

# Case 17- Tamara Carrasco

The activist of the CDR of Viladecans said: "my jail is twenty square kilometers."



## Description

On April 10, 2018, agents of the Spanish Civil Guard presented themselves at the home of Tamara Carrasco, searched the place, took away various materials and arrested Ms. Carrasco, accusing her of sedition, rebellion and belonging to a terrorist organization. Based on these charges, Tamara Carrasco was transferred to Madrid and placed at the disposal of the National Court, a special court, heir of the Francoist "Public Order Court", which acts in cases of terrorism.

## Before

Tamara Carrasco participated in the activities of the Republic Defense Committee (CDR) of her city, Viladecans, and participated in actions of peaceful protest against the imprisonment of Catalan independentist politicians and in favor of the Republic. Tamara had at her home various CDR materials: posters, shirts, yellow bows, whistles, and a cardboard mask with the face of Jordi Cuixart, one of the jailed independentists. The materials confiscated also included a Google Maps itinerary that, according to Ms. Carrasco, was to be able to find the headquarters of the Civil Guard in Barcelona with the sole purpose of attending a demonstration in front of its premises. All this material was confiscated by the Civil Guard. Recordings on her WhatsApp account that referred to protest actions to paralyze the country (road cuts and blocking access to market places) were taken as well. These recordings were leaked to the media and served to fuel terrorist discourse on the part of the media against independence. In no case was there evidence of any terrorist or simply violent action committed by Ms. Carrasco.

## The outcome

Forty-eight hours after the detention of her arrest, Judge Diego de Egea, a judge from the Military Juridical Corps, appointed as a judge in support of court no. 6 of the National Court, dictated the provisional release of Ms. Carrasco. The judge's interlocutory decree questioned the accusations of rebellion, sedition, and terrorism held by the public prosecutor and imposed on Tamara Carrasco the ban on leaving her municipality, except to go to work, and the obligation

to present herself before the nearest court weekly, which is in the nearby city of Gavà. This prohibition was not lifted to Ms. Carrasco, even to be able to visit her mother at a time when she suffered an accident and could not leave her home.

Tamara Carrasco arrived from Madrid without any legal accusation based on specific facts. On October 8, her lawyer, Tamara, and her support group, convened a press conference where they disclosed a National Court's interlocutory decree dated October 2, that stated that they will maintain the precautionary measures onto Ms. Carrasco because "the activity of the CDR continues which has not stopped for the moment". Benet Salellas, lawyer of Tamara Carrasco, denounced in this press conference "the grave violation of fundamental rights that involves denying the freedom of Tamara Carrasco because of what other people do." According to Mr. Salellas, this decision "dynamites the foundations of the very rule of law and the principle of protecting citizens' fundamental rights that must govern it."

After a few weeks, unable to prove the initial accusation of terrorism and after six months of Ms. Carrasco's confinement, Judge De Egea dictated a new interlocutory decree by which he was withdrawing from the case, but not in order to transfer it to a specific court, but in a generic way for the case to be transferred to the Dean courts of Barcelona, Lleida, Tarragona and Girona.

This inhibition without specifying a court to which the case should be transferred, left Ms. Carrasco in limbo and prevented her from having an effective investigating court before which to put forward her defense and before which, for instance, be allowed to request the lifting of the ban on leaving her municipality, which is still in force.

During this time, it was again requested for the precautionary measures to be lifted to the National Court -this one being the only competent court where the lawyer could address himself- and they again refuse to lift the measures with the sole argument that "the facts are very serious", but Tamara Carrasco continues without knowing which are the facts she is accused of.

On 16 January, she learned, on the same day that sixteen independentists, including the mayors of two populations, were detained illegally in Girona, through the press that her case was taken up by the court of Gavà and that she was not even accused of public disorder. At the moment, she does not have as yet any official news from this specific court.

## Violated laws

The arrest of Tamara Carrasco, the circumstances in which it occurred, the disproportion between the crimes that were initially alleged, and those that are finally maintained to be taken to a trial after months of confinement of the person accused, raises a violation of fundamental rights such as the ones of association, freedom of expression, or the one of participation in public affairs, protected under articles 20, 21, 22 and 23 of the Spanish Constitution. These rights are also protected under articles 9, 10 and 11 of the European Convention on Human Rights (ECHR) and articles 19, 22 and 25, of the International Covenant on Civil and Political Rights of the United Nations (PIDCP); both ratified by Spain.

On the other hand, the legal status of Tamara Carrasco, who has not been assigned a specific court in charge of investigating her case since November, is a violation of the right of effective judicial protection enshrined in article 24 of the Spanish Constitution. This same right is also protected, in different formulations, under article 14 of the ICCPR and by article 6 of the ECHR. Moreover, this is a situation contrary to the provisions of the Spanish Criminal Procedure Act in its articles 15, 18 and 25.

The confinement of Ms. Carrasco in her municipality of residence restricts the freedom of movements that article 19 of the Spanish Constitution recognizes and grants to all citizens.

## References

List of alleged evidences against Tamara Carrasco – Article of El Nacional (in Catalan):

[https://www.elnacional.cat/ca/politica/llista-proves-cdr-google-maps-xiulet-groc\\_257361\\_102.html](https://www.elnacional.cat/ca/politica/llista-proves-cdr-google-maps-xiulet-groc_257361_102.html)

Tamara Carrasco's WhatsApp recording that was used as evidence against her, disseminated by El Confidencial, on the same day of her arrest (in Catalan):

<https://soundcloud.com/el-confidencial/archivo-de-audio-difundido-por-la-arrestada>

Chronicle of Nació Digital about the decree of the National Court posterior to her arrest on April 2018 ((in Catalan):

<https://www.naciodigital.cat/noticia/152584/audiencia/nacional/deixa/llibertat/activista/dels/cdr/no/imputa/terrorisme>

Chronicle of El Nacional about the prohibition imposed by the National Court to Tamara Carrasco to be able to visit her mother who was hospitalized (in Spanish):

[https://www.elnacional.cat/es/politica/audiencia-nacional-tamara-carasco-permiso-madre\\_286164\\_102.html](https://www.elnacional.cat/es/politica/audiencia-nacional-tamara-carasco-permiso-madre_286164_102.html)

Tweet of Salellas Advocats containing a copy of the decree in which the National Court deferred to the dean Courts of Barcelona, Lleida, Tarragona i Girona (in Catalan and Spanish):

<https://twitter.com/salellasadv/status/1060175068096053248>

In-depth interview to Tamara Carrasco: “all governments fear a mobilized people”. Públic – October 2018 – (in Catalan):

<https://www.publico.es/public/tamara-carrasco-tots-els-govers-els-fa-poble-mobilitzat.html>

The National Court prorogues Tamara Carrasco's confinement because “the CDR continue to be active” (in Catalan):

<https://elmon.cat/politica/audiencia-nacional-prorroga-confinament-tamara-carrasco-cdr-continuen-actius>

The case against Tamara and Adrià Carrasco is finally deferred to an ordinary court- The State's prosecutor states that the alleged crimes of public disorder and inciting to disorder have to be investigated where they have allegedly taken place (in Catalan):

<https://www.vilaweb.cat/noticies/jutjat-ordinari-tamara-adria-carrasco/>

## Documents

Spanish Constitution – consolidated text- Second chapter on rights and freedoms (in Spanish):

<https://www.boe.es/buscar/act.php?id=BOE-A-1978-31229&tn=1&p=20110927#csegundo>

European Covenant of Human Rights (in English):

[https://www.echr.coe.int/Documents/Convention\\_ENG.pdf](https://www.echr.coe.int/Documents/Convention_ENG.pdf)

International Covenant of Civil and Political rights of the UN (in English):

<https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

Articles 15, 18, and 25 of the Spanish Criminal Procedure Code which establishes the procedure by which a competent court to take up an investigation is determined (in Spanish):

<https://www.boe.es/buscar/act.php?id=BOE-A-1882-6036>

Definition of the concept of effective legal guardianship and its development in the Spanish constitution (in Spanish):

[https://es.wikipedia.org/wiki/Tutela\\_judicial\\_efectiva](https://es.wikipedia.org/wiki/Tutela_judicial_efectiva)

Interlocutory decree of 2-10-2018 by which the precautionary measures against Tamara Carrasco are maintained “because the CDR continue to be active” (news piece in Catalan & decree in Spanish):

<https://www.diarijornada.coop/actualitat/20181008/jutge-mante-prohibicio-tamara-carrasco-sortir-viladecans-perque-cdr-continuen-actius>