

# Report of the 4th cycle of Spain's Universal Periodic Review

Retaliations Against the Catalan Pro-Independence Movement:  
Economic Repression and the Amnesty Law



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# 1.Introduction

The organisations signing this document have created an ad hoc coalition to join their efforts in preparing this report for the 4th cycle of the Universal Periodic Review (UPR) of Spain.

The coalition is composed of the following civil society organisations:



## Amnistia i Llibertat

A citizen platform that was born in Catalonia to defend and protect human rights and to put an end to repression against the Catalan pro-independence movement.



## Sine Qua Non

A human rights organization that focuses on building capacities for civil society organizations and activists and on creating strategies to seek accountability for human rights abuses through international strategic litigation.

## 2. The Catalan Sovereignty Conflict

The nature of the political conflict between the Spanish State and Catalonia has deep historical roots and resides in the difficulties of finding satisfactory national recognition for the citizens of Catalonia within the institutional structure and legislative framework of the Spanish State.

The year 2006 was key for Catalonia with the approval of the new Statute of Autonomy, a document that aimed to redefine the competences and funding of the autonomous community, as well as recognize the national character of Catalonia. After a long process of negotiation, the Statute was approved by the Catalan Parliament and the Spanish General Courts and ratified by the citizens of Catalonia in a referendum (with 73.9% of participants that voted "yes") on June 18, 2006.

In this context, the 2010 Constitutional Court ruling which annulled part of the Statute of Autonomy of Catalonia places the political conflict in a new phase, clearly highlighting the confrontation between the parliamentary and popular legitimacy of Catalonia and the institutional and constitutional legitimacy of the State.

From that moment on, a broad, solid, and transversal part of the citizens of Catalonia began to demand full sovereignty for Catalonia and expressed their desire to freely and democratically exercise the right to decide the political future of the country.

To respond to this demand, Catalan institutions have sought various ways to address this popular demand but have consistently faced opposition from the State. These paths include the promotion of the Consultation Law, the request to the Spanish Congress for the transfer of powers to organize a referendum through Article 150.2 of the Spanish Constitution or the consultation of November 9, 2014, its most known being the independence referendum of October 1, 2017. All these attempts have repeatedly certified the existence of a sovereignty conflict between the Spanish State and Catalonia that must be resolved peacefully through negotiations that contribute to shape a democratic mechanism recognized and accepted by both parties.

# 3. Retaliations Against the Catalan Pro-independence Movement

## a. Political Repression

On October 1, 2017, Catalonia held a self-determination referendum. International organizations, including the Council of Europe and the UN, concluded that it was conducted peacefully.<sup>1 2</sup>

However, Spain attempted to prevent this publicly supported consultation by employing police violence and criminalizing the leaders and supporters who facilitated the referendum. It resulted with 1.066 peaceful protesters injured.<sup>3</sup>

As a result, the political conflict between Catalonia and Spain intensified following the October 1 referendum, leading to the political repression of the Catalan pro-independence movement.

## i. The Judicialization of the Conflict

In October 2019, the Spanish Supreme Court sentenced nine political and social pro-independence leaders to up to 13 years in prison for sedition. They had already been in pre-trial detention for two years, which was considered arbitrary according to the Working Group on Arbitrary Detentions of the United Nations. Human rights organizations and activists have questioned the fairness of the trial.

Although these leaders were partially pardoned in 2021, they have not been fully amnestied and still have criminal records, preventing some from running for office.

Other leaders, including the former president of Catalonia, Carles Puigdemont, and the secretary general of Esquerra Republicana de Catalunya, Marta Rovira, were forced into exile for more than six years.

In protest of the sentencing of the nine social and political leaders in the fall of 2019, Tsunami Democràtic, a citizen-based platform, called for major demonstrations. Later, just as negotiations for an amnesty law were beginning to take shape in 2023, 12 people were accused of terrorism for organizing these peaceful gatherings. In July 2024, as a result of the filing of the case due to a judicial error, the affected have been able to return from exile.

In the middle of these judicial repression, the scandal of the CatalanGate exposed the illegal cyberespionage of more than 65 people belonging to the Catalan pro-independence movement.

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<sup>1</sup> "It is undisputed that none of the politicians in question called for violence. On the contrary, it is recognised, also by the prosecution, that they called on demonstrators to refrain from any violent acts. Indeed, on several occasions, hundreds of thousands of people demonstrated without any violent incidents, thanks also to the restraint exercised most of the time by the Catalan and Spanish security forces, who were also deployed in large numbers." paragraph 9.4. Resolution 2381 (2021) PACE Council of Europe <https://pace.coe.int/files/29344/pdf>

<sup>2</sup> <https://www.ohchr.org/en/press-releases/2017/10/un-experts-urge-political-dialogue-defuse-catalonia-tensions-after>

<sup>3</sup> <https://antirepressiva.omnium.cat/en/detalls/dretavot/>

The UN independent experts stated their concern “about the apparent misuse of criminal law and the State’s oversight power to prosecute leaders and members of civil society who are supporters of ERC”. They were worried “that these actions of criminalizing individuals exercising their civil and political rights could become a systematic pattern, as, if confirmed, these allegations could constitute a serious violation of the freedom of association and peaceful assembly.” They also highlighted “the intersectional relationship between crimes against national security, crimes of sedition, secession, and the fight against terrorism, noting that the legislation addressing any of these crimes must be sufficiently precise to comply with the principle of legal certainty, in order to avoid the possibility of it being used to target civil society actors, political opponents, journalists, and academics for political or other unjustified reasons”.<sup>4</sup>

These are the figures related to the repression exerted by the Spanish state during the preparation for the self-determination referendum on October 1, 2017, its celebration, and the protests that followed the violent intervention by the state and the sentencing of Catalan independence leaders:

As a result of the Supreme Court trial against the Catalan government (2019) and civil society leaders for organizing the self-determination referendum on October 1, 12 people were sentenced to prison. Of these, 9 became political prisoners (sentences ranging from 9 to 13 years), and 7 went into exile.

More than 200 individuals have been investigated for organizing or supporting the self-determination referendum on October 1. Among those charged are 712 mayors, civil servants, and members of civil society.

115 individuals have been victims of espionage, including the President of the Parliament of Catalonia, the President of the Government of Catalonia, government members, lawyers, and civil society members.

1,154 individuals have been affected by administrative and accounting procedures.

More than 1,000 people have been investigated for participating in mobilizations and demonstrations. Following the initial investigations and arrests by the Spanish police, a series of protests resulted in 314 criminal procedures from a total of 12 civil society mobilizations. In response to the trial of the independence leaders, more than 700 criminal procedures were initiated, and about 40 people have been detained from January 2020 to the present.



4. <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=27719>

## ii. Economic Repression

In parallel, the Catalan independence movement has also faced economic repression. The Spanish state and its judiciary are using administrative measures to punish political dissent, burdening activists and pro-independence politicians with exorbitant financial penalties in an attempt to discourage their political participation.

## Overview of the Court of Auditors

The Court of Auditors is tasked with overseeing public spending and possesses both auditing and jurisdictional powers. According to Article 1.1 of the Organic Act of the Court of Auditors, it is the supreme body responsible for auditing state accounts and financial management, including the economic activities of political parties. However, serious concerns have been raised regarding its neutrality, procedural fairness, and impact on human rights.

## Impartiality and Composition Issues

The current composition of the Court of Auditors fails to meet the standards of neutrality and impartiality as defined by the European Court of Human Rights and GRECO recommendations.<sup>6</sup> The Court's members lack the "appearance of neutrality," undermining public confidence in its decisions. Criticism from media and experts about the bails imposed for Catalan foreign actions has prompted the Court to issue defensive statements about its independence,<sup>7</sup> which is insufficient to address the underlying issues.

Furthermore, the selection process for the Court's members is deeply flawed. Reports reveal that 14% of its workers have family ties to high-ranking institutions, and another 10% are connected to high and middle-ranking officials.<sup>8 9 10</sup> This nepotism erodes the Court's credibility and fairness. Calls for reforms in appointment procedures have been ignored, allowing these issues to persist.<sup>11</sup>

## Human Rights Violations and Administrative Overreach

The Court of Auditors, as an administrative body, imposes bails that severely impact human rights, bypassing judicial guarantees typical in criminal procedures. This has led to accusations of political repression, particularly from the Catalan Government.<sup>12</sup> The proceedings are perceived as a covert form of criminal prosecution for misuse of public funds.

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5. <https://www.boe.es/buscar/act.php?id=BOE-A-1982-11584>

6. [https://www.coe.int/en/web/greco/reference-texts-6th-evaluation-round?p\\_l\\_back\\_url=%2Fen%2Fgroup%2Fgreco%2F%7E%2Fcontrol\\_panel%2Fmanage%3Fp\\_p\\_id%3Dcom\\_liferay\\_layout\\_admin\\_web\\_portlet\\_GroupPagesPortlet%26p\\_p\\_lifecycle%3D0%26p\\_p\\_state%3Dmaximized%26p\\_p\\_mode%3Dview%26p\\_r\\_p\\_selPlid%3D22390761%26p\\_r\\_p\\_layoutSetBranchid%3D0%26p\\_p\\_auth%3DznLWfmfv](https://www.coe.int/en/web/greco/reference-texts-6th-evaluation-round?p_l_back_url=%2Fen%2Fgroup%2Fgreco%2F%7E%2Fcontrol_panel%2Fmanage%3Fp_p_id%3Dcom_liferay_layout_admin_web_portlet_GroupPagesPortlet%26p_p_lifecycle%3D0%26p_p_state%3Dmaximized%26p_p_mode%3Dview%26p_r_p_selPlid%3D22390761%26p_r_p_layoutSetBranchid%3D0%26p_p_auth%3DznLWfmfv)

7. [https://www.elnacional.cat/es/politica/tribunal-de-cuentas-nota-aclaratoria-decir-que-es-independiente\\_625304\\_102.html](https://www.elnacional.cat/es/politica/tribunal-de-cuentas-nota-aclaratoria-decir-que-es-independiente_625304_102.html)

8. [https://elpais.com/politica/2014/06/23/actualidad/1403548994\\_107851.html](https://elpais.com/politica/2014/06/23/actualidad/1403548994_107851.html)

9. [https://www.lasexta.com/noticias/nacional/tribunal-cuentas-tiene-contratados-100-familiares-altos-cargos\\_20140624572648246584a81fd883f665.html](https://www.lasexta.com/noticias/nacional/tribunal-cuentas-tiene-contratados-100-familiares-altos-cargos_20140624572648246584a81fd883f665.html)

10. [https://elpais.com/elpais/2014/06/23/media/1403547645\\_646044.html](https://elpais.com/elpais/2014/06/23/media/1403547645_646044.html)

11. [https://elpais.com/politica/2014/06/09/actualidad/1402333463\\_591562.html](https://elpais.com/politica/2014/06/09/actualidad/1402333463_591562.html)

12. <https://elpais.com/espana/2024-05-29/el-tribunal-de-cuentas-declara-visto-para-sentencia-la-causa-contra-los-lideres-del-proces.html>

The Court's lack of judicial safeguards violates several fundamental rights outlined in Articles 6 and 7 of the European Convention on Human Rights. The same members handle both the investigative and trial phases, allowing only a single appeal to the Supreme Court. This setup fails to ensure impartiality and fairness, violating the right to an adequate defense and effective appeal. The Court's actions also breach the presumption of innocence by imposing bails before formal accusations.

## **Procedural and Substantive Irregularities**

The Court's procedures are marred by duplicity, as it assumes responsibilities both in penal and economic terms for the same actions. This results in undue burdens on the accused, including property seizures if bails are unpaid within a month. The involvement of extremist groups and irregular participation of the State Attorney further taints the process.

Substantive irregularities include violations of rights under Articles 10, 1 of Protocol 1, and 8 of the European Convention on Human Rights. The Court's actions infringe on freedom of expression, property rights, and the right to private and family life, causing financial and emotional distress to those involved and their families.

## **The Role of the Court in the Catalan Conflict**

Seventeen officials were charged with misuse of public funds and faced parallel proceedings by the Court of Auditors, resulting in disproportionate financial penalties. Although the Prosecutor's Office later reduced the claims, the initial actions highlighted significant procedural shortcomings.

Since 2014, nearly seventeen million euros have been paid in bail across various cases against the movement, with some bail demands even being duplicated.<sup>13</sup> Of this amount, 5.8 million euros alone are related to the case investigated by Barcelona's 13th Court.<sup>14</sup>

Amnistia i Llibertat and Sine Qua Non denounced<sup>15</sup> that the financial deposits required by the Court generate interests that violate the right to effective judicial protection and defense. These interests prevent meaningful appeals, effectively closing cases without judicial scrutiny. The Court retains these deposits, benefiting from the accrued interests, further entrenching economic repression against political dissidents.

It is the case of seventeen government officials that were charged by the Barcelona First Instance Court no. 13 (BFIC-13) with misuse of public funds, with a joint responsibility compulsory deposit of 5.8 million Euros (or immediate forfeiture of their properties) in connection with the Catalonia Referendum of 1 October 2017 (1-OR). As per the civil liability, parallel proceedings immediately followed against those leaders also charged with misuse of public funds before the Court of Auditors (Tribunal de Cuentas) as detailed by the Supreme Court decision. The Court of Auditors detailed and broke down the expenses, which are similar as the ones by the BFIC-13.<sup>16</sup>

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13. <https://www.publico.es/public/amnistia-i-llibertat-porta-l-onu-repressio-i-extorsio-economica-l-independentisme.html>

14. <https://www.elsaltodiario.com/1-0/juzgado-instruccion-13-barcelona-procesa-30-personas-organizacion-referendum>

15. <https://www.amnistiallibertat.cat/article/46/amnistia-i-llibertat-denuncia-a-l-onu-la-repressio-i-extorsio-economica-contra-lindependen>

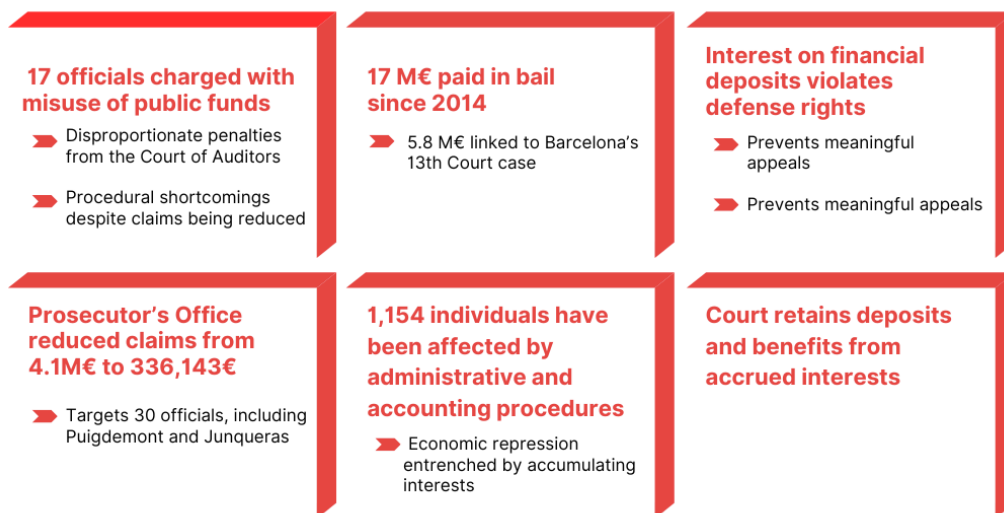
16. <https://www.catalannews.com/politics/item/court-of-auditors-investigates-former-catalan-cabinet-for-referendum-funding>



In the framework of this hearing, the Prosecutor's Office has lowered to 336,143.34 euros the claim against some thirty former officials of the Generalitat of Catalonia, including the former president Puigdemont and the former vice president of the Generalitat Oriol Junqueras, in which it claimed 4.1 million euros jointly and severally concept of accounting responsibility for the alleged diversion of funds for the expenses of the 1-O and the external action of the 'process'.<sup>17</sup>

Amnistia i Llibertat has initiated a process to denounce the violation of the right to effective judicial protection and the right to defence, as this process subjects access to jurisdiction and the exercise of the right to defense to the burden and limitation of having to face the interests it generates.<sup>18</sup>

## The role of the Court in the Catalan conflict



17. <https://www.catalannews.com/politics/item/court-of-auditors-demand-4-1-million-from-puigdemont-and-officials-over-referendum>

18. <https://www.amnistiallibertat.cat/article/67/amnistia-i-llibertat-recorre-els-interessos-illegals-del-tribunal-de-cuentas>

# 4. The Negotiation Process

## Between Catalonia and Spain

The existence of the conflict has been publicly acknowledged by Spain within the context of ongoing negotiations between the Catalan and Spanish governments.

In these negotiations, the Catalan delegation advocates for two fundamental demands of the Catalan people: to end the political and civil repression, and to exercise the right to self-determination through a referendum.

The recent amnesty law is viewed primarily as a significant first step toward ending the conflict: an attempt to move away from punitive actions and pave the way for a political solution. However, these proposals face resistance from the Spanish judiciary, a key player that often opposes the agreements achieved in the frame of the negotiation process.

### The Highlights of the Negotiation Process

The negotiation process is essential for two key reasons. On one hand, it aims to establish a political and legal framework for holding a referendum, allowing the Catalan people to decide their future. This would address the widespread desire among Catalans to vote on the question of independence, with a mutually agreed-upon referendum being the most constructive way to resolve the ongoing political conflict between Spain and Catalonia. On the other hand, it seeks to end the political repression imposed by Spanish authorities following the 1 October 2017 referendum. Since then, more than 4,000 individuals in Catalonia have faced legal investigations, convictions, exile, imprisonment, or harassment in connection with the referendum and the pro-self-determination movement.

With this in mind, on 2 January 2020 Esquerra Republicana de Catalunya reached an agreement with PSOE which publicly recognized the existence of a political conflict between Spain and Catalonia and the need to find a democratic solution through a negotiation process. This way, it set up of the Dialogue, Negotiation and Agreement Table for the Resolution of the Political Conflict and established that the results of the process would be submitted to a public consultation in Catalonia.

On 26 February 2020, the first public meeting of the Negotiating Table, led by the President Quim Torra, took place in Barcelona, and a joint statement was agreed. This first meeting was followed by the disqualification of President Torra, Covid-19 pandemic and Spanish elections. During this time and due to all the above, the public activity of the negotiation process was paused for more than a year.

On the 15 September 2021 a meeting of the Negotiating Table took place in Madrid, with new delegations from both governments. With this meeting, the negotiation process re-started its works publicly. After that, there was another public break of the negotiations due to the consecutive regional elections that were held in early 2022 and in spring that same year, which made PSOE prioritize electoral results. This combined with the Spanish government's repeated non-compliance with agreements and the Pegasus espionage that was uncovered with the publication of the Citizenlab report, created a serious crisis between the two governments.

In order to restore trust, the two governments agreed on holding a first meeting on the 22 June 2022 between the Minister of the Presidency, Relations with the Cortes and Democratic Memory of Spain, Mr Bolaños, and the Minister of the Presidency of Catalonia, Ms Vilagrà. On July 8, the first public agreement of the Negotiation Table was reached in a meeting between the Mr Vilagrà and Mr Bolaños and was later ratified by the two Presidents, in a meeting that took place in Barcelona on the 15 July.

In this first agreement the Spanish Government recognized in writing the existence of a political conflict between Catalonia and Spain and established the principles and method that should guide the talks onwards, providing guarantees to the process and reducing the asymmetry between the parties. It also announced the need and the compromise of starting to work on ending the judicialization of the political conflict in order to move forward in the search of its solution.

In this context, the presidents called for a public meeting of the Negotiating Table on 27 July, which was to begin addressing the dejudicialization of the political conflict by formalizing the first partial agreements to delve into this path. In that meeting, the two agreements were reached between the Spanish and the Catalan governments:

#### Agreement for the Protection and Promotion of the Catalan Language

This agreement was reached with the aim of contributing to the de-judicialization of the Catalan language, which has been suffering judicial harassment for years.

This agreement recognises that language can never be an element of social, political or judicial confrontation; that Catalan has been persecuted; and that it is the responsibility of all administrations to ensure that it never becomes a minority language and that it maintains its capacity for cohesion and social progress at all times.

#### Agreement to Overcome the Judicialization and Reinforce the Guarantees

This agreement explains that the path of judicialization has sharpened the political conflict and establishes that:

- The political solution involves attending to the democratic demands endorsed by a broad and transversal social majority in Catalonia.
- And the commitment to promote reforms that address the end of judicialization and its effects, taking as reference the recommendations of international organizations.

Following what this last agreement stated and as a first step towards ending the judicialization, the Spanish Congress approved a reform of the Penal Code in 2022, abolishing the crime of sedition. This reform made it harder for the judiciary to continue repressing and unjustly prosecuting the Catalan independence movement. The crime of sedition had been used as a tool of political repression, and its removal was seen as a positive move towards restoring trust and addressing the political conflict.

However, in response to the announcement of negotiations for an Amnesty Law in 2023, there was a sharp escalation in judicial reprisals. In a notable instance, 12 individuals associated with Tsunami Democràtic—a platform that organized protests following the 2019 convictions of nine Catalan leaders—were charged with terrorism. This was widely seen as an abuse of anti-terrorism legislation aimed at stifling dissent and violating international legal standards.

In November 2023, Esquerra Republicana and the PSOE reaffirmed their commitment to the negotiation process to resolve the political conflict, as outlined in their joint agreement. The agreement emphasized the importance of amnesty and de-escalation, urging the need for both sides to uphold dialogue, negotiations, and legal reforms to resolve the conflict peacefully.

In May 2024, the Amnesty Law, endorsed by the Council of Europe's Venice Commission, was passed by a broad and diverse majority in the Spanish Congress. The law was intended to bring stability, foster social peace, and facilitate negotiations to address the root causes of the political conflict with Catalonia. Despite its democratic approval, the judiciary has refused to implement the law, an unprecedented stance that underscores the deepening politicization of Spain's judicial system.

In short, the process has shown some results but in a context of continued repression. Despite this, Amnistia i Llibertat and Sine Qua Non still believe that the negotiation process is the best platform to find a negotiated solution to the political conflict with the Spanish government. With this in mind, we are working hard to take advantage of this opportunity.

## **a. Amnesty Law, the First Step Towards the Resolution of the Conflict**

Amnistia i Llibertat advocates for amnesty as a tool to end and redress retaliations against the Catalan movement. To this end, the organization has actively engaged in promoting amnesty through various civil initiatives. These efforts include coordinating with specialized lawyers, presenting a proposed text for the Amnesty Law in 2020,<sup>19</sup> <sup>20</sup> organizing a campaign that gathered over 200,000 signatures to bring the proposed Amnesty Law to the Spanish Congress,<sup>21</sup> and hosting several events focused on the law and its implications.<sup>22</sup> <sup>23</sup>

The final text was approved in the Spanish Congress in May 30th, 2024 with a broad and diverse majority and the law entered into force in July 11th, 2024.<sup>24</sup> This law amnesties all criminal, administrative, and accounting responsibilities of individuals involved in the 2014 Catalan consultation and the 2017 referendum. Its aim being the dejudicialisation of the political conflict, it will affect more than a thousand individuals and hundreds of judiciary cases.

## **b. The Resistance of the Spanish Judiciary**

While we commend the efforts of the Spanish Congress in passing the law, we are concerned about the resistance of the Spanish judiciary to apply it.

### **The General Council of the Judiciary Lack of Partiality**

On November 2023, the Plenary of the General Council of the Judiciary approved an institutional declaration against the amnesty law.<sup>25</sup> Most of the conservative members voted in favor of a text that warns that the amnesty "implies the degradation, if not the abolition, of the rule of law in Spain." The report published by the Venice Commission<sup>26</sup> in March 2024, concludes the opposite. According to this report, the law is constitutional and its aim - the promotion of social peace - is legitimate and in accordance with the rule of law.

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19. <https://www.amnistiallibertat.cat/pagina/29/proposta-llei-organica-amnistia-i-resolucio-conflicte-politic>

20. <https://www.amnistiallibertat.cat/article/27/presentacio-llei-amnistia>

21. <https://www.amnistiallibertat.cat/article/40/acord-de-partits-i-entitats-per-fer-possible-lamnistia>

22. <https://www.amnistiallibertat.cat/article/44/la-lluïta-per-lamnistia-arriba-al-congres-dels-diputats>

23. <https://www.amnistiallibertat.cat/article/62/amnistia-i-llibertat-reivindiquem-el-cami-de-lamnistia>

24. <https://boe.es/buscar/doc.php?id=BOE-A-2024-11776>

25. <https://www.catalannews.com/politics/item/spains-top-judicial-authority-approves-declaration-against-amnesty-for-catalan-independence-leaders>

26. [https://www.venice.coe.int/webforms/documents/default.aspx?pdf=CDL-AD\(2024\)003-e&lang=en](https://www.venice.coe.int/webforms/documents/default.aspx?pdf=CDL-AD(2024)003-e&lang=en)

In May 2024, just days before the approval of the law, the same body distributed a "Practical Guide for Raising Questions of Unconstitutionality and/or European Prejudicial Issues on the Amnesty Law" through its corporate email to all judges and magistrates.<sup>27</sup> This guide, known as the "anti-amnesty guide", facilitates and promotes the submission of questions of unconstitutionality and prejudicial issues by judges and courts.<sup>28</sup> Thus, official corporate channels have been used to reach the entire judiciary with particular opinions that are openly contrary to both judicial statutes and the Constitution itself.

## Supreme Court's Rejection of Amnesty for Catalan Leaders

The Supreme Court, which sentenced the 9 Catalan political and social leaders to between 9 and 13 years in prison for sedition and misuse of public funds, has decided not to apply the amnesty law<sup>29</sup> to leaders involved in the October 2017 referendum, ruling that the amnesty does not apply to misuse of public funds charges against former Catalan leaders.

This decision<sup>30</sup> is a blow to the democratic system and the popular will expressed in the Spanish Parliament. It amounts to insubordination by twisting the interpretation of crime of misuse of public funds to avoid applying the amnesty.

Special mention should be made of the Dissenting Opinion<sup>31</sup> of Magistrate Ana Ferrer, who disagrees with the decision of the other five Supreme Court judges. The Magistrate concludes that "the only reasonable interpretation" is that the law aims to amnesty actions benefiting the pursuit of the Catalan independence project. She argues that only cases involving personal corruption can be excluded from the amnesty – which are non-existent. She concludes that the interpretation in the resolution is "contrary to any 'pro-reo' orientation", which must be respected.

This forces those who should benefit from the amnesty law to file a constitutional protection appeal before the Constitutional Court. The Constitutional Court will have the final say.

Despite the resistance of the Supreme Court, we celebrate that the High Court of Justice of Catalonia (TSJC) has applied the amnesty law to nullify the sentence against former Interior Catalan Minister Miquel Buch and a dozen related cases involving activists and citizens who peacefully protested. We hope this marks the beginning of several amnesties related to the political and social conflict in Catalonia.

However, the amnesty law was also applied to 46 National Police officers<sup>34</sup> involved in charges on October 1, 2017, despite Article 2 of the law excluding inhumane and degrading treatment. Catalan civil society organizations plan to appeal,<sup>35</sup> arguing that police brutality against civil society violates human rights conventions.

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27. <https://plataformaindependenciajudicial.es/wp-content/uploads/2024/05/Gu%C3%ADa-cuestiones-ley-amnist%C3%ADa-Mayo-2024.pdf>

28. <https://bilbaohiria.com/en/present/guide-against-amnesty-sent-to-all-Spanish-judges/>

29. <https://www.ccma.cat/324/el-suprem-rebutja-amnistiar-els-liders-de-ll-o-pel-delicte-de-malversacio/noticia/3300212/>

30. <https://www.poderjudicial.es/cgpj/es/Poder-Judicial/Tribunal-Supremo/Noticias-Judiciales/El-Tribunal-Supremo-declara-no-amnistiado-el-delito-de-malversacion-de-caudales-publicos-en-la-causa-del-proces->

31. <https://cadenaser.com/nacional/2024/07/01/el-voto-del-supremo-a-favor-de-la-amnistia-los-jueces-no-podemos-hacer-interpretaciones-que-impidan-la-vigencia-de-la-norma-cadena-ser/>

32. <https://www.catalannews.com/politics/item/miquel-buch-high-court-amnesty-law-interior-minister-25-june-2024>

33. <https://www.elperiodico.com/es/politica/20240625/tsjc-amnistia-buch-escolta-puigdemont-condenados-proces-104226528>

34. <https://www.catalannews.com/politics/item/46-spanish-police-officers-accused-of-2017-catalan-referendum-baton-charges-granted-amnesty>

35. <https://www.omnium.cat/ca/omnium-iridia-i-lanc-recorreran-lamnistia-contra-els-policies-acusats-de-cometre-violencia-policial-durant-el-referendum/>

To date, 74 people have benefited fully, of whom 50 are Spanish policemen<sup>36</sup>. The data contrast not only with the count carried out by Òmnium Cultural<sup>37</sup>, which estimates that there are 1697 people who could benefit from it, but also with those of the Spanish Public Prosecutor's Office<sup>38</sup>, which estimates that there are 486.

This shows the different speeds at which the law is being applied, prioritizing one side of the conflict, which indicates that the judiciary is driven by a double standard.

These shortcomings from some judges together with the slowness of the negotiations to renew the General Council of the Judiciary that had his mandate expired for more five years,<sup>39</sup> reaffirms the increase in the politicization of justice, which raises concerns about the application of the amnesty law.

Recently, the Supreme Court of Spain has rejected the appeals presented by Oriol Junqueras, Jordi Turull, Raül Romeva, and Dolors Bassa, all linked to the 1-O referendum, requesting the application of the amnesty law to the crime of misuse of public funds<sup>40</sup>. According to the ruling, the court determined that amnesty cannot be applied to them because they financially benefited from the referendum, thus maintaining their disqualifications from holding public office until 2030 and 2031. Magistrate Ana Ferrer expressed her disagreement in a dissenting opinion, arguing that this interpretation contradicts the intent of the legislator. The individuals involved may appeal to the Constitutional Court, which is already reviewing the constitutionality of the amnesty law.

We believe that all these actions are contrary to the democratic principle of the separation of powers and once again call into question the proper impartiality<sup>40</sup> of the Spanish judiciary, which will have to apply the amnesty law.

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36. <https://www.datawrapper.de/-/CqLKa/>

37. <https://www.vilaweb.cat/noticies/omnium-fixa-1616-persones-beneficiar-amnistia/>

38. <https://www.vilaweb.cat/noticies/fiscalia-espanyola-dues-centes-persones-menys-omnium-beneficiaries-amnistia/>

39. <https://www.ohchr.org/en/press-releases/2024/01/spain-un-expert-concerned-about-five-year-delay-appointing-general-council>

40. [https://www.elnacional.cat/ca/politica/suprem-confirma-no-aplica-amnistia-malversacio-junqueras-turull\\_1291383\\_102.html](https://www.elnacional.cat/ca/politica/suprem-confirma-no-aplica-amnistia-malversacio-junqueras-turull_1291383_102.html)

## 4. Recommendations

To address the serious shortcomings of the Court of Auditors exposed above, the following recommendations are proposed:

1. **Reform the Composition and Selection Process of the Court of Auditors:** Establish a transparent, merit-based selection process for the Court's members to ensure impartiality and independence. This includes eliminating nepotism and political influence in appointments.
2. **Introduce judicial guarantees** akin to those in criminal procedures, ensuring the right to a fair trial, defense, and effective appeal. Separate investigative and trial functions within the Court to prevent conflicts of interest.
3. **Restrict the Court of Auditors' ability to impose financial penalties and bails** to prevent overreach and ensure such actions are justified and proportional and implement measures to enhance the transparency of the Court's operations and decisions, including public reporting and independent oversight.
4. **Cease the practice of generating interests on financial deposits** to prevent further economic repression and ensure fair access to justice.

Implementing these recommendations will help restore public confidence in the Court of Auditors and ensure it functions as a fair and impartial body dedicated to upholding justice and protecting human rights.

General recommendations to put an end to the political repression against the Catalan movement and keep advancing toward the resolution of the political conflict:

- Ensure the application of the Amnesty Law to all** by creating an international monitoring mechanism that oversees its implementation.
- Keep engaging with Catalan political and social actors in the frame of the negotiations** to explore the root causes of the political conflict and find solutions to the historical sovereignty claims of Catalan people.
- Create mechanisms to protect individuals and groups from politically motivated prosecutions** and ensure their rights to free expression and political participation are upheld.

# Report of the 4th cycle of Spain's Universal Periodic Review

Retaliations Against the Catalan Pro-  
Independence Movement: Economic  
Repression and the Amnesty Law

September 2024

