

Case 08- Rapper Valtònyc convicted to three years and a half in jail for singing.

“Just poor people go to jail”. “Justice in Spain is very fast when it comes to the poor. Of the 1400 politicians charged with corruption, only 70 are in prison”, said Valtònyc on Twitter.



Image from: www.elperiodico.com 11-05-2018

1. The facts;

Rapper Valtònyc was convicted by the Spanish Court called “Audiencia Nacional” to three years and a half because of the content of his lyrics. The sentence considered Valtònyc was the author of threats, serious slander against the Crown, and glorification of terrorism and further humiliation of its victims. The rapper appealed to the Spanish Supreme Court, who one year later ratified the previous sentence. After that, Valtònyc presented an appeal to the Constitutional Court, but it rejected the appeal because of considering it “not constitutionally relevant”, as the sentence says. Consequently, Valtònyc took up exile. Currently nobody knows his whereabouts, and which will be the next steps he may undertake, concerning the European Court of Human Rights.

2. Before the facts

In 2012, the President of a company whom Mr. Valtònyic had criticised on his songs filed a complaint against the rapper. Due to this, the Spanish police started an inquiry and investigated other songs on the Net. The police considered that the rapper was suspect of glorification of terrorism and humiliation of its victims because of the content of his lyrics; so they decided to arrest him. He was moved to Madrid, because there is where the competent Court for terrorism and specified criminal matters in Spain, such as glorification of terrorism, has its seat. The prosecutor and the popular accusation, and at the end the court too, considered Mr. Valtònyic as guilty of four crimes (as enumerated above). Opposed to this consideration was the defendant, who considered that songs were protected by freedom of expression and there was no crime in singing critical songs.

3. The outcome of the facts:

This is not the first time that some artist is sentenced due to his or her work. Another rapper, called Elgio, was condemned to 2 years and 1 day in prison; and another rapper yet, Mr. Pablo Hasel, was sentenced to the same penalty as Mr. Elgio; 2 years and one day in prison because of the contents of his songs. And there are many more cases related to the violation of the freedom of expression of artists.

In that sense, a platform was created to denounce all damage to the freedom of expression. PDLI (in Spanish: "Plataforma en Defensa de la Libertad de Expresión"). It said, in its foundational manifesto that in Spain there are real threats to freedom of expression, such as the criminalisation of artists, fake news or the modification of some laws which damage freedom of expression.

The special rapporteur of the UN Committee on Freedom of opinion and expression Mr. David Kaye has warned a few times about the seriousness of the fact that Spain may be jeopardizing its citizens' right to freedom of speech by arresting and sending to jail elected representatives and harassing peaceful demonstrators. This warning coincides with the data provided by the 2018 Freedom Report on the repression on freedom of expression on artists worldwide. On this yearly report, Spain appeared as the country with more artists sentenced to jail (13 artists thus far).

On 17-10-2018, the Belgian Court of Gant, has rejected the extradition of Mr. Valtònyic to Spain. This was due to this court not agreeing with the charges of "glorification of terrorism" in the rapper's lyrics as perceived by Spanish justice.

4. Laws & good democratic practices violated by the Spanish State:

Violation of the freedom of expression, enshrined in **art.20 of the Spanish Constitution**, **art.10 of the European Convention of Human Rights (ECHR)** and **art.19 of the International Covenant on Civil and Political Rights (ICCPR)**. Both, ECHR and ICCPR were ratified by the Spanish government. The three rules agree on defining freedom of expression as a universal right, which includes holding opinions freely and receiving information and ideas without interference.

The European Court of Human Rights holds, in the sentence STERN TAULATS & ROURA CAPELLERA v. SPAIN, that criticizing political powers and, specifically, the Spanish Crown is under freedom of expression and cannot be considered a criminal matter.

5. References:

5.1 Links to relevant press articles related:

- Article summarizing Rapper Valtònyc's sentence by the "Audiencia Nacional" (in Spanish):

https://politica.elpais.com/politica/2017/02/22/actualidad/1487785938_120936.html

- PDLI shows its concern about how rapper Valtònyc's sentence to jail can affect artists and their work (in Spanish):

<http://www.lavanguardia.com/vida/20180524/443801268206/la-pdli-preocupada-por-el-efecto-que-la-sentencia-de-valtonyc-puede-tener-en-la-creacion-artistica-del-mundo-musical.html>

- Article explaining how the Spanish Constitutional Court denied Valtònyc's appeal, whose objective was avoiding entering jail (in Catalan):

https://www.ara.cat/cultura/valtonyc-pres0_0_2012798928.html

- PDLI explains why it defends Mr. Valtònyc's rights and his freedom of expression (in Spanish):

<http://www.publico.es/sociedad/valtonyc-manual-libertad-expresion-responde-pdli-criticas-defender-valtonyc.html>

- Short summary of a wide variety of cases related to freedom of expression and the interpretation of Spanish Criminal Code (in Spanish):

https://politica.elpais.com/politica/2016/02/13/actualidad/1455364045_385550.html

- Older case related to a group of puppeteers who were accused of glorification of terrorism and of humiliating its victims. At the end, the Court closed the case without any penalty (in Spanish):

https://politica.elpais.com/politica/2016/06/28/actualidad/1467119956_320215.html

- Case of another rapper, Mr. Pablo Hassel, also sentenced by the same Court as Mr. Valtònyc, to 2 years and 1 day in prison (in Spanish):

https://politica.elpais.com/politica/2018/03/02/actualidad/1519993957_833787.html

- Case of another rapper, Mr. Elgio, also sentenced by the same Court as Mr. Valtònyc, to 2 years and 1 day in prison (in Spanish):

<http://www.lavanguardia.com/local/sabadell/20171205/433440580029/audiencia-nacional-condena-sabadellense-elgio-entrar-prision.html>

- PDLI's website, where you can find articles related to freedom of expression and its embarrassing situation in Spain (in Spanish):

<https://en.unesco.org/creativity/sites/creativity/files>

<https://libertadinformacion.cc/sobre-la-pdli/que-es-la-pdli/>

- Freemuse yearly report 2018, on the repression to freedom of expression of artists worldwide. Spain occupies the first place on the list of states with the greatest number of artists imprisoned (in English).

</freemuse-the-state-of-artistic-freedom-2018.pdf>

Belgian justice rejects Valtònyc's extradition (in Catalan):

<https://www.naciodigital.cat/noticia/162971/justicia/belga/rebutja/extradicio/valtonyc>

5.2 Relevant legal documents / reports related:

- [Art.20 of the Spanish Constitution](#) article which regulates the protection of freedom of expression in Spain (in Spanish).
- [European Convention of Human Rights, art.10](#) : on freedom of expression (in English).
- [International Covenant on Civil and Political Rights, art.19](#): on freedom of expression (in English).
- [Spanish criminal code](#)- arts. 578-579 on glorification of terrorism and humiliation of its victims; art.490, serious slander against the Crown and art.169, threats (in Spanish).
- European Court of Human Rights sentence [STERN TAULATS & ROURA CAPELLERA v. SPAIN](#). Latest sentence which consider that criticizing political powers and, specifically, the Spanish Crown is under freedom of expression and cannot be considered criminal matters (in French).
- [Spanish Supreme Court sentence](#), which confirms the penalty imposed by “Audiencia Nacional”, the Spanish specialized in crimes against the Crown and terrorism, among others (in Spanish).
- [“Audiencia Nacional”'s sentence](#), which sentenced rapper Valtònyc to 3 years and a half in prison due to the content of his songs (in Spanish).