

**Assemblea Nacional Catalana
(ANC – Catalan National Assembly)**

&

Unrepresented Nations and Peoples Organization (UNPO)

Joint submission to the UN OHCHR

Universal Periodic Review, 35th session: Kingdom of Spain

The Assemblea Nacional Catalana (ANC – Catalan National Assembly) is a legally registered grassroots organisation founded on 10 March 2012 and promotes, in peaceful and democratic ways, the attainment of the independence of Catalonia and is a key actor of the civil society in the current political process. Among a wide variety of activities, ANC has organised since 2012 the yearly demonstrations of more than one million people in Barcelona for the Catalan National Day. We would like to bring to the attention of the OHCHR the current political and human rights situation in Spain.

The UNPO is an international membership-based organization established to empower the voices of unrepresented and marginalized peoples worldwide and to protect their fundamental human rights. The peoples represented within the UNPO membership are all united by one shared condition: they are denied equal representation in the institutions of national or international governance. As a consequence, their opportunity to participate on the national or international stage is limited, and they struggle to fully realize their rights to civil and political participation and to control their economic, social and cultural development. In many cases, they are subject to the worst forms of violence and repression.

Summary

1. This submission is designed to provide additional information on the implementation of civil and political rights in Spain, the International Covenant on Civil and Political Rights (ICCPR) in particular. The report focusses on the level of protection that the people of Catalonia receive in Spain and on the diminution of that protection since the 1 October 2017 referendum on independence for Catalonia.
2. Over the last four years, Spain has adopted new measures and continued existing practices that have led to a further deterioration of human rights, with increasing threats to the rule of law across Spain. This has been particularly felt in Catalonia over the past two years as the Spanish government has reacted to the Catalan self-determination movement and the holding of a referendum on independence for Catalonia, with increased repression and violations of fundamental civil and political rights, in particular freedoms of press, speech, opinion, association and assembly, and the rights to liberty and security of persons and a fair trial.

Background

3. Catalonia is an “autonomous” community in Spain, designated as a nationality by its Statute of Autonomy. It is comprised of approximately 7.5 million people, and the Catalan people have their own language, parliament, civil law and traditions. Catalonia’s Statute of Autonomy grants it levels of devolved authority related to certain public services and certain aspects of policing. The extent of Catalonia’s devolution and autonomy is debatable, with regular incursions into the independent acts of the Catalanian government by the judiciary and executive of the Kingdom of Spain. Catalonia has a vibrant, non-violent self-determination movement which is seeking independence for Catalonia.
4. A referendum on the independence of Catalonia was held on 1 October 2017. Before this occurred, the Spanish Constitutional Court ruled such a vote unconstitutional, and Spanish authorities sent thousands of troops of the National Police and Guardia Civil to Catalonia, the latter which is a police body under the authority of the Ministry of Defense.
5. The police actions included hunting for ballot boxes, mail, posters and flyers promoting the participation in the referendum.¹ Masses of paperwork and postal mail were reported and confiscated. Material having anything to do with the referendum was confiscated indiscriminately and judges and police intervened across the country – in Madrid, Vitoria, Valencia, Zaragoza and elsewhere – when debates on the right to self-determination were organized; acts that were

¹ Police in Catalonia hunt for hidden ballot boxes in bid to foil referendum <https://www.reuters.com/article/spain-politics-catalonia-boxes/police-in-catalonia-hunt-for-hidden-ballot-boxes-in-bid-to-foil-referendum-idUSL5N1LW2AZ>

denounced by Amnesty International.² During the referendum, police were recorded on camera beating protesters and voters.³

6. After the referendum and a subsequent declaration of independence, the Spanish government, adopting an over-broad interpretation of the Spanish Constitution, suspended Catalan Autonomy and called for elections.⁴ During these elections political candidates, parties and the Catalan public broadcaster were actively and passively censored by the Spanish Electoral Commission. Candidates were (and continue to be) unable to campaign in democratically normal circumstances in light of investigations and prosecutions grounded on their pro-independence political opinion, activities and declarations.
7. Nine people, seven high-level politicians and the leaders of two pro-independence civil society movements, Jordi Sànchez, the head of the ANC, and, Jordi Cuixart, the head of Òmnium Cultural, were arrested on suspicion of the crimes of sedition and rebellion, crimes commonly understood as being restricted violent insurrection. These accusations have been denounced by the UN Special Rapporteur on the right to freedom of opinion and expression.⁵
8. The defendants were unjustly held in pre-trial detention for over a year and a half, even in the face of ‘call[s] for their immediate release’ by organizations such as Amnesty International, which saw ‘no justification for keeping Jordi Sànchez and Jordi Cuixart in pre-trial detention’ and considered ‘their continued detention [to constitute] a disproportionate restriction on their rights to free speech and peaceful assembly.’⁶ Among other reasons, Spanish judges claimed that their – non-violent – political activities and ideas were the reason they could not be released, because they would continue to express them upon release, a clear indication that the judges consider pro-independence political opinions to be criminal in nature.⁷
9. The defendants are now currently on trial (with the trial phase recently concluded) before the Spanish Supreme Court, in circumstances which raise clear concerns regarding their right to a fair trial. These include public statements of guilt made by public officials, including the King of Spain, in violation of the right to the

² Amnesty International Spain considers the prohibition of the act in Madrid on the right to self-determination a disproportionate restriction of the freedom of speech. <https://www.es.amnesty.org/en-que-estamos/noticias/noticia/articulo/la-suspension-del-acto-por-el-derecho-a-decidir-en-madrid-constituye-una-restriccion-desproporcion/>

³ The Catalonia Trial: Justice or Vengeance?

<https://www.aljazeera.com/programmes/peopleandpower/2019/06/catalonia-trial-justice-vengeance-190619145151807.html>

⁴ UN independent expert urges Spanish Government to reverse decision on Catalan autonomy

<http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=22295&LangID=E>

⁵ UN expert urges Spain not to pursue criminal charges of rebellion against political figures in Catalonia

<http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=22928&LangID=E>

⁶ A year after their detention in Spain, the Jordis should be released

<https://www.amnesty.org/en/latest/news/2018/10/spain-a-year-after-their-detention-the-jordis-should-be-released/>

⁷ The Catalan Ombudsman reiterates that preventing the inauguration of Jordi Sànchez violates his political rights and the independence of the Parliament of Catalonia <http://www.sindic.cat/en/page.asp?id=53&ui=5214>

presumption of innocence,⁸ their co-prosecution by the right-wing political party, Vox,⁹ and various procedural violations committed pre-trial.¹⁰

10. Seven more politicians have been forced into exile to avoid being imprisoned and other MP's are being prosecuted. In the meantime, the courts in the countries in which the exiled politicians reside or have transited have refused to extradite the defendants back to Spain on the charges that the defendants in Spain face. A German court, for instance, refused to extradite Carles Puigdemont, the exiled Catalan President to Spain on the charges of rebellion, as it judged the accusations to be non-existent. And Spain has been criticized for seeking to politicize the judicial extradition system – the European Arrest Warrant – established within the European Union. Belgian Justice turned the European Arrest Warrants down as they did not comply with formal requirements as judge Pablo Llarena, in an unprecedented move, withdrew the EAW for the second time. This is an abuse of the EAW, as he also made clear in his rulings and declarations. Moreover, Spanish judges have the legal obligation to emit an international arrest warrant, an obligation which has not been fulfilled since a year now.¹¹
11. In contrast to the criminal justice response to the non-violent self-determination movement, no investigation or prosecutions have been brought against police who perpetrated violence against demonstrators and voters.
12. Moreover, since the referendum, the Spanish authorities have consistently frustrated attempts at organization and assembly by pro-independence groups, as well as attempts by pro-independence officials, elected to the Spanish Congress, the Spanish Senate and the European Parliament, from taking their seats, applying arbitrary measures to exclude Catalan pro-independence representation.¹²
13. These facts, and others presented in more detail below, show widespread violations of civil and political rights in Spain.

⁸ Spain's King Felipe speaks out during Catalan separatists' trial. <https://www.thelocal.es/20190221/spains-king-felipe-speaks-out-during-catalan-separatists-trial>

⁹ Popular Indictments in Spain: between democratisation of justice and manipulation. <https://www.fairtrials.org/news/popular-indictments-spain-between-democratisation-justice-and-manipulation>

¹⁰ Catalan independence trials I widening Spain's divides. <https://euobserver.com/opinion/144420>

¹¹ Free Movement threatened if European Arrest Warrant Abused. <https://euobserver.com/opinion/141498>; Las polémicas palabras de Llarena: charlas pagadas por un concesionario de coches de lujo https://www.eldiario.es/politica/polemicas-palabras-Llarena-concesionario-privado_0_808069651.html

¹² In the most famous example, Carles Puigdemont, elected as a Member of the European Parliament, was imposed an arbitrary measure requiring him to come to Madrid to swear allegiance to the Constitution, an action that would subject him to arrest. Other Spanish MEPs were already accredited by the European Parliament, thanks to the official list sent to the EP by Spain (which does not correspond with the list published in the Spanish State Gazette, that does include the names of Puigdemont, Toni Comín and Oriol Junqueras), without having fulfilled this aforementioned administrative procedure or having fulfilled it by power of attorney, while Puigdemont's attorney was turned down. In the case of Oriol Junqueras, he was allowed to fulfil this same procedure when he was elected for Spanish Congress, but not when he was elected for the European Parliament.

Right to Liberty and Security of Person, including the Prohibition on Arbitrary Detention (Article 9)

14. Article 9 of the ICCPR has been repeatedly violated.
15. On Oct 1 2017, live images were shown of police forces brutally charging on pacific and peaceful crowds standing in lines to vote. The Spanish government has since then systematically downplayed or denied any police violence, although independent international organisations such as the Council of Europe, Amnesty International and Human Rights Watch affirmed the police “used excessive force in Catalonia.”¹³ Repeated calls have been made asking the Spanish government to set up a full, immediate and independent investigation into the events occurred on Oct 1 2017.¹⁴ However, in violation of the right an effective remedy (ICCPR Article 2(3)), successive Spanish governments have not only categorically refused to do so, they even made the Constitutional Court suspend a Catalan parliament commission probing into the police violence in an attempt to smother all possible investigation.¹⁵
16. Moreover, the UN’s Working Group on Arbitrary Detentions has found that the civil society and political leaders have been arbitrarily detained because of their political beliefs and activities.¹⁶

Right to a Fair Trial and Equality Before the Law (ICCPR Articles 14).

17. The Working Group on Arbitrary Detention has also found that the pro-independence leaders are not receiving a fair trial for reasons similar to those outlined above. Beyond this specific case, the separation of powers and judicial independence is generally problematic in Spain.
18. Three years ago, the Spanish government introduced an urgent reform of the Constitutional Court which has adversely affected its functioning and further undermined its legitimacy and independence, at a moment when its independence was already under scrutiny due to the political appointments to the court. One of the problematic measures is that the Constitutional Court can dismiss an elected regional president, minister or civil servant *ex officio* and without being heard when it considers that he or she is not complying with its rulings. This has been denounced by the Venice Commission and indeed, three members of the Constitutional Court itself have formulated a dissenting vote in which they admitted that the sole purpose of the reform was to sanction autonomous

¹³ Spain: Police Used Excessive Force in Catalonia <https://www.hrw.org/news/2017/10/12/spain-police-used-excessive-force-catalonia>

¹⁴ Commissioner calls on Spain to investigate allegations of disproportionate use of police force in Catalonia <https://www.coe.int/en/web/commissioner/-/commissioner-calls-on-spain-to-investigate-allegations-of-disproportionate-use-of-police-force-in-catalonia>

¹⁵ Spain's Constitutional Court suspends commission investigating referendum violence https://www.elnacional.cat/en/news/constitutional-court-commission-referendum-violence_229950_102.html

¹⁶ Catalonia: Demands gather for Release of Political Prisoners after UN Report. <https://unpo.org/article/21525>

community leaders. In the parliamentary debate on this reform, the spokesman of the *Partido Popular*'s parliamentary group admitted the reform was solely designed as a political move against the elected Catalan pro-independence politicians.¹⁷ A similar statement was made by the chairman of the Partido Popular in Catalonia.¹⁸

19. Furthermore, in its Compliance Report Spain (10/10/2016), the Group of States Against Corruption (GRECO) concludes that none of its eleven recommendations contained in the 4th Round Evaluation Report related to judicial independence has been implemented satisfactorily or dealt with in a satisfactory manner by Spain.¹⁹ Again, on 3 January 2018, the Council of Europe published its report on 'Corruption prevention in respect of members of parliament, judges and prosecutors'.²⁰ According to the Council of Europe's anti-corruption experts, Spain's compliance with international standards 'remains globally unsatisfactory'. Authorities made 'limited progress in measures to tackle corruption in respect of members of parliament, judges and prosecutors'. An alarming situation that is now reflected in "political interference" in Spain and political pressure on judges that had "become common" (see the Altsasu case)²¹.
20. The high degree of political meddling was also made clear by Ignacio Cosidó, then group leader in the Senate for the Partido Popular, whose Whatsapp messages were leaked in the press. In these messages, he boasted about the judicial positions the PP secured in its negotiations with the PSOE for the nominations to Spain's Supreme Court and General Council of the Judiciary.
21. The lack of independence in the Spanish judiciary has also been denounced from within, by former Supreme Court magistrate José Antonio Martín Pallín, constitutional law scholars such as Joaquín Urias and by a judge responsible for investigating corruption, Mercedes Alaya.²²
22. Meanwhile, the Spanish government has continued to enact legislation in complete disregard of both the GRECO and the Venice Commission's

¹⁷ The PP recognises that its urgent reform of the Constitutional Court goes against the Catalan independence movement. (in Spanish) <http://www.publico.es/politica/pp-reconoce-urgente-reforma-del.html>

¹⁸ The PP promotes a reform so the Constitutional Court can sanction [Artur] Mas. (in Spanish) <http://www.elperiodico.com/es/noticias/politica/partido-popular-anuncia-reforma-constitucional-sancion-vulneracion-ley-4471581>

¹⁹ GRECO, CoE. Fourth evaluation round, Corruption prevention in respect of members of parliament, judges and prosecutors, Compliance report Spain.

<http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806ca04a>

²⁰ GRECO, CoE. Fourth evaluation round, Corruption prevention in respect of members of parliament, judges and prosecutors, Interim compliance report Spain. <https://rm.coe.int/fourth-evaluation-round-corruption-prevention-in-respect-of-members-of/1680779c4d>

²¹ Spain's Altsasu terrorism case raises fears over judiciary. <https://www.ft.com/content/468e8138-539d-11e8-b24e-cad6aa67e23e>

²² Judge Mercedes Alaya: "We're every time more those who doubt that judicial independence exists" (in Spanish) <http://www.elmundo.es/andalucia/2017/01/19/5881236b268e3e3c568b4798.html>

recommendations, in a way that further entrenches rather than corrects the problems identified.

23. The lack of judicial independence is also highlighted in the Commission's own 2017 Justice Scoreboard (COM(2017) 167 final)²³ and the Global Competitiveness Report of the World Economic Forum.

Freedom of Opinion and Expression (Article 19)

24. Freedom of speech has been and continues to be actively repressed in Catalonia. The criminal cases brought against members of the pro-independence movement, the civil society leaders in particular, have been brought in part as a clear deterrent to those who would hold this political opinion.
25. This is part of a pattern of practice in Spain of using major crimes – including the crimes of hate speech, glorification of terrorism, lese majesty, crimes against the freedom of conscience and religious sentiments, slander and offences against the institutions of the State – to target divergent opinions. Examples of this conduct include:
 - The cases of Pablo Hasel and the exiled Josep Miquel Arenas Beltrán (also known as ‘Valtònyc’), entertainers convicted of terrorism-related offenses and sentenced to four years in prison for expressing politically sensitive jokes and voicing their political views on social media. Exiled in Belgium, the Belgian judicial system has refused to extradite Valtònyc to Spain referring to his freedom of speech.
 - The terrorism charges brought against Catalan activists for their non-violent actions,²⁴ such as the case of Adrià Carrasco, a young activist who participated in blocking a road in a non-violent manner. Exiled in Belgium, the courts there again refused to extradite him, referring to the right to demonstration.
 - Cases brought for criticism of the Spanish monarchy, prosecuted under the laws on lese majesty and despite a European Court of Human Rights ruling that existing prison convictions and fines amount to disproportionate

²³ Commission publishes 2017 EU Justice Scoreboard https://ec.europa.eu/commission/news/commission-publishes-2017-eu-justice-scoreboard-2017-apr-10_en

²⁴ The Catalan Ombudsman informs the European Commissioner for Human Rights and rapporteurs of the United Nations about the lack of proportion of legal actions against political dissidents <http://www.sindic.cat/en/page.asp?id=53&ui=5213&prevNode=462&month=3>

interference into the defendants' freedom of expression.^{25, 26} Spanish legislators refuse to change existing legislation.²⁷

26. The freedom of the press is also under threat. Editorial offices of various newspapers received an intimidating visit from the Guardia Civil in September 2017, informing them not to publish anything related to the organisation of the referendum or publish publicity for it. The same happened with radio and TV companies. The director of a local newspaper was formally accused of being an accessory to alleged crimes related to preparations for the referendum. Stepping up pressure against the media, the Director General of Catalonia's public TV network received an order to cancel the Catalan government's purchase of programming to inform citizens about the referendum, including advertising. He was told the network was to abstain from reporting on anything related to the referendum.²⁸
27. In addition, a high number of public and private web pages and domains have received a seizure warrant, which is contrary to the European legislation on open internet and electronic communication networks and services. Private communications (postal and electronic) have been violated as well. For example, on 25 September 2017, the ANC's website (www.assemblea.cat) was blocked on orders of the Guardia Civil in a clear attempt to censor civil society. ANC did not receive a court order or a notification, but rather the Guardia Civil acted under a general and discretionary court order, giving it excessive censorship powers. Similar happened with more than 140 other websites.²⁹
28. On 1 January 2018, the ANC website was made available again, once more without any notification. Other websites, such as <http://webdelsi.cat/> ('the Yes website'), <http://joconvoco.cat> – both ours – or <http://empaperem.cat>, are still blocked on the date of this writing. No reason whatsoever has ever been given. The Guardia Civil acts as such as a political police force that has carte blanche to censor civil society at its discretion. The ANC filed a complaint against the Guardia Civil in 2017, but no judgment has been pronounced to this date.

Right to Peaceful Assembly (ICCPR Article 21)

29. The right to assembly is also under active attack. Before, during and after the election campaign, groups of people were denied the basic and constitutional right to demonstrate and associate. The Catalan Ombudsman received more than 200

²⁵ ECHR finds Spain guilty of violating Convention on Human Rights

<http://www.jurist.org/paperchase/2018/03/echr-finds-spain-guilty-of-violating-convention-on-human-rights.php>

²⁶ Affaire Stern Taulats et Roura Capellera c. Espagne [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-181719%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-181719%22]})

²⁷ PP, PSOE y Ciudadanos rechazan la propuesta de ERC de despenalizar las injurias a la Corona

http://cadenaser.com/ser/2018/03/13/politica/1520965139_734144.html

²⁸ TSJC warns TV3 director of criminal charges if he collaborates with the referendum

http://www.elnacional.cat/en/politics/tsjc-tv3-criminal-charges-referendum_190740_102.html

²⁹ Spanish authorities try to shutter Catalan referendum websites <http://www.politico.eu/article/spanish-authorities-try-to-shutter-catalan-referendum-websites/>

complaints of people who were denied the right to peacefully assemble and demonstrate. A month after the elections these prohibitions were overruled, but the harm was already done.³⁰

30. The right to peaceful protest has been undermined since the adoption of the ‘Gag law’ (Organic Law 4/2015, 30 March, of the protection of citizen security).³¹ An emblematic example of its use are the protests on the 20 and 21 September 2017, when spontaneous protests broke out in Barcelona. The Guardia Civil was raiding Catalan government offices early in the morning of Sept. 20. As people became aware of these acts, they went out to protest. As one felt the Gag law is excessively repressive against demonstrating citizens,³² the ANC communicated to the Interior Ministry – at 10.23 A.M. – its intention to demonstrate at the Catalan Economy Ministry, where the biggest part of protests were going on. As such, ANC legally protected the demonstrators against prosecution and immoderate fines and made itself at the same time responsible – and target – for this demonstration. Although there was no violence and although the peaceful crowd was urged to return to their homes by both Jordi Sànchez and Jordi Cuixart,³³ after mediation with the judicial committee and Guardia Civil, both men have been held on charges of sedition and rebellion ever since, explicitly implying again violence was involved. These arrests seemed arbitrary and clearly politically motivated, as confirmed twice now by the UN’s own Working Group on Arbitrary Detention, Amnesty International and numerous other human rights organisations.

Freedom of Association (ICCPR Article 22)

31. The right to Freedom of Association is also under attack.
32. ANC has been affected severely: its two former chairs have been imprisoned for their legal personality of being (former) presidents of the ANC. In the case of the former speaker of the Catalan Parliament, her role as a former president of the ANC has been used as a reason for accusing her of sedition. The threat of imprisonment has a serious effect on the direction of the ANC as well as on its members.
33. ANC is subject to constant harassment by the authorities. Before the October 1 2017 referendum, for example, its campaign material on independence – e.g t-shirts with a SI (YES) on it – was confiscated, with campaign stands disassembled,

³⁰ Els Avis per la Llibertat tenien dret a manifestar-se, admet ara la Junta Electoral (Catalan) <http://www.ccma.cat/324/els-avis-per-la-llibertat-tenien-dret-a-manifestar-se-admet-ara-la-junta-electoral/noticia/2832097/>

³¹ Spain’s Ominous Gag Law <https://www.nytimes.com/2015/04/23/opinion/spains-ominous-gag-law.html>.

³² Spain: Two-pronged assault targets rights and freedoms of Spanish citizens, migrants and refugees <https://www.amnesty.org/en/latest/news/2015/03/spain-two-pronged-assault-targets-rights-and-freedoms-of-spanish-citizens-migrants-and-refugees/>

³³ Ironically, this fact has been used against them in the subsequent criminal trials, to indicate a level of control over protesters that the civil society leaders did not have.

all without a specific court order. On 20 September a member of the ANC's national board was detained, her car searched and volunteer vests, banners and flyers were confiscated, as has happened in hundreds of situations all over the country where members of ANC have been identified and intimidated by police forces just because they were expressing their will to vote on independence.

34. After the referendum the offices of ANC were searched twice (in the investigations against Jordi Sànchez), ANC has been fined arbitrarily and is under constant scrutiny of Spanish administration, discovering, for example, that its telephone connections have been tapped.
35. ANC is also subject to a defamation campaign. Over the years, Spanish government members, leaders of the Spanish political parties PP, PSOE and Ciudadanos have claimed continuously that the ANC has been and are being subsidised by the Catalan government, without any proof. And since the referendum ANC has been accused by public authorities and Spanish political leaders of being 'part of a coup d'état' and they have threatened to close it down numerous times.
36. This defamation campaign makes a target of the ANC, in the media as well as physically, and it has suffered many attacks against its headquarters. Moreover, the constant threats and harassment operate as a deterrent for people not to become a member of ANC and restrain them from participating in the ANC's activities. They fear that, for being in ANC's databases and for collaborating with it, they will be on a government blacklist or suffer reprisals.

Right to Public Participation (ICCPR Article 25)

37. The right to public participation has been repeatedly violated in Spain as it relates to Catalonia. The Constitutional Courts rulings on independence referenda deny the basic rights guaranteed by the right to self-determination under ICCPR Article 1. And the efforts to restrict participation of duly-elected Catalan officials also constitute a violation of the right to public participation.
38. This right is being further restricted by criminal justice operations by the Spanish authorities which create a chilling effect on those seeking public office. In 2017, for example, it was discovered that a covert 'Operation Catalonia' has been working within the Ministry of Home Affairs, implicating a secret police branch responsible for political prosecution of Catalan politicians, with the involvement of a magistrate and the then Minister of Home Affairs himself.³⁴ No judicial or political actions were undertaken to investigate these illegal State operations.³⁵

³⁴ Spanish government accused of interfering in judicial proceedings to discredit Catalanian politicians

<http://www.telegraph.co.uk/news/2017/09/24/spanish-government-accused-interfering-judicial-proceedings/>

³⁵ Catalonia's time has come — and Spain needs to get out of the way.

https://www.washingtonpost.com/news/democracy-post/wp/2017/06/13/catalonias-time-has-come-and-spain-needs-to-get-out-of-the-way/?utm_term=.51b7062548a8

Furthermore, there is no evidence that these illegal political police operations have been stopped since then.

Right to Language and Culture (ICCPR Article 27)

39. Successive Spanish governments have tried to undermine Catalan language media. TV3, the Catalan public broadcaster, has been under constant attack in the media, by Spanish government and its agencies or instances such as the Electoral Commission. The effect is not only to censor, but to control media that are giving an alternate view to the narrative propagated in the Spanish government's campaign on the issue.
40. The Catalan Media Corporation was under attack through a law that retroactively imposes taxes worth millions of euros and threatening its existence as a functioning broadcaster.³⁶ A tax that TVE, the state-funded broadcaster, did not have to pay.
41. In addition, the Catalan language and education system has been under continuous attacks by the Spanish governments and main Spanish political party representatives, that try to reduce the Catalan language to the status of dialect.

Conclusion

42. In conclusion, there is an increasing criminalisation of dissenting opinions in Spain, particularly as it relates to the Catalan self-determination movement. Spain has passed administrative and criminal legislation, such as a Gag law, restricting fundamental rights and freedoms as enshrined in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the European Convention on Human Rights, the EU Charter of Fundamental Rights and the European Charter for Regional or Minority Languages.³⁷
43. Spain has used its criminal justice system to target those with divergent views, including those who harbour a belief in Catalan independence and those campaigning for a better implementation of the right to self-determination. This has resulted in a violation of the right to self-determination itself (as enshrined in ICCPR Article 1), as well as of the rights to liberty and security, a fair trial, freedom of opinion and expression, association, assembly, public participation, and language and culture.

³⁶ Vicent Sanchis: "There is a move afoot to bankrupt TV3" <http://catalanmonitor.com/2018/01/04/vicent-sanchis-there-is-a-move-afoot-to-bankrupt-tv3/>

³⁷ Spain: Two-pronged assault targets rights and freedoms of Spanish citizens, migrants and refugees <https://www.amnesty.org/en/latest/news/2015/03/spain-two-pronged-assault-targets-rights-and-freedoms-of-spanish-citizens-migrants-and-refugees/>

44. A lack of separation of powers and judicial independence in the country offers little prospect of an effective remedy for violations of those rights, particularly in high-profile cases.

Recommendations

45. The Kingdom of Spain should:
- Immediately implement the recommendations of the Council of Europe and United Nations institutions related to the justice sector in Spain, including those made by the UN Working Group on Arbitrary Detention (regarding the arbitrary detention and lack of a fair trial of the pro-independence leaders), the Venice Commission (regarding the independence of the Constitutional Courts), and the Group of States against Corruption (regarding corruption in the Spanish judiciary).
 - Safeguard freedom of expression and opinion in Spain through reform of the Criminal Code to ensure that its crimes – in particular those related to rebellion, sedition, terrorism, glorification of terrorism, lese majesty, crimes against the freedom of conscience and religious sentiments, slander and offences against the institutions of the State – are in line with internationally-recognized definitions and cannot be used to prosecute those exercising their freedom of speech.
 - Cease the detention and prosecution of pro-independence leaders and activists for the crimes of sedition, rebellion, terrorism or other crimes that they are accused of committing for holding and expressing pro-independence political opinion, including dropping the charges and extradition requests on those grounds made against those currently residing outside of Spain.
 - Guarantee the rights to peaceful assembly through repeal of the Gag law and through a thorough investigation and prosecution of perpetrators of police violence against demonstrators.
 - Uphold the freedom of the media by removing restrictions placed on the media when it comes to reporting on issues related to the self-determination movement in Catalonia, and the exercise and promotion of Catalan language, history and culture.
 - Promote the right to public participation by providing an opportunity for the expression of the will of the Catalan people, including through removing restrictions on the ability of duly elected pro-independence politicians from taking up their seats in local, national and European institutions of governance.