

Open statement for the freedom of Jordi Cuixart and Jordi Sánchez and the defence of the exercise of fundamental rights

On October 14, 2019 the Spanish Supreme Court sentenced the former presidents of the civil society organizations Catalan National Assembly and Òmnium Cultural, Jordi Sánchez and Jordi Cuixart, respectively, to nine years of imprisonment and nine years of disqualification for office for a crime of sedition, for the “*necessary contribution*” of the pro-independence organizations they lead to the Catalan independence “process”.

In its ruling, the criminal chamber of the Supreme Court rejected the possibility of sentencing for rebellion Mr. Sánchez and Mr. Cuixart, for whom the Public Prosecution requested 17 years of prison, but attributed to them a “*decisive*” role in the “*sedition orchestrated by the Catalan government*”, with their “*indisputable capacity of leadership and close contact with the nationalist political leaders*”. The NGO Amnesty International demanded the liberation of Mr. Sánchez and Mr. Cuixart after they learnt of their sentence.

On the face of these events and after being imprisoned for over two years, last March, Jordi Cuixart and Jordi Sánchez filed an appeal for constitutional protection (*recurso de amparo*) against the above-mentioned ruling before the Constitutional Court. In the appeal, they also requested to be released during the proceedings.

On May 13, Amnesty International demanded again the immediate liberation of Jordi Cuixart and Jordi Sánchez, sentenced by the Supreme Court in its ruling of the Catalan independence “process”. The NGO has issued a technical report in which it remarks that both leaders should be released in accordance with international law, now that the Constitutional Court has admitted their appeals.

The report “*Spain: freedom of assembly and of expression and legality principle, in light of the Supreme Court ruling in the Special Cause 3/20907/2017*” has been referred to the Public Prosecution (*Fiscalía*), the State’s Legal Service (*Abogacía del Estado*), the defences, and the private prosecution in relation to the appeal proceedings.

The NGO considers that the application of the sedition criminal offence, in the case of Mr. Sánchez and Mr. Cuixart, constitutes a “*disproportionate restriction to their rights to freedom of expression and freedom of peaceful assembly*” and “*does not comply with the requirements of international instruments of human rights*” for their restriction, citing among others article 21 of the International Covenant on Civil and Political Rights and article 11.2 of the European Convention on Human Rights.

By contrast, the public prosecutor and the prosecutor of the Constitutional Court have already given their negative opinion regarding the possibility of conditional release of Mr. Cuixart while the Constitutional Court resolves the appeal.

In light of the above, the MEPs signing this statement want to express to the Spanish government and to all citizens:

1. Our deep solidarity with Jordi Sánchez and Jordi Cuixart and their families, as well as our rejection of an unfair ruling that creates a dire precedent for the right to protest.

2. That we consider that the report of Amnesty International regarding Jordi Cuixart and Jordi Sánchez sent to the Constitutional Court and the other parties – the Public Prosecution, the State’s Legal Service, the defence and the private prosecution – must be taken into consideration by all of them and, in accordance with its conclusions, lead to their immediate release.
3. That we consider that the Spanish government should address the launch of legal mechanisms, within its competences, like promoting in the Spanish Parliament the reform of the Criminal Code, as pointed by Amnesty International, which repeals or reforms the sedition and rebellion criminal offences, since their use as interpreted by the Supreme Court in the case of Mr. Sánchez and Mr. Cuixart is contrary to the legality principle.
4. That we consider that the implementation of the de-escalating plan approved by the penitentiary institutions should be expedited to facilitate that all prisoners in a semi-open regime can benefit of permits to leave prison and remain in their homes without having to return to prison while the sanitary crisis due to the coronavirus is ongoing, with the object of preserving the health of the rest of the interns and avoid the spread of the virus.