

Case 14 – Jordi Borràs

A Spanish policeman breaks photojournalist Jordi Borràs' nose while shouting: “Long live Spain and long live Franco!”

Borràs: “Franco was buried, but Franco’s regime wasn’t”.



Borràs, after being attacked (Quico Sallés / El Món)

1. Description

On 16 July 2018 Jordi Borràs, a photojournalist, reported that he had been assaulted while walking along Capellans Street, in central Barcelona. The aggressor shouted “Viva España, Viva Franco” and attacked the photojournalist in martial fashion. Borràs suffered several bruises and a broken nose. The aggressor shoved his Spanish policeman’s badge in the face of bystanders when they tied to restrain him, and when hurriedly leaving the place of the assault, he left behind a bag containing, among other things, a knife. After the incident, which was filmed and photographed by several people, Borràs was treated at Peracamps dispensary and next day he filed a complaint before the Catalan police.

The Spanish National Police Internal Affairs Department apparently opened an internal inquiry on the officer involved in the assault, who is a member of the Spanish National Police Information Unit in Barcelona. The officer decided, in his turn, to accuse Borràs of the same offence. Both Jordi Borràs and the police officer testified as defendants on 29 October, as ordered by the judge in charge of the Barcelona Criminal Court of First Instance No. 8. Witnesses confirmed Borràs’ version of the incident: moreover, the policeman was in plain clothes and Borràs did not know him.

2. Before

Jordi Borràs is known for his extensive research and photo coverage of Spanish ultranationalist movements in Catalonia, among other professional activities ([check his website](#)). Thanks to his investigations, certain ideologies and individuals that had seemingly disappeared from the scene after the Franco regime ended in 1975, have been exposed, and Mr. Borràs has become the most visible enemy of Fascist movements. During an ultranationalist rally in Barcelona on “Día de la hispanidad” (12 October) in 2015, Pedro Chaparro, one of the leaders of the extreme-right ultranationalist party Democracia Nacional, addressed the 250-odd people attending the rally thus: “We have seen over there that rat, Jordi Borràs. If you see him I ask you all to fuck the hell out of him”.

The capacity of Mr. Borràs to cover the event as a journalist and do his job was thus jeopardized as he had to hurry off, fearing for his physical integrity. It is worth noting that Mr. Chaparro was one of the violent assailants that broke into an event on the Catalan Government’s premises in Madrid (the Blanquerna Centre) in September 2013, a day before passing a test to become a professional security agent. Mr. Chaparro had been sentenced to four years’ imprisonment for this offence, but thanks to his appeal to the Constitutional Court – and despite the later one-year sentence for his 2015 speech– he has yet to set foot in gaol.

In his CV Jordi Borràs describes himself as an illustrator, photojournalist and member of The “Ramon Barnils” group of journalists. This group specialises in social issues and its main focusses are on Catalan current affairs, and on far-right movements operating in Catalonia. Nowadays, Mr. Borràs works as a freelance press reporter for national and international media. In the areas of photography and research journalism his main books to date are *“Warcelona, una història de violència”* (2013) and *“Plus ultra. Una crònica gràfica de l’espanyolisme a Catalunya”* (2015), and *“Desmuntant Societat Civil Catalana”* (2015).

Jordi Borràs is also the author of the book “Days that will last for years” (2018) in which he describes the violence of the Spanish police towards the catalan peaceful voters in the Catalan referendum of the 1st of October 2017

He adds: “The events of 1st October 2017 will be forever etched into the collective memory of several generations of Catalans. The astuteness of all those citizens who guarded ballot boxes and papers, the first wave of arrests of public officials, society’s all-out mobilisation, the police violence, the peaceful resistance and the political and judicial action triggered by all of this will accompany some and haunt others for the rest of their lives.”

3. Outcome

On 29 October 2018, Mr. Borràs and the police officer who had attacked him testified at the City of Justice of Barcelona. A medical report and some witnesses testifying that they had seen the police officer assaulting the journalist, proved the injuries denounced by Jordi Borràs to be related to the assault he had suffered. For his part, the police officer provided no evidence of the aggression he claimed Mr. Borràs had inflicted upon him.

Consequently, this assault suffered by Jordi Borràs was reported before the European Commission on 18 July 2018 by three MEPs: Josep Maria Terricabras and Jordi Solé (ERC) and Ramon Tremosa (PDECat). They also reported the Nazi salutes done by the people gathered at the “Valle de los Caídos” (Dictator Francisco Franco’s mausoleum) on the previous Sunday. Under the title [“Far-right violence in Catalonia and legality of apologetics for fascism and Francoism”](#) they asked the Community’s executive, on 3 September 2018:

- Is the Commission aware of the increase in attacks of a far-right nature by militants and Spanish police officers in Catalonia?
- Does the Commission believe that Francoism should fall under the category of ‘genocide, crimes against humanity and war crimes’ as defined in Article 1 of Council Framework Decision 2008/913/JHA of 28 November 2008?
- If so, does the Commission believe that fascist salutes should be forbidden in public spaces?, whether advocating for Francoism violates European law.

On October 19 the Commission sent its reply, to the effect that it has no competence to investigate alleged individual cases of hate speech and hate crime. Under the Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law, Member States must ensure that public incitement to violence or hatred is criminalised. It is for national law enforcement and judicial authorities to investigate and prosecute any such instance under relevant provisions of national law, and also to deal with the sensitive and complex issue of addressing the horrors and crimes committed under totalitarian regimes.

As of today, to publicly advocate for Francoism is not a punishable offence in Spain.

Incidentally, Jordi Borràs, as an eye-witness to many of the events to be analysed in the October 1 Supreme Court trial stating on February 12 2019, was put forward as a witness by defence counsels. However, the Court ruled him out on February 1, arguing that hundreds of professionals have access to the same graphic documentation sources and also undertake and journalistic investigations, does not justify his testimony

4. Laws, rights and freedoms infringed

Article 1 of the Spanish Constitution (SC): “Spain is hereby established as a social and democratic State, subject to the rule of law, which advocates freedom, justice, equality and political pluralism as highest values of its legal system”.

Article 20.1.d SC- The right to freely communicate or receive truthful information by any means of dissemination whatsoever. The law shall regulate the right to the clause of conscience and professional secrecy in the exercise of these freedoms.

Organic Law 2/1997, June 19, regulatory of Conscience Clause for media professionals: among others, it ensures independence in the exercise of their profession.

Right to personal dignity: Spanish Constitutional Court (TC) judgement 278/2005 “every person has the right to freedom of opinion and speech; the right to investigate and to receive information and opinions and to spread it, without borders limitations, through any way of expression”.

Right to physical integrity, enshrined by Organic Law 10/1995, November 23, of the Spanish Penal Code.

Spanish Penal Code: On the felonies committed when exercising the fundamental rights and public liberties guaranteed by the Spanish Constitution. Article 510: “Those who provoke discrimination, hate or violence against groups or associations due to racist, anti-Semitic reasons or any other related to ideology, region or belief, family situation, belonging to an ethnic group or race, national origin, gender, sexual preference, illness or handicap”.

5. References

5.1 Articles and press websites links.

[Aggression to photojournalist Jordi Borràs in Barcelona’s city center: \(in English\)](#)

[Jordi Borràs, victim of fascist impunity \(in English\)](#)

[Professional blog of Jordi Borràs \(in English\)](#)

[Catalan Members of the European Parliament ask in the Chamber whether fascist rallies at Valle de los Caídos and fascist salutations, as well as the aggression to photojournalist Jordi Borràs violate European law: \(in Catalan\)](#)

[Pedro Chaparro, Leader of the extreme-right unionist movement Democracia Nacional publicly threatens photojournalist Jordi Borràs during a rally \(in Spanish\)](#)

5.2 Documents

[Spanish Constitution \(Article 15 and 17 about personal safety\) and Article 20 about the right to inform “in an uncensored and unhindered way”.](#) (in English)

[Organic Law 10/1995, November 23, of the Spanish Penal Code. Article 147](#) (in Spanish)

[European Parliament. Parliamentary question for written answer, to the Commission. 3 September 2018 \(ref. E-004464-18\). By Ramon Tremosa i Balcells \(ALDE\) , Josep-Maria Terricabras \(Verts/ALE\). Subject: Far-right violence in Catalonia and legality of apologetics for fascism and Francoism.](#) (in English)

[European Parliament. Parliamentary question. 19 October 2018 \(ref. E-004464/2018\(ASW\). Answer given by Ms Jourová on behalf of the European Commission](#)

[Supreme Court ruling excluding the request for Jordi Borràs to be a witness for the defence. 1 February 2019](#) (in Spanish)