembly and of association, as well as of freedom of expression, of many Catalans. The next few subsections will introduce some of the most relevant examples.

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<sup>87</sup> 2022 Annual report of the Spanish Attorney General (page 429) [https://www.fiscal.es/memorias/memoria2022/FISCAL\\_IA\\_SITE/recursos/pdf/MEMFIS22.pdf](https://www.fiscal.es/memorias/memoria2022/FISCAL_IA_SITE/recursos/pdf/MEMFIS22.pdf)

<sup>88</sup> 2023 Annual report of the Spanish Attorney General (page 479) [https://www.fiscal.es/memorias/memoria2023/FISCAL\\_IA\\_SITE/recursos/pdf/MEMFIS23.pdf](https://www.fiscal.es/memorias/memoria2023/FISCAL_IA_SITE/recursos/pdf/MEMFIS23.pdf)

<sup>89</sup> The European Union (EU) Terrorism Situation and Trend Report (TE-SAT) 2023 (page 68) <https://www.europol.europa.eu/publication-events/main-reports/european-union-terrorism-situation-and-trend-report-2023-te-sat>

<sup>90</sup> The European Union (EU) Terrorism Situation and Trend Report (TE-SAT) 2023 (page 65) <https://www.europol.europa.eu/publication-events/main-reports/european-union-terrorism-situation-and-trend-report-2023-te-sat>

## Committees for the Defense of the Republic

Since their inception as non-violent grassroots organizations to support the organization of the October 2017 independence referendum, the Committees for the Defense of the Republic (originally the Committees for the Defense of the Referendum), commonly known as CDR, have been the main target of the use of antiterrorist legislation by Spanish authorities to suppress activism and political dissent in Catalonia.

On April 2nd, 2018, the Spanish National High Court's Prosecutor's Office announced that it was carrying out investigations in connection with the CDRs actions. A few days later, on April 10th 2018, the Spanish National High Court ordered the detention of two Catalan activists and members of the CDR, Tamara Carrasco and Adrià Carrasco, for the crimes of terrorism, rebellion and sedition in relation to non-violent events.<sup>91</sup> Agents of the Civil Guard arrested Tamara Carrasco, who was transferred to Madrid. There, she was placed at the disposal of the National High Court, a special court that acts as heir of the Francoist "Public Order Court" and which is used to oversee cases of terrorism, real or alleged. Forty-eight hours after her arrest, Judge Diego de Egea – a judge from the Military Juridical Corps dictated a ban on her leaving her municipality.

After more than two years of legal proceedings, in October 2020 the Criminal Court no. 25 of Barcelona acquitted Tamara Carrasco.<sup>92</sup> In its ruling, the court criticised the lack of solidity of the Civil Guard's investigations. In May 2022 the decision was confirmed by the Spanish Supreme Court.<sup>93</sup> Up until now, Tamara Carrasco has not received any compensation for the 411 days that she spent in municipal confinement in her town of Viladecans (Barcelona), by order of the judge.

Regarding Adrià Carrasco, on the same day the Spanish High Court initially ordered their detention, agents of the Spanish Civil Guard went to Adrià Carrasco's home in Esplugues de Llobregat at 7am, however he had escaped jumping from the window of his room. He then went into exile in Belgium. In January 2021 the Granollers Investigating Court number 3 finally dropped the case against him, after failing to find evidence of any sort of crime. He spent 2 years and 8 months in exile, parallel to the time that the investigation against him by the National High Court took.

The entire operation and prosecution against Adrià and Tamara Carrasco appear to be orchestrated by the Spanish judicial system in order to contribute to the demobilization of the Catalan civic pro-independence movement, which during those years was very active and with a consistent capacity of grassroots mobilization.

After their arrests, the targeted cases against Catalan activists still continued to persist, and on September 23rd, 2019,

'Operation Judas' began. That day at 5am, 500 Spanish Civil Guard officers, acting on orders from the National High

Court, arrested nine people linked to the CDRs in several Catalan towns. The Prosecutor's Office charged th

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<sup>91</sup> La Audiencia Nacional ordena la detención de dos cabecillas de los CDR por los cortes de la AP-7 y sabotajes, El País [https://elpais.com/politica/2018/04/10/actualidad/1523342864\\_563615.html](https://elpais.com/politica/2018/04/10/actualidad/1523342864_563615.html)

<sup>92</sup> Una juez absuelve a Tamara Carrasco, la 'cdr' que estuvo un año sin poder salir de su municipio, El País <https://elpais.com/espana/catalunya/2020-10-06/el-tsic-absuelve-tamara-carrasco-la-cdr-que-estuvo-un-ano-sin-poder-salir-de-su-municipio.html>

<sup>93</sup>El Tribunal Supremo confirma la absolución de la activista independentista Tamara Carrasco, ElDiario.es [https://www.eldiario.es/catalunya/tribunal-supremo-confirma-absolucion-activista-tamara-carrasco\\_1\\_8893859.html](https://www.eldiario.es/catalunya/tribunal-supremo-confirma-absolucion-activista-tamara-carrasco_1_8893859.html)

em with possession of explosives, conspiracy to commit vandalism and belonging to a terrorist organization.<sup>94</sup>

Despite a gag order and the lawyers' lack of information about the investigation, the press received leaked information on the Civil Guard's reports and the judge's arguments for ordering pre-trial detention. Using the leaked information, the Spanish press publicly accused the detainees of terrorist crimes, describing them as 'violent' and claiming that they were 'preparing bombs in anticipation of the verdict in the trial against the independence process'.<sup>95</sup> Two members of the CDRs were released the same day, while seven others were taken to pre-trial detention at Soto del Real prison in Madrid on the orders of the investigating judge, Manuel García Castellón. Four more activists would be detained the following days.

Lawyers' association Alerta Solidària denounced that the accused were subjected to coercion, threats, harassment and physical assaults during their arrest and custody, and that they were transferred to police stations while hooded, deprived of sleep, and forced to undergo long interrogations with no procedural safeguards.<sup>96</sup> They also denounced searches that took place without the presence of lawyers, as well as the irregular assigning of court-appointed lawyers, and difficulties for lawyers to communicate with detainees.

After spending several months in pre-trial detention, between December 2019 and January 2020 the activists were released on bail. During their imprisonment, the detainees had been classified under the strict FIES regime, which involves, among other elements, the surveillance of all their communications. Two of the activists, Xavier Duch and Jordi Ros, moreover, were held in solitary confinement for several weeks.

In September 2021, the investigating judge of Operation Judas, Manuel García-Castellón, prosecuted the 13 members of the CDR on charges of belonging to a terrorist organization, and nine of them on additional charges of possession, storage and manufacture of explosive and flammable devices and substances or their components of a terrorist nature. The National High Court claimed that the accused were members of the so-called "Tactical Response Teams", a "terrorist organization operating in parallel to the CDRs".<sup>97</sup> However, there is no factual evidence of the existence or manufacturing of explosives or flammable devices, neither of the existence of any "Tactical Response Teams", which proves that the prosecutions and allegations of terrorism are unjust and arbitrary. Moreover, despite the fact that key information prompting the operation was withheld from the defendants, the judge refused to accept the defence's request to declare the proceedings null and void.

On November 3rd, 2023, the National High Court upheld the conclusion of investigating proceedings and confirmed the commencement of pre-trial proceedings for the indicted (12 accused of belonging to a terrorist organization and eight

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<sup>94</sup> La Fiscalía de la Audiencia Nacional pide hasta 27 años de cárcel para los CDR acusados por terrorismo, Ara.cat [https://es.ara.cat/politica/fiscalia-audiencia-nacional-pide-27-anos-carcel-cdr-acusados-terrorismo\\_1\\_4867223.html](https://es.ara.cat/politica/fiscalia-audiencia-nacional-pide-27-anos-carcel-cdr-acusados-terrorismo_1_4867223.html)

<sup>95</sup> La Guardia Civil detiene a nueve independentistas acusados de planear ataques con explosivos, El Mundo <https://www.elmundo.es/cataluna/2019/09/23/5d885d1bfc6c839f5e8b45e7.html>

<sup>96</sup> Alerta Solidària quiere impugnar las declaraciones que implican a Torra en un complot terrorista, El Nacional [https://www.elnacional.cat/es/politica/alerta-solidaria-sumario-cdr\\_438885\\_102.html](https://www.elnacional.cat/es/politica/alerta-solidaria-sumario-cdr_438885_102.html)

<sup>97</sup> La Fiscalía pide hasta 27 años de prisión por terrorismo para los 12 CDR que serán beneficiados por la amnistía, Onda Cero [https://www.ondacero.es/noticias/espana/fiscalia-pide-prision-terrorismo-cdr-beneficiados-amnistia\\_202311246560940a1b48c3000123420e.html](https://www.ondacero.es/noticias/espana/fiscalia-pide-prision-terrorismo-cdr-beneficiados-amnistia_202311246560940a1b48c3000123420e.html)

additionally charged with the possession, storage, and manufacture of explosives of a terrorist nature).<sup>98</sup> Alerta Solidària lawyer's association has denounced that access to parts of the investigation by the defences was only partly granted. In addition, they assure that requests that they made after they were given access to parts of the investigation were rejected, since they were deemed as irrelevant and can be dealt with during the trial. The organization has also denounced irregularities that involve a violation of the right to defence.<sup>99</sup> At the time of writing the 12 activists accused are pending trial by the National High Court. The Prosecutor has sought sentences of 8 to 27 years of imprisonment.

## Tsunami Democràtic Case

A few weeks after the detention of the CDR activists on September 23rd, 2019, 9 to 13 years prison sentences against Catalan imprisoned leaders were announced by the Spanish Supreme Court. The decision sparked mass protests all over Catalonia, starting from the day they were made public, October 14th 2019. Thousands of demonstrators flocked to Barcelona's El Prat airport following the call by the online initiative Tsunami Democràtic and blocked access to Terminal 1<sup>100</sup>, causing the cancellation of more than a hundred flights. Tsunami Democràtic functioned as a platform for coordinating peaceful actions of civil disobedience, using an app and a Telegram channel as tools, with the organizers behind it unknown. Other non-violent actions were called by this platform the following weeks, such as the peaceful blockade of the main motorway that connects Spain and France at the town of La Jonquera, on November 11th.<sup>101</sup>

Despite its non-violent and democratic character, soon after the beginning of the protests, Central Investigating Court No. 6 of the Spanish Supreme Court began to investigate the events related to the Tsunami Democràtic, seen as yet another move to broaden repression and prosecute Catalan pro-independence activists and elected representatives. After four years of secret investigations, in November 2023 Judge Manuel García-Castellón, charged with the crime of terrorism twelve Catalan political leaders and activists for their alleged involvement with this civil disobedience initiative. Among them, former Catalan president and MEP Carles Puigdemont, MP Ruben Wagensberg, Secretary General in exile of the main pro-independence party (Esquerra) Marta Rovira, as well as independent investigative journalist Jesús Rodríguez, from the media La Directa, which had revealed the cases of the Spanish police infiltrations in the Catalan pro-independence movement.<sup>102</sup> Furthermore, on January 31st 2024, Catalan MP Ruben Wagensberg announced that he had gone into exile in Switzerland.

On April 11th, 2024, three of the persons charged with terrorism for they alleged involvement with the Tsunami announced that they had fled as well to exile in Switzerland: investigative journalist Jesús Rodríguez, Oleguer Serra (member of the general board of the Catalan cultural and pro human rights organization Òmnium Cultural), and the businessman and activist Josep Campmajó.

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<sup>98</sup>La Fiscalía pide hasta 27 años de prisión por terrorismo para los 12 CDR que serán beneficiados por la amnistía, Onda Cero <https://cadenaser.com/nacional/2023/11/03/la-audiencia-nacional-envia-a-juicio-por-terrorismo-a-los-12-cdr-en-plena-negociacion-de-la-amnistia-cadena-ser/>

<sup>99</sup> L'Audiència Nacional estudia les irregularitats de la instrucció del cas Judes, El Món <https://elmon.cat/politica/tribunals/audiencia-nacional-estudia-irregularitats-instruccio-cas-judes-787206/>

<sup>100</sup> New generation, new tactics: the changing face of Catalan protests, The Guardian <https://www.theguardian.com/world/2019/oct/18/new-generation-new-tactics-the-changing-face-of-catalan-protests>

<sup>101</sup> Catalan independence protesters block highway to France, El País [https://english.elpais.com/elpais/2019/11/11/inenglish/1573470440\\_462977.html](https://english.elpais.com/elpais/2019/11/11/inenglish/1573470440_462977.html)

<sup>102</sup> El periodista de la 'Directa' Jesús Rodríguez, imputat en la causa del Tsunami Democràtic, La Directa <https://directa.cat/el-periodista-de-la-directa-jesus-rodriguez-imputat-en-la-cause-del-tsunami-democratic/>

On February 24th 2024, the Spanish Supreme Court had taken over the Tsunami Democràtic case and announced its decision to prosecute Carles Puigdemont, among other leaders, for terrorism. The court accepted the request of Judge Manuel García-Castellón and opened a criminal case against the former president of the Catalan government and against Ruben Wagensberg. Notably, this decision contradicted the criteria of the Spanish Prosecutor's Office, which called into question the transfer of the case from the National High Court to the Supreme Court.<sup>103</sup>

A few weeks later, on March 18th 2024, Spain's Supreme Court rejected an appeal by the public prosecutor challenging the charges of terrorism against those under investigation in the Tsunami Democràtic case. With this decision, the court upheld the terrorism charges against individuals linked to the actions of the Catalan pro-independence non-violent activist group which organized large-scale protests in October 2019.<sup>104</sup>

The judge is pursuing terrorism charges against the alleged organizers, due to its stance that Tsunami Democràtic is a "structured and hierarchical organization" with the aim of "subverting Spain's constitutional order and destabilizing the state economically and politically through massive social protests."<sup>105</sup>

Later, on February 27th 2024, twenty human rights organizations from across Europe, including Amnesty International, European Democratic Lawyers, Ligue des droits de l'Homme (LDH), and the World Organization Against Torture (OMCT)<sup>106</sup>, made a public statement in which they expressed their concern on the repression of the right to freedom of assembly of the persons accused using terrorist charges for their alleged implication in the Tsunami Democràtic movement, and called on Spanish authorities to protect fundamental freedoms. The public statement denounced the decision of the Court "as they undermine Spain's commitments to international human rights standards and European Union Law" and highlighted the "chilling effect on civic engagement, silencing the vibrant diversity of voices that form the foundation of a rights-based society". They also called for the immediate dropping of the terrorism charges.

Furthermore, on April 30th 2024, the European mechanism Media Freedom Rapid Response (MFRR) issued a statement on the case of Catalan journalist Jesús Rodríguez. The human rights network expressed concern that the investigation "may be politically motivated and may also be an effort to restrict his journalism". This is because of his record of exposing police crimes that have caused embarrassment for the state, and in view of the political context in which the investigation was launched, as well as the extreme and disproportionate nature of the charges in question, criminalizing dissent under the guise of anti-terrorist legislation. MFRR also called on the Spanish authorities to "immediately pause the investigation and to conduct a thorough and credible review to

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<sup>103</sup> El Suprem investigará per terrorisme Carles Puigdemont pel cas Tsunami, Rac1 <https://www.rac1.cat/politica/20240229/119228/suprem-investigara-carles-puigdemont-terrorisme-cas-tsunami.htm>

<sup>104</sup> Spain's National Court upholds terrorism charges in Tsunami Democràtic probe, Catalan News <https://www.catalannews.com/politics/item/spains-national-court-upholds-terrorism-charges-in-tsunami-democratic-probe>

<sup>105</sup> Los fiscales del Supremo ven a Puigdemont "líder absoluto" del grupo "terrorista" Tsunami Democràtic, RTVE <https://www.rtve.es/noticias/20240221/fiscales-supremo-ven-puigdemont-lider-absoluto-grupo-terrorista-tsunami/15979444.shtm>

<sup>106</sup> Spain: Terrorism charges against protesters undermine "international human rights and democratic standards", letter signed by 20 organisations from across Europe <https://www.statewatch.org/news/2024/february/spain-terrorism-charges-against-protesters-undermine-international-human-rights-and-democratic-standards/>

ensure compliance with fundamental human rights, including freedom of expression, and proportionality”.<sup>107</sup>

## Persecution of Artists

Spain’s 2015 reform of the Criminal Code (see section 4.2) had a special impact on social media users (particularly on Twitter), artists, and musicians. One of the most alarming cases concerned the Catalan rap singer Josep Miquel Arenas, Valtònc, whose lyrics and activist activity have a clear anti-capitalist, anti-fascist, and Catalan pro-independence character.

Valtònc was first arrested in Spain in 2012. The then 18-year-old rap-musician from Mallorca was put on trial due to the lyrics of some of his songs. In 2017, the Spanish National High Court sentenced him to 3,5 years imprisonment for “glorification of terrorism”, as well as for making threats (article 169.2 of the Spanish Criminal Code) and for “slander and serious insults to the Crown” (article 490.3 of the Spanish Criminal Code).

The Spanish Supreme Court confirmed the conviction in 2018. The Court deemed that the rapper’s songs were not protected by the right to freedom of expression or artistic creation. The court also made him pay compensation of 3,000 euros. On 28 April, Josep Valtònc appealed the ruling to the Supreme Court. On 25 February 2018, the Supreme Court dismissed the appeal. Subsequently, Valtònc filed an appeal for protection to the Constitutional Court.

In May 2018 Amnesty International had warned that the “exponential increase” in prosecutions under the controversial Spanish anti-terrorism legislation was having “a chilling effect on satire and dissent and is pushing social media users, musicians and journalists towards self-censorship.”<sup>108</sup> In a similar vein, a Human Rights Watch representative alerted that the Spanish government needed “urgently to reform the overly broad definition of the glorification of terrorism”, and that “the raft of ill-conceived prosecutions of people on charges of glorifying terrorism or insulting the King, in some instances merely for having made jokes on social media, beggar belief”.<sup>109</sup> A few weeks earlier, a Freedom House researcher had alerted on the “danger” that represented the fact that “broadly written and aggressively enforced terrorism laws could turn Spain into a place where questioning the status quo was not tolerated, and discussing politics online could become a risky activity.”<sup>110</sup> In May 14th 2018 the Spanish Constitutional Court rejected the appeal for protection submitted by Valtònc, and the Spanish National High Court ordered him to enter prison within ten days, to serve the three and a half year sentence for the content of his songs. Ten days later, the rapper did not show up at any prison to start serving his sentence. Instead, he clandestinely fled to Belgium. Subsequently, the National High Court issued a European Arrest Warrant and requested extradition from Belgium.

On 17 September 2018, the trial chamber of the (Belgian) Ghent court of first instance rejected the Spanish extradition request. The court considered that the crimes for which Valtònc was convicted were not crimes in Belgium and therefore, the criterion of double incrimination was not met in order to extradite him. The Prosecutor’s Office of Ghent submitted an appeal against the decision of the judge of first instance. In

<sup>107</sup> Terrorism investigation into Catalan journalist raises concerns ahead of elections, Media Freedom Rapid Response <https://www.mfrr.eu/terrorism-investigation-into-catalan-journalist-raises-concerns-ahead-of-elections/>

<sup>108</sup> Spanish anti-terror law has ‘chilling effect’ on satire, says Amnesty International, The Guardian <https://www.theguardian.com/world/2018/mar/13/spanish-anti-terror-law-has-chilling-effect-on-satire-says-amnesty-international>

<sup>109</sup> Spanish anti-terror law has ‘chilling effect’ on satire, says Amnesty International, The Guardian <https://www.theguardian.com/world/2018/mar/13/spanish-anti-terror-law-has-chilling-effect-on-satire-says-amnesty-international>

<sup>110</sup> Terrorism Laws Are Threatening Freedom of Expression in Spain, Freedom House <https://freedomhouse.org/article/terrorism-laws-are-threatening-freedom-expression-spain>

March 2021, Amnesty International once again called on Spain “to bring its criminal laws in line with international human rights standards and drop provisions that disproportionately restrict freedom of expression by conferring special protection from criticism to the Spanish Crown”, as well as to withdraw the European Arrest Warrant against Valtònc, and to repeal the crimes of “glorifying of terrorism” and “insults to the Crown” from the Criminal Code. In addition, Amnesty also called on Spanish authorities to refrain from criminalizing forms of speech “other than those encouraging others to commit a recognizable criminal act with the intent to incite them to commit such an act and with a reasonable likelihood that they would carry it out, and where there is a clear link between the statement and the criminal act”.<sup>111</sup> As the result of a question posed by the Court of Appeal of Ghent, in October 2021 the Belgian Constitutional Court ruled that the crime of slandering the Crown in public violated the right to freedom of expression.<sup>112</sup> The Court considered that the crime and prison sentence it entails provides for a more extensive protection of the King than that of other citizens, a protection that does not respond to any pressing social need or demand, and is disproportionate with regards to the goal itself of protecting the King. On May 17th 2022, the Ghent Court of Appeal considered that as the crime of slandering the Crown had no equivalent in Belgium, the request to extradite Valtònc would ultimately be refused. The Prosecutor’s Office did not appeal the sentence and it became the final decision. On leaving the Court, Josep Valtònc said in a statement: ‘I want to start living.’<sup>113</sup>

Finally, in October 2023, after more than five years in Belgium Valtònc, decided to return from exile, after the crimes he was sentenced for became time-barred. The National High Court certified the prescription of the crimes of glorification of terrorism, slander against the Spanish Crown and intimidation on March 22, 2023. Nonetheless, they did not notify this to his defence team, thus for six months his lawyers were unable to get a confirmation from the Court as to whether the judgment had reached the statute of limitations. Valtònc arrived in Catalonia by car alongside Carles Puigdemont, Lluís Puig and others, until reaching the border with Northern Catalonia (France), from where he flew to his hometown in Mallorca.

Another grave case concerns Pablo Hasél, a Catalan rap singer as well as an anti-fascist and pro-independence activist. In August 2016 the Prosecutor’s Office of the National High Court submitted a complaint against the singer due to his social media posts and lyrical content. They denounced Hasél for alleged crimes of glorification of terrorism and slander against the Crown and State security forces and corps in about fifteen messages on Twitter.

In March 2018 the singer was condemned to 2 years of imprisonment and a 24,300 euro fine for the crime of glorification of terrorism and slander against the monarchy and State Security Forces and Corps in connection with 64 messages published on Twitter and a song on YouTube about GRAPO.<sup>114</sup> The decision was not taken unanimously, with some magistrates in favour of acquitting him in light of upholding his right to freedom of expression. In June 2020 the Spanish Supreme Court dismissed the appeal presented by Pablo Hasél and confirmed his conviction. A month later, the rapper presented an appeal for protection before the Constitutional Court against the sentence passed by the Supreme Court. However in November,

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<sup>111</sup> Belgium/Spain: Protect Valtònc’s freedom of expression, Amnesty International <https://www.amnesty.org/en/documents/eur14/3835/2021/en/>

<sup>112</sup> El TC belga tumba la ley de injurias a la corona a raíz del caso Valtònc, La Vanguardia <https://www.lavanguardia.com/politi-ca/20211028/7823671/tc-belga-tumba-ley-injurias-corona-raiz-caso-valtonyc.html>

<sup>113</sup> Belgian courts again reject Valtònc’s extradition: “I want to start living”, Ara.cat [https://en.ara.cat/culture/belgian-courts-again-reject-valtonyc-s-extradition-want-to-start-living\\_1\\_4373922.html](https://en.ara.cat/culture/belgian-courts-again-reject-valtonyc-s-extradition-want-to-start-living_1_4373922.html)

<sup>114</sup> La Audiencia Nacional condena al rapero Hasel a dos años cárcel y 24.300 euros de multa por enaltecimiento del terrorismo e injurias a la Corona e instituciones, Poder Judicial España <https://www.poderjudicial.es/cgpj/es/Poder-Judicial/Audiencia-Nacional/Noticias-Judiciales/La-Audiencia-Nacional-condena-al-rape-ro-Hasel-a-dos-anos-carcel-y-24-300-euros-de-multa-por-enaltecimiento-del-terrorismo-e-injurias-a-la-Corona-e-instituciones>

the Constitutional Court dismissed the appeal, arguing that there had been no violation of fundamental rights. On 16 February 2021, following an order of the Spanish National High Court, the Mossos d'Esquadra Police arrested Hasél in the Chancellor's office of the University of Lleida, and he was imprisoned. His imprisonment sparked a social reaction of solidarity, and thousands of demonstrators went to the streets across towns in Catalonia to protest for one consecutive week. Riot police officers fired rubber balls to dissuade the demonstrators, despite the fact that this method was banned by the Catalan Parliament. The week of protests culminated with 148 arrests throughout the country.<sup>115</sup> Eleven people were taken into custody as a result of the protests, 7 of whom were released over the following weeks and months. International NGO Freemuse condemned Hasél's imprisonment and urged Spanish authorities to "make sure that laws do not restrict freedom of expression.". Freemuse also denounced that "artists with minority backgrounds have been targeted disproportionately on the grounds of counter-terrorism measures."<sup>116</sup> In a similar vein, Amnesty International condemned Hasél's entry into prison as "an excessive and disproportionate restriction on his freedom of expression", as it is the case of "many other artists, journalists or activists have received large fines or long periods of exclusion from the sector."<sup>117</sup>

A few weeks later, in March 2021, the Council of Europe Human Rights Commissioner Dunja Mijatovic called on Spanish authorities to amend the Criminal Code to strengthen existing safeguards for the right to freedom of expression, in full line with Article 10 of the European Convention on Human Rights.<sup>118</sup> The Commissioner also expressed concern on the lack of clear definition "of some of the notions enshrined in the provision on glorification of terrorism" and "recalled the potential danger posed by the use, in anti-terrorist legislation, of catch-all labels and of broad and insufficiently defined offences which may lead to unnecessary or disproportionate restrictions to the right to freedom of expression." In 175 November 2022 the Commissioner undertook a country visit to Spain, and in her follow up report she once again noted the lack of clarity of the provision on glorification of terrorism (Article 578) and ensuing diverging interpretations of this provision by Spanish courts.<sup>119</sup> Pablo Hasél has received a total of three prison sentences, totaling six years of imprisonment. Three years after his imprisonment, and at the time of writing, Pablo Hasél is still in jail – the only artist in the EU that happens to be in this situation. As a pro-independentist activist, his case has led to increasing self-censorship and a broader chilling effect on freedom of expression of activists and singers that are part of the Catalan pro-independence movement.

This continuous legal harassment, or legal warfare, illustrated by the multitude of examples discussed above and the unfounded use of labels like terrorism feed societal Catalanophobic attitudes which form the fundament of hate speech, hate crime and other discriminatory practices.

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<sup>115</sup> Petició de 3 anys i mig de presó per al Carles de Sants, Alerta Solidària <https://alerta.cat/peticio-de-3-anys-i-mig-de-presó-per-al-carles-de-sants/>

<sup>116</sup> Freemuse condemns Spanish government for jailing of rapper Pablo Hasél, Catalan News <https://www.catalannews.com/society-science/item/fremuse-condemns-spanish-government-for-jailing-of-rapper-pablo-hasel>

<sup>117</sup> Amnistía Internacional: "Es injusto y desproporcionado que Pablo Hasél entre en la cárcel", Amnistía Internacional <https://www.es.amnesty.org/en-que-estamos/noticias/noticia/articulo/amnistia-internacional-es-injusto-y-desproporcionado-que-pablo-hasel-entre-en-la-carcel/>

<sup>118</sup> Spanish authorities should amend the Criminal Code to strengthen existing safeguards of the right to freedom of expression, Council of Europe Commissioner for Human Rights <https://www.coe.int/en/web/commissioner/-/spanish-authorities-should-amend-the-criminal-code-to-strengthen-existing-safeguards-of-the-right-to-freedom-of-expression>

<sup>119</sup> Report following visit to Spain from 21 to 25 November 2022, Council of Europe Commissioner for Human Rights <https://rm.coe.int/repor-t-on-spain-following-the-visit-from-21-to-25-november-2022-by-dun/1680aeb17>

### 3. State Response

Under article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination all States parties have the obligation 'to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law.'<sup>120</sup> The article makes special reference to a list of several rights among which the right to freedom of expression, peaceful assembly and association. However, the numerous examples of fundamental rights breaches that the Catalan people have been facing as explained above illustrate how discriminatory practices and hostility against the Catalans continue to be persistent. Moreover, the Spanish Supreme Court's encroachment on the immersion model and the continued political prosecutions and legal harassment against pro-Catalan opinions and activism illustrate not only a lack of state action to fulfill its obligations under the International Convention on the Elimination of All Forms of Racial Discrimination, but also emphasizes the active role of certain Spanish state institutions in inciting, sustaining and possibly aggravating discriminatory practices and hostile attitudes.

Despite significant national and international concern regarding the situation in Catalonia, the Spanish government chose to deliberately omit any reference to the situation of the Catalan people in its 2025 United Nations Universal Periodic Review (UPR). This omission reflects a broader pattern of denial and lack of engagement with the underlying human rights concerns, and raises serious questions about Spain's willingness to address systemic violations and ensure accountability and dialogue within its own borders.

Recent observations and recommendations of the United Nations Human Rights Committee to the Kingdom of Spain following its review of Spain's implementation of the International Covenant on Civil and Political Rights (ICCPR) also criticizes the state's lack of action and implementation of previous Human right Committee's observations. As well as the lack of state action in decriminalizing defamation and insult and to combat the increase of hate speech and hate crime and excessive police violence against the Catalans. Moreover, they expressed serious concern over the surveillance methods used to target Catalan activists and its chilling effect on the rights to freedom of expression and peaceful assembly. The Human Rights Committee stressed several times the importance of thorough and impartial investigations and the allocation of reparations to any victims of fundamental human rights violations.

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<sup>120</sup> UN General Assembly Resolution 2106 (xx). Article 5. International Convention on the Elimination of All Forms of Racial Discrimination.

<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-convention-elimination-all-forms-racial>

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