



assemblea

**Joint submission to the to the Office of the High
Commissioner for Human Rights**
**Universal Periodic Review, 49th session: Kingdom of
Spain**

Submitting organizations:

Unrepresented Nations and Peoples Organization (UNPO)
Assemblea Nacional Catalana (Catalan National Assembly)

About us:

The Unrepresented Nations and Peoples Organization (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.

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The Assemblea Nacional Catalana (Catalan National Assembly) is a legally registered grassroots organization founded on 10 March 2012. It is the biggest Catalan pro-independence civil society organization, and defends, in peaceful and democratic ways, the right to self-determination of the Catalan people. Among a wide variety of activities, Assemblea Nacional Catalana has organized 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.

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1. Summary

This submission is designed to provide information on the implementation of civil and political rights in Spain, included in the International Covenant on Civil and Political Rights (ICCPR), as part of the fourth Universal Periodic Review Cycle (UPR). The report focuses on a lack of respect for the rule of law and human rights protections when it comes to Catalan people in Spain, highlighting in particular the Spanish authorities' ongoing repressive practices against the community.

2. Background

Since 2010, systematic attacks by Spanish authorities against the right to self-government have led to the rise of a considerable self-determination movement in Catalonia. Supported by a majority of voters in successive regional elections, the Catalan Government announced plans to hold a referendum on independence in 2017.

The referendum proceeded despite the violent response of the Spanish police, resulting in the injury of more than a thousand voters. 2,2 million people took part (43% turnout), with the "Yes" to independence gaining 90% of the cast votes. However, the Spanish authorities declared the referendum illegal, and imposed direct rule on Catalonia, dissolving the Catalan Parliament. A wave of repression followed, with the imprisonment of pro-independence politicians and activists on charges of sedition, misuse of funds, and inciting rebellion. Other leaders self-exiled across Europe, including the Catalan President Carles Puigdemont. In October 2019, the Spanish Supreme Court sentenced nine Catalan leaders to lengthy prison terms for their involvement in the 2017 independence referendum.¹ This sparked a new wave of protests in Catalonia, with thousands taking to the streets to demand their release, which were brutally repressed by Spanish authorities.²

Although it does not grant an automatic right to independent statehood of any peoples who seek it, the right to self-determination guarantees the right to believe in and seek independent statehood through non-violent and lawful means, and as such is protected under international human rights law as a democratic process. The issue of Catalan independence remains a contentious issue in Spanish politics and a critical unresolved territorial dispute in the European Union, with profound implications for the rights of Catalans.

A foundational right to the international system, the right to self-determination which is prominently embodied in the first article of the Charter of the United Nations, the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) has been systematically violated by Spain.

¹ Spain's Supreme Court jails Catalan leaders for up to 13 years, Politico
<https://www.politico.eu/article/spain-supreme-court-jail-catalan-leaders-up-to-13-years-independence-oriol-junqueras/>

² 96 heridos, uno grave, y 33 detenidos tras otra noche de protestas en Cataluña, EITB
<https://www.eitb.eus/es/noticias/politica/detalle/6743130/manifestacion-cdr-centro-barcelona-16-octubre-2019/>

3. Human rights abuses (2019-2024)

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

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 trial³, taking into account the UN WGAD’s 2019 findings in relation to the already imprisoned Catalan civil and political leaders.⁴⁵ 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”⁶, therefore paving the way to recognize a systemic discrimination before the law of the Catalan pro-independence movement as a collective group.

On May 30th, 2024, an Amnesty Law⁷ was approved by 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

³ 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 is-puig](https://www.catalannews.com/society-science/item/belgium-officially-denies-spain-s-bid-to-extradite-catalan-politician-llu-is-puig)

⁴ 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

⁵ 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://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2FWGAD%2F2019%2F12&Language=E&DeviceType=Desktop&LangRequested=False>

⁶ 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>

⁷ 122/000019 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

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 Catalan political leaders including Mr. Puigdemont, Toni Comin, Lluís Puig being kept in place.⁸ 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,⁹ thus undermining the right to equality before the law for Catalan pro-independence advocates.¹⁰

As a result of the judicial obstructions during the first two months of its implementation, at the time of writing, the ANC and UNPO are aware that of 486 Catalans currently under prosecution, only 58 of whom have benefited from the Amnesty Law (48 are activists and 10 are elected representatives or institutional officials). However, during this same period the Law has been successfully applied in favour of 51 Spanish policemen despite the fact that technically the Amnesty Law excludes cases of torture and inhuman and degrading treatment; yet, most of them are investigated for disproportionate police violence against peaceful protesters during the October 2017 independence referendum.¹¹

At the time of writing, the ANC and UNPO are aware of 39 amnesty requests having been denied (0 police officers, 16 demonstrators, and 23 politicians or public officers) and 67 amnesties having been derived to third-party courts (Spanish Constitutional Court or Court of Justice of the European Union), for 0 police officers, 15 demonstrators, and 52 politicians and/or public officers.

3.2. Right to Privacy (ICCPR Article 17)

Spanish authorities have extensively resorted to the use of illegal espionage tools against the Catalan pro-independence movement. In April 2022, the use of spyware Pegasus and Candiru against at least 65 Catalan elected representatives, civil society leaders, activists, lawyers, journalists, high-tech specialists, and their relatives was revealed, for the period 2015-2021¹². Six of the targets were members of the Catalan National Assembly.¹³

The April 2023 report of the European Parliament PEGA inquiry committee on the use of Pegasus in EU countries stated that the Spanish Government had so far provided limited

⁸ Spain: Supreme Court upholds Puigdemont arrest warrant, DW
<https://www.dw.com/en/spain-supreme-court-upholds-puigdemont-arrest-warrant/a-69531773>

⁹ 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

¹⁰ 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

¹¹ Amnistiats els 46 policies nacionals investigats per agredir votants de l'1-O a Barcelona, Públic
<https://www.publico.es/public/amnistiats-els-46-policies-nacionals-investigats-per-agredir-votants-l-1-o-barcelona.html#a-nalytics-tag:listado>

¹² CatalanGate: Extensive Mercenary Spyware Operation against Catalans Using Pegasus and Candiru, CitizenLab
<https://citizenlab.ca/2022/04/catalangate-extensive-mercenary-spyware-operation-against-catalans-using-pegasus-candiru/>; How Democracies Spy on Their Citizens, The New Yorker
<https://www.newyorker.com/magazine/2022/04/25/how-democracies-spy-on-their-citizens>;

¹³ Catalonia calls for EU 'protection' from Pegasus cyber snooping, Politico
<https://www.politico.eu/article/catalan-president-stronger-eu-rules-against-digital-espionage/>; 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>

information on their role in this targeting, invoking the need for confidentiality for national security reasons. This is especially alarming in the case of the 18 out of 65 victims targeted by the Pegasus spyware which, according to Spanish Government, was allegedly authorized by Court including against former Catalan National Assembly President, Elisenda Paluzie.¹⁴

The PEGA committee also denounced that judicial proceedings are progressing slowly, depriving victims of prompt and meaningful legal remedy. The Spanish Ministry of the Interior has so far denied access to the relevant files, obstructing external investigations on whether human rights abuses have been taking place.

In October 2022, three UN special rapporteurs expressed grave concerns on the issue¹⁵ and on the increased risk of self-censorship, which has a chilling effect on the right to freedom of opinion and expression in Catalonia.¹⁶ In October 2023 the Parliamentary Assembly of the Council of Europe passed Resolution 2513,¹⁷ calling on Spanish authorities to conduct effective, independent, and prompt investigations and provide sufficient redress to victims in cases of unlawful surveillance. At the time of writing this report, these measures have not yet been implemented.

The Pegasus spyware scandal also revealed five cases of Spanish police officers' infiltrating Catalan pro-independence and other social movements between 2020 and 2022.¹⁸ These practices are exploitative and constitute a serious abuse of the right to privacy, especially as it was reported that some police officers engaged in personal relations with activists to gain their confidence and obtain information.

Catalan judges have been also the targets of these practices. In May 2022, the ECHR ruled that Spain violated Article 8 (right to respect for private and family life) of the European Convention on Human Rights, with Spanish police illegally profiling Catalan judges based on their political views regarding self-determination and leaked them to Spanish nationalist media.¹⁹

¹⁴ 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

¹⁵ 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>

¹⁶ 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/>

¹⁷ 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>

¹⁸ 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/>; 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/>; Polícies infiltrats en entitats? Quan es pot fer i amb quins límits segons la llei, 324
<https://www.ccma.cat/324/policies-infiltrats-en-entitats-quant-es-pot-fer-i-amb-quins-limites-segons-la-lllei/noticia/3169018/>; Destapen un tercer policia nacional infiltrat en moviments socials, ara a València, 324
<https://www.ccma.cat/324/destapen-un-tercer-policia-nacionalinfiltrat-en-moviments-socials-ara-a-valencia/noticia/3212147/>.

¹⁹ Judgment M.D. and Others v. Spain violation
<http://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22003-7371697-10074226%22%7D>

3.3. Freedom of Opinion and Expression (ICCPR Article 19)

The Spanish authorities' actions have contributed to the sharp decline in freedom of opinion and expression of many Catalans. Since 2020, dozens of activists and advocates have been investigated and/or prosecuted for “glorification of terrorism”, slandering of the Spanish Crown or flag, or other related crimes.

In 2015, the Spanish Parliament enacted the so-called “Gag Law”,²⁰ broadening the interpretation what can qualify as “glorification of terrorism”, in order to curb freedom of expression²¹. In November 2018, the Council of Europe's Commissioner for Human Rights requested to review the law “to eliminate all possibilities of disproportionate interference” with the rights to freedom of expression and peaceful assembly²². Such amendments have not yet been enacted.

Several Catalan artists have been also subject to prosecution and censorship. Rap singer Valtonyc was in exile in Belgium from April 2018 to October 2023, in order to avoid persecution by Spanish judiciary for “glorifying terrorism” and “insults to the Crown”.

The case of rap singer Pablo Hasel is also of great concern. On 16 February 2021, following an order of the Spanish National High Court, he was imprisoned for the content of his lyrics. In March 2021, the Council of Europe's Human Rights Commissioner Dunja Mijatovic called on Spanish authorities to amend the Criminal Code aligning it with Article 10 of the European Convention on Human Rights.²³ In November 2022 the Commissioner once again noted the lack of clarity of the provision on “glorification of terrorism” (Article 578) particularly given its arbitrary interpretations by Spanish courts.²⁴

Catalan journalists have also been criminalized. In November 2023 Judge Manuel García-Castellón, charged investigative journalist Jesús Rodríguez (La Directa) with the crime of terrorism in relation to the “Tsunami Case”²⁵. Rodríguez had revealed the cases of Spanish police infiltrations during the previous years. On 11 April 2024, Rodríguez announced his self-exile to Switzerland, with other Catalan activists facing terrorism charges. On April 30th 2024, the European mechanism Media Freedom Rapid Response issued a statement expressing concern on the fact that, given his record of exposing police crimes that have embarrassed the state, as well as the extreme nature of the charges, criminalizing dissent under the guise of anti-terrorist legislation may be “politically motivated” and also “an effort to restrict his journalism”, a direct attack against freedom of

²⁰ Spanish Organic Law 4/2015, on the protection of citizen security, also known as the “Gag Law”, entered into force on July 1st, 2015

²¹ Ley mordaza y Código Penal: todo lo que ya no puedes hacer en Internet, Gizmodo
<https://es.gizmodo.com/ley-mordaza-y-codigo-penal-todo-lo-que-ya-no-puedes-ha-1694965827>

²² Letter of Council of Europe Human Rights Commissioner to Spanish government of 20 November 2018
<https://rm.coe.int/letter-to-a-pastor-julian-president-of-the-congress-of-deputies-of-spa/16808f0e2a>

²³ 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>

²⁴ Report following visit to Spain from 21 to 25 November 2022, Council of Europe Commissioner for Human Rights
<https://rm.coe.int/report-on-spain-following-the-visit-from-21-to-25-november-2022-by-dun/1680aaeb17>

²⁵ 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-causa-del-tsunami-democratic/>

expression.²⁶ In July 2024 the “Tsunami Case” was archived due to a procedural error by the judge in charge of the case.²⁷

Since 2020, attacks against the right to freedom of expression have also affected civil society organizations supporting self-determination. On March 5th, 2024, the Provincial Court of Barcelona confirmed the decision of Mercantile Court 11 to shut down the Catalan National Assembly website created for the “Strategic Consumption” campaign, aimed at favouring pro-Catalonia firms.²⁸ These actions against the “Strategic Consumption” infringe the pre-eminence of freedom of expression when confronted with freedom of business, in opposition to judgment n° 15271/16 of the ECtHR of June 11, 2020, Baldassi v. France.²⁹

Several Catalan Twitter (X) users have been prosecuted and even condemned for tweets they made mocking at Spanish monarchy,³⁰ as well as high educational institutions, such as the University of Barcelona, for criticising State repression³¹. Similarly, in March 2022, the Spanish Supreme Court sentenced three students to pay fines for rending a Spanish flag at the Autonomous University of Barcelona. The Court considered that rending the Spanish flag “does not fall within the right to freedom of expression”.³²

Relevant recommendations from the previous cycle

150.98 & 150.97 - Decriminalize defamation and place it within the Civil Code, in accordance with international standards of necessity and proportionality concerning restrictions on freedom of expression (Maldives) & (Luxembourg) [Supported]

150.96 - Hold accountable those responsible for crimes against journalists or that otherwise undermine the enjoyment of freedom of expression, regardless of whether they are non-State or State actors (United States) [Supported]

150.88 – Ensure respect of the right of freedom of expression, in line with international and European standards (Cyprus) [Supported]

150.84 – Guarantee freedom of expression and opinion by revising the Criminal Code to ensure that its crimes are in line with internationally recognized definitions (Belgium) [Supported]

²⁶ 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/>

²⁷ ‘Caso Tsunami’: la historia de un ridículo judicial que aspiró a tumbar la amnistía, Público <https://www.publico.es/politica/caso-tsunami-historia-ridiculo-judicial-aspiro-tumbar-amnistia.html>

²⁸ 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

²⁹ ECtHR Rules Right to Boycott is Protected by Right to Freedom of Expression, European Legal Support Center <https://elsc.support/cases/baldassi-vs-france-2020/>

³⁰ Condenado a una multa de 720 euros un tuitero por un delito contra la Corona, Confilegal <https://confilegal.com/20220308-condenado-a-una-multa-de-720-euros-un-tuitero-por-un-delito-contra-la-corona/>

³¹ El TSJC condemna la Universitat de Barcelona per vulnerar el deure de neutralitat, Diari de Barcelona <https://www.diaridebarcelona.cat/w/tsjc-condemna-universitat-barcelona-vulnerar-deure-neutralitat>

³² Tribunal Supremo, Sala de lo Penal, Sentencia núm. 311/2022 <https://www.icaoviedo.es/res/comun/biblioteca/4003/TS.%20ULTRAJES%20BANDERA.pdf>

3.4. Right to Peaceful Assembly (ICCPR Article 21) and Freedom of Association (ICCPR Article 22)

Despite the peaceful nature of the Catalan pro-independence movement, Spanish authorities have often referred to Catalan activists as terrorists, and falsely accused them of using violence, with the purpose of criminalizing the right to protest, creating a chilling effect that threatens the right to freedom of assembly and of association.

Since 2017 dozens of activists have been prosecuted and sentenced for their participation in peaceful protests, based on false accusations of violence. Indicative are the cases of Marcel Vivet, sentenced to five years' imprisonment for public disorder (reduced to 1,5 years in May 2022)³³, Adrià Sas, sentenced to 3,5 years' imprisonment in March 2024,³⁴ or Abel Mora, sentenced to 3.9 years, imprisoned in early June 2024.³⁵

In the Annual Report of the Spanish Attorney General 2022³⁶ and 2023³⁷ the so-called "violent Catalan pro-independence movement" was included in the section of terrorist threats. The Spanish Ministry of Internal Affairs requested that Europol included the Catalan pro-independence movement in the yearly edition of the 2023 report "The European Union (EU) Terrorism Situation and Trend Report (TE-SAT)".³⁸

The non-violent activist platforms known as Committees for the Defense of the Republic (CDR) have been the main target of the use of antiterrorist legislation by Spanish authorities to suppress activism in Catalonia. CDR activists Tamara Carrasco³⁹ and Adrià Carrasco were arbitrarily accused of and investigated for terrorist activity by the Spanish National High Court. In the case of Adrià Carrasco, he spent 2 years and 8 months in exile between 2018 and 2021, for the duration of the investigation against him, ultimately being acquitted.

A similar case is the one of the so-called "Judas Operation" against 12 activists of the CDR, charged with the crimes of possession of explosives, conspiracy to commit vandalism, and

³³ Rebaixen la condemna a Marcel Vivet de cinc anys a un i mig i no entrarà a presó, 324
<https://www.ccma.cat/324/rebaixen-la-condemna-a-marcel-vivet-de-cinc-anys-a-un-i-mig-i-no-entrara-a-presó/noticia/3162248/>

³⁴ El Supremo confirma tres años y medio para Adrián Sas por agredir a dos mossos, La Vanguardia
<https://www.lavanguardia.com/politica/20240314/9561033/supremo-confirma-tres-anos-medio-adrian-sas-agredir-dos-mossos.html>

³⁵ En prisión el primer independentista que podría acogerse a la amnistía, Ara.cat
https://es.ara.cat/misc/prision-independentista-acogerse-amnistia_1_5049575.html

³⁶ 2022 Annual report of the Spanish Attorney General (page 429)
https://www.fiscal.es/memorias/memoria2022/FISCALIA_SITE/recursos/pdf/MEMFIS22.pdf

³⁷ 2023 Annual report of the Spanish Attorney General (page 479)
https://www.fiscal.es/memorias/memoria2023/FISCALIA_SITE/recursos/pdf/MEMFIS23.pdf

³⁸ The European Union (EU) Terrorism Situation and Trend Report (TE-SAT) 2023 (page 68)
https://www.europol.europa.eu/cms/sites/default/files/documents/Europol_TE-SAT_2023.pdf

³⁹ 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-tsja-absuelve-tamara-carrasco-la-cdr-que-estuvo-un-ano-sin-poder-salir-de-su-municipio.html>

belonging to a terrorist organization.⁴⁰ Nine CDR members spent four months in pre-trial detention in 2019. These operations are orchestrated by the Spanish police and judiciary in order to demobilize the Catalan civic pro-independence movement.

Recently, in August 8, 2024, during the investiture of Salvador Illa as the new President of Catalonia, the Mossos d'Esquadra (Catalan police) deployed 600 officers and completely closed off Parc de la Ciutadella, where the Catalan Parliament is located. This closure effectively cancelled the peaceful gathering formally communicated in advance by the ANC. Crowds were dispersed and disoriented around the park's perimeter, whereupon the police deployed OC gas (pepper spray) against the crowds violating their own protocols.

According to the Mossos d'Esquadra protocols (established in 2019), the use of gas should only be deployed against violent demonstrations, and must be targeted at individuals exhibiting violent behavior, with a prior warning broadcast over loudspeakers. In this instance, the protest was non-violent, and the gas was dispersed overhead, affecting a wide area of about fifty meters, without any prior warning. This resulted in vomiting, skin irritation, and severe breathing difficulties for many demonstrators, some of whom continue to suffer from these effects. Medical personnel treated approximately 100 individuals.

The Mossos d'Esquadra report (published August 19, 2024) submitted to the Supreme Court after the events of August 8, 2024, included several concerning and unfounded allegations, including that the Committees for the Defense of the Republic (CDR) are a violent group. While these groups are known for their civil disobedience actions, such as blocking roads and engaging in peaceful protests, they have consistently remained committed to non-violent methods of civil disobedience. Notably, key CDR activists like Tamara Carrasco and Adrià Carrasco have been acquitted of terrorism charges, and the ongoing Judas 23S case has not yet led to any convictions. As such, it is troubling that the police report categorizes the CDR as violent when there is no legal basis for this claim.

Relevant recommendations from the previous cycle

150.93 - Reform the organic law of 30 March 2015 on the protection of citizen security and the organic law of 15 July 1983 on the right of assembly, and establish a code of conduct for law enforcement (Switzerland) [Supported]

150.92 - Take further measures to ensure that the rights to freedom of expression and peaceful assembly are fully respected, and effectively investigate all allegations of excessive use of force committed by the security forces (Italy) [Supported]

150.90 – Ensure that the implementation of articles 36.6 and 37.4 of the public security act, as well as the implementation of Royal Decree-Law 14/2019 do not counteract the right to civil protest (Germany) [Supported]

150.85 – Review the laws pertaining to the criminal offences of insulting the Crown and offending religious feelings, and review organic law 9/1983 and the organic law on citizen

⁴⁰ 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

security with the objective of protecting the rights of freedom of expression and peaceful assembly (Canada) [Supported]

150.66 - Ensure that all allegations of torture or other ill-treatment by the security forces are subject to a prompt, thorough and impartial investigation; that those suspected of involvement are prosecuted before civilian courts; and that victims receive adequate reparation (Netherlands) [Supported]

3.5. Right to Public Participation (ICCPR Article 25)

During the last decade, Spanish authorities have worked to undermine the democratic process in Catalonia, targeting institutions and elected representatives to obstruct their policy-making capacity.

In September 2020, Catalan President Mr. Quim Torra was banned from office for 1.5 years 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.⁴¹ For a second time in a row since 2017, elections to the Catalan Parliament were called off due to non-democratic procedures, therefore harming the right to vote and self-determination for Catalans.

In August 2022, the UN Human Rights Committee found that Spain had violated Article 25 of the ICCPR, establishing that the right to participation in public affairs of the four Catalan Parliament members was violated as they were suspended from public duties of Members of Parliament while in pre-trial detention in July 2018.⁴² Likewise, in March 2023 the Committee stated that the suspension of Carles Puigdemont's candidacy for the presidency of Catalonia by the Spanish Constitutional Court in early 2018, as well as his suspension from Deputy in the Parliament of Catalonia, represented a violation of Article 25 ICCPR by Spain⁴³.

In its Resolution 2381, approved in June 2021, the Parliamentary Assembly of the Council of Europe (PACE) called on Spanish authorities to release the Catalan political prisoners that were imprisoned since 2017⁴⁴, a demand which was fulfilled few weeks later due to political negotiations with Catalan parties.

During the last decade, Catalan institutions have worked under permanent threat of repressive action. This was included in the lawsuit that former Vice President of the Parliament Mr Josep Costa filed to the UN Human Rights Committee (still pending)⁴⁵, in

⁴¹ 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/cgpj/es/Poder-Judicial/Noticias-Judiciales/El-Tribunal-Supremo-confirma-la-condena-de-un-año-y-medio-de-inhabilitacion-al-president-de-la-Generalitat--Joaquim-Torra--por-delito-de-desobediencia>

⁴² 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>

⁴³ 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>

⁴⁴ 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/TextesProvisoires/2021/20210603-ProsecutionPoliticians-EN.pdf>

⁴⁵ Espanya no pot aturar la demanda de Josep Costa al Comitè de Drets Humans de l'ONU, Vilaweb
<https://www.vilaweb.cat/noticies/espanya-no-pot-aturar-la-demanda-de-josep-costa-al-comite-de-drets-humans-de-lonu/>

which he described how 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.

3.6. Right to Equality and Freedom from Discrimination (ICCPR Article 26) and Right to Language and Culture (ICCPR Article 27)

Discrimination against Catalan language, culture, and identity, as well as hatred against Catalans, have been historical trends in Spain. At present, the legacy of Spanish fascist dictator Francisco Franco's authoritarian policies and political culture in Spanish institutions still profoundly affects Catalan society; from stigmatization associated with teaching or using the Catalan language, to prejudiced and racist views.

There is additionally a constant undermining and deterioration of the status of the Catalan language in education. In May 2015, the Spanish Supreme Court⁴⁶ ruled that, in addition to already-Spanish subjects, at least 25% of all other subjects taught in schools in Catalonia must also be taught in Spanish. The decision represented a major institutional obstacle to the implementation of the immersion model system in Catalan schools that for decades had guaranteed that students obtained a high aptitude for both Catalan and Spanish languages.

On 9 May 2022, the Superior Court of Justice of Catalonia ordered the Catalan Minister of Education to adopt within 15 days all the necessary measures to ensure students receive at least 25% of lesson hours in Spanish.

In their recently published Sixth Evaluation Report on Spain, the Council of Europe's Committee of Experts of the European Charter for Regional or Minority Languages expresses concerns over several judicial decisions adopted by the High Court of Justice (Tribunal Superior de Justicia) at the regional level, and subsequently upheld by the Spanish Supreme Court (Tribunal Supremo) regarding language and culture.⁴⁷ In particular, they note with grave concern the High Court of Justice of Catalonia ordering the implementation of a minimum of 25% of teaching in Castilian in the Catalan education system.⁴⁸ The Committee also highlighted that "setting a minimal percentage of teaching in Castilian for every single school clearly runs counter the undertakings accepted by Spain under Article 8 of the Charter".⁴⁹

Situations in which Catalans suffer discrimination for speaking Catalan have also grown during the last few years, as denounced in the 2022 report of the Barcelona Observatory of

⁴⁶ El Supremo ordena que las escuelas catalanas impartan un 25% de las clases en castellano, *Expansión*
<https://www.expansion.com/sociedad/2015/05/08/554c8594268e3e76768b457d.html>

⁴⁷ CoE Committee of Experts of the European Charter for Regional or Minority Languages, 'Sixth Evaluation Report on Spain', adopted 18 June 2024

<<https://rm.coe.int/spainecrml6-en/1680b1b32d>>

⁴⁸ Ibid, point 5, p.9.

⁴⁹ Ibid point 21, p.11.

Discriminations, with a growth of 63.6% of cases.⁵⁰ A rise in the cases of discrimination against Catalan speakers by public administrations was shown by the 2022 report on linguistic discrimination published by the NGO Plataforma per la Llengua,⁵¹ including by Spanish police officers.⁵²

On 24 September 2024, the Council of Europe published a report which finds that over the last five years, the situation of the Catalan language has worsened everywhere in the regions of Spain where the language is spoken, highlighting areas such as education, justice, public administration and the media.⁵³

Numerous experts have expressed deep concern over the requirement to include at least 25% Spanish in classrooms. The report also warns of the situation of the language in the justice system, an area where, according to the committee, "Catalan continues to be marginalised in criminal, civil and administrative proceedings", violating citizens' rights to justice in Catalan. With regard to the public administration, the report criticizes the lack of basic knowledge of Catalan among some groups of civil servants, which generates discrimination in access to public services for Catalan-speaking residents. The media also receives special attention in the report, as the experts note that reciprocity between the media in the various Catalan-speaking territories has worsened, which means television stations in Catalan from one region cannot be seen in another. In the economy, Spain still does not ensure that safety instructions, medicine leaflets, or consumer rights information are available in Catalan.

The report highlights a worsening situation for Catalan in both the Balearic Islands and the Valencian region. In the Balearic Islands, compliance with language requirements in schools, especially in publicly funded private institutions and vocational training, has declined, while insufficient Catalan knowledge among Spanish officials is leading to discrimination in public services, particularly healthcare. Decree Law 5/2023 could exacerbate this issue. In the Valencian region, the new education law by Minister José Antonio Rovira is set to drastically reduce Catalan's presence, particularly in Spanish-speaking areas. The experts urge Spain to immediately ensure the availability of Catalan at all educational levels, in interactions with public administration, and in courts, with specific measures recommended for the healthcare and judicial sectors.⁵⁴

During the last decade cases of hate speech against Catalans have also risen. This is especially visible online, where there is a clear Catalano-phobic narrative in content published across all social media in Spain, especially on 'X' (formerly, 'twitter'). According to a 2020 analytical report published by Aix Global Justice,⁵⁵ from May 24th-31st, 2020, out of a total of 130,000 conversations about Catalonia, 33% had negative connotations.

⁵⁰ Les discriminacions per parlar en català a Barcelona creixen més d'un 60 %, i el català és el quart motiu més habitual de discriminació, Informe de l'Observatori de les Discriminacions a Barcelona 2022
<https://www.plataforma-llengua.cat/que-fem/noticies/5881/les-discriminacions-per-parlar-en-catala-a-barcelona-creixen-mes-dun-60-i-el-catala-es-el-quart-motiu-mes-habitual-de-discriminacio>

⁵¹ *¿Quiere hablar en catalán o quiere que su hijo se cure?* Informe de casos de discriminació lingüística 2022, Plataforma per la Llengua
https://www.plataforma-llengua.cat/media/upload/pdf/informe-discriminacions-2022-vf_316_11_2482.pdf

⁵² Maria Eugènia Gay va evitar investigar policies per discriminacions lingüístiques quan era delegada del govern espanyol a Catalunya, Plataforma per la Llengua
<https://www.plataforma-llengua.cat/que-fem/noticies/5837/maria-eugenia-gay-va-evitar-investigar-policies-per-discriminacions-linguistiques-quant-era-delegada-del-govern-espanyol-a-catalunya>

⁵³ Council of Europe: 'Great concern' over court ordering schools to teach 25% of classes in Spanish (catalannews.com)

⁵⁴ The Council of Europe's Committee of Experts confirms Spain's breach of the ECRML and rebukes the Spanish government for imposing 25% teaching in Spanish | News of Plataforma per la Llengua | Plataforma per la Llengua (plataforma-llengua.cat)

⁵⁵ Hate speech against the Catalan minority, Legal Reports, Aix Global Justice
<https://www.aixglobaljustice.org/en/rapportsjuridiques>

Instead of obtaining protection by Spanish authorities against this rise of hate speech, prosecution for hate crimes has actually become an additional tool to repress Catalan pro-independence activism. Such is the case of Catalan activist Albert Donaire, who is facing an indictment for a crime of incitement to hatred for expressing positions in social media in favor of Catalan independence and against language discrimination by Spanish police officers.⁵⁶

Relevant recommendations from the previous cycle

150.47 - Adopt more measures to combat hate speech, xenophobia and racial discrimination (Egypt) [Supported]

150.45 – Prevent, investigate and prosecute hate crimes, including those motivated by the victim’s religion or belief, and devote additional resources to understanding the problem of harassment and violence motivated by xenophobia or the victim’s religion or belief (United States) [Supported]

150.41 – Continue efforts to combat hate crime and put measures in place to ensure an end to ethnic and racial profiling and all forms of racial discrimination (Ghana) [Supported]

150.40 – Redouble efforts in the elimination of all forms of discrimination and combating hate speech, xenophobia and racial discrimination (Iran) [Supported]

150.39 – Adopt precise and specific laws against all forms of discrimination, in particular ethnic and racial discrimination (Colombia) [Supported]

150.34 – Continue measures to combat acts of racial discrimination to better guarantee the rights of minority groups (China) [Supported]

150.32 – Continue to combat racism, racial discrimination, xenophobia and other forms of intolerance (Bosnia and Herzegovina) [Supported]

4. Conclusion

All Catalan individuals mentioned throughout this submission for having been arbitrarily targeted by Spanish authorities, were carrying out legitimate activities within the scope of their rights to freedom of expression, participation in public life, association, and assembly. Despite being protected under international human rights law, the disproportionate reaction of the Spanish state to the rise of feelings favoring self-determination, by criminalizing it, has created a chilling effect on Catalan civil society and leadership, negatively affecting their willingness to exercise fundamental rights due to fear of repression and reprisals. A regressive environment against the rights of Catalans that has coincided with a rise of hatred against Catalan language, culture, and identity.

5. Recommendations

In the light of all the aforementioned, UNPO and Assemblée issue the following recommendations to the Spanish authorities:

⁵⁶ A juicio un mosso independentista por «odio» a la «ideología constitucionalista», El Món <https://elmon.cat/es/politica-es/tribunales/juicio-mosso-independentista-odiar-ideologia-constitucionalista-821044/>

1. Refrain from using antiterrorist legislation to repress political dissent, and undertake the necessary legislative reforms in order to ensure that articles referring to terrorism in the criminal code cannot be used against civil and political rights.
2. Ensure that freedom of expression is respected, by refraining from persecuting Catalan elected representatives, activists and artists for opinions expressed.
3. Ensure the respect to the right to freedom of assembly and association, ending prosecutions against Catalan peaceful activists, and investigating cases of disproportionate police violence, torture and degrading treatment.
4. Ensure the respect to the passive and active right to participation in public affairs, refraining from legal interferences in institutional activity, as well as refraining from prosecuting representatives for their democratic acts.
5. Speed up immediate, independent, transparent, impartial and effective investigations on the use of Pegasus and Candiru spyware in the present and recent past, to hold the responsible accountable, and ensure reparation to victims.
6. End linguistic restrictions and discriminations against Catalans, and promote the respect for the knowledge and practice of the Catalan language, including a level of immersive instruction in primary and secondary education that ensures a normal learning curve for students.
7. Establish effective institutional and legal mechanisms to tackle hate speech against members of the Catalan minority, especially against expressions of their national language, culture and/or identity.