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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Joint written statement* submitted by Réseau Européen pour l'Égalité des Langues, UNESCO Centre of Catalonia, non-governmental organizations in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[01 June 2019]

* Issued as received, in the language(s) of submission only.

Violation of freedom of expression and of peaceful assembly: two civil society leaders imprisoned in Spain for organising a peaceful demonstration and for calling on people to vote in the Catalan self-determination referendum.

1. On 20th September 2017, in an attempt to prevent the holding of the Catalan self-determination referendum, the Spanish paramilitary police arrested 14 people and seized 41 regional administration buildings.
2. In response to this operation, the main Catalan civil society organisations, Òmnium Cultural (165,000 members) and Catalan National Assembly (80,000 members) called a demonstration to "peacefully resist and defend the institutions through non-violence."
3. Between 40,000 and 60,000 people assembled in front of the regional economics ministry, which had also been seized. The aim of the demonstration was to protest against the repression and to call for the right to make a democratic choice about Catalonia's future.
4. According to an article published on the same day in *El País* newspaper, "There was a peaceful, family atmosphere in front of the ministries, even though there was considerable indignation about what was happening."¹ Despite the large numbers of demonstrators, there were no arrests and no injuries. On the other hand, two police cars parked right in the middle of the demonstration had their tyres punctured, were covered in stickers, and were damaged by the many people (journalists and demonstrators) who climbed on top of them in the course of the day. At midnight Jordi Cuixart and the President of the Catalan National Assembly, Jordi Sànchez, called off the demonstration.
5. On 1st October 2017 thousands of Spanish police and soldiers were deployed in Catalonia to stop the referendum being held. At dozens of polling stations officers attacked the people peacefully assembled there. Nearly a thousand voters were injured. Despite the police brutality, over two million people went to the polling stations to express their opinion on the region's political future, with an overwhelming majority voting in favour of independence.
6. On 16th October 2017 the *Audiencia Nacional*, a Spanish national court, ordered the imprisonment of Jordi Cuixart and Jordi Sànchez on the charges of "sedition" for their role in organising the demonstration of 20th September 2017.
7. The arrest of these civil society leaders has been criticised by Amnesty International², the World Organisation Against Torture³, Front Line Defenders⁴, European Language Equality Network⁵, and numerous other organisations on the grounds that the events in question were exercising freedom of expression and of peaceful assembly, calling for the prisoners to be released and the charges dropped.
8. Charges have also been laid against various political leaders, including members of the Catalan Government, as well as the Speaker of the Catalan Parliament, and they too been imprisoned or are in exile abroad (in Switzerland, the United Kingdom and Belgium).
9. As of 12th February 2019, Jordi Cuixart, Jordi Sànchez and the Catalan politicians have been on trial at the Spanish Supreme Court. As well as the charges for organising the demonstration on 20th September, they have also been charged with having appealed for participation in the referendum of 1st October 2017. On top of these charges they

1 https://elpais.com/politica/2017/09/20/actualidad/1505931126_554222.html

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

3 <http://www.omct.org/monitoring-protection-mechanisms/urgent-interventions/spain/2018/11/d25127/>

4 <https://www.frontlinedefenders.org/en/case/jordi-cuixart-pre-trial-detention>

5 <https://elen.ngo/2017/11/15/the-european-language-equality-network-calls-for-the-immediate-release-of-catalan-civil-society-and-political-leaders/>

have also been accused of having committed the crime of "rebellion", which means having organised a "violent insurrection" with a view to bringing about the secession of part of the country. The sentences called for by the State Prosecutor for Jordi Sànchez and Jordi Cuixart are 17 years in prison. The Spanish Government, which is taking part in the trial as a plaintiff, has called for them to be sentenced to eight years in prison.

10. As recognized by the Working Group on Arbitrary Detention (WGAD), in its decision issued on April 25th, 2019, the Spanish Supreme Court has no jurisdiction to judge Jordi Sànchez and Jordi Cuixart.⁶
11. The WGAD also recognized that the two Catalan civil society leaders, as well as as the former Vice-President of the Catalan Government, Oriol Junqueras, have been arbitrarily detained for exercising rights protected by the International Covenant on Civil and Political Rights, including the right to a fair trial (Art. 14), the right to freedom of opinion and expression (Art. 19), freedom of assembly (Art. 21), freedom of association (Art. 22), and the right to take part in public affairs (Art. 15). Therefore, the WGAD called the Spanish Government to immediately release the prisoners.⁷
12. Moreover, organising the demonstration of 20th September 2017 and appealing for participation in the self-determination referendum of 1st October 2017 are actions that come under a citizen's right to freedom of expression (Art. 19) and assembly (Art. 21), and which cannot therefore justify prison sentences. The claims made by the public prosecutor's office and the Spanish Government in the trial in Madrid are therefore serious violations of the accused's fundamental rights.
13. The arbitrary detention and trial of the presidents of the leading Catalan civil society organisations constitute intimidation, with a chilling effect on the actions of civil society as a whole in Spain, sending out a threatening message to all defenders of human rights intending to organise peaceful mass demonstrations.
14. We call on the Special Rapporteur on the rights to peaceful assembly and association, the Special Rapporteur on the freedom of expression, the Special Rapporteur on the situation of human rights defenders, the Working Group on arbitrary detention, and the Human Rights Council in general, to pursue efforts to make Spain respect its international commitments, release the arbitrarily detained civil society leaders and drop all the charges against them.
15. We call on Spain to fulfil its obligations and immediately release Jordi Cuixart, Jordi Sànchez and all the other people arbitrarily detained for exercising their fundamental rights, including those of peaceful assembly, in the call for self-determination for Catalonia.

Òmnium Cultural NGO(s) without consultative status, also share the views expressed in this statement.

⁶ WGAD/2019/ESP/OPN/1, § 135.

⁷ Full WGAD Report: https://www.omnium.cat/wp-content/uploads/NNU_PrEsp_DDHH_2019_05_25_La_detenci%C3%B3n.pdf?fbclid=IwAR08bwKzCfKPW-t1nyIY-DPX5pahlzk0Kv0IL4AngpP9nFqyFNRhq2LrPhw