

Case 05- A local councillor from Reus is accused of a hate crime against the Spanish national police corps

It is all «a consequence of the events of 3-Oct and for having signed the Reus City council manifesto».



https://dades.naciodigital.cat/redaccio/arxius/imatges/201803/1200_1521713638mariona.jpg

1. Description of the facts

On 22 March 2018, Mrs. Mariona Quadrada, a member of Reus City Council for the «CUP» (Candidacy of Popular Unity – Pro-independence Left) was arrested at home by the Catalan police, driven to the police station and then taken before judge Cristina Giralte Padilla, responsible for Investigation Court No. 2 in Reus, to answer charges of inciting hatred, a crime Mrs. Mariona Quadrada is charged with on the basis of a report by the Spanish national police

corps for having taken part in the popular demonstrations that took place on the days following the self-determination referendum on 1 October that the Spanish police forces violently tried to prevent.

2. Background

On the days leading up to the October 1 referendum on Catalonia's self-determination, that the State had declared to be "illegal", squads of the Spanish police forces ("Cuerpo Nacional de Policia" and "Guardia Civil") were deployed in Catalonia and took part in the violent repression at the polling stations. More than 1,000 civilians who had gone to peacefully vote, were treated by the medical authorities.

In Reus, some of the deployed policemen were lodged in a hotel in the city centre, the Gaudí. On October 3, protests outside the Gaudí Hotel increased, as they did in Plaça Mercadal, in front of the city hall, where the various municipal groups supporting independence read a four-point manifesto; the last point of which called for the departure of the Spanish police forces temporarily lodged in the city.

The participation in these demonstrations and the signing of this manifesto are what led Mrs. Mariona Quadrada to be accused of a crime of incitement of hatred. Given her failure to appear before court after two previous summonses, the judge ordered her detention so that she would be forced to appear before the court.

3 . Outcome

Once before the judge, Councillor Mariona Quadrada refused to answer any questions except for those asked by her counsel. The judge resolved to grant Mariona Quadrada provisional freedom pending the trial, the date of which is not yet known and, in fact, may be delayed given the profusion of similar charges that have been laid against elected local officials, public servants and the general public.

On 12 December 2018, the high Court of Barcelona ruled in an interlocutory judgment that members of law enforcing agencies cannot be considered as victims of "hate crimes" as such definition is reserved to the protection of minorities against discrimination.

4. Laws and good democratic practices violated by Spain

Above and beyond the consideration that the violent attempts to prevent the holding of a referendum may merit, the specific case of Councillor Mariona Quadrada, which coincides with many other similar ones, is a mishandling of the crime of incitement to hatred (as defined by article 510 of the current Spanish penal code) that both in its wording - and especially in the most credible interpretations - does not seem applicable when used against the security forces and bodies, inside of vulnerable groups.¹ This is also indicated by the ruling of the Catalan High Court on a similar case on 28/06/2018 (see the online references' section below).

1 " (...) por motivos racistas, antisemitas u otros referentes a la ideología, religión o creencias, situación familiar, la pertenencia de sus miembros a una etnia, raza o nación, su origen nacional, su sexo, orientación o identidad sexual, por razones de género, enfermedad o discapacidad." (" *(...) for racist, anti-Semitic or other reasons related to ideology, religion or belief, family situation, members belong to an ethnic group, race or nation, the national origin, sex, sexual orientation or identity, on grounds of gender, ailment or disability*) . http://noticias.juridicas.com/base_datos/Penal/lo10-1995.l2t21.html#a510

6. References

6.1 Online Media

- Reus – Manifestació de protesta pels fets de l'1 d'octubre. Reus es manifesta contra la brutalitat policial (2/10/2017) (*Reus: protest demonstration for the events of 1 October. Reus demonstrates against the police brutality*).
http://cadenaser.com/emisora/2017/10/02/radio_reus/1506956724_848867.html
 - Els policies espanyols marxen de l'Hotel Gaudí de Reus (4/10/2017) (*The Spanish police leave the Gaudí Hotel in Reus*).
<https://www.naciodigital.cat/tarragona/noticia/23899/policies/espanyols/marxaran/dema/hotel/gaudi/reus>
 - Una quarantena d'entitats dóna suport al comunicat (7/10/2017). (*About forty organisations give their support to the communiqué*).
<http://reusdigital.cat/noticies/reus/una-quarantena-dentitats-de-reus-subscriuen-el-comunicat-sobre-els-fets-de-l-1-o>
 - La policia nacional acusa l'alcalde i sis regidors de Reus d'incitació a l'odi (10/11/2017). (*The Spanish national police accuse the mayor of Reus and six councillors of inciting to hate*). <http://www.elpuntavui.cat/politica/article/17-politica/1279095-la-policia-nacional-acusa-l-alcalde-i-sis-regidors-de-reus-d-incitar-a-l-odi.html>
 - Un jutge imputa l'alcalde de Reus i sis regidors més per «incitació a l'odi». El jutjat obre una causa contra el consistori de la capital del Baix Camp per un manifest realitzat després del referèndum a favor de la convivència (10/11/2017). (*A judge accuses the Mayor of Reus and six other councillors of "inciting hatred". The court has opened a case against the city council of the Baix Camp [district] for a manifesto written after the referendum, in favour of coexistence*).
<https://www.naciodigital.cat/tarragona/noticia/24459/jutge/imputa/alcalde/reus/sis-regidors/incitacio/odi>
 - Citació a alcalde i regidors de Reus per la signatura d'un manifest de protesta pels fets de l'1 d'octubre (10/11/2017). (*Citation to Reus mayor and councillors are summoned for having signed a protest manifesto protesting about the events of October 1*).
<https://www.publico.es/public/l-alcalde-i-regidors-reus-imputats-per-manifest-presencia-policial.html>
 - Reacció de l'Alcalde i regidors de Reus a la citació del jutjat (10/11/2017). (*Reaction of the Mayor and Councilors of Reus to the court summons*).
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https://www.ara.cat/politica/Policia-Nacional-denuncia-Reus-presencia_0_1903609757.html

- Declaració al jutjat de l'alcalde de Reus sobre el cas (23/11/2017). (*Statement in court by the mayor of Reus, on this case*). https://www.ara.cat/societat/Lalcalde-regidors-declaren-manifest-violencia_0_1911408964.html
- Segona incompareixença dels regidors de la CUP al jutjat (29 de novembre de 2017). (*The CUP councillors also ignore the second court summons*). https://www.ara.cat/politica/regidors-CUP-Reus-investigats-no-compareixen-jutjat_0_1915008611.html
- Detenció de dos regidors de la CUP de Reus (28/12/2017). (*Two Reus CUP councillors are arrested*). <https://www.diaridegirona.cat/catalunya/2017/12/27/detenen-els-regidors-cup-reus/887180.html>
- Mariona Quadrada no es presenta a declarar (29/12/ 2017). (*Mariona Quadrada fails to turn up to testify*). https://www.elnacional.cat/ca/politica/tercera-regidora-reus-investigada-1o-no-presenta-declarar_225159_102.html
- Citen per tercera vegada Mariona Quadrada (18 de març de 2018). (*The court summons Mariona Quadrada for the third time*). https://www.elnacional.cat/ca/politica/mariona-quadrada-cup-delicte-odi_249183_102.html
- Segona incompareixença de Mariona Quadrada (19/3/2018). (*Mariona Quadrada fails to heed the second court summons*). https://www.ara.cat/societat/regidora-CUP-Reus-jutgessa-suposat_0_1981002032.html
- La regidora no es presenta a declarar (19/3/2018). (*Mariona Quadrada does not turn up to testify*). https://www.elnacional.cat/ca/politica/regidora-cup-reus-no-declara_249576_102.html
- La jutgessa ordena la detenció de Mariona Quadrada (21/3/2018). (*The judge orders Mariona Quadrada's arrest*). https://www.elnacional.cat/ca/societat/la-jutgessa-ordena-detener-la-regidora-de-la-cup-de-reus-investigada-per-odi_250125_102.html
- Ordre judicial de detenció de Mariona Quadrada per incompareixença davant la jutge (22/3/2018). (*Mariona Quadrada's arrest warrant for non-appearance before the court*). <https://www.diaridegirona.cat/catalunya/2018/03/22/ordenen-detencio-duna-regidora-cup/902830.html>
- Llibertat provisional per a la regidora de Reus (22/3/2018). (*Provisional freedom for the Reus councillor*). https://www.elnacional.cat/ca/societat/lilibertat-regidora-cup-reus-plantar-jutge-tres-vegades_250452_102.html
- Entrevista Mariona Quadrada a EITB (22/3/2018). (*Mariona Quadrada is interviewed on Basque TV, EITB*). <https://www.eitb.eu/es/television/programas/lo-que-esta-pasando/videos/detalle/5480947/video-mariona-quadrada-cup-reus-su-detencion-delito-odio/>

6.2 Documents

- Article 510 del Codi Penal Espanyol (Llei Orgànica 10/1995). (*Article 510 of the Spanish Criminal Code (Organic Law 10/1995)*).
http://noticias.juridicas.com/base_datos/Penal/lo10-1995.l2t21.html#a510
- Interlocutòria del TSJC de 28 de juny de 2018 que desestima l'aplicació de delictes d'odi al cas del Diputat d'ERC per Tarragona, Sr. Ferran Civit, en relació a expressions seves sobre els cossos de seguretat de l'estat (28/6/2018). (*Catalan High Court ruling that dismisses the application of «hate crime» to the case of the ERC MP for Tarragona, Mr. Ferran Civit, in relation to his statements about the State security forces*).
<http://www.poderjudicial.es/stfls/TRIBUNALES%20SUPERIORES%20DE%20JUSTICIA/TSJ%20Catalunya/JURISPRUDENCIA/Auto%20TSJCat%20Civil%20y%20Penal%2028%20junio%202018.pdf>
- Article 10, European Convention on Human Rights.
https://www.echr.coe.int/Documents/Convention_ENG.pdf
- Article 19, International Covenant on Civil and Political Rights.
<https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>
- Article 11, EU Charter of Fundamental Rights. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12012P/TXT>
- Interlocutory judgment of 12 December 2018 of Barcelona's High Court establishing that law enforcing agencies' members cannot be considered as victims of "hate crimes".
<http://www.poderjudicial.es/cgpj/es/Poder-Judicial/Noticias-Judiciales/La-Audiencia-de-Barcelona-no-aprecia-delitos-de-odio-e-injurias-a-la-Guardia-Civil-en-los-insultos-durante-una-manifestacion>