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**Hate speech against the  
Catalan minority**

June 2020



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*For any further questions on this matter, please contact:*

Alice Monicat, General Coordinator of the Aix Global Justice Clinic  
[aixglobaljustice@gmail.com](mailto:aixglobaljustice@gmail.com)  
[aixglobaljusticeclinic@proton.me](mailto:aixglobaljusticeclinic@proton.me)

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## Abbreviations

Committee on the Elimination of Racial Discrimination	CERD
Council of Europe	COE
European Commission against Racism and Intolerance	ECIR
European Convention of Human Rights	ECHR
European Court of Human Rights	ECtHR
International Convention on the Elimination of Racial Discrimination	ICERD
International Covenant on Civil and Political Rights	ICCPR
International Human Rights Law	IHRL
Office of the United Nations High Commissioner for Human Rights	OHCHR
People's party	PP
Spanish socialist worker's party	PSOE
Universal Declaration of Human Rights	UDHR
United Nations Educational, Scientific and Cultural Organization	UNESCO
Working Group on Arbitrary Detentions	WGAD

# Summary

“Is the freedom in free speech the same as the freedom to be protected from violence, or are these two difference valences of freedom? Under what conditions does freedom of speech become freedom to hate?”<sup>1</sup>

In broad terms, hate speech is a **communication that denigrates people** on the basis of their membership of a particular group. This can include any form of expression, such as images, plays, and songs, as well as speech. For several years **hate speech has increasingly appeared online**, especially on social media. Companies such as Facebook, Twitter and Google have their own specific definition of hate speech and their approaches to dealing with it are evolving.

The aim of this study is to examine the way in which the discourse of hate against the Catalan minority has spread in social media and the adequacy of the government response to this phenomenon. This report is divided into two main parts. In the first part, the international and European regulatory framework will be presented and the guidelines issued at an international level to counter hate speech in social media will be addressed. In the second part will be analyzed the way in which hate speech against the Catalan minority is prevalent in Spain. Finally, this report concludes that the Catalan minority must be protected according to international standards and underlines the deficiency of the Spanish State in fulfilling its obligations.

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<sup>1</sup> T. Asad, W. Brown, J. Butler and S. Mahmood (2009) *Is Critique Secular? Blasphemy, Injury and Free Speech*, UC Berkeley: Townsend Papers in the Humanities, p. 128.

# 1. Introduction

## 1.1. The lack of an international definition of "hate speech"

Although there is no international legal definition of hate speech, UN Secretary-General António Guterres presented a strategy and action plan on hate speech at an informal briefing for Member States in May 2019. The strategy offers ideas on how to address the root causes and drivers of hate speech and reduce its impact on societies.

The UN Secretary-General told Member States that:

"Hate speech is in itself an attack on tolerance, inclusion, diversity and the very essence of our human rights standards and principles. More generally, it undermines social cohesion, weakens shared values and can create the foundations for violence, undermining the cause of peace, stability, sustainable development and respect for human rights for all".

International law does not prohibit hate speech by its name but it prohibits any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.<sup>2</sup> Fight against discrimination has a particular importance in its historical context, because the first idea of prohibiting hate speech appeared in the Convention on the Prevention and Punishment of the Crime of Genocide, which aims to prevent a massacre of a particular group. It is hence entailed in the concept of prohibition of hate speech that its goal is to protect violence against specific folks, especially race and ethnicity. For that purpose, a simple dissemination of ideas based on racial superiority and financing<sup>3</sup> thereof are also forbidden.

Hate speech has been for a long time a concern of the international community, as it has brought serious consequences in several parts of the world including the Central African Republic, Sri Lanka, New Zealand, the United States, and Catalonia. Governments, civil society and technology companies are struggling to prevent and combat hate speech, off-line or online.

Dealing with hate speech is not about limiting or prohibiting freedom of expression, but it seeks preventing such discourse from reaching dangerous proportions, particularly in the form of incitement to discrimination, hostility and violence.

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<sup>2</sup> article 19 of the ICCPR.

<sup>3</sup> article 4(a) of the ICERD.



## **1.2. Definitions of race, ethnicity and minority**

### **1.2.1. Minority**

In the 2019 annual report of the General Assembly, the Special Rapporteur on minorities declared that a minority is:

“Any group of persons which constitutes less than half of the population in the entire territory of a State whose members share common characteristics of culture, religion or language, or a combination of any of these. A person can freely belong to an ethnic, religious or linguistic minority without any requirement of citizenship, residence, official recognition or any other status.”<sup>4</sup>

As set forth in the Human Rights Council Resolution 25/5 in 2014 to extend the mandate of the rapporteur, there is a large consensus in the international community that minorities amount to special protection. However, like other UN special procedures, it does not entail that the States agreed to take legally binding obligations to protect all of them. It is in this point that lies a gap between protection of minorities and legal norms. According to the definition above of minority, the Catalans who have their strong identities in language, fall into the scope of minority although it has never recognized clearly as an ethnic group in the UN treaty bodies. This report presents the insufficiency of current international jurisdictions to tackle the regional problem of hate speech, in this case the Catalans.

### **1.2.2. Race and ethnicity**

Both the International Covenant of Civil and Political Rights and the International Convention on the Elimination of all Forms of Racial Discrimination define hate speech as speeches against several groups, particularly race and ethnicity. While both Committees require **more than a simple self-recognition to be a protected group**<sup>5</sup>, it remains unclear what race or ethnicity means. While colour, descent and religion are important elements to define the group, a folk described as a language minority has occupied an ambiguous position. For now neither the Human Rights Committee or the Committee on elimination of racial discrimination have referred to Catalans as a racial or ethnic group.

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<sup>4</sup> General Assembly, Resolution 74/160, *Effective promotion of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities*, A/RES/74/160 (July 15, 2019), §53, available [here](#).

<sup>5</sup> W. Barth, *Taking Great Care: Defining Victims of Hate Speech Targeting Religious Minorities*, Chicago Journal of International Law, Vol. 19, No. 1, 2018, pp.97-99, available [here](#).

### **1.3. Catalonia in context**

In the north-east of the Iberian Peninsula, Catalonia is part of the Kingdom of Spain, and consists of 947 municipalities and 4 provinces. It has 7.5 million inhabitants, who have their own language (Catalan), a parliament, civil law, traditions and their own police force. Catalans account for about **16 percent of the Spanish population**. In his official visit to Spain in January 2019, the UN Special Rapporteur on minority issues referred to Catalans as a minority.<sup>6</sup>

Since the restoration of Spanish democracy one of the main reasons for Catalonia's request for independence is the **lack of decision-making power** over the laws, financial system and general affairs of the region, which is still held by the Spanish State despite the fact that Catalonia has a legal framework that allows it to function autonomously. Indeed, one of the major problems due to the distribution of competences between the Spanish State and the "autonomies" concerns Catalonia. All the autonomies are effectively created in accordance with article 143 of Chapter 3, Title VIII of the 1978 Constitution, which provides for the historical criteria necessary for the formation of an autonomy. In 1979, Catalonia adopted the "Statute of Sau", the basic institutional rule of an autonomous community. An attempt to renew the Statute in 2006 and its revocation by the constitutional court were triggers for the growth of popular discontent in Catalonia and demands for self-determination.

## **2. Supranational framework on hate speech**

### ***2.1. International framework on hate speech***

The International Covenant on Civil and Political Rights and the International Convention on Elimination of Racial Discrimination are the two main legally binding instruments that require States to prohibit hate speech. In applying these conventions to the Catalans, the ambiguous definition of "race" or "ethnicity" may appear as an obstacle. Neither the Human Rights Committee nor the Committee on the Elimination of Racial Discrimination has mentioned the Catalans as protected group. By analyzing the past views adopted by the both Committees, the ICERD seems to be more flexible in recognizing the victim's status.

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<sup>6</sup> United Nations Human Rights - Office of the High Commissioner, Statement of the United Nations Special Rapporteur on minority issues, Fernand de Varennnes, on the conclusion of his official visit to Spain, January 14-25, 2019, available [here](#).

Excluding linguistic minorities only because it does not meet the conservative scope of “race” or “ethnicity” seems to be against the object and purpose of the treaties. An individual’s identity of belonging to a particular group cannot be determined solely from outside, but should take into account the self-recognition and the fear she/he may feel.

### **2.1.1. International Covenant on Civil and Political Rights**

The International Covenant on Civil and Political Rights (ICCPR) is a legally binding instrument which aims to embody the rights expressed in the Universal Declaration on Human Rights.

Before diving into the content of article 19 and article 20, it would be worth noting that the nature of regulations on freedom of expression by article 19 (3) and article 20 are different. While article 19 establishes that the exercise of the rights should carry with “special duties and responsibilities”, article 20 prohibits “advocacy of hatred”. The former is intended to mean the restrictions deriving from respect of the rights or reputations of others, the protection of national security or of public order, or public health or morals.<sup>7</sup> It should conform to strict tests of necessity and proportionality and provided by law, but the decision to whether or not regulate remains optional.<sup>8</sup> On the other hand, the latter asserts that all forms of hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by the law.

#### **2.1.1.1. Freedom of expression guaranteed by article 19 and its limits**

In 2011 the Human Rights Committee adopted the General comment No. 34 in order to clarify its authoritative interpretation of article 19. In paragraph 11, it states that political discourse and commentary on one’s own and on public affairs should be protected among others. article 19 embraces even expressions that may be regarded as deeply offensive. However, this does not mean that the freedom of expression is unlimited. It should comply with paragraph 3 of article 19 and article 20.

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<sup>7</sup> Human Rights Committee, General comment, No. 34, 2011, paras. 21 - 22.

<sup>8</sup> UNESCO, *Countering online hate speech*, p.20, 2015, available [here](#).

### 2.1.1.2. **Obligatory Prohibition of Hate Speech under article 20**

article 20 §2 of the ICCPR obliges to prohibit any advocacy of national, racial or religious hatred that constitutes an incitement to discrimination, hostility or violence. According to the General comment No. 11 adopted by the Human Rights Committee in 1983, article 20 §2 is not self-executing and States parties are obliged to adopt the necessary legislative measures prohibiting the actions referred to therein.<sup>9</sup> Therefore, the regulation of hate speech depends strongly on a State's proactive actions. It is the lack of these measures that some individual complaints have challenged in its communications to the Human Rights Committee.

In applying the ICCPR to a concrete case, it would be important to examine if an alleged hate speech corresponds to regulations under article 19 or article 20. The milestone to differentiate the two articles is whether the speech includes an incitement.<sup>10</sup> If a speech does not contain incitement and does not violate the restriction mentioned in paragraph 2, it enjoys the right to freedom of expression under article 19. This point will be further detailed below.

### 2.1.1.3. **The Rabat Plan of Action**

In spite of the above-mentioned Human Rights Committee's efforts to clarify the content of article 20, there were strong pressures from civil society to set up clearer criteria for the prohibition of hate speech.<sup>11</sup> In order to respond to these movements, the OHCHR created in 2012 the "Rabat Plan of Action on the prohibition of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence". The Plan was adopted by experts, including UN Special Rapporteurs, a member each of the Committee on Elimination of Racial Discrimination and a representative of the non-governmental organization "article 19". It does not have binding effects for States but remains to be a reliable guideline to examine hate speech. Having taken account of regional, national and local sensitivities by holding consultative meetings, the Rabat Plan of Action provides guidance on what constitutes incitement under article 20 (2) of the ICCPR. Along with admitting that many countries lack or have insufficient legislations on the regulation of hate speech, it proposed a six-part threshold test to identify hate messages, considering context, speaker, intent, content, extent of the speech and likelihood the speech could incite actual harm. It establishes the

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<sup>9</sup> Human Rights Committee, General comment No. 11, 1983, para. 1.

<sup>10</sup> 'Hate Speech' Explained A Toolkit, article 19, p.84, 2015, available [here](#).

<sup>11</sup> See, for example, *Towards an interpretation of article 20 of the ICCPR: Thresholds for the prohibition of incitement to hatred Work in Progress*, article 19, 2010 available [here](#).

frame of reference for the possible limitation of the freedom of expression and then enunciates the elements that must be taken into account when analyzing the speeches susceptible to be considered as "hate speech".

22. “States should ensure that the three-part test – **legality, proportionality and necessity** – for restrictions to freedom of expression also applies to cases of incitement to hatred.”

29. “(a) **Context**: Context is of great importance when assessing whether particular statements are likely to incite discrimination, hostility or violence against the target group, and it may have a direct bearing on both intent and/or causation. Analysis of the context should place the speech act within the social and political context prevalent at the time the speech was made and disseminated;

(b) **Speaker**: The speaker’s position or status in the society should be considered, specifically the individual’s or organization’s standing in the context of the audience to whom the speech is directed;

(c) **Intent**: article 20 of the International Covenant on Civil and Political Rights anticipates intent. Negligence and recklessness are not sufficient for an act to be an offence under article 20 of the Covenant, as this article provides for “advocacy” and “incitement” rather than the mere distribution or circulation of material. In this regard, it requires the activation of a triangular relationship between the object and subject of the speech act as well as the audience.

(d) **Content and form**: The content of the speech constitutes one of the key foci of the court’s deliberations and is a critical element of incitement. Content analysis may include the degree to which the speech was provocative and direct, as well as the form, style, nature of arguments deployed in the speech or the balance struck between arguments deployed;

(e) **Extent** of the speech act: Extent includes such elements as the reach of the speech act, its public nature, its magnitude and size of its audience. Other elements to consider include whether the speech is public, what means of dissemination are used, for example by a single leaflet or broadcast in the mainstream media or via the Internet, the frequency, the quantity and the extent of the communications, whether the audience had the means to act on the incitement, whether the statement (or work) is circulated in a restricted environment or widely accessible to the general public;

(f) **Likelihood**, including imminence: Incitement, by definition, is an inchoate crime. The action advocated through incitement speech does not have to be committed for said speech to amount to a crime. Nevertheless, some degree of risk of harm must be identified. It means that the courts will have to determine that there was a reasonable probability that the speech would succeed in inciting actual action against the target group, recognizing that such causation should be rather direct”.

#### 2.1.1.4. **Non legally binding obligations with regard to minorities**

While the Human Rights Committee seems to have relatively severe thresholds to recognize hate speech, it holds that there should be due attention to minorities concerning the freedom of expression. It states that a State has to protect the rights of media users including members of ethnic and linguistic minorities to receive a wide range of information and ideas.<sup>12</sup> It might be worth recalling that linguistic minorities are not explicitly mentioned as a protected group in article 20.

The Rabat Plan of Action also offers its views on remedies to minorities. It stipulates that due attention should be given to minorities and vulnerable groups by providing legal and other types of assistance for their members.<sup>13</sup> It holds that States should ensure that persons who have suffered actual harm as a result of incitement to hatred have a right to an effective remedy, including a civil or non-judicial remedy for damages.<sup>14</sup>

#### 2.1.1.5. **The applicability *ratione materiae* of the ICCPR – When is it relevant?**

In order to identify the central element of this instrument, incitement, we will present below some cases presented to the Committee. A first element to be taken into account is causation. Despite the fact that inciting an act is not the same thing as causing it, the Human Rights Committee often looks for causation related factors when assessing whether speech incites hatred. In the case of *Ross v. Canada*<sup>15</sup> a teacher was removed from the classroom for his anti-Semitic/Holocaust

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<sup>12</sup> Human Rights Committee, General comment, No. 34, 2011, para. 14.

<sup>13</sup> OHCHR, Rabat Plan of Action, 2012, para. 32.

<sup>14</sup> *Ibid.* para. 33.

<sup>15</sup> Human Rights Committee, *Ross v. Canada*, Communication No. 736/1997, October 18, 2000.

denial publications. The Supreme Court of Canada noted the evidence that a ‘poisoned environment’ had been created within the relevant school board and held that “it is possible to ‘reasonably anticipate’ the causal relationship” between that environment and the author’s publications. The Committee held that this satisfied the necessity part of the test for restrictions on freedom of expression and that, as a result, there was no breach of this right.

Context is of the greatest importance as it may have a bearing on both intent and causation.<sup>16</sup> In *Faurisson v. France*<sup>17</sup> a concurring opinion mentioned a context in which France holds that Holocaust denial may constitute a form of incitement to anti-Semitism. According to the opinion, the negation is not a mere challenge to well documented historical facts but implies that the victims of Nazism were guilty of dishonest fabrication. In the case of Catalonia this causation and context will be surely taken into account. An alleged hate speech should better have a specific result and the petitioner should be explicit in presenting its context of hatred towards the Catalans.

#### **2.1.1.6. The applicability *ratione personae* of the ICCPR - Which group is protected?**

In regard to individual communications, the Human Rights Committee has a double threshold to recognize its competence *ratione personae*. A first element seems to be race as it appears in article 20. However, in spite of the clarifications by General Comments, it is not clear what "race" stands for in the ICCPR. Most cases of hate speech brought before the Human Rights Committee concern relatively evident protected groups such as Muslims, Jews and migrants. In trying to apply the ICCPR to the Catalans it is likely that the State party would first begin denying its character as a "race". To this point, no case concerning Catalonia is recorded in the Human Rights Committee either in individual communications nor concluding observations of national reports since 1990.

The second threshold is exclusion of *actio popularis*. It has been illustrated that cases lacking impairment of petitioner's right are often dismissed as an *actio popularis*.<sup>18</sup> The Human Rights Committee first articulated a broad standing requirement in the case *Toonen v. Australia*.<sup>19</sup> In this case the petitioner, an openly gay man and an activist for gay and lesbian rights, challenged laws

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<sup>16</sup> T. Mendel, *Hate Speech Rules Under International Law*, 2010 available [here](#).

<sup>17</sup> Human Rights Committee, *Faurisson v. France*, Communication No. 550/1993, November 8, 1986.

<sup>18</sup> W. Barth, *Taking Great Care: Defining Victims of Hate Speech Targeting Religious Minorities*, *Chicago Journal of International Law*: Vol. 19: No.1, 2018.

<sup>19</sup> Human Rights Committee, *Toonen v. Australia*, communication No. 488/1992, April 4, 1994.



in the State of Tasmania criminalizing private homosexual activity. The Committee's decision was that Toonen did not establish a standing requirement so broad as to encompass *actio popularis* claims. A claim must demonstrate that a State party "has by an act or omission already impaired the exercise of [the petitioner's] right or that such impairment is imminent." Yet the Committee has also stated that it is a "matter of degree how concretely this requirement should be taken".

In the case *A. W. P v. Denmark*<sup>20</sup> the petitioner, a Muslim man and Danish citizen, tried to argue, in applying Toonen Standard, that a comparison of Islam to Nazism by the Danish People's Party constitutes violation of article 20 (2) of the ICCPR. The appellate authority and the Public Prosecutor discarded this argument by noting that the petitioner could not be considered as a legitimate applicant. The Human Rights Committee determined that the petitioner did not qualify as a victim with regard to articles 20 (2) or article 27 because he "failed to establish that those specific statements had specific consequences for him or that the specific consequences of the statements were imminent and would personally affect him." The Committee reiterated also that no one may challenge a law or practice by *actio popularis*.

In *Andersen v. Denmark* (2009),<sup>21</sup> similarly to the previous case the petitioner, a Danish-born Muslim woman who wore a headscarf, tried to apply the Toonen Standard for a statement made by Ms. Pia Kjærsgaard, founder of Danish People's Party, on National Danish Television. According to the petitioner the statement of Ms. Kjærsgaard that likened the hijab to the Nazi swastika "not only hurt her but put her at risk of attacks by some Danes who believe that Muslims are responsible for crimes they have in fact not committed" and inhibited her chances of finding employment. The Committee again determined that the petitioner's claim amounted to an *actio popularis* attempt and was therefore inadmissible. In this case she had "failed to establish that the statement by Ms. Kjærsgaard had specific consequences for her or that the specific consequences of the statements were imminent and would personally affect" her.

In the case *Mohamed Rabbæ et al. v. Netherlands* (2011),<sup>22</sup> the Human Rights Committee admitted the claim by the petitioners, Muslims and dual nationals of the Netherlands and Morocco, challenging a parliament politician Mr. Geert Wilders. Over 3 years the police received hundreds of reports expressing concern about Mr. Wilders' "insults and incitement to discrimination, violence and hatred". The Public Prosecutor brought charges against him with incitement to hatred

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<sup>20</sup> Human Rights Committee, *A.W.P. v. Denmark*, Communication No. 1879/2009, November 25, 2013.

<sup>21</sup> Human Rights Committee, *Andersen v. Denmark*, Communication No. 1868/2009, September 7, 2010.

<sup>22</sup> Human Rights Committee, *Mohamed Rabbæ et al. v. Netherlands*, Communication No. 2124/2011, July 14, 2016.

and discrimination of race or religion in citing for instance his statement according to which they have to stop the tsunami of Islamization. He directly linked Islam, Moroccan young people, and violence. Petitioners stated that they were harassed verbally or through the Internet by individuals who advocate or reiterate Mr. Wilder's words. The domestic court acquitted Mr. Wilder and rejected the petitioner's claims. The Human Rights Committee held that the claims don't amount to *actio popularis*. According to the Committee the petitioners are members of the category of persons who were the specific focus of Mr. Wilders' statements which had specific consequences for them. This created "specific consequences discriminatory social attitudes against the group and against them as members of the group". However, the Committee finally considered that Netherlands were not against the ICCPR reasoning that the Netherlands had taken "necessary and proportionate" measures in order to prohibit Geert's statements by prosecuting him under its Criminal Code and that the complainants could still bring a civil action. As seen in the cases above, the Human Rights Committee seems to have a severe approach to recognize standing of a petitioner. The simple fact that a petitioner belongs to a protected group is not enough. He or she should be impaired of their right or that impairment should be imminent.

### **2.1.2. International Convention on the Elimination of all Forms of Racial Discrimination**

Along with the ICCPR, the International Convention on the Elimination of all Forms of Racial Discrimination (ICERD) is another important universal legally binding instrument that seeks to outlaw hate speech. However, many countries place reservations on article 4 which is a clause requiring the States to prohibit and declare punishable all dissemination of ideas based on racial superiority or hatred. Their intention is to adopt the Convention "with due regard" to the principles embodied in the Universal Declaration of Human Rights.<sup>23</sup> Some studies show that the ICERD is not clear in its text about this collision between the article 4 and other treaties of International Human Rights guaranteeing the freedom of expression such as the ICCPR, ECHR, and national legislations.<sup>24</sup> The position of the Committee on the Elimination of Racial Discrimination (CERD) in the case *TBB v. Germany*<sup>25</sup> was also criticized because of the ambiguity of its logic. In this context the civil society and especially Amnesty International,<sup>26</sup> asked the

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<sup>23</sup> United Nations Treaty Collections, Status of International Convention on the Elimination of All Forms of Racial Discrimination, available [here](#).

<sup>24</sup> M. Milanovic, *CERD and Hate Speech*, EJIL: Talk!, April 19, 2013, available [here](#).

<sup>25</sup> ICERD, *TBB v. Germany*, Communication No. 48/2010, February 26, 2013.

<sup>26</sup> Amnesty International, *Written contribution to the thematic discussion on Racist Hate Speech and Freedom of Opinion and Expression organized by the United Nations Committee on Elimination of Racial Discrimination*, August 28, 2012, available [here](#).

Committee to precise the criteria and the methods of evaluating and punishing hate speech. In response, the Committee organized a thematic discussion on racial hate speech in its 24th session. It adopted the General Recommendation No. 35 entitled “Combatting racist hate speech” in order to assist States parties in discharging their obligations.<sup>27</sup> The ICERD differs from the ICCPR in that it is explicit in requiring racial elements, does not require an "intent" to recognize hate speech, and obligates stricter sanctions.<sup>28</sup>

#### 2.1.2.1. **Freedom of Expression and Restrictions of Hate Speech under article 4**

In responding to the States' attitudes about the relationship between the freedom of expression and prohibition of hate speech, the General Recommendation No. 35 provides that article 4 must be applied with due regard to the principles of the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of the Convention.<sup>29</sup> For the Committee the two concepts should be seen as complementary.<sup>30</sup> On the other hand, the Committee noted with concern that broad or vague restrictions on freedom of speech have been used to the detriment of groups protected by the Convention especially as a pretext to curtail expressions of protest.<sup>31</sup> The freedom of expression should be understood as assisting vulnerable groups, among others, redressing the balance of power among the components of society and offering alternative views and counterpoints. States parties should adopt policies empowering all groups within the purview of the Convention to exercise their right to freedom of expression.<sup>32</sup> Racist hate speech potentially silences the free speech of its victims,<sup>33</sup> therefore its nature is totally different from the freedom of expression.

As the ICCPR, article 4 of the ICERD is not self-executing. Hence, the States parties are required to adopt legislation to combat racist hate speech that falls within its scope.<sup>34</sup> It is recommended that States parties declare and effectively sanction the following offences by law:

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<sup>27</sup> CERD, *General recommendation No. 35*, September 26, 2013, para. 2.

<sup>28</sup> UNESCO, *Countering online hate speech*, 2015, pp.21-22, available [here](#).

<sup>29</sup> CERD, *General recommendation No. 35*, September 26, 2013, para. 19.

<sup>30</sup> *Ibid.* para. 45.

<sup>31</sup> *Ibid.* para. 20.

<sup>32</sup> *Ibid.* para. 29.

<sup>33</sup> *Ibid.* para. 28.

<sup>34</sup> *Ibid.* para. 13.

- (a) All dissemination of ideas based on racial or ethnic superiority or hatred, by whatever means;
- (b) Incitement to hatred, contempt or discrimination against members of a group on grounds of their race, colour, descent, or national or ethnic origin;
- (c) Threats or incitement to violence against persons or groups on the grounds in (b) above;
- (d) Expression of insults, ridicule or slander of persons or groups or justification of hatred, contempt or discrimination on the grounds in (b) above, when it clearly amounts to incitement to hatred or discrimination;
- (e) Participation in organizations and activities which promote and incite racial discrimination.<sup>35</sup>

#### **2.1.2.2. The applicability *ratione materiae* of the ICERD - Which speech should be punished?**

The ICERD is the only universal convention which requires a punishment of hate speech. However, as seen in the section above, the prohibition should not impair the freedom of expression. Hence, the punishment of hate speech should be strictly limited to a serious case. According to the General Recommendation No. 35 of the CERD, only the hate speech which can be proven beyond a reasonable doubt should be dealt with criminal law, taking into account including the nature and extent of the consequences for the individuals and groups targeted. The imposition of criminal sanctions should be governed by the principles of legality, proportionality and necessity.<sup>36</sup> To qualify acts of discrimination and incitement as offenses punishable by law the Committee considers that the following elements should be taken into account: The content and form of the speech, the economic social and political climate in which the speech was delivered and broadcast, the position and status of the speaker, the objectives of the speech in society and the audience to which the speech is addressed, and the scope of the speech.<sup>37</sup>

According to a report by UNESCO,<sup>38</sup> the scope of “discriminatory speech” described in the ICERD is broader than “advocacy of hatred” as stipulated in article 20 II in the ICCPR. Whilst the term “advocacy” interpreted in the ICCPR implies intent to sow hatred,<sup>39</sup> for the ICERD a mere

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<sup>35</sup> Ibid.

<sup>36</sup> CERD, *General recommendation No. 35*, September 26, 2013, para. 12.

<sup>37</sup> CERD, *General recommendation No. 35*, September 26, 2013, para. 15.

<sup>38</sup> UNESCO, *Countering online hate speech*, 2015, pp.21-23.

<sup>39</sup> OHCHR, *Rabat plan of action*, 2012, para. 29.

dissemination of messages of racial superiority or hatred, or even incitement to racial discrimination or violence, shall be punishable. This does not exclude the necessity to take into account the intention of the speaker as an important element in applying a prohibition.<sup>40</sup> As a result there is a difference between views on individual complaints adopted by the Human Rights Committee and the Committee on the Elimination of Racial Discrimination.

Concerning the Catalonia case, it might be interesting to point out some of the attitudes of the CERD derived from individual complaints. First, a political speech is not exempt from the application of article 4 because of its political character.<sup>41</sup> The Committee clarified that, under General Recommendation No. 30, the State has a particular duty to prevent discriminatory speech by politicians. Thus, it foreclosed using political speech as a safe harbor.<sup>42</sup> Second, too abstract speech cannot be qualified as a hate speech. The *Jama v. Denmark*<sup>43</sup> concerned remarks by a political leader who, recalling an attack on her person, stated: “Suddenly they came out in large numbers from the Somali clubs . . . I could have been killed . . . [i]t was rage for blood.” The Committee held that the statement, “despite its ambiguity, cannot necessarily be interpreted as expressly claiming that persons of Somali origin were responsible for the attack in question.” Lastly, dissemination of ideas based on racial superiority falls outside the scope of the “due regard” stipulated in article 4. In *T.B.B v. Germany*,<sup>44</sup> an interviewee in a cultural journal remarked negatively on the lower classes’ productivity and intelligence, focusing specifically on migrant workers. The Committee recognized it as a hate speech.

### 2.1.2.3. *The applicability ratione personae of the ICERD*

The General Recommendation No. 35 sets that article 4 protects speeches against a group based on race, color, descent, or national or ethnic origin.<sup>45</sup> As Amnesty International puts it in its report to the Committee in 2012,<sup>46</sup> the definition of “race” or “ethnicity” are unclear.

A State may recognize a racial or ethnic group as distinct on the basis of linguistic, religious,

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<sup>40</sup> CERD, *General recommendation No. 35*, September 26, 2013, para. 16.

<sup>41</sup> CERD, *Gelle v. Denmark*, Communication No. 34/2004, March 6, 2006.

<sup>42</sup> A. E. Showalte, *Resolving the Tension Between Free Speech and Hate Speech: Assessing the Global Convergence Hypothesis*, *Duke Journal of Comparative & International Law* (2016), p392, available [here](#).

<sup>43</sup> CERD, *Jama v. Denmark*, Communication No. 41/2008, August 21, 2009.

<sup>44</sup> ICERD, *TBB v. Germany*, Communication No. 48/2010, February 26, 2013.

<sup>45</sup> *Ibid.* para. 13.

<sup>46</sup> *Written contribution to the thematic discussion on Racist Hate Speech and Freedom of Opinion and Expression organized by the United Nations Committee on Elimination of Racial Discrimination*, Amnesty International, 2015, p.5, available [here](#).

economic or social characteristics, or some combination of these features. The Catalan people, whose particularity is in first place its language,<sup>47</sup> have an unstable status from this perspective. In its 1982 report to the General Assembly the CERD asked the government of Spain whether it considered the Basque population as a simple linguistic minority,<sup>48</sup> or an ethnic minority, while one of the members felt that they should be acknowledged as an ethnic group.<sup>49</sup> Even though a State may evade their duties by refusing a specific group to be defined as an ethnic distinct,<sup>50</sup> the Spanish government has never recognized neither the Basques nor the Catalans as an ethnic group.<sup>51</sup>

Today, even the Committee itself seems to be reluctant to treat Catalonia as a minority despite the fact that the preamble of the Convention refers to language.<sup>52</sup> The most recent considerations of the national reports submitted by Spain were in 2000, 2004, 2011 and in 2016, but none of them mentioned “Catalonia” in the concluding observations. The latest document by the Committee referring to Catalonia is the concluding observation of 1996. In its paragraph 12 and 20 the Committee mentioned the difficulty of Catalan children to receive education in their mother tongue and recommended Spain to take measures to solve the problem.<sup>53</sup> Several NGOs continue to submit alternative reports to the Committee<sup>54</sup> in order to claim the discriminatory situation against Catalans, but in vain. Thus, it remains unclear whether the ICERD definition of protected group can be applied to the Catalans.

In order to clarify the criteria adopted by the Committee in relation to protected groups, we present below some relevant cases for the Catalan scenario. The Committee applied the *Toonen Standard* as did the Human Rights Committee, but its scope of application seems to be even broader. This standard was affirmed in the case *Oslo Jewish Community v. Norway*. The Committee stated that victim status should be extended to “all members of a particular group, as the mere existence of a particular legal regime may directly affect the rights of the individual

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<sup>47</sup> UNPO, *Catalonia Member Profile Brochure*, 2019, p. 6, available [here](#).

<sup>48</sup> United Nations Human Rights - Office of the High Commissioner, *Statement of the United Nations Special Rapporteur on minority issues, Fernand de Varennnes, on the conclusion of his official visit to Spain*, January 14-25, 2019, available [here](#).

<sup>49</sup> United Nations, *Report of the Committee on the Elimination of Racial Discrimination*, GAOR Supp. (No. 18), UN Doc. A/37/18, 1982, para. 281, available [here](#).

<sup>50</sup> T. Meron, *The Meaning and Reach of the International Convention on the Elimination of All Forms of Racial Discrimination*, *The American Journal of International Law*, 79(2), 1985, pp. 307-308, available [here](#).

<sup>51</sup> Spanish Constitution of 1978, titre 1 - chapter 2 - section 2.

<sup>52</sup> International Convention on the Elimination of All Forms of Racial Discrimination, 1969, preamble 1.

<sup>53</sup> CERD, *Concluding observations of the Committee on the Elimination of Racial Discrimination on Spain*, 1996, available [here](#).

<sup>54</sup> SOS Racisme-Catalunya et al., *Aportación a los informes periódicos 21º a 23º presentados por España el 28 de noviembre 2014 (CERD/C/ESP/21-23) para el examen previsto en la sesión 89*, April 2016, available [here](#).

victims within the group.”<sup>55</sup>

In *Gelle v. Denmark*,<sup>56</sup> a Danish citizen of Somali origin challenged an appellate decision not to prosecute Ms. Pia Kjærsgaard, the politician with the Danish People’s Party, for likening the Somali community to pedophiles. The Committee determined that the comparison to pedophiles and rapists could be understood as “degrading or insulting to an entire group of people” because of their national or ethnic origin rather than their views on a particular topic.

In the case *Adan v. Denmark*,<sup>57</sup> a Danish citizen of Somali descent sought criminal charges against a legislator who claimed that the practice of female genital mutilation was endorsed by all Somalis. The petitioner was an activist who worked to counter the practice of female genital mutilation within the Danish Somali community and argued that she had a personal interest in the outcome of the case. The Committee found the petitioner's claims admissible and went on to find that the State party had violated Danish law by failing to carry out an effective investigation.

In *Adan and Gelle, Quereshi*, the CERD largely accepted the petitioner’s status as a victim without much discussion.<sup>58</sup> While the *A.W.P* and *Andersen* cases of the Human Rights Committee seem to be quite similar to the former cases in front of the CERD, the Human Rights Committee held that the petitioners failed to prove that they don't amount to *actio popularis*. Though the two Committees adopt the same criteria of Toonen Standard, its flexibility is much higher in the CERD.

### **2.1.3. Conclusion**

One of the two main obstacles for the Catalan case in applying the above-mentioned conventions is the definition of “race” or “ethnicity”. Neither of the concepts has a clear definition. The second barrier is the qualification stand as a petitioner. Though the two Committees apply the same standard, the Human Rights Committee seems to have a stricter approach. Once recognized as a protected group the margin of appreciation adopted by the Human Rights Committee results in greater deference to the possibility of appearing before its mechanisms.

If the goal of the two treaties is to protect vulnerable groups from fear of violence, excluding

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<sup>55</sup> CERD, *Oslo Jewish Community v. Norway*, Communication No. 30/2003, August 15, 2005.

<sup>56</sup> CERD, *Gelle v. Denmark*, Communication No. 34/2004, March 6, 2006.

<sup>57</sup> CERD, *Adan v. Denmark*, Communication No. 43/2008, September 21, 2010.

<sup>58</sup> W. Barth, *Taking Great Care: Defining Victims of Hate Speech Targeting Religious Minorities*, Chicago Journal of International Law, Vol 10, no. 1, 2018, available [here](#).

linguistic minorities only because it does not meet the conservative scope of “race” or “ethnicity”, seems to be against the object and purpose of the treaties. The strict interpretation of protected group and its belonging by the Human Rights Committee is suspected to judge from outside who deserves protection.<sup>59</sup> The Committee should take into account self-recognition and subjective fear that the victim may feel, as these are what the norms aim to protect.

## ***2.2. European framework on hate speech***

Concern about hate speech is not new; it has been a topic of discussion since the beginning of the nineties. European institutions are fully aware of the proliferation of hate speech and are taking action to counter it. In doing so, they are faced with the recurring problem of whether the authors can avail themselves of freedom of expression, which is solidly protected and guaranteed under European law, both by article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms and by article 11 of the Charter of Fundamental Rights of the European Union.

According to the European Court on Human Rights case-law, there can be no doubt that concrete expressions constituting hate speech, which may be insulting to particular individuals or groups are not protected by article 10 of the Convention and may be restricted by domestic law. article 10 of the ECtHR allows member States some margin of appreciation on this matter and there are fairly significant differences in national legislation across the Council of Europe countries.

The identification of expressions that could be qualified as "hate speech" is sometimes difficult since such speech does not necessarily manifest itself as the expression of hatred or emotions. It may also be concealed in statements that, at first glance, may appear rational or normal.

In its assessment, the Court takes into account the following factors:

- The **purpose** of the person whose freedom of expression has been restricted
- The **content** of the expression
- The **context**, for example, whether the person who made the statement is a journalist or politician
- The **profile** of people who are the target of opinions and expressions

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<sup>59</sup> Supra note 58, pp. 97-99.



- Advertising and the potential impact of the expression, for example if the statement was made in a widely read newspaper or in a poem
- The nature and severity of the restriction

The European Court of Human Rights has identified a number of forms of expression which have to be considered offensive and contrary to the Convention. This includes racism, xenophobia, anti-semitism, aggressive nationalism and discrimination against minorities and immigrants.<sup>60</sup>

### **2.2.1. The European approach to hate speech**

Hate speech is often an incitement to racial hatred: it is the most legally defined offence, particularly in laws against racism and hate speech. During the 1990s, a search began in Europe in for language benchmarks to limit hate speech, deemed to be equivalent to discrimination, with the aim of punishing the use of words or expressions of hatred or contempt. The aim is to reconcile the right to freedom of expression with the right to freedom of thought, conscience and religion or the right not to be discriminated.

#### **2.2.1.1. Freedom of expression and democracy**

The ECtHR ruling reflects freedom of expression and equality (and human dignity) as essential to democratic society.

The case *Handyside v. UK* (1976) is one among the primary freedom of expression cases considered by the ECtHR. It sets a robust standard applied up until the present day. In particular, it established the principle that “**freedom of expression (...) is applicable** not only to ‘information’ or ‘ideas’ that are favorably received or regarded as inoffensive or as a matter of indifference, but also **to those that offend, shock or disturb the State or any sector of the population. Such are the demands of that pluralism, tolerance and broadmindedness without which there would be no democratic society.**” This dictum has become a cornerstone of freedom of expression jurisprudence. The *Handyside* judgment has been cited by courts around the world as persuasive authority in freedom of expression cases.<sup>61</sup>

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<sup>60</sup> Committee of Ministers of the Council of Europe on "hate speech", Recommendation 97(20), Octobre 30, 1997, available [here](#).

<sup>61</sup> Supreme Federal Court of Quebec, *Irwin toy ltd. v. Quebec*, April 27, 1989; Supreme Federal Court of Brazil, *PDT v. President of Republic and National Congress*, April 30, 2009.

In *Erbakan v. Turkey* (July 6, 2006), the Court pointed out that combating all forms of intolerance and hate speech was an integral part of human-rights protection and that it was crucially important that in their speech politicians should avoid making comments likely to foster such intolerance. The Court especially took into consideration the interest of a democratic society in ensuring and maintaining freedom of political debate.<sup>62</sup> Yet, no precise meaning and no criteria are established for this notion. On the contrary, a "case-by-case" approach is applied.

### 2.2.1.2. The regulatory references at a European Level

On November 28, 2008, the European Council adopted a framework decision on combating certain forms and expressions of racism and xenophobia by means of criminal law.<sup>63</sup> It highlights the intentional conduct in hate speech, recalls that “denying or grossly trivializing crimes of genocide, crimes against humanity and war crimes”,<sup>64</sup> should be punishable and it showcases States liberty “to punish only conduct which is *either* likely to disturb public order or which is threatening, abusive or insulting”.<sup>65</sup>

This framework was the basis for the European Commission's Code of Conduct on Combating Illegal Hate Speech of May 31, 2016. This code of conduct has for purpose to prevent and counter the spread of illegal hate speech online. At first, it was an agreement between Facebook, Microsoft, Twitter and YouTube. In the course of 2018, Instagram, Google+, Snapchat and Dailymotion joined the Code of Conduct; jeuxvideo.com joined in January 2019. The implementation of the Code of Conduct is evaluated through a regular monitoring exercise set up in collaboration with a network of organizations located in the different EU countries. Using a commonly agreed methodology, these organizations test how the Information and Technology (IT) companies are implementing the Code.

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<sup>62</sup> ECtHR, *Erbakan v. Turkey*, July 6, 2006, §56: “...[T]olerance and respect for the equal dignity of all human beings constitute foundations of a democratic, pluralistic society. That being so, as a matter of principle it may be considered necessary in certain democratic societies to sanction or even prevent all forms of expression which spread, incite, promote or justify hatred based on intolerance ..., provided that any... ‘restrictions’ ... imposed are proportionate to the legitimate aim pursued.”

<sup>63</sup> Council Framework Decision 2008/913/JHA, November 28, 2008.

<sup>64</sup> Council Framework Decision 2008/913/JHA, November 28, 2008, article 1(c): “*publicly condoning, denying or grossly trivialising crimes of genocide, crimes against humanity and war crimes as defined in articles 6, 7 and 8 of the Statute of the International Criminal Court, directed against a group of persons or a member of such a group defined by reference to race, colour, religion, descent or national or ethnic origin when the conduct is carried out in a manner likely to incite to violence or hatred against such a group or a member of such a group*”.

<sup>65</sup> Council Framework Decision 2008/913/JHA, November 28, 2008, article 1(d): “*publicly condoning, denying or grossly trivialising the crimes defined in article 6 of the Charter of the International Military Tribunal appended to the London Agreement of 8 August 1945, directed against a group of persons or a member of such a group defined by reference to race, colour, religion, descent or national or ethnic origin when the conduct is carried out in a manner likely to incite to violence or hatred against such a group or a member of such a group*.”

The EU Code of Conduct provides a strong response to illegal hate speech online. Two and a half years after its adoption, the Code of Conduct is delivering continuous progress. The recent evaluation confirms that IT companies provide a swift response to racist and xenophobic hate speech content notified to them. The last evaluation shows that this initiative delivers successful results: the businesses are now assessing 89% of flagged content within 24 hours and 72% of the content deemed illegal hate speech is removed.<sup>66</sup>

### 2.2.1.3. The Legal Instruments

The concept of *hate speech* began to be used in the 1980s in the Anglo-Saxon world. In Europe, the popularization of this expression arose from a **recommendation adopted by the Council of Ministers of the Council of Europe in 1997**,<sup>67</sup> in a context in which it was considered that there was a resurgence of racism, xenophobia and anti-Semitism, marked by the wars in the former Yugoslavia. In this recommendation the Council of Europe defined hate speech as covering:

all forms of expression which spread, incite, promote or justify racial hatred, xenophobia, anti-Semitism or other forms of hatred based on intolerance, including: intolerance expressed by aggressive nationalism and ethnocentrism, discrimination and hostility against minorities, migrants and people of immigrant origin.

The main legal instruments remain the Charter of Fundamental Rights of the European Union with two articles: article 21 (right to non-discrimination)<sup>68</sup> and article 54 (prohibition of abuse of rights).<sup>69</sup>

In article 6 of the Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audio-

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<sup>66</sup> N. Lomas, online platforms still not clear enough about hate speech takedowns: EC, *TechCrunch*, February 4, 2019, available [here](#).

<sup>67</sup> Recommendation No. R (97) 20 of the Committee of Ministers to member states on “hate speech”, October 30, 1997.

<sup>68</sup> “1. Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited. 2. Within the scope of application of the Treaty establishing the European Community and of the Treaty on European Union, and without prejudice to the special provisions of those Treaties, any discrimination on grounds of nationality shall be prohibited.”

<sup>69</sup> “Nothing in this Charter shall be interpreted as implying any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms recognised in this Charter or at their limitation to a greater extent than is provided for herein.”

visual media services (Audio-visual Media Services Directive), States must take:

“appropriate measures that audio-visual media services provided by providers under their jurisdiction do not contain any incitement to hatred based on race, sex, religion or nationality.”

### **2.2.2. The Council of Europe**

Hate speech, whether online or offline, and its impact on European societies is a major concern for the Council of Europe (COE) since it is often a manifestation of discrimination and can lead to other human rights violations.

The COE is the first and only international intergovernmental organisation to have adopted an official definition of hate speech. The organization's political bodies, the Parliamentary Assembly, the Congress of Local and Regional Authorities and the Committee of Ministers, have adopted charters and recommendations setting human rights standards and providing guidelines to member States to help them address hate speech and support victims.

The institution also addresses issues of hate speech and discrimination in the fields of education, sport, Roma rights, gender equality, sexual orientation and gender identity, media and internet governance.

#### **2.2.2.1. The complementary legal instruments put in place by the Council**

There are other standard-setting instruments emanating from the Council of Europe aimed, in a complementary approach to the European Convention on Human Rights, at preventing and criminally punishing oral or written incitement to hatred.

The European Convention on Transfrontier Television:

article 7 § 1:

"All elements of program services, in their presentation and content, must respect the dignity of the human person and the fundamental rights of others. In particular, they shall not :

- (a) be contrary to morality and, in particular, not contain pornography;
- (b) promote violence or be likely to incite racial hatred."

The Framework Convention for the Protection of National Minorities:

article 9 §1:

"The Parties undertake to recognise that the right to freedom of expression of every person belonging to a national minority shall include freedom to hold opinions and to receive or impart information or ideas in the minority language, without interference by public authorities and regardless of frontiers. In access to the media, the Parties shall ensure, within the framework of their legislative system, that persons belonging to a national minority are not discriminated against".

The Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems (2003):

article 3 §1:

"Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally and without right, the following conduct: disseminating or otherwise making available to the public, through a computer system, racist and xenophobic material."

#### **2.2.2.2. The Council's attempt to define hate speech – Recommendations**

In the **recommendation of the Committee of Ministers Recommendation No. R97(20)** of October 30, 1997 on "hate speech", to States members, the Committee defines the term hate speech as:

“expression which propagate, incite, promote or justify racial hatred, xenophobia, anti-Semitism or other forms of hatred based on intolerance, including intolerance expressed in the form of aggressive nationalism and ethnocentrism, discrimination and hostility against minorities, immigrants and persons of immigrant background”

More recently, the Council of Europe's European Commission against Racism and Intolerance (ECRI) proposed in **General Policy Recommendation No. 15** on "hate speech" (December 8, 2016) the following definition:

“The use of one or more particular forms of expression - namely the advocacy, promotion or incitement to denigration, hatred or defamation of a person or group of persons, as well as any harassment, insult or negative stereotyping, the stigmatization or threat of such person(s) and any justification for all such forms of expression - based on a non-exhaustive list of characteristics or personal status including "race", colour, language, religion or belief, nationality or national or ethnic origin, descent, age, disability, gender, sexual identity and sexual orientation”

Applying to other areas such as incitement to denigration, hatred or violence and referring to motives other than those inherent to people (such as colour, language, religion, etc.), this definition differs from that of other sources.

**General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination** (adopted in 2002, revised in 2017) recommends that the governments of member States adopt legislation against racism and racial discrimination in the event that such legislation does not yet exist or is incomplete; and ensure that the key components set out below are included in such legislation.<sup>70</sup>

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<sup>70</sup> General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination, chapter IV "Criminal Law", point No. 18: "*The law shall establish as criminal offences the following conduct, if committed intentionally: a) public incitement to violence, hatred or discrimination; b) public insult or defamation; or; c) threats against a person or a group of persons on account of their race, colour, language, religion, nationality or national or ethnic origin ...*"; (d) *the public expression, with a racist aim, of an ideology which advocates the superiority of a group of persons on grounds of their race, colour, language, religion, nationality or national or ethnic origin, or which slanders or denigrates such a group; (e) the public denial, gross minimisation, justification or condoning, with a racist aim, of crimes of genocide, crimes against humanity or war crimes; (f) the public dissemination or distribution, production or storage for the purpose of public dissemination or distribution, with a racist aim, of writings, images or other material containing manifestations referred to in paragraph 18 (a), (b), (c), (d) and (e); (g) setting up, directing,*

### 2.2.2.3. **The Venice Commission**

The Venice Commission is an advisory body of the Council of Europe composed of independent experts in constitutional law. The role of the Venice Commission is to provide legal advice to its member States and, in particular, to help States wishing to bring their legal and institutional structures into line with European standards and international experience in the fields of democracy, human rights and the rule of law.<sup>71</sup> It was set up in 1990 following the break-up of the USSR and the fall of the communist regimes in Europe, and its aim is to provide assistance to these countries in drafting constitutions which reflect the spirit of those of the Council of Europe member States. Once the emergency passed, the Venice Commission became a body for reflection on constitutional law and aims to promote the European constitutional heritage. This commission was at the origin of the framework Convention for the Protection of National Minorities.

In almost all COE member states (except Andorra and San Marino), incitement to hatred is an offence. However, there is no unanimously agreed definition of “incitement to hatred” or “hate speech”. In countries such as Austria, Cyprus, Greece, Italy and Portugal, the law punishes incitement to acts likely to give rise to discrimination or violence and not hatred *per se*. In Lithuania, on the contrary, both aspects are punished, with incitement and violence carrying heavier penalties.

Despite the difficulties in applying criminal law in this area, the introduction of pan-European criminal sanctions against incitement to hatred has a strong symbolic value. It sends a strong message to all societies and their constituent parts that an effective democracy cannot tolerate behaviour and acts contrary to its fundamental values: pluralism, tolerance, respect for human rights and non-discrimination.

### 2.2.3. **Freedom of expression in the ECHR**

As early as the 1970s, the court recognized that freedom of expression was one of the basic rights of a democracy.<sup>72</sup> The control made by the ECHR has made it possible to define the contours of freedom of expression, both positively and negatively.

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*supporting or participating in the activities of a group that promotes racism, for the purpose of contributing to the offences referred to in paragraph 18 (a), (b), (c), (d), (e) and (f); (h) racial discrimination in the exercise of a public office or profession”.*

<sup>71</sup> Council of Europe, Venice Commission, available [here](#).

<sup>72</sup> ECtHR, *Lingens v. Austria*, Series A no. 103, July 8, 1986, para. 41.

### 2.2.3.1. Key Treaty Provision on Freedom of Expression as a Positive Definition

The article 10 of the ECHR:

“1. Everyone has the **right to freedom of expression**. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.”

Freedom of expression contains two components: **freedom of opinion** and **freedom of information**. These two notions refer to different realities. Freedom of opinion implies that everyone can hold and defend personal opinions. These opinions will be of a political, religious or philosophical nature, as they are and especially if they are in the minority. With reference to freedom of information, the ECtHR has a dense jurisprudence as it refers to plural realities. It concerns not only the content of the information but also its vectors. This freedom applies to a whole range of information such as the press, advertising, artistic and scientific expression, education, political discourse, information of general interest, the rights of the defense, etc.<sup>73</sup> In the same way, the medium of information can be of various kinds: radio, newspaper, photography, television, etc., and will also include information conveyed via the Internet.

In *Erdal Tas v. Turkey*, the Court found that the State had interfered with the plaintiff's freedom of expression. This, however, is provided for by law and is therefore covered by article 10(2) of the ECHR. The central question is to what extent this interference is justified. *Erdal Tas*,

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<sup>73</sup> D. Bychawska-Siniarska, “*Protecting the right to freedom of expression under the European Convention on human rights*”, Council of Europe, 2017, chapter 8, available [here](#).



editor-in-chief of a daily newspaper, published a statement by a leader of a political party opposed to the Turkish government in which he stressed its undemocratic character. In reviewing the editor's conviction by national jurisdictions, the Court examined the articles incriminated and the context of the publication. To this end, the Court stressed that the mission of information entails duties and responsibilities as well as limits that press organs must impose spontaneously. Even taking into account the statements and the personality of the author, the Court considers that the sentence is disproportionate to the objectives pursued. Such a sentence was therefore not necessary in a democratic society and contrary to article 10 of the ECHR.<sup>74</sup>

In *Dink v. Turkey*, the Court considered that a conviction for allegedly denigrating a national sentiment does not correspond to any compelling social need. A Turkish journalist of Armenian origin, editor of a Turkish-Armenian weekly published in Istanbul published a series of articles he expressed his views on the issue of the identity of Turkish citizens of Armenian origin. In 2006 he was found guilty of "denigration of Turkish identity". In 2007, he was murdered as he left the newspaper's offices. His relatives complained, inter alia, about the guilty verdict against him, which they claimed had made him a target for ultra-nationalist groups. The European Court ruled that finding Firat Dink guilty of denigrating "Turkishness" did not correspond to any compelling social need. In particular, it observed that the series of articles, read as a whole, did not incite violence, resistance or uprising. The author was speaking as a journalist and editor of a Turkish-Armenian newspaper dealing with issues relating to the Armenian minority in his role as a political actor. All he had done was to communicate his ideas and opinions on an issue of general interest in a democratic society. In such a society, the debate on historical facts of particular gravity must be allowed to proceed freely, and the search for historical truth is an integral part of freedom of expression. Finally, the articles in question were not gratuitously offensive or insulting and did not incite disrespect or hatred. Hence, the Court considered that a conviction for allegedly denigrating a national sentiment does not correspond to any compelling social need.

Freedom of opinion as such is related to other rights and provisions. It is close to article 9 which enshrines freedom of thought, conscience and religion, there are very often combined analyses of both. Likewise, it is linked to article 14 which is based on non-discrimination. As stated by the ECtHR and the European Court of Justice, pluralism is part of freedom of opinion;<sup>75</sup> minority opinions must be able to be expressed.

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<sup>74</sup> ECtHR, *Erdal Tas v. Turkey*, December 20, 2007.

<sup>75</sup> ECtHR, *Vereinigte Familiapress*, June 26, 1997.

### 2.2.3.2. A negative definition of freedom of expression: the "abuse of right " clause

Freedom of expression has limited the workings of which need to be understood in order to implement them. Although there is no universally accepted definition of the expression “hate speech”, the Court’s case-law has established certain parameters making it possible to exclude it from the protection afforded to freedom of expression (article 10) or freedom of assembly and association (article 11). The Court excludes hate speech from protection by means of two approaches provided for by the Convention:

- (a) by applying article 17 (*Prohibition of abuse of rights*),<sup>76</sup> where the comments in question amount to hate speech and negate the fundamental values of the Convention, or
- (b) by applying the limitations provided for in the second paragraph of article 10 and article 11 (this approach is adopted where the speech in question, although it is hate speech, is not apt to destroy the fundamental values of the Convention).

In the ECtHR case of *Altintas v. Turkey*,<sup>77</sup> the court ruled that there was no violation of article 10 (*freedom of expression*) of the Convention, holding that the interference with the applicant's right to freedom of expression had not been disproportionate to the legitimate aims pursued. In particular, it considered that the expressions used in the disputed article against the perpetrators of the "events of Kızıldereli" and their actions amounted to an apology or, at the very least, a justification for the violence. The Court also took into account the margin of appreciation granted to national authorities in such cases and the reasonable amount of the judicial fine imposed on the person concerned. The Court also considered that the risk that such writings might encourage or incite certain young people to commit similar violent acts should not be minimized.

In *Atamanchuk v. Russia*,<sup>78</sup> a case related to incitement to ethnic hatred, the Court concluded that there had been no violation of article 10 holding that, in the context of the case, the Russian courts had provided relevant and sufficient grounds for the prosecution and conviction of the applicant and that exceptional circumstances justified the sentences. It noted in particular that the radical statements made by the complainant had not contributed to any public debate and that

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<sup>76</sup> “Nothing in this Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the *destruction of any of the rights and freedoms* set forth herein or at their *limitation to a greater extent* than is provided for in the Convention.”

<sup>77</sup> ECtHR, *Altintas v. Turkey*, March 10, 2020.

<sup>78</sup> ECtHR, *Atamanchuk v. Russia*, February 11, 2020.

the domestic courts had been right to consider that it aroused emotions or prejudices in the reader against the local non-Russian population. The Court also endorsed the decision of the domestic courts to impose a fine on the applicant and to prohibit him from engaging in any activity related to journalism and publishing for two years. It considered that these penalties were necessary in the light of the applicable legislation on incitement to hatred. It also considered that the sentences had not had a major impact on the complainant, who was more of a businessman than a journalist.

On the contrary, in *Faber v. Hungary*,<sup>79</sup> a case related to the deployment of a flag charged with controversial historical connotations, the Court found a violation of article 10 read in the light of article 11 (*freedom of assembly and association*) of the Convention. It accepted that the display of a symbol which was omnipresent when a totalitarian regime was in power in Hungary could create unease among the victims and their close relatives, who might rightly regard it as disrespectful. However, the Court considered that such feelings could not, in themselves, set the limits of freedom of expression. Moreover, the applicant's conduct had been neither improper nor threatening. In view of his lack of violence, the distance separating him from the demonstrators and the absence of any proven risk to public safety, the Court found that the Hungarian authorities had not provided any justification for the prosecution and the fine imposed on the applicant for refusing to fold the flag. The mere unfurling of the flag had not disrupted public order or infringed the demonstrators' right to assemble, as the action was neither intimidating nor likely to incite violence.

On several occasions, the Court, on the basis of article 17, has declared the irreceivability and absence of violation of freedom of expression. For instance, the display of an anti-Muslim speech by means of a poster showing the twin towers burning with the words "Islam out of Britain" is not covered by freedom of expression;<sup>80</sup> the publication of articles containing incitement to racial hatred constitutes an abuse of rights;<sup>81</sup> holocaust denial constitutes an incitement to hatred against Jews,<sup>82</sup> and anti-Semitic insults are not allowed even when manifested through performance,<sup>83</sup> and expressions of support for totalitarian doctrines or calls for the restoration of a totalitarian regime are not subject to protection.

The ECtHR has delineated the applicability of the concept without establishing a fixed for

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<sup>79</sup> ECtHR, *Faber v. Hungary*, July 24, 2012.

<sup>80</sup> ECtHR, *Norwood v. The United Kingdom*, November 16, 2004.

<sup>81</sup> ECtHR, *Norwood v. the United Kingdom*, November 16, 2004; ECtHR, *Seurot v. France*, May 18, 2004.

<sup>82</sup> ECtHR, *Pastörs v. Germany*, October 3, 2019.

<sup>83</sup> ECtHR, *M'Bala M'Bala v. France*, October 20, 2015.

the restriction of freedom of expression. To date, a case-by-case analysis of the circumstances and context of hate speech is still required. Hence, it should be noted that the Court considers that freedom of expression also covers information or ideas that are controversial or unsettling. In *Stern Taulat and Roura Capellera v. Spain*,<sup>84</sup> case in which the applicants were convicted of burning photos of the King of Spain, the Court found that State interference with the right to freedom of expression was justified under article 10(2) of the ECHR. However, despite recognizing some leeway for the State in relation to a "pressing social need", the Court considers it necessary for its control to take place. The Court clarifies that article 10(2) should not lead to the restriction of freedom of expression in the field of political speech or debate. Moreover, the limits of criticism are wider when political figures are involved. Therefore, for the Court, such an act does not constitute incitement to hatred or violence and the applicants' condemnation was disproportionate since:

“the inclusion within the hate speech of an act which is the symbolic expression of the rejection and political criticism arising from the field of protection guaranteed by freedom of expression would imply a very broad interpretation of the exception admitted by the Court's jurisprudence - which would be an obstacle to pluralism, tolerance and the epitome of openness without which there would be no "democratic society"”.<sup>85</sup>

#### **2.2.4. The attempt to define hate speech by the Parliamentary Assembly - Resolution 1967**

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<sup>84</sup> ECtHR, *Taulat and Roura Capellera v. Spain*, March 13, 2018.

<sup>85</sup> ECtHR, *Taulat and Roura Capellera v. Spain*, March 13, 2018 “As regards hate speech as a justification for criminal conviction, the Court recalls that, while its case-law has established the eminent and essential character of freedom of expression in a democratic society, it has also defined its limits. It has held, *inter alia*, that speech incompatible with the values proclaimed and guaranteed by the Convention is exempted from the protection of article 10 by article 17. The Court has thus had to deal with cases in which statements denying the Holocaust, justifying a pro-Nazi policy or associating all Muslims with a serious act of terrorism have been criminalized (*Lehideux and Isorni v. France*, 23 September 1998, §§ 47 and 53, Reports of Judgments and Decisions 1998-VII, *W.P. and Others v. Poland (dec.)*, no. 42264/98, ECHR 2004-VII (extracts), *Norwood v. the United Kingdom (dec.)*, no. 23131/03, ECHR 2004-XI, and *Witzsch v. Germany (dec.)*, no. 7485/03, 13 December 2005). The protection afforded by article 10 of the Convention is limited or even excluded in respect of hate speech, a term which must be understood as covering all forms of expression which propagate, incite, promote or justify racial hatred, xenophobia, anti-Semitism or other forms of hatred based on intolerance (*Gündüz*, cited above, § 22), and which must be examined with eminent regard to the context (*Perinçek v. Germany (dec.)*, no. 7485/03, 13 December 2005). *Switzerland [GC]*, no. 27510/08, §§ 204-208, ECHR 2015 (extracts). The inclusion in hate speech of an act which, like the one alleged against the applicants in the present case, is the symbolic expression of rejection and political criticism of an institution and the consequent exclusion from the scope of protection guaranteed by freedom of expression would imply an overly broad interpretation of the exception allowed by the Court's case-law - which would risk undermining the pluralism, tolerance and spirit of openness without which there is no "democratic society.”

In 2014, the Parliamentary Assembly of the Council of Europe passed the resolution on a **strategy for the prevention of racism and intolerance**. Under item 8 it states:

“The Assembly calls on the member States of the Council of Europe:  
[...] 8.1. as regards the legal framework on hate speech and hate crimes and its implementation: 8.1.1. ensure that the legal framework on hate speech and hate crimes **covers as many discriminatory motives as possible, including sex, race, colour, ethnic origin, language, religion, disability, immigration status, sexual orientation and gender identity**”

### **2.2.5. Conclusion**

Within Europe and the democratic societies of which it is composed, freedom of expression plays a fundamental role. It is "*one of the basic conditions for the progress of democratic societies and for the development of every individual*".<sup>86</sup> Thus, this freedom is enshrined in various legal instruments, both general (ECHR) and specific (framework of minorities or online hate speech).

Freedom of expression is guaranteed by the European States, but it is not absolute. The European Council has produced a definition of hate speech and has given rise to various charters and recommendations to protect individuals from possible violations resulting from the abuse of the right to freedom of expression. Likewise, the ECtHR has established that freedom of expression is not an absolute right and is therefore both positively and negatively restricted. Given the spread of hate speech that can result from the use of social media, as it can be seen in online abuse against the Catalan minority, the criteria established in the European framework and the standards set by the ECtHR are more valid than ever.

## **3. Other definitions relating to Social Media**

Hate speech reaches new dimensions today. Due to digital communications and, particularly, social media platforms, it is more virulent than ever and its speed of dissemination has increased considerably.<sup>87</sup> This new environment makes it imperative to understand how hate speech

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<sup>86</sup> ECtHR, *Handyside v. United Kingdom*, December 7, 1976, no 24, §49.

<sup>87</sup> Guide pratique, Lutter contre le discours de haine dans les médias audiovisuels, normes, jurisprudence, bonnes pratiques et études de cas [Combating hate speech in the audiovisual media, standards, case law, good practices and case studies], Organisation Internationale de la francophonie, available [here](#).

circulates online and how social media sites define and regulate it. Presented in May 2016 by the European Commission and four major IT companies (Facebook, Microsoft, Twitter and Youtube), the Code of Conduct to combat illegal online hate speech sets out to address the proliferation of racist and xenophobic hate speech online.

### ***3.1. Internet platforms***

Traditional broadcasters, who are generally subject to a ban on the dissemination of hate speech on the basis of audiovisual legislation, have integrated this ban into their editorial line and the professional ethics of their journalists. However, it is different for new stakeholders, and in particular for platforms in which content is mixed. On the one hand, which is subject to editorial treatment by the service publisher and, on the other hand, user-generated content, which, by definition, they do not have a priori control over. Thus, the following platforms have adopted guidelines whose content provides, if not a definition of hate speech, at least a definition of the speeches whose publication they will not tolerate.

In its usage policy, **Twitter** warns users that they:

“should not directly attack, threaten or incite violence against others based on race, ethnicity, nationality, sexual orientation, gender, gender identity, religious affiliation, age, disability or illness.”<sup>88</sup>

Furthermore, it does not allow accounts aimed at inciting harm to others on the basis of the aforementioned categories. As examples of forbidden behavior are cited:

“harassment of individuals or groups of people, including but not limited to : Violent threats; wishes for injury, death or illness directed at individuals or groups; references to mass murder, violent events or violence of which these groups have been the primary targets or victims; behaviour that incites fear of a protected group; repeated and/or non-consensual racist and sexist insults, qualifiers and clichés, or any other content that degrades a person.”<sup>89</sup>

According to "community standards" **Facebook**, for its part:

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<sup>88</sup> Twitter, Hateful conduct policy, available [here](#).

<sup>89</sup> Twitter, Hateful conduct policy, available [here](#).

“removes all hate speech, which includes any content that directly attacks people because of race; ethnicity; national origin; religion; sexual orientation; gender or gender identity; disability or health status.”<sup>90</sup>

According to **YouTube's** "Community Rules":

“Our products are free speech sites. However, we do not allow speech that encourages or condones violence against individuals or groups because of their race, ethnicity, religion, disability, gender, age, nationality, veteran status or sexual orientation/identity, or whose primary purpose is to incite hatred based on these characteristics. Finding the right balance can be a delicate exercise, but if the main purpose of a video is to attack a protected group, we do not consider its content acceptable.”<sup>91</sup>

According to **Microsoft** “Disallowed content policies”:

“To offer a safe and positive online experience for users, we cannot accept ads that contain or relate to certain content. This includes, but is not limited to, the content covered in the policies listed below. We reserve the right to reject or remove any ad, at our sole discretion and at any time.”<sup>92</sup>

It is important to note that the ECtHR has not remained oblivious to the dilemmas that have arisen with the spread of online hate speech. In *Delfi v. Estonia*,<sup>93</sup> the ECtHR confirmed the responsibility of the commercially operated Internet portal for offensive comments by readers, as the case concerned essential elements of "hate speech" and incitement to violence.

## **3.2. *The UN on countering online hate speech***

### **3.2.1. UNESCO on countering online hate speech**

UNESCO has developed a study providing a global overview of the dynamics characterizing hate speech online as well as some of the measures that have been taken in order to

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<sup>90</sup> Facebook, Hate speech, available [here](#).

<sup>91</sup> Youtube, rules and security, available [here](#).

<sup>92</sup> Disallowed content policies, available [here](#).

<sup>93</sup> ECtHR [GC], *Delfi v. Estonia*, no. 64569/09, June 16, 2015, available [here](#).

counteract and mitigate it.<sup>94</sup> The study highlights good practices that have emerged at the local and global levels. According to UNESCO, the norm should always be to defend the free flow of information where any limitation of speeches needs to be carefully weighed to ensure it remains exceptional.

Even though the Internet is not separate from the realm of laws, the developing and applying of legal responses to perceived online hate speech is problematic. The speed and reach of the Internet imply difficulties for governments to enforce national legislation in the virtual world. There has to be a complex balancing between fundamental rights such as the freedom of expression and the defence of human dignity. Even though some companies have become more responsive in addressing the problem of hate speech online, they still have not been fully incorporated into global debates - e.g. the Rabat Plan of Action - dealing with issues about identifying and responding to hate speech online.

While online hate speech bears some similarities to its classic manifestations, there are differences that pose new challenges. With the increase in hate speech reported by social media organizations and platforms, national governments and jurisdictions are challenged to apply laws to foreign platforms. In addition, the almost inherent anonymity of online hate speech makes it more difficult to effectively combat this crime:

“The Internet grants individuals the ability to say horrific things because they think they will not be discovered. This is what makes online hate speech so unique, because people feel much more comfortable speaking hate as opposed to real life when they have to deal with the consequences of what they say”.<sup>95</sup>

There are governments and social media platforms who have tried to enforce real name policies. However, therein lies the complexity of such measures as deeply contested since they go against the right to privacy and free expression. The reference to “*any other media of his choice*” under article 19(2) of the ICCPR allows an extension of the freedom of expression to new forms of technology such as the Internet. article 19(3) of the ICCPR applies also to the legitimate restrictions of the right to freedom of expression online.<sup>96</sup>

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<sup>94</sup> UNESC, *Countering online hate speech*, November 16, 2015, available [here](#).

<sup>95</sup> *Ibid.*, pp.14, available [here](#).

<sup>96</sup> *Ibid.*, available [here](#).



### **3.2.2. The ICERD stand against online hate speech**

The ICERD has addressed online hate speech in its General Recommendation 29, where it recommends State parties to “*take strict measures against any incitement to discrimination or violence against the communities, including through the Internet*”.<sup>97</sup> The remarks in ICERD’s General Recommendations have significance for the Internet since expressions of ideas online may directly amount to spreading them.

### **3.2.3. The OHCHR guidelines against online hate speech**

The international and regional legal instruments offer a framework for States to address hate speech within their duty to promote and protect fundamental rights balanced with rights to dignity, equality and safety. Hence, when dealing with hate speech online, individual States are not always the most impactful actors. Different Internet intermediaries such as social networking platforms,<sup>98</sup> Internet Service Providers or Search Engines, have stipulated in their terms of service how they may intervene in allowing, restricting, or channeling the creation and access to specific content.

However, all Internet intermediaries operated by private companies are expected to respect human rights. The OHCHR has set out guidelines in their “Guiding Principles on Business and Human Rights”,<sup>99</sup> on the corporate responsibility in upholding human rights.<sup>100</sup> Furthermore, Internet intermediaries, in correspondence with other companies, should assess “*actual and potential human rights impacts integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed.*”

The UN Guiding Principles also stipulates that in case of human rights violations, companies should “*provide for or cooperate in their remediation through legitimate processes*”.<sup>101</sup> Therefore, in the case of Internet intermediaries and conceptions of hate speech, they should ensure that measures are in place to provide an appropriate response. However, the principles set out by the OHCHR are still struggling to be implemented in everyday practice.<sup>102</sup>

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<sup>97</sup> ICERD, Sixty-first session (2002), General recommendation XXIX on article 1, paragraph 1 of the Convention (Descent), available [here](#).

<sup>98</sup> Organizations that mediate online communication such as Facebook, Twitter and Google.

<sup>99</sup> OHCHR, *Guiding Principles on Business and Human Rights*, April 11, 2011, available [here](#).

<sup>100</sup> *Ibid*, principle 11.

<sup>101</sup> Human Rights Council, A/HRC/35/22, March 30, 2017, pp. 20, available [here](#).

<sup>102</sup> UNESCO, *Countering online hate speech*, November 16, 2015, available [here](#).

The UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression states in its report that:

“States should instead be pursuing laws and policies that push companies to protect free expression and counter lawfully restricted forms of hate speech through a combination of features: transparency requirements that allow public oversight; the enforcement of national law by independent judicial authorities; and, other social and educational efforts along the lines proposed in the Rabat Plan of Action and Human Rights Council resolution 16/18”.<sup>103</sup>

Furthermore, it states the enormous impact which Internet companies hold on human rights:

“Companies do not have the obligations of Governments, but their impact is of a sort that requires them to assess the same kind of questions about protecting their users’ right to freedom of expression”.<sup>104</sup>

In order to combat online hate speech, the report presents a set of principles that could guide the private sector’s steps to respect human rights such as reviewing their policies or adopting new ones.<sup>105</sup>

## **4. Hate speech against the Catalan minority**

As we have previously pointed out, concerns about hate speech, far from diminishing, are increasingly present. The Catalan minority is, in this sense, a clear example of the exponential nature of this phenomenon. Both in ordinary expressions and in the media and social media, the discourse of hatred against the Catalans is becoming increasingly notorious.

Although this is a crime sanctioned in the Spanish criminal code, the scope of the legal framework for this issue is very limited. We will now proceed to set out this legal framework. We will then frame the Catalan case in its particular context and finally we will explain how hate speech is deployed today against the Catalan minority.

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<sup>103</sup> UN General Assembly, A/74/486, October 9, 2019, pp. 15, available [here](#).

<sup>104</sup> Ibid. pp. 16, available [here](#).

<sup>105</sup> See Human Rights Council, A/HRC/35/22, articles 47-49, March 30, 2017, available [here](#).

#### 4.1. *Spanish legislation*

The issue of hate speech is covered by the Spanish Criminal Code ("*Código penal y legislación complementaria*"), article 510 of Chapter VI provides that individuals who:

**"publicly, directly or indirectly, foment, encourage or incite hatred, hostility, discrimination or violence against a group, part of that group or a particular person on account of his or her membership of that group"** shall be punished by a prison sentence of one to four years and a fine of six to 12 months, "on grounds of racism, anti-Semitism or other grounds related to **ideology**, religion or **belief**, family status, membership of an ethnic group, race or nation, **national origin**, sex, sexual orientation or gender identity, or on grounds of gender, illness or disability. "

Article 515 of the same Code provides that **unlawful associations** which "*directly or indirectly encourage, promote or incite hatred [...] against persons, groups or associations on account [...] of their beliefs are punishable*".

Lastly, article 543 of the Criminal Code provides that "*offences and insults to Spain, its **Autonomous Communities** or their symbols or emblems, in words, writings or deeds, done with publicity, shall be punishable by a fine of between **seven and twelve months***".

Hate speech is prohibited by the Spanish Criminal Code. Thus, there are certain limitations to freedom of expression, as the ECtHR already did. However, in the Spanish case it can be seen that the contours of these limitations are blurred, which gives rise to a certain degree of uncertainty from a legal point of view.

One of the fields in which the deficiencies of the Spanish legal framework with respect to hate crimes can be seen is the qualification given to the exaltation of Nazism. In a circular published on May 14, 2019, the Attorney-General indicated that "An attack on a person of Nazi ideology, or incitement to hatred towards such a group, may be included in this type of [hate] crime".<sup>106</sup> The circular included Nazis as victims of hate speech for ideological reasons, as the presence of hate speech in article 510 of the Criminal Code provided protection for vulnerable groups of people

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<sup>106</sup> Circular 7/2019, of the Attorney General of the State, Fiscalía General del Estado, on guidelines for the interpretation of hate crimes under article 510 of the Penal Code, May 14, 2019, available [here](#).

who had traditionally been discriminated against on the grounds of racism, ideology, sexual orientation, ethnic origin or gender. From civil society and from the legal field such a conception of hate crime was strongly criticized.<sup>107</sup> In January 2020, the Director of International Relations of the Simon Wiesenthal Centre, which combats Nazism and protects victims of the Holocaust, denounced to the Spanish Government the fact that this interpretation of article 510 of the Criminal Code ran counter to its motive of protecting vulnerable groups.<sup>108</sup>

This problem is particularly serious insofar as certain sectors of society have equated citizens who support the right to self-determination with Nazism. In 2017, a German citizen living in Catalonia expressed his discontent through social media stating that he felt "shame and anger at a State [Spain] that tolerates and protects Spanish fascists". Through the same media [Twitter] a woman told him that he was most likely a descendant of Hitler's Nazis and said that "they [those who support self-determination] have made Catalonia a Germany of 1933; the Jews are the Catalans against independence". He reported these claims to the courts but Girona's Investigating Court No. 2 provisionally dismissed it, and then the Fourth Section Court held that in order to uphold hate speech, "**a group must be discriminated against or threatened**". Thus, even though the tweet in question was "demeaning or despicable", it did not constitute a hate crime.<sup>109</sup>

#### ***4.2. The historical precedents of the hatred against the Catalan minority***

History shows us that the place that the Catalans occupy today in the Spanish national discourse far from being a circumstantial fact. On the contrary, it is a discourse whose forms have varied but whose underlying message has always been to see the Catalans as something different, a problem. During the late Middle Ages and the Renaissance, in Western Europe, political-territorial entities began to take shape and new national identities emerged.<sup>110</sup> From the end of the 13<sup>th</sup> century to the end of the 15<sup>th</sup> century, Catalanism was mainly manifested on two fronts, from the Aragonese crown and from Italy. At this stage it was more of a cultural and linguistic antagonism. Between the end of the 15<sup>th</sup> and 16<sup>th</sup> centuries, Castilian hegemonic approaches began to emerge and the idea of Spain as a single historical community was born. Between the end of

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<sup>107</sup> La Fiscalía del Estado considera delito la incitación al odio hacia los nazis [State Prosecutor's Office Criminalizes Incitement to Hate the Nazis], *Publico*, May 5, 2019, available [here](#)

<sup>108</sup> El Centro Simon Wiesenthal en una carta a Pedro Sánchez: "¿Va a encarcelar a los sobrevivientes de Auschwitz por haber incitado el odio a los nazis?" [The Simon Wiesenthal Center in a letter to Pedro Sanchez: "Are you going to imprison Auschwitz survivors for inciting hatred of the Nazis?"], *Lamaera.com*, January 29, 2019, available [here](#).

<sup>109</sup> Un tribunal no veu delictes d'odi a dir nazi a un independentista [A court does not see hate crime in calling a pro-independence Nazi], *El Punt Avui*, February 9, 2019, available [here](#).

<sup>110</sup> A. Simon (2006), *Els orígens històrics de l'anticatalanisme*, L'Espill, N<sup>o</sup>. 24, pp. 43-49.

1500 and the Catalan revolution of 1640, the idea of Spain as a political community was consolidated and proposals for institutional, fiscal and legislative unification were born. Thus, the sense of "Spanish homeland" was added to the values of God and the King. Already in 1639 Fructuós Piqué, a Catalan living in Madrid, confessed his concerns of going out into the streets "fearing that the boys will stone us if they smell what we are".<sup>111</sup>In 1640 a revolution broke out in which Catalonia, allied with France, carried out a war of separation from the Spanish monarchy. Although at the end Catalonia was reintegrated back into Spain, the general idea among the Spanish population of the Catalans as a disloyal people who had betrayed the common project of the Spanish nation began to take shape. Once again, within the framework of the War of the Spanish Succession, Catalonia distanced itself from the central positions, which would lead, in 1714, to a surrender and reintegration into Spain. From then on, the repression of the monarchy took on new dimensions and from then on, a punitive policy was pursued against the Catalan people.

Catalonia is currently one of the 17 autonomous communities that make up the Spanish State. Like other autonomous communities, Catalonia has had a Statute of Autonomy since 1979. It is a kind of constitution that offers certain powers in the areas of education, security, transport and health. However, this does not mean that the Catalan executive or the legislature can act independently of Spain. The Spanish State always keeps an eye on Catalonia's political actions and does not hesitate to resort to the constitutional court to annul laws passed by the Catalan parliament. Likewise, article 155 of the Spanish Constitution provides the State with a coercive mechanism to force Autonomous Communities that fail to comply with the obligations imposed by the Spanish Constitution of 1978 or other laws, or that seriously undermine the general interest of Spain, to fulfill such obligations or to protect the general interest. Although its application has been brief so far, it is a legal tool that has been used repeatedly in public debate in recent years to pose a kind of constant threat to Catalonia. Indeed, it was reported in the Spanish press in September 2019 that the ERC spokesman had asked questions about the Socialists' plans for Catalonia to which the President had replied "*if the Generalitat makes any attempt to violate the Constitution, the PSOE [the ruling party] will apply it [article 155] to guarantee its compliance*".<sup>112</sup>

Since the 2000s, there has been a whole conjunction of political and economic phenomena

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<sup>111</sup> Quoted in J.H. Elliott (1966), *La revolta catalana 1598-1640*, Barcelona, p. 350.

<sup>112</sup> Sánchez avisa a ERC de que aplicará el 155 si la Generalitat "intenta violentar la Constitución" [Sánchez warns the ERC that 155 will apply if the Generalitat "attempts to violate the Constitution"], *La Vanguardia*, September 18, 2019, available [here](#); PP y Cs de Madrid exigen el 155 en Cataluña si Torra no acata la ley [Madrid's PP and Cs demand 155 in Catalonia if Torra does not comply with the law], *Economía Digital*, July 8, 2019, available [here](#); Casado insiste en aplicar el 155 [Casado insists on applying 155], *Jaen*, November 3, 2019 available [here](#); Casado dice que si gobierna pondrá "orden" en Cataluña con un 155 sin "limitaciones de plazo" [Casado says that if he governs, he will put "order" in Catalonia with a 155 without "delays"], *El Español*, November 2, 2019, available [here](#)

that have conditioned Catalonia's place in the Spanish territorial scheme. On the one hand, José Luis Zapatero, who became head of the Spanish government in 2004, had begun a phase of revision of the statutes of autonomy. Catalonia's new Statute of Autonomy, which replaced the 1979 statute, was drafted by a Catalan coalition government: socialists, left-wing nationalists (ERC) and Green Communists. Hence, in 2006, given the limitations of the “Statute of Sau”, the Parliament of Catalonia sought to strengthen its autonomy through a **new Statute of Autonomy**. This statute provides the basis for a new model of autonomous financing and investment in infrastructure. article 8 of the Statute voted in 2006 states that "*Catalonia, defined as a nationality in article 1, has as its national symbols the flag, the party and the anthem*". This statute was then validated by a referendum and by the Spanish Congress. However, part of the Spanish political spectrum considered the new statute as a threat to the State. With the Popular Party -*Partido Popular*- in the lead, a campaign was launched to repeal the new Statute.<sup>113</sup> In 2010, a Constitutional Court resolution against the statute severely limited its power.<sup>114</sup> This rejection was the trigger for various Catalan political sectors and part of civil society to launch a grassroots movement to defend the region's right to self-determination, culminating in the march of one million people in Barcelona in 2010 under the banner “*We are one nation, we decide*”. Another mass demonstration of one and a half million people took place on the Catalan National Day in 2013, when a human chain for the independence of Catalonia united the country from North to South.

In November 9, 2014 the Catalan government supported a **legal citizens' initiative to vote in favour of Catalonia's right to self-determination**. Due to the central government's ban on voting on this issue, the referendum was held as a non-binding consultation which resulted in 80% of voters supporting independence. On November 9, 2015, the Catalan Parliament approved a declaration affirming its willingness to begin the process of creating a Catalan State in the form of a Republic, starting with a referendum to be held on October 1, 2017.

On polling day, the **Spanish authorities carried out a violent campaign** of forced closure of polling stations throughout Catalonia.<sup>115</sup> Despite the tension, the majority of the participants in the referendum voted in favor of independence. To this day, the Spanish Government maintains that Catalonia does not have the constitutional right to hold referendums on its status.

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<sup>113</sup> Rajoy promoviera un referendun nacional sobre el Estatut porque dice que ‘debilita el Estado’ [Rajoy will promote a national referendum on status because he says it "weakens the state"], *Elmundo.es*, January 24, 2001, available [here](#).

<sup>114</sup> J. Pi, Los artículos declarados nulos, uno a uno [Objects declared void, one by one], *La vanguardia*, June 28, 2010, available [here](#).

<sup>115</sup> Violence against Catalan voters: what we know so far, *The Guardian*, October 1, 2017, available [here](#).

As a result of October 1, and the Catalan parliament's vote in favor of independence on October 27, several Catalan leaders, including all members of the Catalan government, were prosecuted. Some were convicted and others were forced into exile in various countries such as Belgium, Scotland or Switzerland.<sup>116</sup> The President of the Catalan parliament, Carles Puigdemont, is currently in exile in Belgium. According to independent observers who attended the fifth week of the trials, they had multiple flaws, indicating a lack of objective impartiality on the part of the Court.<sup>117</sup> The working group on arbitrary detentions (WGAD) considers the detention of some political and social Catalan leaders, as contrary to the Universal Declaration of Human Rights (UDHR) and the UN's ICCPR.<sup>118</sup>

### **4.3. *The deficiencies of the Spanish Legal Framework***

Previously we briefly presented the Spanish legal framework regarding hate speech and some of its most problematic aspects. We will now proceed to explain in greater depth how this legal framework is applied and the consequences that derive for the Catalan minority.

#### **4.3.1. *Ambiguity and double standards in the punishment of hate crime in Spain***

Whilst clear manifestations of hatred have been overlooked by the Spanish authorities, freedom of expression has been subject to unjustified limitations. Since 2016, there has been an outbreak in the number of victims of repression of freedom of expression.

Not only the territorial integrity of the State was under scrutiny, but also the form of government of the parliamentary monarchy. This institution, guarantor among others of cohesion at a national level, has adopted a discourse contrary to the right to self-determination.<sup>119</sup> Its value at national level, however, has been decreasing over the years throughout the Spanish territory.<sup>120</sup>

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<sup>116</sup> Catalan separatist leaders get lengthy prison terms for sedition, *The New York Times*, October 14, 2019, available [here](#)

<sup>117</sup> International Trial Watch, *Factual and legal Assessment by international and national observers of the judgment condemning Catalan authorities and social leaders (SCJ 459/2019)*, March 18, 2019, available [here](#).

<sup>118</sup> WGAD, Opinions approved in the 84th session (April 24 to May 3, 2019), July 10 2019, A/HRC/WGAD/2019/12, available [here](#).

<sup>119</sup> Piden la renuncia de Felipe VI a la corona española por su postura ante Cataluña Puigdemont [They ask for the resignation of Felipe VI from the Spanish crown because of his position towards Catalonia], *Voces críticas*, May 20, 2020, available [here](#)

<sup>120</sup> Cacerolada en los balcones de varias ciudades contra el discurso del Rey Puigdemont [*Cacerolada* on the balconies of several cities against the King's speech], *El País*, March 19, 2020, available [here](#)

This is particularly true for the Catalan case, an openly republican area.<sup>121</sup> In the Taulats case,<sup>122</sup> the Spanish courts handed down convictions for lesser acts. On that occasion, for the burning of portraits of the king, two individuals were sentenced to fifteen months' imprisonment and disqualification from passive suffrage for the duration of the sentence. A fine of 2,700 euros was imposed as a substitute for the sentence. The ECtHR considered that such expressions were part of the exercise of freedom of expression and, therefore, the Spanish State was condemned.

Likewise, there is a growing censorship in the Spanish State towards the criticism formulated against the State security bodies. In 2017, several people were charged with hate crimes for comments about the Spanish police via social networks. It should be remembered that there is an explicit reference to hate crime in the Spanish Code in article 510, which provides a definition and lists the groups that can be the object of a hate crime: "(...) *affiliations of an ethnic group, race or nation, national origin, sex, sexual orientation or gender identity, because of gender, illness or disability*". Thus, the Spanish police force does not belong to any of the groups mentioned and therefore cannot be the object of hate crimes. Incorrect interpretation of the rule leads to unjustified extension of its scope. Thus, voices raised against the authorities are in a particularly vulnerable situation. This is especially true for the Catalan case given the popular reaction that was generated after the increase in police presence in order to prevent the right to self-determination from being effective.

Not even publicly elected officials who question this repressive scheme escape censorship. The Girona public prosecutor's office denounced the mayor of Verges, Ignasi Sabater, for an alleged crime of incitement to hatred committed against persons belonging to the Spanish nation and the Civil Guard corps.<sup>123</sup> After the vandalization of a hundred vehicles in his locality, the mayor claimed that it was a covert retaliation by the Civil Guard given that on the first of October, the date of the referendum, the population of the locality had prevented their entry into the village.

Despite this apparent extension in the punishment the hate crime, it is not applied with the same rigor when it is directed at Catalans. On April 21, 2019, the traditional Judas festival was celebrated in the town of Coripe, Seville. It is a festivity that takes place during the Holy Week and consists of stoning, lynching or burning a doll representing Judas Iscariot, for his betrayal of Christ.

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<sup>121</sup> Protestas en Barcelona contra la llegada del rey de España Puigdemont [Protests in Barcelona against the arrival of the King of Spain], *La Voz*, November 3, 2019, available [here](#)

<sup>122</sup> European Court of Human Rights, *Tern Taulats and Roura Capellera v. Spain*, June 13, 2018.

<sup>123</sup> Denuncien l'alcalde de Verges per incitació a l'odi després de l'1-O [They're denouncing the mayor of Verges for inciting hatred after the 1-O], *Catalunya press*, April 19, 2018, available [here](#).



On this occasion, the doll was disguised as Carlos Puigdemont, president of the Catalan Parliament. On its chest it carried a yellow ribbon, a sign of support for the Catalan political prisoners, and on its back, it carried a "*estelada*" - a Catalan flag - as a cape. After a tour of the village and in front of thousands of spectators - among which were numerous children-, the doll was hung from a tree by the neck and then several people proceeded to shoot him, simulating a firing squad.<sup>124</sup> Considering that it was a hate crime, the *Generalitat* - Catalan parliament - denounced the mayor of Coripe to the public prosecutor's office. The latter proceeded to dismiss the complaint, considering that no such crime existed. Among the arguments of the prosecutor's office was that this act did not discriminate against or reject a political ideology and that, furthermore, it did not incite violence. The prosecutor's office thus avoided the characterization of the doll by means of symbols closely related to the right to self-determination of the Catalans, such as the flag and the yellow ribbon. Despite this, it is recognized that some of the insults professed on that occasion may constitute a crime of insult, but it should be Carles Puigdemont himself who interposed the complaint.

The ambiguity in the interpretation of the hate crime is glaring. While the status of Nazis ideology remains unclear, the stigmatization of Catalan leaders is allowed and citizens who dare to question the authority of the State are restricted in their freedom of expression. This legislative vagueness has even more serious consequences by contributing to the persecution of the Catalan minority.

#### **4.3.2. Madrid's approach to the Catalan referendum**

To briefly contextualize the so-called "Catalan process" the following key moments could be highlighted: (i) The government of the *Generalitat* - since January 2016 - is an electoral coalition called *Junts pel Sí*, formed by the union between *Convergència* and *Esquerra Republicana de Catalunya*, two pro-independence parties; (ii) this government, headed by Carles Puigdemont, proposes a referendum of self-determination for October 1, 2017, after the approval of a Law of the Referendum with the support of *Junts pel Sí* and the CUP (with a total of 72 votes) in the Parliament, on September 6, 2017; (iii) On September 7 the Spanish government declares this referendum illegal and the Constitutional Court suspends it as a precautionary measure, while international observers express that the referendum does not meet the minimum guarantees for a consultation of this magnitude; (iv) The vote is held, in any case, under the eyes of the international

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<sup>124</sup> Coripe quema un Judas que representa a Carles Puigdemont [Coripe burns a Judas representing Carles Puigdemont], *La Vanguardia*, April, 22, 2019, available [here](#).

observers in a very convulsive day where there are police charges on the citizens who attend the polling stations and violent confrontations in the streets of the main Catalan cities, leaving 893 injured, according to sources of the Generalitat; (v) after the consultation, the Autonomous Parliament proposes a Unilateral Declaration of Independence (DUI), as it considers the results to be valid and sufficient to continue the "process of independence"; and (vi) the central government intervenes the Catalan autonomous institutions and activates Article 155 of the Spanish Constitution (through which it can adopt the necessary measures to force the autonomous community to comply with the required obligations).

The most serious manifestations of the repressive trend have occurred in Catalonia, where the Spanish police violently forbid the referendum on self-determination called by the Catalan Government, and where the courts decided to prosecute several politicians and social leaders who are in favour of self-determination activists.<sup>125</sup> While the latest detentions of politicians in favor of self-determination prompted the media to focus again on Catalonia, the environment of exalted Spanish nationalism promoted by the government of *Partido Popular* in response to the Catalan independence movement encouraged conservative judges to crack down with increasing severity on crimes of opinion.

In the aftermath of the referendum of October 1, 2017 and the unilateral declaration of independence by the *Generalitat* resulted in an aggravation of the situation in Catalonia. In fact, the law passed by the regional Parliament (September 6, 2017) calling for the referendum on self-determination - later hold on October 1, 2017 - was declared unconstitutional by the Supreme Court (October 24, 2017):

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<sup>125</sup> For a summary inventory of the functioning of the judicial and political apparatus against pro-independence Catalans between the end of 2017 and the beginning of 2018, see: Informe de la repressió: l'offensiva de l'aparell de l'estat afecta ja 938 catalans Report of the repression: the offensive of the state apparatus already affects 938 Catalans [Report of the repression: the offensive of the state apparatus already affects 938 Catalans], *Vilaweb*, February 7, 2018, available [here](#)

“[the law] annuls as a matter of fact, in the territory of Catalonia and for all Catalan people, the binding force of the Constitution, of the Statute of Autonomy and any other rules of law that may not be compatible with its will ... The Chamber [the regional Parliament], in acting in this manner, has situated itself completely outside the law, and has entered into an unacceptable de facto territory ... the existence and effectiveness of any rights that the Constitution and the Statute may protect in favour of all the Catalan citizens have been put in maximum jeopardy, thereby leaving them at the mercy of a power that affirms it has no limit whatsoever.”<sup>126</sup>

The judgment further criticized the procedural irregularities leading to the adoption of the abovementioned law. In relation to international law, the Court criticized the references made in the preamble to the right to self-determination of the Catalan people. While acknowledging that “all peoples” have a right to self-determination, it referred to UN General Assembly resolution 1514 and Declaration 50/6 in support of the contention that such a right is limited to very specific circumstances and does not encompass a right to secession. In particular, it evoked the safeguard clause that protects “the territorial integrity or political unity” of States “conducting themselves in compliance with the principle of equal rights and self-determination of peoples and thus possessed of a Government representing the whole people belonging to the territory without distinction of any kind”. In another passage, it ruled that the Catalan Law further violated basic constitutional principles which are “at the same time common values of the EU Member States which underpin the EU itself”.

Referring a matter of an eminently political nature to the legal sphere lead to an increase in hostility towards the Catalans. In a legal framework in which a challenge against the Spanish territorial model carries with it a crime of sedition, the fate of the figures involved in the October 1 referendum was at stake. Since the failed reform of the Statute of Autonomy, the Spanish government has repeatedly rejected any demands coming from Catalonia for negotiation and dialogue about self-government and self-determination, responding with political hostility, police repression, criminalization and tolerating hate speech towards the Catalan minority.

### **4.3.3. Catalonia under political and legal control**

On October 27, 2017, the Spanish senate granted the government the ability to enforce article 155 of the Spanish Constitution on Catalonia. Within the 1978 Constitution, article 155 ensures the

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<sup>126</sup> Sección del Tribunal Constitucional, Núm. 256, Pág. 102543, October 24, 2017, para. 5d, available [here](#).

fulfillment of constitutional obligations by all Autonomous Communities, including Catalonia. This article allows the government to take measures in exceptional cases to restore constitutional order or to prevent any great damage to the general interests of Spain. Applying the powers that had been granted to it, the central government suspended Catalonia's autonomy between October 27, 2017 and June 2, 2018. The Rajoy Government removed the Puigdemont regional government, dissolved the Catalan parliament and replaced the Catalan police chief.

It is important to remember at this point that the eventual application of Article 155 was often used as a kind of possible retaliation against Catalan autonomy. It is not, therefore, a merely circumstantial event, but rather one that is part of and contributes to the construction of a public discourse that ultimately seeks to portray Catalonia as a territory that must be controlled and the Catalans as a population that must be monitored.

Catalonia has seen preventive imprisonment of two social leaders and seven political leaders in 2017. Seven other Catalan politicians went into exile to different European cities, Carles Puigdemont, president of the *Generalitat*, fled to Belgium.<sup>127</sup> More than 700 Catalan mayors have been impeached for supporting the referendum and the declaration of independence.<sup>128</sup> Seven commanders of the Catalan police have been sanctioned for disobedience during the referendum on independence. These are followed by a very long string of further actions taken by the State against Catalan political and social leaders and Catalan citizens.

The Spanish Supreme Court ruled against the social and political leaders in Catalonia and their demands on the right to self-determination, handing out sentences ranging from nine to 13 years of prison for sedition. On February 12, 2019, the *Causa del procés* at the Supreme Court of Spain began. On October 14, 2019, the Supreme Court's Judicial Chamber for Criminal Cases handed down its verdict in Special Case 3/20907/2017 and sentenced seven high-ranking Catalan officials—including six former members of Catalonia's Govern *la Generalitat*, the former president of Catalonia's Parliament, and two leaders of civil society organizations—between nine and 13 years in prison and disqualification from holding public office for the crime of sedition.

This series of trials was the subject of extensive media coverage. Several fragments of the

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<sup>127</sup> O. Bowcott and S. Jones, Exclusive : Puigdemont vows to lead Catalan government in exile, *The Guardian*, March 2, 2018, available [here](#).

<sup>128</sup> El Defensor de les Persones (Catalan Ombudsman), "*The violation of fundamental rights and freedoms arising from the criminal justice reaction following October 1, and application of the article 155 of the Spanish Constitution*", May 2018 (henceforth: Catalan Ombudsman report), p. 13.

process could be found in the mass media and even in social networks such as Youtube. There, as well as in other social media, an overwhelming amount of comments from anonymous users boasted of the situation of submission in which several figures of the former Catalan government were plunged.<sup>129</sup> Although Spanish citizens' perception of judicial independence is negative, in the case of the trials of Catalan politicians, few dissident voices denounced a biased trial.<sup>130</sup> We can therefore see that the discourse of hatred against the Catalans takes on such dimensions that truths that were previously considered obvious become secondary. In conclusion, it should be noted that following the sentences handed down to Catalan political leaders, various sectors of Catalan civil society mobilized to denounce the political trials and show their support for the prisoners. This, however, has been subject to censorship by the State.<sup>131</sup>

#### ***4.4. The growth of hate speech against the Catalan minority***

As we have shown before, the undervaluation of the Catalan minority is not new within the Spanish State. Political confrontation and judicial persecution have, in turn, been accompanied by a debate that seeks to stigmatize the Catalan minority. This discourse has been exacerbated over the last decade, one of its main vehicles being the mass media. This discourse is, in turn, multi-faceted, involves various spheres of society and affects the whole of the Catalan population. The clearest manifestation and aggravating circumstance of this has been the proliferation of hate speech in the social media.

##### **4.4.1. The rise of hatred in recent years**

Since the referendum on the independence of Catalonia, there has been a worrying increase in ultra-nationalist violence against Catalan citizens in favour of self-determination, which had often been underreported and unpunished. Between 8 September and 11 December 2017, 139 violent incidents, including 86 assaults,<sup>132</sup> were officially recorded. These attacks have continued regularly in 2018. Even the display of symbols expressing support for those sentenced after 1

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<sup>129</sup> As one among a multitude of examples we can cite the trial of Oriol Junqueras, a member of the ERC party and one of the main defenders of the right to self-determination. See [A.P. 1](#)

<sup>130</sup> According to the EU Justice Scoreboard of 2019, Spain is among the four European Union countries with the worst perception about judicial independence among its citizens; European Commission, The 2019 EU Justice Scoreboard, available [here](#).

<sup>131</sup> See in this sense the censorship about the exhibition 'Presos Politics' in 2018, available [here](#) and [here](#).

<sup>132</sup> Anuari Media.cat, *Els Silencis Mediatícs de 2016-2017* [The media silences of 2016-2017], 2018, available [here](#).

October 2017 has been the subject of controversy and censorship.<sup>133</sup> The mere wearing of a yellow ribbon, a symbol of support for imprisoned political leaders, can lead to unjustified attacks.<sup>134</sup>

In order to avoid the holding of the referendum on October 1, 2017 the government mobilized thousands of Civil Guards from all over Spain to Catalonia. This fact served to make manifest the animosity that in certain sectors of Spain is professed towards the Catalan minority. The violence is largely due to increased hostility within the authorities themselves. In several cities, during the departure of various agents of the Guardia Civil, citizens acclaimed them with cheers and proclamations such as "Go get them", "Catalonia is Spain", "Puigdemont, go to jail", "Up Spain".<sup>135</sup> Far from being a mere proclamation by some citizens, these are also harangues sung by members of the Guardia Civil themselves.<sup>136</sup> The enthusiasm aroused by the civil guards' march towards Catalonia was only matched by the events of October 1st, when police violence was of such magnitude that it aroused international outrage.<sup>137</sup> The Spanish government has not taken any concrete measures against the rise in ultra-nationalist violence or the increase in hate speech that encourages it.

As we pointed out earlier, Nazism has a particular place in the Spanish legal framework. In addition to the lack of explicit condemnation from the integrity of State institutions and actors it is an ideology that, on the one hand, belongs to some sectors that are opposed to independence and, on the other hand, is used to stigmatize the Catalan minority. By relying on an exacerbated nationalism, various anti-independence groups are claiming this ideology. Paradoxically, this does not prevent certain sectors from assimilating the Catalans with the Nazis.<sup>138</sup> In February 2015, the

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<sup>133</sup> El PP lleva a tribunales el lazo amarillo del Ayuntamiento de Barcelona [PP takes Barcelona City Council's yellow ribbon to court] *El Español*, September 6, 2019, available [here](#); Atacan con huevos casas con lazos amarillos [Attack on houses with yellow ribbons and eggs], *Segre.com*, December 12, 2017, available [here](#)

<sup>134</sup> Dos joves denuncien una agressió per homofòbia i portar un llaç groc [Two young people denounce an aggression for homophobia and carrying a yellow ribbon], *ara.cat*, March 11, 2018, available [here](#).

<sup>135</sup> Vítores a policías que van a Catalunya con gritos de "a por ellos" [Cheers to policemen who go to Catalonia with shouts of "go get them"], *El periódico*, September 25, 2017, available [here](#).

<sup>136</sup> Guardias civiles también cantaban "a por ellos" cuando iban hacia Catalunya [Civil guards also sang "go get them" when they went to Catalonia], *elnacional.cat*, October 7, 2017, available [here](#).

<sup>137</sup> Spain: Violence erupts after peaceful Catalan independence rally, *DW*, October 26, 2019, available [here](#); Spanish police clash with thousands of Catalan protesters in Barcelona, *The Guardian*, October 27, 2019, available [here](#); Barcelona police throw old lady to ground and punch man in face, while another loses eye in violent protest after Spain jails catalan leaders, *The olive press*, October 15, 2019, available [here](#).

<sup>138</sup> There are several examples of the assimilation of the Catalan minority with Nazism. The usual procedure for this is based on a vague association of any kind of political manifestation with some event that supposedly took place in Nazi Germany. *See*: Comparan las esteladas en el concierto de Sant Esteve con la Alemania nazi [They compare the *estelada* in the Sant Esteve concert with Nazi Germany], *El Español*, December 27, 2019, available [here](#); Another method is any link, however vague and uncertain, between certain historical figures and Nazism to infer that this ideology underlies any support for self-determination. Curiously enough, the close and proven relationship that the dictator Francisco Franco had with Adolf Hitler is overlooked. *See*: El libro publicado en la Alemania nazi que fantaseaba con la independencia de Cataluña nazi [The book published in Nazi Germany that fantasized about the independence of Catalonia] *ABC*, July 23, 2019, available [here](#)

High Court of Girona rejected tweets comparing independence to Nazism and Third Reich Germany as a hate crime. They had been written by a social network user in response to a German citizen living in the Girona region. The latter had expressed his feelings of shame towards Spain, which openly tolerated and protected the Spanish fascists, whom the individual had likened to a descendant of Nazis. Here the Court ruled that the attacks received by the German citizen was not a collective attack that could be qualified as incitement to hatred against a specific group.

#### **4.4.2. Hostility against the Catalan minority in the mass media**

In the run-up to the referendum on the independence of Catalonia in 2017, the boundaries between the protection of the Spanish Constitution and the restriction of freedom of expression became increasingly blurred. A reflection of this drift is, for example, the censorship of more than 140 websites promoting the referendum by the Spanish government.<sup>139</sup> The following will explain how the media have gradually built up a negative image of the Catalan minority.

##### ***4.4.2.1. The media bias surrounding the Catalan case***

In general, media is considered as a way to reproduce social power hierarchies in systematic ways.<sup>140</sup> This function is clear in the Catalan case; Spanish media played a prominent role in the application of several of those mechanisms. They engage in what Strubell calls a “dirty war” against independentism. For instance, accusations against pro-independence politicians were “made not in the courts but in smear press campaigns (arising from police sources, not journalist investigation)”.<sup>141</sup> This maneuvering was later confirmed by other observers.<sup>142</sup>

After the October 1, 2017 referendum, the Spanish authorities and judiciary launched a further escalation of repression. It is worth remembering that the “crimes” of which Catalan independentists were accused included conducting a referendum, organizing a non-violent electoral program and non-violent protesting on the street. Since then, the violation of freedom of expression and other human rights has been denounced by a number of observers and participants.<sup>143</sup> Many in the media labeled the abandonment of cold repression for a more open, heavy-handed approach as

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<sup>139</sup> Spain’s disregard for Catalan press freedom is setting a dangerous precedent, *The Conversation*, September 29, 2017, available [here](#)

<sup>140</sup> A. Davis and K. Williams (2017), Introduction: elites and power after financialization, *Theory, Culture & Society*, 34(5–6): 3–26.

<sup>141</sup> M. Strubell (2016), The Catalan independence process and cold repression (2003-2016), *Journal of Ethnic Studies* 77: p.13.

<sup>142</sup> F. Marco (2017), Operación Cataluña, Barcelona, Urano.

<sup>143</sup> European Court of Human Rights condemns Spain over punishments for burning pictures of the king, *Vilaweb*, March 13, 2018, available [here](#)

a shift towards authoritarianism.<sup>144</sup> In spite of their non-violent methods, Catalan independentists were treated as terrorists.<sup>145</sup>

Other studies show the negative connotations that Spanish media associated with the pro-independence movement.<sup>146</sup> There were multiple references to violation of the law and other derogatory disqualifications. *El País* and *La Vanguardia*, two high-profile newspapers, progressively incorporated self-contradictory stances. *El Periódico* was giving support to Catalan and Scottish nationalism at the beginning of this period before changing its position. Later, in 2015, *El País* delegitimized independentists by comparing the relationship between Catalonia and Spain to that of a couple “where alleged abuse does not entitle the claim to separation, but rather questions the role of the victim”.<sup>147</sup>

Finally, a study on regional news from mainstream national radio and television news programs in January and February 2017 showed that Spanish news and reporters routinely treated Catalonia-related issues with a critical tone. They offered a permanent negative image of the autonomous Catalanian community and more specifically of its Government, regardless of the topic addressed.<sup>148</sup> This has also been confirmed by other studies. For instance, research into mainstream media coverage during the August 2017 terrorist attacks in Barcelona showed how the anti-independence stance of Spanish media “produces a biased analysis of facts that are unrelated to the process”.<sup>149</sup> Similarly, the antipathy towards anti-independentist sentiment was seen to inform

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<sup>144</sup> Major union warns of authoritarian turn in Spain, *Catalan News*, April 10, 2018, available [here](#)

<sup>145</sup> In 2019 a judicial attack was launched against members of grassroots movements who were acting, through peaceful methods, in defense of the right to self-determination. They were accused of terrorism. Although the accusations were unfounded and none of them was convicted of the crimes with which they were charged, the media that broadcast alleged cases of terrorism in Catalonia did not echo the outcome of the judicial proceedings to the same extent. See: *La Audiencia Nacional imputa a los nueve CDR detenidos por terrorismo* [The Audiencia Nacional charges the nine CDRs arrested for terrorism], *El Español*, September 23, 2019, available [here](#); La tesis oficial sobre "terrorismo en Catalunya" se desinfla: 5 de los 7 CDR encarcelados, en libertad bajo fianza *terrorismo* [The official thesis on "terrorism in Catalonia" deflates: 5 of the 7 CDR members imprisoned, released on bail], *El Periódico*, December 27, 2019, available [here](#); Reflexiones sobre el caso de los CDR terroristas [Reflections on the case of the terrorist CDR], *La Marea*, December 31, 2019, available [here](#).

<sup>146</sup> E. Martínez, M. Álvarez-Peralta (2016) *La consulta catalana en los medios: análisis comparado del tratamiento periodístico del '9N' en la prensa estatal y autonómica* [The Catalan consultation in the media: a comparative analysis of the news treatment of '9N' in the state and autonomous press]. In Nogales AI (coord.): *Experiencias de Análisis del Discurso Periodístico. Metodologías Propuestas y Estudios de Caso*. Sevilla: Ediciones Egregius, pp. 53-80.

<sup>147</sup> C. Moragas-Fernández and A. Capdevila (2017), *La mediatización del proceso independentista de Cataluña: el rol de la metáfora en tratamiento informativo de El Mundo, El País y La Vanguardia* [The mediatization of the independence process of Catalonia: the role of metaphor in the news coverage of El Mundo, El País and La Vanguardia], *Dígitos* 3(2): p.30.

<sup>148</sup> N. López, L. Gómez and D. Vicente (2017) *Información territorial en la radio y la televisión de ámbito nacional en España y su contribución a la imagen de las comunidades autónomas* [Regional news on Spain's national radio and television and their contribution to the image of Spain's autonomous communities], *Revista Latina de Comunicación Social* 72: 649-666.

<sup>149</sup> M. Planas, L'antiindependentisme contamina la cobertura dels atemptats [The anti- independentism pollutes the coverage of the attacks], *Mediacat*, February 15, 2018, available [here](#).



“fierce criticism” of Scottish nationalism in the cartoons of almost all mainstream Spanish newspapers during the 2014 Scottish referendum.<sup>150</sup> Because of the legacy of Francoism, mainstream media do not address the possibility of a democratic deficit in Spain. Consequently, they deny the political agency of Catalans and the emancipatory character of the pro-independence movement. In this respect, such coverage contains a unified narrative that blames Catalan politicians,<sup>151</sup> the Catalan school system,<sup>152</sup> and the Catalan public media<sup>153</sup> for manipulating and indoctrinating millions of people.

In the first week of December 2017, around 50,000 Catalans traveled to Brussels to demonstrate for the recovery of self-government and the liberation of the first group of imprisoned politicians and activists. What Reuters described as a rally by a “good-natured throng”<sup>154</sup> was framed on the front page of *El País* as an expression of “hatred”.<sup>155</sup> The newspaper employed a strong judgmental stance. Negative verbs and adjectives were used to qualify the march and the movement, as were metaphors evoking non-existent violence (“aggressive”, “onslaught”, “out of control”). On the *Antena 3* Television channel, there were attempts to associate Catalan grassroots organizations with guerrilla warfare.<sup>156</sup> War metaphors in the media are actually aligned with the government spirit, as the Spanish Prime Minister Rajoy made apparent when he publicly thanked “the majority of the media in the country for their defense of the national unity” in a January 2018 press conference.<sup>157</sup>

This sort of language is abundantly present in *El País*, where Catalan independentist politicians are regularly the subject of editorials (and opinion columns) containing a rhetoric that was previously typical of the right-wing online media or mainstream right-wing newspapers alone. After 2017, *El País* went from describing a decision of the Catalan government as a “Parliamentary coup”<sup>158</sup> to directly calling Catalan politicians “participants in a coup d’état”,<sup>159</sup> “sectarian”,

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<sup>150</sup> M. Requejo, AM. Velasco and I. Reguero, (2016) *El humor gráfico español ante el referéndum escocés del 18 de septiembre de 2014. Dibujando la independencia de Cataluña?* [The Spanish graphic humor before the Scottish referendum of September 18, 2014. Drawing the independence of Catalonia?], *Historia y Comunicación social* 21(1): 15-37.

<sup>151</sup> Puigdemont lleva a Cataluña al desastre [Puigdemont leads Catalonia to disaster], *El Mundo*, October 27, 2017, available [here](#); In the face of Catalan insurrection, the law but not just the law, *El País*, October 2, 2017, available [here](#).

<sup>152</sup> Así se adoctrina a los cachorros nacionalistas catalanes [This is how Catalan nationalist puppies are indoctrinated], *ABC*, October 27, 2017, available [here](#).

<sup>153</sup> Una semana viendo solo TV3 [A week watching only TV3], *El País*, November 12, 2017, available [here](#).

<sup>154</sup> C. Rossignol, Catalan separatists march in Brussels, *Reuters*, December 7, 2017, available [here](#).

<sup>155</sup> A. Sánchez, El separatismo pasea su odio a España por las calles de Bruselas [Separatism walks its hatred of Spain through the streets of Brussels], *El País*, December 8, 2017, available [here](#).

<sup>156</sup> Críticas a Antena3 por intentar vincular independentismo y guerrilla urbana [Criticism of Antena3 for trying to link independence and urban guerrilla], *ElNacional.cat*, March 27, 2018, available [here](#).

<sup>157</sup> I. Forn, Los periodistas de Rajoy [Rajoy's journalists], *ElNacional.cat*, January 15, 2018, available [here](#).

<sup>158</sup> Golpe Parlamentario [Parliamentary coup], *El País*, March 1, 2017, available [here](#).

<sup>159</sup> El País con el Estatut [The Country with the Statute], *El País*, October 1, 2017, available [here](#).

“populist” and displaying “factionalism”.<sup>160</sup>

While the international media reporting on the October 1 referendum described the subsequent pre-trial imprisonment of political opponents as repression and violence, the mainstream Spanish media congratulated the Spanish government. For example, on the day of the 2017 referendum when more than 1,000 voters were injured in a police crackdown, *El País* published an article titled “Where is the disproportion?”.<sup>161</sup> The editorial page of *La Razón* promoted to “Stand strong against the coup”.<sup>162</sup> The Spanish mainstream media had actually been requesting the Spanish government to take tougher action against Catalonia in the years and months leading up to the referendum. Back in 2014, ABC published the editorial “Against nationalist totalitarianism” and argued for an imposition of “authority”.<sup>163</sup> In May 2017, *El Mundo* published the editorial “Catalonia: Apply the law with all its consequences”.<sup>164</sup> Prime Minister Rajoy was accused of indulgence and told to cut off dialogue with Catalan pro-independence leaders. In September 2017, a few weeks before the referendum, another ABC editorial declared that “The law is fulfilled or imposed” and that it was insufficient to appeal to the courts to stop the Catalan “insurrection”.<sup>165</sup>

It can be seen that the spread of a negative discourse on the Catalan minority is a widespread phenomenon in the media at the State level. This phenomenon is further magnified by the emergence, over the past few years, of a network of conservative newspapers whose main objective has been to delegitimize the process of self-determination of the Catalan minority. To the historical conservative newspapers such as *El mundo*, *ABC* or *La Razón* have been added virtual portals like *El Español* or *OkDiario*, *Mediterráneo digital* or *Libertad Digital*. In the latter cases, journalistic standards are even more lax and the tendency to create or spread fake news is prevalent. *OkDiario*, for instance, has promoted a fake news related to the alleged persecution of Spanish speakers in Catalonia.<sup>166</sup>

While all the mainstream media aligned with the radical stance against Catalan independentism advanced by the three main political parties in Spain during this period (*Partit*

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<sup>160</sup> In the face of Catalan insurrection, the law but not just the law, *El País*, October 2, 2017, available [here](#).

<sup>161</sup> F. Ovejero and A. Molina, Dónde está la desproporción? [Where is the disproportion?], *El País*, October 2, 2017, available [here](#).

<sup>162</sup> Firmeza frente al golpe [Firmness against the gope], *La Razón*, October 2, 2017, available [here](#).

<sup>163</sup> Contra el totalitarismo nacionalista [Against nationalist totalitarianism], *ABC*, November 29, 2014, available [here](#).

<sup>164</sup> A. Dalmau, Cataluña: aplicar la ley con todas sus consecuencias [Catalonia: applying the law with all its consequences], *El Mundo*, May 28, 2017, available [here](#).

<sup>165</sup> La ley se cumple o se impone [The law is followed or enforced], *ABC*, September 4, 2017, available [here](#).

<sup>166</sup> Decathlon despide en Cataluña a cargos intermedios que no hablan catalán para colocar a independentistas [Decathlon fires non-Catalan-speaking middle managers in Catalonia to place pro-independence supporters], *Okdiario*, June 12, 2017, available [here](#).

*Popular, Partit Socialista* and *Ciudadanos*), the views represented by Catalan independentism are missing in all mainstream media. This means that the arguments of the pro self-determination movements do not appear in any influential outlet with a State-wide scope that is published in Spanish.

#### ***4.4.2.2 The hostility of public figures towards the Catalan minority***

In a logic of feedback, the media participate in the construction of a discourse hostile to the Catalan minority while public figures make use of them to foster this dynamic. While statements vary in their levels of hostility, this is a systemic phenomenon in the Spanish media. From calls for violence, to the veiled insinuation that the Catalan is a wounded society, a hostile environment has been created that is detrimental to the Catalan minority.

On February 14, 2016 the newspaper *El Mundo* published a conversation between the writer Arturo Pérez Reverte and the song-writer Joaquín Sabina in which both held a clear hostile stance on the “Catalan theme”. Pérez Reverte stated “as I am a Jacobin, it is a theme that I would have resolved in the 18<sup>th</sup> century, *chas chas chas* [imitating with his hands the movement of a guillotine]. Now it has no solution, now it's something else, isn't it” to which the singer-songwriter replies “I adhere to my partner's proposal”. Pérez-Reverte continues, “now there are things that can no longer be solved with methods... I mean, there were moments; I mean, you can slash an entire population in the 11<sup>th</sup> century, you know... but you can't do it in the 21<sup>st</sup> century because of that kind of thing”.<sup>167</sup>

On April 25, 2017, in the newspaper *El semanal digital*, Antonio Martín Beaumont, a right-wing thinker, denounced the alleged instrumentalization of TV3 - Catalan regional television- by the “forces of Catalan sovereignty”. He stated that the public media's only function was to “feed an insect, that of independence”.<sup>168</sup> Already in 2013, Juan Velarde, an extreme right-wing economist, spoke on TV in Madrid against Catalonia. He said that Catalonia is a burden to the rest of Spain and called for greater strength from the central government to stop nationalist claims. In this sense, he argued that granting Catalonia some fiscal autonomy in the style of the Basque quota would be a “burden” that would “suffer” the entire Spanish economy. “As the economist Román Perpiñá Grau has already said,” he stressed, “Catalonia is a kind of burden that slows down the Spanish

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<sup>167</sup> Arturo Pérez-Reverte y Joaquín Sabina, a la lumbre de un tequila [Arturo Pérez-Reverte and Joaquín Sabina, on the fire of a tequila], *El Mundo*, February 14, 2016, available [here](#)

<sup>168</sup> Á. Romaguera, Catalanòfobia: Un boc Expiatori [Catalanophobia: a scapegoat], *media.cat*, June 15, 2017, available [here](#).

economy. All of us economists know this" he insisted.<sup>169</sup>

On December 16, 2017, Josep Borrell, a veteran politician now High Representative of the Union for Foreign Affairs and Security Policy, said that the pro-independence leaders must be held accountable and assured that "the wounds must be disinfected before sewing them" and considered that a divided country such as Catalonia is a "sick "country. He said to the socialist candidate for the Generalitat, Miquel Iceta, that "you are a very good person and you would forgive them immediately, but they have made them very fat. It's okay to sew wounds, but first they have to disinfect. Because if you sew without curing then they rot. [...] Because a society cannot live if forty-two percent of people are convinced that it would be better off."<sup>170</sup>

In May 2018, the famous radio broadcaster Federico Jimenez Losantos proposed the bombing of Catalonia. Among insults to Quim Torra, current president of the Catalan parliament, the radio commentator stated that "We can bomb Barcelona, your house and your office" with the "70,000 police officers, 90,000 civil guards and 50,000 perfectly armed soldiers" that the central executive has.<sup>171</sup> Carlos Herrera, another radio personality in Spain, has attacked Catalonia on several occasions.<sup>172</sup>

On February 19, 2019, Albert Rivera Díaz, the political party President of *Ciudadanos*, made a commitment before all his deputies that if the next legislature is the President of the Government, "Spanish will be the language used in all public and subsidized schools in Spain". Rivera has assured emphatically that *Ciudadanos* has "the track record and moral authority" to defend this measure because, since the birth of his party in Catalonia, he has been committed to ending "that model of exclusion", often alone and also against the Spanish socialist worker's party

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<sup>169</sup> Catalanofobia en Telemadrid: Cataluña es un lastre para la economía de España [Catalanophobia on Telemadrid: Catalonia is a burden on the Spanish economy], *El Plural*, September 18, 2013, available [here](#)

<sup>170</sup> Borrell apuesta por "desinfectar" las heridas de la sociedad catalana y "desprocesar" TV3 [Borrell bets on "disinfecting" the wounds of the Catalan society and "deprocessing" TV3], *La Vanguardia*, December 16, 2017, available [here](#).

<sup>171</sup> F.Jiménez Losantos plantea bombardear Cataluña [F.Jiménez Losantos proposes to bomb Catalonia] *Youtube*, May 13, 2018, available [here](#); Federico Jiménez Losantos: "Hay aviones para bombardear Catalunya" [Federico Jiménez Losantos: "There are planes to bomb Catalonia"], *El Periódico*, May 14, 2018, available [here](#).

<sup>172</sup> El claro mensaje de Herrera a Buch por decir que el Ejército ayuda en Cataluña al ser "un país vecino" Cataluña [Herrera's clear message to Buch for saying that the Army helps in Catalonia as "a neighbouring country"], *La Cope*, July 1, 2019, available [here](#); El irónico 'recado' de Carlos Herrera a Junqueras y Puigdemont por sufrir la "entrañable dictadura española" [The ironic 'message' from Carlos Herrera to Junqueras and Puigdemont for suffering the "endearing Spanish dictatorship"], *La Cope*, March 3, 2020, available [here](#); Herrera, sobre la sentencia del procés: "El Gobierno está encantado porque le ha dado la razón" [Herrera, on the sentence of the trial: "The Government is delighted because it has proved him right"], *La Cope*, October 14, 2019, available [here](#); Herrera pone en su sitio a la portavoz del gobierno catalán que no responde en castellano [Herrera puts in her place the spokesperson of the Catalan government who does not respond in Spanish], *La Cope*, June 12, 2019, available [here](#); Herrera: "El Barça es un club al servicio de condenados, al igual que gentuza como los Guardiola" [Herrera: "The Barça is a club to the service of condemned, as well as riffraff like the Guardiola"], *La Cope*, October 16, 2019, available [here](#)

(“PSOE”) and the People’s Party (“PP”).<sup>173</sup>

Although the general line of the central government is already based on a severe approach to the Catalan case, any attempt at dialogue is met with fierce opposition from various political sectors of the Spanish State<sup>174</sup>. The recent emergence and rise of the extreme right in Spain, which is mainly reflected in the VOX party, has led to a resurgence of hostilities against the Catalan minority.<sup>175</sup> The ultra-nationalist discourse of which this party has become a proponent has brought with it the radicalization of the positions of other conservative parties that seek to preserve part of their electorate on the basis of a hostile position towards Catalonia.<sup>176</sup> The Catalan minority has thus become an electoral tool and hostility towards it translates into further consolidation in the Spanish political landscape.<sup>177</sup> Even in the midst of the COVID-19 pandemic, anti-self-determination sectors, take advantage of the situation to launch attacks against Catalonia and ask for the arrest of the president of the *Generalitat*.<sup>178</sup>

#### **4.4.3. The pervasiveness of hate speech against the Catalan minority**

Hate speech against Catalonia is manifested in different forms and through various means. No aspect of life in society escapes this phenomenon, from economy to culture, hatred against Catalonia has increased exponentially in recent years.

The constant attack on the Catalan minority includes, notably, the intention to harm the Catalan economy as a whole. This is manifested in widespread campaigns aimed at boycotting all goods of Catalan origin, whether it is products of a particular or companies: from small companies

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<sup>173</sup> L. Ángel Sanz, Rivera promete: "Si soy presidente, el español será lengua vehicular en todas las escuelas de España" [Rivera promises: "If I am president, Spanish will be the vehicular language in all schools in Spain"], *El Mundo*, February 19, 2019, available [here](#).

<sup>174</sup> La oposición tilda de "lamentable" y de "humillación" la reunión entre Sánchez y Torra [The opposition calls the meeting between Sánchez and Torra "regrettable" and "humiliating"], *RTVE*, February 6, 2020, available [here](#); Ortega Smith acusa a Sánchez de "arrodillarse ante los golpistas" [Ortega Smith accuses Sanchez of "kneeling before the coup plotters"] *Antena 3*, February 1, 2020, available [here](#).

<sup>175</sup> Abascal: «Somos la alternativa patriota al independentismo» [Abascal: "We are the patriot alternative to independence"], *Las Provincias*, November 8, 2019, available [here](#).

<sup>176</sup> Vox apuesta por aplicar la política de mano dura en Catalunya [Vox bets to apply the policy of hard hand in Catalonia] *La Vanguardia*, October 31, 2019, available [here](#); La rederechización de la derecha [the Re-righting of the right], *El Periódico*, January 29, 2020, available [here](#).

<sup>177</sup> Vox rentabiliza el conflicto catalán: subida en los sondeos y más visibilidad [Vox makes the Catalan conflict profitable: higher polls and more visibility] *La Moncloa*, October 24, 2019, available [here](#).

<sup>178</sup> See [A.P. 2]; Santiago Abascal pide detener a Quim Torra e Iñigo Urkullu: "Es aterrador ver al Gobierno paralizado por la rapiña separatista" [Santiago Abascal calls for the arrest of Quim Torra and Iñigo Urkullu: "It is frightening to see the government paralyzed by separatist rapine"], *Antena 3*, March 14, 2020 available [here](#).

that claim the right to self-determination to multinationals that decide to maintain their activity in Catalan territory. Under the hashtag *#BoicotProductosCatalanes* (*#BoycottCatalanProducts*) the boycott against Catalan products has been promoted in social networks from different places in Spain [A.P.2].<sup>179</sup> The media has echoed a study which states that 23% of Spaniards from outside Catalonia no longer buy from Catalan companies and 21% plan to stop doing so in the future. If independence were proclaimed, the percentage of the boycott of products would increase to 49.1%, which would have meant losses of up to 20,000 million for Catalan companies.<sup>180</sup> As mentioned above, multinational companies that have decided to remain in Catalonia and adapt to the legislation have been targeted. One example of these is Lidl, a supermarket chain, that has been accused of staying in Catalonia, increasing its investments and continuing advertising in Catalan which is seen as a way of discriminating against Spanish.<sup>181</sup>

The boycott campaign against Catalan products has reached such dimensions that an official Catalan body, the Catalan employers' association *-Foment del Treball-*, has been forced to take action before the National Commission for Markets and Competition (CNMC). The employers' association informed the markets Commission of the existence of a website called *'nocomprecat.com'* in which a call was made for consumers to stop buying Catalan products.<sup>182</sup> These campaigns take on such dimensions that even fake news are published. Such was the case, for example, of a French sports products company with multiple premises throughout Spain which, according to fake news, had fired some of its employees in Catalonia simply because they did not speak Spanish.<sup>183</sup> That information was denied, but the reputation of the mark in question had already been called into question.<sup>184</sup> Likewise, one method that has been shown to be effective in harming some individuals is to give them some link with Catalonia. In 2012, the candidate for president of the Madrid Bar Association was attacked on this basis. She was accused of being

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<sup>179</sup> Miles de ciudadanos llaman a realizar un boicot a los productos catalanes para Navidad [Thousands of citizens call for a boycott of Catalan products for Christmas], *Okdiario*, October 27, 2019, available [here](#).

<sup>180</sup> It should be noted that the validity of the study in question has not been demonstrated. The great impact that it has had is precisely that its conclusions contribute to feeding the discourse according to which an independent Catalonia would be economically unsustainable. See: El 20% de los españoles de fuera de Cataluña ha dejado de comprar productos catalanes [20% of Spaniards from outside Catalonia have stopped buying Catalan products], *El País*, November 8, 2017, available [here](#); El 23% de los españoles reconoce hacer boicot a los productos catalanes [23% of Spaniards admit to boycotting Catalan products], *El Confidencial*, November 8, 2017, available [here](#).

<sup>181</sup> Enésimo guiño independentista de Lidl: se queda en Cataluña y discrimina el español [Lidl's umpteenth independence wink: it stays in Catalonia and discriminates against Spanish], *Okdiario*, January 12, 2018, available [here](#).

<sup>182</sup> Foment denuncia a Competencia un boicot a empresas catalanas [Foment reports a boycott of Catalan companies to the Competition], *El Periódico*, May 6, 2020, available [here](#).

<sup>183</sup> Decathlon despide en Cataluña a cargos intermedios que no hablan catalán para colocar a independentistas [Decathlon fires non-Catalan-speaking middle managers in Catalonia to place pro-independence supporters], *Okdiario*, June 12, 2017, available [here](#).

<sup>184</sup> Decathlon lo desmiente tras el aluvión de críticas: "Nunca hemos estado vinculados a ninguna opción política" [Decathlon denies it after the barrage of criticism: "We have never been linked to any political option"], *HuffPost España*, December 13, 2019, available [here](#).

Catalan and therefore had to issue a statement affirming her loyalty to Spanish nationalism.<sup>185</sup>

Sports have not been spared from the discourse of hate against Catalonia. The implicit and necessary precondition for all sportsmen and women of Catalan origin who wish to represent Spain in international competitions is to distance themselves from the independence movement.<sup>186</sup> The most heavily attacked entity has been the FC Barcelona, a soccer team that positioned itself in favor of self-determination, that became object of sharp criticism in the media.<sup>187</sup> Some of their players and/or coaches who have positioned themselves in favor of self-determination have also been the subject of strong criticism. An illustrious example would be Xavier Hernández Creus, a player who despite having played for the Spanish national team for years, is today the object of rejection in Spain for his criticism of the Spanish government and its refusal of self-determination.<sup>188</sup> Likewise, the famous football coach Josep Guardiola i Sala is constantly under attack in the media for his position in favor of self-determination.<sup>189</sup> Another famous case involving an active athlete is the insults targeted towards the soccer player Gerard Piqué Bernabéu due to his public stance in defense of the October 1st referendum.<sup>190</sup> As a result of the harassment suffered, Gerard Piqué decided to quit the Spanish national football team. However, the footballer continues to be the object of harassment: during his visits to football grounds in Spain with his team, FC Barcelona.<sup>191</sup>

Even though the attempts to suppress the Catalan culture and language have deep historical roots and the term “Catalanophobia” was coined already over a century ago, the suppression was

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<sup>185</sup> Una candidata al Colegio de Abogados de Madrid, obligada a desmentir que sea catalana [A candidate for the Madrid Bar Association, forced to deny that she is Catalan], *El Plural*, December 6, 2012, available [here](#); Una candidata al Colegio de Abogados de Madrid, obligada a desmentir que es catalana [A candidate for the Madrid Bar Association, forced to deny that she is Catalan], *La Vanguardia*, December 5, 2012, available [here](#).

<sup>186</sup> De Gasol a Piqué: ¿qué dicen los deportistas españoles del referéndum? [From Gasol to Piqué: what do the Spanish athletes say about the referendum?], *Marca*, September 28, 2017, available [here](#); M.A. Ruiz Coll, Los hermanos Gasol, Dani Pedrosa y Marc Márquez rechazaron promocionar la independencia con Diplocat [The Gasol brothers, Dani Pedrosa and Marc Márquez refused to promote independence with Diplocat], *Okdiario*, July 29, 2019, available [here](#); A. Nevado, El deporte español y el independentismo: quién está a favor y quién en contra [Spanish sport and independence: who is for and who is against], *20 minutos*, October 27, 2017, available [here](#).

<sup>187</sup> Catalanofobia en las redes por las esteladas del Camp Nou [Catalanophobia in the networks the stars of the Camp Nou], *El Món*, November 5, 2015, available [here](#).

<sup>188</sup> El mensaje de Xavi Hernández tras la sentencia del 'procés': "Vergüenza" [Xavi Hernandez's message after the trial sentence: "Shame"], *Onda Cero*, October 14, 2019, available [here](#); Paco González llama «vendidos» a Xavi Hernández y Pep Guardiola por sus palabras sobre la sentencia del 'procés' " [Paco Gonzalez calls Xavi Hernandez and Pep Guardiola "sellouts" for their words on the "procés" sentence], *El Comercio*, October 16, 2019, available [here](#).

<sup>189</sup> Paco González, a Guardiola: "Defiende la independencia, el referéndum, pero deja de insultar a nuestro país" [Paco González, Guardiola: "Defend independence, the referendum, but stop insulting our country"], *Cope*, October 19, 2019, available [here](#); Guardiola vuelve a la carga por la independencia de Cataluña [Guardiola returns to the charge for the independence of Catalonia], *ABC*, April 5, 2019, available [here](#); Herrera: "El Barça es un club al servicio de condenados, al igual que gentuza como los Guardiola" [Herrera: "The Barça is a club to the service of condemned, as well as riffraff like the Guardiola"], *La Cope*, October 16, 2019, available [here](#).

<sup>190</sup> Gritos de "Piqué cabrón, España es tu nación" en el entrenamiento de la Selección [Shouts of "Piqué jackass, Spain is your nation" at the training of the National Team], *La Vanguardia*, October 2, 2017, available [here](#).

<sup>191</sup> Pitos, insultos y un balonazo para Gerard Piqué en su llegada a Valladolid [Whistles, insults and a ball for Gerard Piqué on his arrival in Valladolid], *ABC*, August 26, 2018, available [here](#).

highly intensified during the era of Francisco Franco Bahamonde. The dictator banned catalan from public spaces and Spanish became the sole language of public life. This resulted in a loss of the material resources for the production and reproduction of the Catalan culture. The lengthy tradition of discrimination against the Catalan language, which is a great part of a cultural and historical heritage, lives on and highly affects the Catalan society.<sup>192</sup> To this day, there are numerous examples of the stigmatization towards the teaching and use of Catalan.

Despite the preeminence that has historically been given to Spanish in Catalonia, in recent years there has been an attempt to build a narrative that falsely pretends to show Spanish as a marginal and discriminated language. In 2017 the newspaper *El Español* echoed a hoax that Catalonia was incurring a large-scale “ideological indoctrination” of children in public establishments in favour of independence.<sup>193</sup> In another article from *Libertad Digital* the journalist criticizes the textbooks of Social Sciences in 5th and 6th Primary school that are distributed in the classrooms of Catalonia. According to him, these textbooks are “partisan” or “biased” and highly harmful material that only promotes "knowledge of fear" among Catalan school children.<sup>194</sup> Moreover, in an article from *Esdiario*, a school party in Alicante was willfully portrayed as being an independence act, where the Minister of Education, Vicent Marzà, and *Coalició Compromís* (which is a Valencianist left-wing political party), are being blamed for their Catalanization and indoctrination of the school children.<sup>195</sup> Hoaxes and campaigns of this nature that seek to stigmatize the teaching of Catalan and aim to enhance cultural discrimination can be found in the DataBase of Catalanophobia (B.D.C.), a web page project seeking to contribute to conserving the historical memory of what this wide-spread phenomenon has meant over the years.<sup>196</sup> In this Data base numerous examples of discrimination against the Catalan language can be found, not least from the police.

The following are just a few examples of language discrimination by the police; in March 2017 a teacher was fined €601 for speaking in Catalan to a Spanish policeman in the airport of

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<sup>192</sup> C. Woolf, The roots of Catalonia’s differences with the rest of Spain, *The World*, October 20, 2017, available [here](#); Plataforma per la Llengua, “We don’t have the exam in Catalan: so you either do it in Spanish or leave”, February 1, 2017, available [here](#).

<sup>193</sup> Odio a lo español en las aulas catalanas [Hatred of Spanish in Catalan classrooms], *Crónica*, May 2, 2017, available [here](#); Cómo Cataluña inculca el odio a España en las aulas [How Catalonia installs hatred of Spain in the classroom], *ABC*, May 19, 2017, available [here](#).

<sup>194</sup> El odio a España a través de los libros de texto en Cataluña [Hatred of Spain through textbooks in Catalonia], *Libertad Digital*, May 2, 2017, available [here](#).

<sup>195</sup> Compromís manipula una fiesta con menores para adoctrinarlos en el Catalanismo [Compromís manipulates a party with minors to indoctrinate them in Catalanism], *ESdiario*, April 2, 2017, available [here](#).

<sup>196</sup> Base de Dades sobre la Catalanofòbia (B.D.C.), December 4, 2016, available [here](#).



Barcelona.<sup>197</sup> The same month that year, a professor from the *Rovira i Virgili* University was threatened by the police at a police station in Reus for speaking in Catalan.<sup>198</sup> In August 2016 a businessman was detained by *Guardia Civil* officers at the Andorra border post for speaking Catalan and having a CAT (CAT is the abbreviation of Catalonia) sticker on the car.<sup>199</sup> In September 2015, a young man got assaulted by a Spanish policeman for speaking in Catalan at the Catalonia-France border post (*La Jonquera*).<sup>200</sup> Another Catalan was threatened, insulted and detained for having been speaking in Catalan to two police officers at Figueres train station in June 2014.<sup>201</sup> In April 2013, two Spanish National Police officers insulted a father and his son on a local train between Barcelona and Girona because they were speaking in Catalan.<sup>202</sup> Another incident of language discrimination was in August 2012 when a public servant working at the Spanish National Police Station in Vic refused to help a citizen and instead insulted him because he spoke in Catalan.<sup>203</sup> In September 2009 a Catalan woman was detained for speaking in Catalan on her mobile phone while being in a police station in Barcelona to process ID documents for her son. The police officer was charged, judged and sentenced but later on a court in Barcelona revoked the sentence and absolved him.<sup>204</sup> In September of the same year a family missed their flight because they spoke in Catalan to a *Guardia Civil* officer at Girona airport, the mother was later sentenced for public disorder and fined €180.<sup>205</sup>

Several political figures who oppose the exercise of Catalonia's right to self-determination are often the instigators of a discourse that attempts to stigmatize the Catalan language; the former President of *Ciudadanos* had assured that he would not do "like Rajoy", who "apologized because in Catalonia there were no public schools where Spanish is taught". In his argument, he alternately

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<sup>197</sup> Fined 601 euros for speaking in Catalan to Spanish police at Barcelona El Prat airport, *VilaWeb*, March 23, 2017, available [here](#).

<sup>198</sup> Un professor de la Rovira i Virgili, amenaçat en una comissaria per haver parlat en català Rovira i Virgili [University professor threatened in a police station for speaking in Catalan], *VilaWeb*, March 24, 2017, available [here](#).

<sup>199</sup> E. Vilardell, L'empresari que es va negar a donar la mà a Felip VI, retingut per la Guàrdia Civil per parlar en català [Businessman who refused to shake the King's hand, detained by the *Guardia Civil* for speaking Catalan], *Nació Digital*, August 11, 2016, available [here](#).

<sup>200</sup> La policia espanyola agredeix un jove per haver parlat català [Spanish police assault a youngster for speaking Catalan], *VilaWeb*, September 14, 2015, available [here](#).

<sup>201</sup> J. Ferrer, Un veí de Caldes acusa dos policies d'amenaçes i insults per haver parlat en català [A citizen from Caldes accuses two police officers of threatening and insulting him for speaking in Catalan], *El Punt Avui*, June 6, 2014, available [here](#).

<sup>202</sup> E. Carrera, Denuncia uns policies que li exigien de parlar en castellà [Police officers reported for demanding a citizen speak in Spanish], *El Punt Avui*, April 27, 2013, available [here](#).

<sup>203</sup> Un veí de Vic denuncia un cas de «discriminació lingüística» [A citizen from Vic reports a case of "language discrimination"], *Nació Digital*, November 9, 2012, available [here](#).

<sup>204</sup> X. Miró, Una dona que feia el DNI al seu fill és detinguda perquè parlava pel mòbil en català [A woman applying for identity documents for her son was detained for speaking Catalan on her mobile phone], *El Punt Avui*, September 11, 2009, available [here](#).

<sup>205</sup> Absolen el policia espanyol que va vexar una dona per parlar en català per telèfon [Police officer who harassed a woman for speaking Catalan on the phone was absolved], *Llibertat.cat*, May 7, 2010, available [here](#).

blamed the PP and the PSOE for having allowed language immersion to supposedly sideline Spanish language teaching in bilingual communities.<sup>206</sup> Another politician, Javier Ortega Smith (VOX), has as well made statements saying that Catalan children have been permanently indoctrinated in “hatred” and in the “historical lie”; that teachers who were not “faithful” -to self-determination- would have been expelled; and Catalans would have become infamous of pointing to the children of the civil guards “as if it is about children of Jews from Nazi Germany”.<sup>207</sup>

#### **4.4.4. The spread of hate speech against the Catalan minority in social media**

The discourse that has been built up in the State political sphere and in the media finds an echo in social media. In this area, however, it is possible to observe a recrudescence in the terms used and an increase in hostility towards the Catalans. Whether we are talking about people who are publicly known or anonymous accounts,<sup>208</sup> the stigmatization of the Catalan minority has become a recurring theme. Furthermore, the increase in hate speech in virtual space is largely due to the fact that in recent decades the concept of audience has been completely transformed in the digital environment. Traditional readers have become users or "prosumers", who interact with each other and participate digitally.

Given the magnitude of hate speech against the Catalan minority, it is almost impossible to cover all the manifestations found on all the social networks. However, it is possible to identify two main vectors in the dissemination of hate messages: Facebook and Twitter. To these can be added, to a lesser extent, Youtube, either because of the material posted by content creators or because of the comments made by thousands of users. This does not prevent, however, to leave aside networks such as Instagram and, even more, the constant dissemination of hoaxes and fake news through messaging services such as Whatsapp or Telegram.

We will privilege Twitter since it is a social network of vast reach in which all users have the same voice but not the same prominence. Thus, it is possible to find messages from well-known

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<sup>206</sup> Rivera promete: "si soy presidente, el español será lengua vehicular en todas las escuelas de España" [Rivera's promise: "if I am president, Spanish will be the language used in all schools in Spain"], *El Mundo*, February 19, 2019, available [here](#).

<sup>207</sup> Ortega Smith dice que Catalunya recibe “un tercio del dinero que hay en España” [Ortega Smith says that Catalonia receives "a third of the money in Spain"], *La Vanguardia*, October 6, 2019, available [here](#).

<sup>208</sup> In Internet jargon it is common to use the terms haters or trolls, to refer to individuals who obsessively attack certain groups, or who are dedicated to provoking other users through insults and aggression. These profiles are responsible for much of the hate speech on the networks.

public figures from all fields, messages from political leaders and messages from thousands of anonymous citizens. It is therefore a sample in which one can find a relatively accurate diagnosis of the debates taking place in society. This is particularly the case for Spain where internet access and smartphone ownership are widespread among the population. A report on Catalanophobia has revealed, through analysis of the press and social networks, the structural and persistent nature of this phenomenon.<sup>209</sup> Hate speech is multifaceted and finds its expression according to the political premises of the moment. Thus, at one point, hate speech can be found on debates about the economy, the next on sport and the next in times of exceptional crisis, as was the case of the 2017 terror attacks in Barcelona or the health crisis generated by the COVID-19.

#### *4.4.4.1. The hostile narrative against the Catalan minority by public figures*

A clear example of the amplifying nature of social networks with regard to hate speech can be found in the figure of Álvaro Ojeda. He is a sports journalist who for years worked for various media without much visibility. From 2014 onwards, he began to post videos of himself on various social networks, including Facebook and Youtube, which received thousands of visits. In his videos Álvaro Ojeda tackles different subjects, mainly sports and sometimes politics, all of them from an ultra-nationalist perspective [A.P.3.1]. On May 17, 2017, he published a message denigrating the Catalan club FC Barcelona. To show his enthusiasm for the loss of the national championship by this club Ojeda said: "Three million cocks for Catalonia!" [A.P.3.2].<sup>210</sup> Despite the extravagant character of this individual, his discourse is far from being marginal or a mere isolated fact. On the contrary, like this one, there are several opinion makers in different media that have built a career professing hatred towards Catalonia -we saw it before in the case of the announcer Jimenez Losantos who asked to bomb Catalonia- and they have found a place in the mass media. Thus, Álvaro Ojeda, went from posting messages in social media to being a reporter in media such as *OkDiario*. There he was given the role of provocateur -as described on his twitter page-, a task he has fulfilled expeditiously with respect to Catalonia. In 2018, on the occasion of the Tourism Fair held in Madrid, the now reporter went to the stand of a Catalan delegation in order to intimidate and ridicule the people who were there. In a conversation, he asked a group of people "You are all Catalans?", when they said yes, the reporter asked "But the good ones or the bad ones?", and when they answered that they were in favour of independence, the reporter reproached them for being

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<sup>209</sup> À. Romaguera, Catalanòfobia: Un boc Expiatori [Catalanophobia: a scapegoat], *media.cat*, June 15, 2017, available [here](#).

<sup>210</sup> A. Ojeda, "Tres millones de pollas para Cataluña" ["Three million cocks for Catalonia!"], Twitter, May 17, 2017.

there and told them to go away.<sup>211</sup>

On May 28, 2017 the golfer Gonzalo Fernandez-Castaño declared on twitter that he used the flag of Catalonia as a doormat. The *Guardia Civil* forum applauded this tweet saying that this "rag" was in no way official [A.P.4]. In a similar dynamic is the tennis player Feliciano Lopez who, with nearly half a million followers, decries the right to self-determination of the Catalans [A.P.6]. After the police charges of the October 1st referendum, Iker Jiménez, a famous TV presenter in Spain, sent from twitter a message of support to the *Guardia Civil* and the National Police [A.P.5]. Likewise, Carlos Herrera, who we mentioned earlier for his attacks on Catalonia on his radio show, extends his messages to social media. On November 20, 2019, with some Catalan leaders convicted, he published a tweet equating the situation of politicians convicted of corruption in Andalusia -an autonomous community- with those convicted for their support of independence. In addition to the echo that this derision found among thousands of users, the then leader of the political party *Ciudadanos*, Albert Rivera, replied with laughter [A.P.7].

It is precisely this last aspect, that of public statements by political leaders, that has contributed most notably to the increase of hate speech against the Catalan minority. The instrumentalization of the Catalan question has meant that this issue is increasingly being addressed with greater vehemence, leading to ultra-nationalist and stigmatizing tendencies. As has already been pointed out, the mass media have been important vectors of these messages. However, social media have also become the theatre of hostilities against the Catalan minority. The former president of Spain between 2011 and 2019, Mariano Rajoy Brey, is proof of the creation of a hostile environment towards Catalonia through social media. Without explicitly incurring in hate speech, his statements and posts contributed, for years, to create a narrative in which the population of Catalonia was portrayed as divided and as a source of problems [A.P.8]. Through the constant appeal to legality and normality, the Spanish leader denied any possibility of a dialogue among equals in which the legitimate claims of the Catalan minority could be raised.

The narrative that was built from institutional instances had a great reception and maximization in other political parties that found in this issue an ideal electoral tool. Such was the case of *Ciudadanos*, a party that since its origins, in 2006, has adopted a Spanish nationalist stance.

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<sup>211</sup> Ojeda se encara con una independentista que no sabe hablar español en el stand de Cataluña en Fitur [Ojeda faces an independentist who does not know how to speak Spanish at Catalonia's stand at Fitur], *OkDiario*, January 17, 2018, available [here](#); A year later he did the same thing: Álvaro Ojeda fracasa intentando provocar en el estand de Catalunya con rojigualdas [Álvaro Ojeda fails in his attempt to provoke Catalonia with spanish flags], *El Nacional*, January 24, 2019, available [here](#).

It saw its results increase notably when a hostile discourse against the Catalan minority began to take place throughout Spain. This is how this party, which in principle was confined to Catalan territory, made a leap onto the national stage. This party, which gained great notoriety in the media at the State level, has also found in the social media an important arena to expose its stigmatizing thesis against the Catalans in favor of right to self-determination. Both its leader [[A.P.9](#)] and its main allies and militants have been characterized by wielding the fight against Catalan independence [[A.P.10](#)].<sup>212</sup>

On November 10, 2019, general elections were held in Spain. On this occasion the far-right party relatively new on the Spanish scene, VOX, obtained notable results that allowed them to gain weight on the Spanish political scene. This was to the detriment of the political party *Ciudadanos*, which lost a large part of its electorate. The same happened, to a lesser extent, to the *Partido Popular*.<sup>213</sup> This shift of voters from conservative parties to a clearly far-right party is largely due to increased hostility towards the Catalan minority. Indeed, the political situation around Catalonia was used by the VOX party to gain supporters. Although it was only in the middle of 2019 that this political party began to gain public notoriety through the mass media, social media has been its main promotional tool for years. And it is precisely there that it is possible to find his most virulent messages; it is not uncommon to find hate speech posted from the party's official Twitter account.<sup>214</sup> Indeed, on January 22, 2020 it was suspended for this very reason.<sup>215</sup> The nationalist character of the party leader -Santiago Abascal Conde- far from being a novelty, is a characteristic feature of his discourse. Previously, he was a militant of the *Partido Popular* and in 2008 he published as co-author "In Defense of Spain: Reasons for Spanish Patriotism"<sup>216</sup>. These elements, of course, are inscribed in freedom of opinion and freedom of expression. However, his most recent developments on the political scene reveal trends that are increasingly conducive to the spread of hatred.<sup>217</sup> This tendency is particularly reflected in his discourse against the Catalan minority.

Already at the end of 2013, when the creation of the political party VOX was being outlined,

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<sup>212</sup> Albert Rivera was the leader of the political party *Ciudadanos* until 2020, when he was succeeded by Inés Arrimadas García

<sup>213</sup> Siete gráficos que explican el 10N: del derrumbe de Ciudadanos al auge de Vox o la persistencia del bloqueo [Seven graphs explaining 10N: from the collapse of Citizens to the rise of Vox or the persistence of the blockade], *El País*, November 12, 2019, available [here](#).

<sup>214</sup> RSF (reporteros sin fronteras) advierte a Vox de que alimentar el odio a la prensa se traduce en agresiones a periodistas [RSF (Reporters Without Borders) warns Vox that feeding hatred of the press translates into attacks on journalists], *Europa press*, May 26, 2020, available [here](#).

<sup>215</sup> Twitter suspende la cuenta de Vox por "incitación al odio" [Twitter suspends Vox's account for "hate speech"], *RTVE*, January 22, 2020, available [here](#).

<sup>216</sup> G. Bueno y S. Abascal (2008), "En defensa de España: razones para el patriotismo español" *Encuentro*

<sup>217</sup> La Fiscalía alerta de que algunos mensajes de Vox podrían alentar el discurso de odio "" [The prosecution warns that some messages from Vox could encourage hate speech], *El Mundo*, January 19, 2019, available [here](#).

Santiago Abascal was undertaking unfounded attacks against the Catalan minority. Already at that time he denied the historical character of a Catalan nationality and subjugated its existence to the role of a mere region of the Spanish State [A.P.11.1]. He also stigmatized those who defended the right to self-determination [A.P.11.2]. Moreover, he published an article in the press and on Twitter stating that in Catalonia the education system was enshrined in a social engineering mission and called for government intervention in Catalonia [A.P.11.3]. Likewise, following the line marked by the president of *Partido Popular*, Abascal stated that in Catalonia education was used against Spain [A.P.11.4]. The attacks and provocations, far from being limited to the mere virtual sphere, are translated into concrete facts. Social media has been constantly used to call for demonstrations aimed at exacerbating animosity towards Catalonia. Thus, on October 12, the day of the Hispanic community, Barcelona becomes the privileged place for Santiago Abascal to express his devotion to Spain and its indivisibility [A.P.11.5]. This is in addition to the convocation and holding of extemporaneous demonstrations whose sole purpose is to call for the unity of Spain [A.P.11.6]. Along these lines, any opinion in favor of the right to self-determination, however slight, is denigrated. Thus, civil society organizations that support the right to self-determination have been branded as terrorists by Santiago Abascal [A.P.11.7].

The ramifications of VOX's hate speech and its leader are far-reaching. This study, although detailed and extensive, does not intend to cover all the existing manifestations of hatred against the Catalans. However, it has been shown that hate speech is prevalent and that social media are an ideal setting for reproducing it. Continuing with the list of manifestations of hate against the Catalan minority, it would be possible to produce a much more extensive inventory from members of various political parties. Although this sample could be of enormous magnitude, it is far from reaching the superlative dimensions of hate speech by anonymous social media users. In the following section some typical cases of hate speech against the Catalan minority in this area will be presented.

#### 4.4.4.2. **Hate speech against the Catalan minority in social media**

The discussions surrounding the Catalan minority are variable in nature and scale. As noted above, the message displayed depends largely on the social situation at the time. Likewise, the impact of the messages depends to a great extent on the source.

On March 24, 2015 a passenger plane on the Barcelona - Düsseldorf route crashed due to the deliberate action of the pilot. 150 people died. That same day the user @CarlosKonami

published on Twitter "Little shit I see on Twitter for a plane full of Catalans to have crashed". An investigation was opened by the public prosecutor's office and at the author of this message was convicted. This was the first final sentence for Catalanophobia. During the investigation it was found that the user had published a huge amount of messages of a racist and xenophobic nature between 2014 and 2015.<sup>218</sup> However, there are shortcomings in the effectiveness of the procedures as dozens of messages of the same nature made by other users went unpunished.<sup>219</sup>

On November 13 of the same year, terrorist attacks took place in Paris. From the social media several users used the situation to express their Catalanophobia; they argued that the attacks were negative for the Catalans only insofar as they overshadowed the claims for independence [A.P.12]. Other messages, more aggressive, lamented the fact that the victims of the attacks were not Catalan.<sup>220</sup>

The most recent situation does not escape these excesses. To illustrate this points, it is possible to observe certain trends in the period from May 24 to May 31 2020 [A.P.13]. From a quantitative point of view there were about one hundred and thirty thousand (130.000) conversations in Twitter that mentioned "*Cataluña*" [A.P.13.1]. These messages were posted from eleven thousand (11.000) accounts. Qualitatively, 12% of these messages had a positive connotation, while 33% had a negative connotation. Of the ten users with the greatest impact, seven maintained or are maintaining hostile positions regarding the right to self-determination. Of those seven at least four held or have held political roles (Herman Terstch, VOX; Alejo Vidal Cuadras, *Partido Popular*; Juan Carlos Girauta, *Ciudadanos*; Alejandro Fernández, *Partido Popular*).

During this period, two major issues were of public interest with regards to Catalonia. Firstly, there was the health crisis generated by COVID-19 and, secondly, the closure of a car factory and the resulting unemployment.<sup>221</sup> Focusing on the first point, a quantitative analysis shows that three thousand (3.000) conversations were generated around this topic on Twitter [A.P.13.2]. Qualitatively, 9% of these messages were of positive connotation, while 37% were of negative connotation. Of the top 10 influencers on this issue, at least seven focused on a critique of

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<sup>218</sup> Primera condena judicial por tuits catalanófobos [First conviction for Catalanophobic tweets], *El Periódico*, March 16, 2017, available [here](#).

<sup>219</sup> Investiguen 24 missatges de Twitter ofensius contra els catalans morts en l'accident 24 [24 Twitter messages offensive towards the dead catalans in the accident under investigation], *3/24*, March 25, 2015, available [here](#).

<sup>220</sup> Catalanofòbia a Twitter arran dels atacs a París [Catalanophobia in social media after the attacks in Paris], November 14, 2015, available [here](#).

<sup>221</sup> Nissan plant closure in Barcelona: a traumatic exit, *El País*, May 29, 2020, available [here](#); A clear example of the relevance of the two themes at the end of May 2020 can be seen on national TV channels, *see*: Coronavirus Cataluña: Datos de contagios y fallecidos y noticias de hoy 29 de mayo, en directo [Coronavirus Catalonia: Data on infections and deaths and news today, 29 May, live], *Antena 3*, May 29, 2020, available [here](#).

the autonomous government's management of the crisis. With regard to the second point, concerning the closure of a factory and the loss of jobs, about thirteen thousand (13,000) conversations took place [[A.P.13.3](#)]. Of these, 17% were positive and 30% negative. The messages came from 1,700 accounts. Nine of the ten highest-impact accounts took a critical stance.

In this profusion of messages, it is possible to ascertain an underlying message that stigmatizes the Catalan minority. Although both situations had a national reach, criticism focused on Catalonia. Concerning the health crisis, the discussions focused on the autonomous government and on attacks against the president of the *Generalitat*. The main aspect criticized was the claim for competences at a regional level [[A.P.14](#)]. A similar situation arose with regards to the closure of the car factory in Barcelona. This took place within the framework of a series of broader measures undertaken by the company due to a reduction in production.<sup>222</sup> The closure of various sites in different parts of Spain was planned, but only the case of Catalonia gained public awareness and notoriety in social media. Indeed, exploiting of this event, an attempt was made to generate the impression that the closure was strongly correlated with the Catalans demands for self-determination [[A.P.15](#)].

As has been established, hate speech against the Catalan minority is polyform and adaptable. Nevertheless, it is possible to identify certain constants. In this sense, the equation between the Catalan minority and Nazism is always present in the Catalanophobic discourse. It is precisely in an attempt to give shape to this stigma that the term "lazi" was coined among extreme right-wing sectors. This is a play on words by which two terms, "lazo/ribbon" and "Nazi", are merged. It should be remembered that the wearing of a yellow ribbon is a symbol of support for those who were arrested after the referendum of October 1 2017. In short, to support pro-independence prisoners is equated to Nazism. In a study of the period mentioned above -the last week of May 2020-, it is possible to observe that the term remains in circulation [[A.P.16.1](#)]. Four thousand posts contain the term "lazi". Posts with this term were posted by 425 users and, of the ten accounts with the greatest impact, six are carriers of an explicitly Catalanophobic discourse [[A.P.16.2](#)].

In addition to the constant proliferation of Catalanophobic messages, harassment to individuals is also common. On October 10, 2015, Jordi Ballart, former mayor of Terrassa (Catalonia), spoke out about the hate speech he is a victim of on Twitter and Facebook. He claims

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<sup>222</sup> Nissan to cut production capacity by 20% after suffering worst year since 2009, *CNN Business*, May 28, 2020, available [here](#)



to have received many private and public messages on these networks, threatening him with death for being homosexual and Catalan. The perpetrators are often members of far-right party VOX.<sup>223</sup>

Even in the most trivial events this hostility to the Catalan is present. Every April 23, Catalonia celebrates Saint George day, which in Catalan is translated as *Sant Jordi* and in Spanish as *San Jorge*. This is the occasion for hundreds of users on social media to launch an attack on Catalan culture by claiming that *San Jordi* day does not exist, since the correct name is "*San Jorge*", thus considering that only the Spanish designation is valid [A.P.17]. On a reality TV show a contestant expressed herself in Catalan, as a result of which she was publicly targeted<sup>224</sup> and attacked on social media [A.P.18]. Between 2019 and 2020 a 14-year-old boy, of Majorcan origin, gained notoriety in social media. In his videos he explained various aspects of country life and expressed himself in Catalan. After his appearance on a national television program, attacks on him on social media began to multiply because he did not express himself in Spanish. At the head of this harassment was a representative of the VOX political party [A.P.19].

The elements that have been presented are only a small sample of hate speech whose magnitude is disproportionate. The generalized and multifaceted character of this speech has been established. It has been seen how this discourse comes from very different sources, ranging from anonymous users in social media, to political leaders and public figures with thousands of followers. From a quantitative point of view, the reach of this message can be quantified in millions of individuals; from a qualitative point of view, the Catalanophobic character of these messages is clear. The impunity with which these messages are delivered has also been demonstrated. Hate speech goes beyond the realm of political rhetoric, media and social media and has real effects on people's lives. Catalanophobia is not only found in the networks, but it also finds its translation in aggressions and threats towards specific individuals. Despite this, there is widespread impunity in hate speech targeting the Catalan minority. In the following section the reach and application of International Human Rights Law will be addressed with regards to the Catalan minority.

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<sup>223</sup> Jordi Ballart, "Me llegaron a enviar fotos con cuchillos" [Jordi Ballart: "They even sent me pictures with knives"], *El Periódico*, October 8, 2016, available [here](#).

<sup>224</sup> La concursante indepe de 'OT' boicotea el castellano [The indepe contestant of 'OT' boycotts the Spanish language], *El Español*, February 7, 2020, available [here](#).

## **5. The protection of the Catalan minority in the light of international and European human rights law**

This section will show that the Catalan population is a minority and that it therefore falls within the framework of the protection of International and European Human rights Law. It will also study the deficiencies of the Spanish State in relation to the fulfilment of its international obligations.

### ***5.1. The relevance of international human rights law***

The universal norms on the regulation of hate speech, notably those provided by the ICCPR and the ICERD, share most of the criteria and thresholds to recognize hate speech. The interpretation and application carried out by the Spanish authorities fails to comply to the standards of both instruments. In the same way, non-legally binding norms on hate speech are not fully respected by the Spanish government.

#### **5.1.1. Several expressions against the Catalan minority amount to hate speech**

Article 510 of the Spanish Criminal Code provides that an individual who “publicly, directly or indirectly, foment, encourage or incite hatred, hostility, discrimination or violence against a group, part of that group or a particular person on account of his or her membership of that group” shall be punished by a prison sentence. This material condition seems to go along with that provided by both the ICCPR and the ICERD. Indeed, these conventions cite incitement of discrimination as an important element that constitute hate speech.

However, by analyzing the real cases which have taken place related to the Catalan minority, this article turns out to be not duly exercised. Though there is a subtle difference between both conventions in terms of the weight of racial discrimination and severity of punishment, they are common in that they both take duly account of content and form, speaker, extent and the likelihood of violence. In light of hate speech against Catalans, these principles are not adequately applied by the Spanish authorities in several cases.

This type of incitement has a precedent that can be traced back to the chants of "Go get

them!" and the police deployment that took place on the occasion of the October 1 referendum and which culminated in widespread and arbitrary violence. In the case of "*Fiesta del Judas*" in April 2019, the public prosecutor's office held that the act of setting fire and "killing" a puppet representing Carles Puigdemont was a simple deed of tradition and did not constitute any hateful feeling or incitement. While the prosecutor's office meets the international standards to judge a hate speech by taking into account the "traditional" context of this event -as stipulated in the Rabat Plan of Action-, it failed to take duly account of content and form, and likelihood of incitement. In "*Fiesta del Judas*", the violence against the puppet was not only verbal but also physical. The acts of putting fire and shooting are highly provocative as it is an appearance of the most violent use of force. The position which occupies Judas Iscariot is supposed to be a target of disrespect, even of hatred. The likening of the Catalan leader to Judas Iscariot could thus result in the incitement of hatred even in the psychological sphere. Though there has been no similar case before the Human Rights Committee or the Committee on Elimination of Racial Discrimination until today, this particular case of "*Fiesta del Judas*" would probably amount to the incitement of hatred. Such demonstrations do not fall within the framework of freedom of expression.<sup>225</sup>

If this analysis is transferred to the field of public discussion, the panorama is even more worrisome. In addition to a clearly Catalanophobic mass media narrative, there are hundreds of thousands of messages denigrating Catalans in social media. As shown above, the messages are different in nature and scope, but its underlying message is always the same. Any public debate that revolves around Catalonia quickly becomes a campaign of stigmatization. From public figures, to political leaders, to thousands of users in social networks, a climate of animosity towards the Catalan minority has been created.

### **5.1.2. The Catalan population is a minority that must be protected**

The Spanish Criminal Code article 510 provides categories of protected group as "on grounds of racism, anti-Semitism or other grounds related to ideology, religion or belief, family status, membership of an ethnic group, race or nation, national origin, sex, sexual orientation or gender identity, or on grounds of gender, illness or disability." This provision is rather similar to that of the ICCPR, as the ICERD prohibits in addition all dissemination of ideas based on racial superiority or hatred. The problem in applying the Catalan case here is that all the above-mentioned

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<sup>225</sup> Human Rights Committee, *Ross v. Canada*, Communication No. 736/1997, October 18, 2000.

norms are not clear in the definition of race or ethnicity, and that they lack mention to a linguistic minority.

In the case of “*Fiesta del Judas*”, the public prosecutor's office rejected a complaint which claims to recognize the act as hate crimes. It explained that the act did not discriminate against or reject a political ideology due to the absence of reference to the ideology or place of residence of the person concerned. It thus did not admit the characterization of the puppet by means of symbols closely related to the right to self-determination of the Catalans, such as the flag and the yellow ribbon. Here can be found a curious resemblance to the Human Rights Committee’s reasoning of dismissing communications as *actio popularis*.

In the 2017 case of Girona, the Spanish Tribunal dismissed a claim of a Germain plaintiff that he received a tweet from a woman in which she qualified him as a descendant of Hitler's Nazis and said that "they have made Catalonia a Germany of 1933; the Jews are the Catalans against independence". The Tribunal rejected to recognize it as a hate speech, according to which "a group must be discriminated against or threatened" to be protected under the Spanish legislation. It held that it was not the case for the Catalans. Thus, though the tweet in question was “demeaning or despicable”, it did not constitute a hate crime.

The Human Rights Committee, along with the Committee on Elimination of Racial Discrimination, has adopted Toonen Standard to various cases, in order to discern *actio popularis* and standing of a petitioner. Toonen Standard is a criterion established by the Human Rights Committee in 1994 in *Toonen v. Australia*. If a petitioner “has by an act or omission already impaired the exercise of [the petitioner’s] right or that such impairment is imminent” he or she is standing. Otherwise, the petition will be rejected as *actio popularis*. Getting back to the case of “*Fiesta del Judas*”, the public prosecutor’s office seems to have employed a similar logic to dismiss the complaint except for a crime of insult in which only Mr. Puigdemont himself can suit the case. The two entities accord in the logical flow to the conclusion but differ in the application of criteria. In the case *Mohamed Rabbae et al. v. Netherlands*, the Human Rights Committee held that the petitioners, Muslims and dual nationals of the Netherlands and Morocco, are standing for accusing a speech which directly linked Islam, Moroccan young people, and violence. According to the Committee, the petitioners are members of the category of persons who were the specific focus of Mr. Wilders’ statements which had specific consequences for them. Taking this into consideration, a Catalan might be standing against the act, as he or she would have imminent risk of impairment of their right because of the reasons described in the previous section.

The reason for which the Catalans cannot be easily categorized as a discriminated group lies in the characteristics of its identity. The Catalan minority, having its particularity in first place in its language, do not fall immediately into the traditional definition of race or ethnicity. States have a large margin in the acknowledgement of ethnic groups. Thus, linguistic minorities have occupied an ambiguous position in the protection from hate speech. However, recalling the object and purpose of the treaties to prohibit hate speech, the categories of protected groups should not be interpreted as limited enumeration. For instance, the text on the prohibition of discrimination based on sex was originally conceived as meaning only two biological sex, but it has now come to be a universally recognized norm that includes various gender identities. Thus, vagueness in the classification criteria should not be an obstacle to respect for human rights.

In 2010 and 2013, millions of Catalans peacefully marched to claim for the right to self-determination. These demonstrations, which took place within the framework of the rule of law, are the manifestation of the construction of an identity that has historical roots. Of these legitimate claims, instead of a dialogue between equal parties, a climate of hostility was generated in a national level. In 2017, the precepts designed to punish hate speech were used inappropriately; Article 510 of the Spanish criminal code was enacted to launch a stream of legal actions against the voices raised against police violence on October 1<sup>st</sup>. At the same time thousands of messages on social networks called for the disproportionate and arbitrary use of force against the Catalan minority, but in no case were there actions against hate speech.

### **5.1.3. The Spanish State must guarantee the protection of the human rights of minorities**

While universal legally-binding restrictions of hate speech have strict thresholds, there are a wide range of non-legally binding norms for the sake of minorities. The Rabat Plan of Action and General Recommendations by the Human Rights Committee are good examples. As examined previously, freedom of expression has been abused to justify hate speech. However, there are several benchmarks to differentiate the two, and we should be aware that the minorities themselves have the freedom of expression and have the right to receive a wide range of information and ideas. Thus, critics about the police or the Spanish government do not fall into hate crimes as long as it does not incite hatred or violence, or does not constitute crime of insult.

It must be noted that several expressions against the Catalan minority are difficult to be judged on the basis of national or international regulations. Boycott of Catalan products, general tendency of critics against Catalans in mass-media, carefully-delivered critics to the Catalans in the political scene are the representative ones. Controlling the conducts of consumers is hardly possible, and the speeches which do not contain incitement of hatred or violence would be difficult to be regulated. However, we should recall here that the States have obligations, though not legally binding, to create a positive environment in which the minorities can enjoy their own freedom of expression. For that purpose, a State has to take sufficient measures to assure conditions in which minorities are not threatened in expressing their opinion. In addition, though it does not result immediately in concrete forms of State's obligation, minorities are guaranteed to enjoy their own culture, to profess and practice their own religion, or to use their own language. In general, the compliance to this nature of obligations should be evaluated in national reports to treaty bodies.

## ***5.2. The application to European Human Rights Law***

European law protects and guarantees freedom of expression under Article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms and under Article 11 of the Charter of Fundamental Rights of the European Union. However, freedom of expression has its limits and hate speech can be sanctioned. While the ECHR does not have a definition of hate speech, the ECtHR has identified aggressive nationalism and discrimination against minorities as being elements of hate speech.

### **5.2.1. Freedom of expression and democracy**

The ECtHR rulings reflect freedom of expression and equality (and human dignity) as essential to democratic society. In these two rulings the court establishes two principles: (i) speeches that offend, shock or disturb the State or any sector of the population are considered as hate speech ([Handyside v. UK](#)) ; (ii) in their speech politicians should avoid making comments likely to foster such intolerance ([Erbakan v. Turkey](#)). In addition, the Venice Commission recalled that effective democracy cannot tolerate behavior and acts contrary to its fundamental values: pluralism, tolerance, respect for human rights and non-discrimination.

Today, almost all nations impose penalties for some form of expression because of its

hateful content. That limit, aims to keep society fair for all citizens. The ECtHR recalls that “it may be considered necessary in certain democratic societies to **sanction or even prevent all forms of expression which spread, incite, promote or justify hatred** based on intolerance.”<sup>226</sup> For the Court, “**tolerance and respect for the equal dignity** of all human beings constitute the **foundations of a democratic, pluralistic society.**”<sup>227</sup> Thus, the council Framework Decision of November 28, 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law recalls that “denying or grossly trivializing crimes of genocide, crimes against humanity and war crimes” should be punishable as it disturbs public order.

In the case of Catalonia, in February 2019, the Court of Gerona rejected tweets comparing the Catalan independence to Nazism and Third Reich Germany as a hate crime on the pretext that the attacks received were not collective, thus not qualifying as hate speech by the absence of incitement to hatred against a specific group. Also, in the same year during the “Fiestas del Judas” where Puigdemont’s puppet had been chosen for the occasion, the prosecutor said he saw no discrimination or rejection of any ideology, nor any incitement to hatred insofar as the facts did not concern any member of the Catalan government. In the case of Catalonia, the proliferation of stigmatizing discourses against Catalans has only increased. Several sectors have attacked Catalan culture as a whole, from its language to its traditions. This Catalanophobic discourse has found a privileged place in the media, but also in social networks. The rise of nationalism, the rise of the extreme right and the instrumentalization of the Catalan case have led to the expansion of Catalanophobia. Political leaders use all the means to convey hostile messages. They find, in the social media, a great means of diffusion through which it is possible to get their message to millions of users. These users, in turn, multiply and intensify the terms of hate speech. In conclusion, when it comes to hate speech, European human rights standards are not fully respected in the Spanish State.

### **5.2.2. The regulatory framework of the Council of Europe**

Just like the ECtHR, the COE has played a role in approaching hate speech as a manifestation of discrimination that can lead to other human rights violations. It is defined in the **recommendation of the Committee of Ministers Recommendation No. R97(20)** and in the

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<sup>226</sup> *Gündüz v. Turkey*, ECHR, no. 35071/97, judgment of December 4, 2003, para. 40; cf. *Erbakan v. Turkey*, ECHR, no. 59405/00, judgment of July 6, 2006, para. 56.

<sup>227</sup> *Ibid.*

**ECRI of 2016** . According to these two legal texts, hate speech can be defined as: “**expression which propagate, incite, promote** or justify” hatred against minorities and as the “(...) the advocacy, **promotion or incitement to denigration, hatred or defamation of a person or group of persons**, as well as any **harassment, insult or negative stereotyping**, the stigmatization or threat of such person(s) and any justification for all such forms of expression - based on a non-exhaustive list of characteristics or personal status including (...) language, (...), nationality or national or ethnic origin, (...), gender, sexual identity and sexual orientation.” In addition, the institution also addresses issues of hate speech and discrimination in the fields of education, sport, sexual orientation and gender identity, media (Article 7§1 of the European Convention on Transfrontier Television and Article 6 of the Directive 2010/13/EU) and Internet governance.

It has been clearly demonstrated that the discourse of hate against the Catalans is multi-faceted. Harassments of citizens and public figures who have positioned themselves in favor of independence has been identified. Also, at the political level hate speech is present, as evidenced by the messages addressed to a former mayor, Jordi Bellart, including death threats because of his sexual orientation and his Catalan origin. Insults are constant used against Catalans. Terms have even been coined whose sole purpose is to stigmatize the Catalan minority.

Media have a core role to play in the case of Catalonia. In fact, the ECtHR, in the *Altintas v. Turkey* case, reminded that writings might encourage or incite individuals to commit similar violent acts and therefore should not be minimized. It is easy to notice harassment in both newspapers and social media insofar as there is an incentive to hate the Catalans. For example, in December 2017, Catalans gathered in Brussels to demonstrate in favor of the restoration of autonomy and the release of imprisoned politicians. This event was completely misrepresented by Spanish newspapers as aggressive and out of control, or comparisons to guerilla warfare. In addition, Catalonia was the victim of false information relayed by the Spanish media when there was mention of alleged persecution of Spanish speakers.

However, in the case of Catalonia, in 2017 several people were charged with hate crimes for comments towards the Spanish police. This was done in contravention of the meaning of the norm since the police are not part of the protected groups. This can in fact be analyzed as a form of persecution against a minority that legitimately claims the exercise and respect of their human rights.



### ***5.3. Ineffectiveness in the fight against hate speech against the Catalan minority in social media***

Social media sites define and regulate the circulation of hate speech online. Presented in May 2016 by the European Commission and four major IT companies (Facebook, Microsoft, Twitter and YouTube), the Code of Conduct to combat illegal online hate speech is set out to address the proliferation of racist and xenophobic hate speech online.

Such platforms have adopted guidelines whose content provides a definition of the speeches whose publication they will not tolerate. The commercially operated internet portal is responsible for offensive comments by readers, in accordance with the ECtHR. In the case of Catalonia, Twitter is the platform with the most hate messages. Although messages containing hate speech against the Catalans have sometimes been suppressed, Catalanophobia is still prevalent.

In its General Recommendation 29, the ICERD recommends state parties to take strict measures against incitements to discrimination or violence through the Internet. The Spanish Criminal Code provides for a prison sentence for Internet users who do not comply with these measures. However, despite the thousands of cases of hate speech against the Catalan minority, there is only one final judicial sentence that condemns it.

## 6. Conclusion

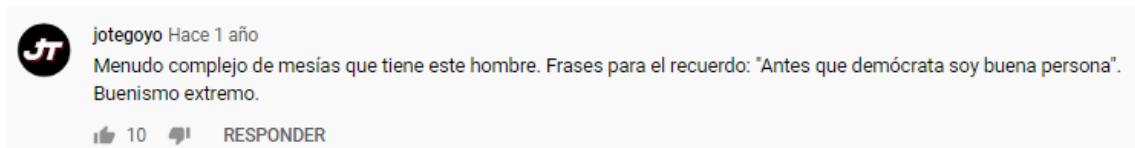
In the light of the criteria established in the international legal framework for human rights, it can be seen that a narrative that amounts to hate speech against the Catalan minority is prevalent in the Spanish State. A context of hostility has been created in which any public debate about Catalonia tends to be stigmatizing. The sources of the messages are diverse, but among them the mass media and political leaders stand out. In addition to these, there are thousands of followers on social networks who replicate their messages. Although subtle language is often used, incitement to hatred on social networks is expressed without any qualms. The content and form of these messages is varied, but they have an inherently Catalanophobic message. Finally, the reach of these messages is superlative and has permeated all layers of Spanish society.

Following a *pro persona* criterion in the interpretation and application of international human rights law and European human rights law, the Catalan population must be considered a minority within the Spanish State. For this reason, the State is obliged to act effectively to tackle hate speech against them. National legislation must be applied according to international standards and its application must be enforced.

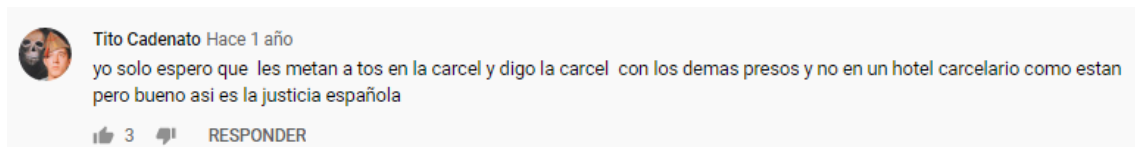
# Appendices

## 1. Stigmatizing comments against Oriol Junqueras during his trial

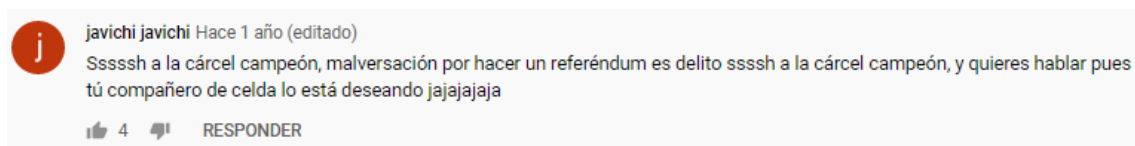
Oriol Junqueras en la tercera jornada del juicio del 'procés', [*Oriol Junqueras on the third day of the “procés” trial*] RTVE, 14/02/2019 available [here](#).



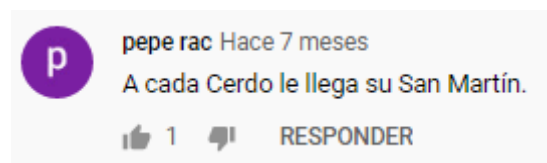
*What a messiah complex this man has. Phrases to remember: "I'm a good person before I'm a democrat." Extreme goodness.*



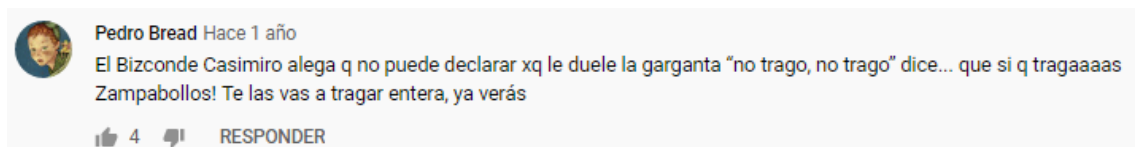
*I just hope they get thrown in jail and I mean jail with the other prisoners and not in a prison hotel like they are but that's the way Spanish justice is.*



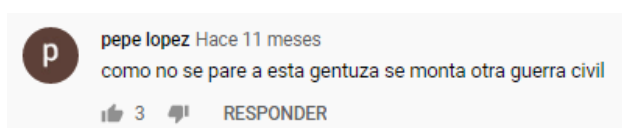
*Sssssh to jail champ, embezzlement for making a referendum is a crime ssssh to jail champ, and you want to talk because your cell mate is wishing it hahaha*



*Every pig gets its St. Martin.*



*Viscount Casimir claims that he cannot declare bc his throat hurts "can't swallow, can't swallow" he says ... You swallow you zampabollos! (muffin trap) You'll swallow them whole, you'll see*



*If you don't stop this mob, another civil war will break out*

## 2. Calls for boycott of Catalan products through social media

BOICOT\_PROD\_CAT retweeted

miHobby.es x ESPAÑA  
@RobinDelEspacio

Ayuda a CIERRE de TV3,.. sus anunciantes, son cómplices de los golpistas!!! NO LES COMPRES !!!  
#Aran #valdaran #tabarnia #TabarniaESP  
#TabarniaLliure #Barcelona #NoConMiDinero  
#ConsumoResponsable #boicotproductoscatalanes  
#Cataluñanosroba #CortesCataluñaESP  
#ActuaSinMordazas AP-7

**Anunciantes 3**

Asia	Yoigo
Renault Megane	Platos listos Carretilla
Viladecans StyleOutlets	Bicentury
Orange	Cilit Bang
Cinfatos Monodis	Crema gallina Caprabo (catalan)
Mediamark	Salvat coches inoxidables
WC net turbo	Dacia Sandero
Gelocatil gripe	Nescafé Azera
Chilly	Florette ensaladas
Flonase	Opticalia
Pharmagri forte	Pastas Gallo
Carcolet	XLSMedical-cat
Peugeot	Salvat Matematicas
Aldi	Bisulherbal
Aurgi	Bayer Iberogast
DIR	KFC
General Óptica	GineCanesBalance
Opel	Loteria de Cataluña
Altaya coleccion Oliver y Benji	Maggi Puré
Citroen C3	ArgalBonnatur
Yoga ONE DIR	Factor energia
Nissan Micra	Eurojackpot de la once

2:09 p. m. - 27 mar. 2018 - Twitter Web Client

147 Retweets 118 Me gusta

<https://twitter.com/RobinDelEspacio/status/978604817051512832?s=20>

*“Help CLOSE TV3,.. its advertisers, are accomplices of the coup plotters! DON'T BUY FROM THEM!!!*

*#Aran #valdaran #tabarnia #TabarniaESP #TabarniaLliure #Barcelona #NoConMiDinero  
#ConsumoResponsable #boycottCatalan products #Cataluñanosroba #CortesCataluñaESP  
#ActuaSinMordazas AP-“7*

BOICOT\_PROD\_CAT retweeted  
miHobby.es x ESPAÑA  
@RobinDelEspacio

Mis convicciones me impiden, como consumidor, financiar empresas que financian o apoyan a los independentistas.  
#NoConMiDinero #ConsumoResponsable  
#boicotproductoscatalanes  
#boicotindependentismo



9:43 a. m. · 22 feb. 2018 · Twitter Web Client

<https://twitter.com/RobinDelEspacio/status/966594396123787264?s=20>


*“My convictions prevent me, as a consumer, from financing companies that finance or support the independents.*

*#NotWithMyMoney #ConsumerResponsible #Catalanproduct boycott #Boycottindependence”*

 **V. IBÉRICA I** @MariaV\_Iberica1 · 24 may.  
¡¡ ATENCIÓN A ESTA NOTICIA PATRIOTAS !!  
¡¡ VAMOS A CONTESTARLES A LOS INDEPENDENTISTAS CON NUESTRO hstg 🇪🇸 🇪🇸 🇪🇸 #BoicotProductosCatalanes  
● STOP PRODUCTOS CATALANES ● 🇪🇸 🇪🇸 🇪🇸

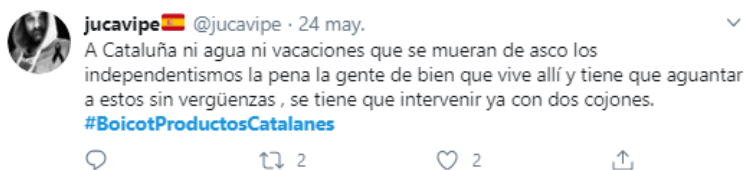
[https://twitter.com/MariaV\\_Iberica1/status/1264533061510758404?s=20](https://twitter.com/MariaV_Iberica1/status/1264533061510758404?s=20)

*“Attention to this news Patriots!  
Let's answer the independents with our hstg #BoicotProductsCatalan  
Stop Catalan products”*

 **#FaseLibertad** @extremopepero · 25 may.  
#BoicotProductosCatalanes Que nunca vuelvan a concentrarse empresas en regiones con pasado golpista.  
El boicot ha de ser vitalicio y transmitirse a los descendientes.

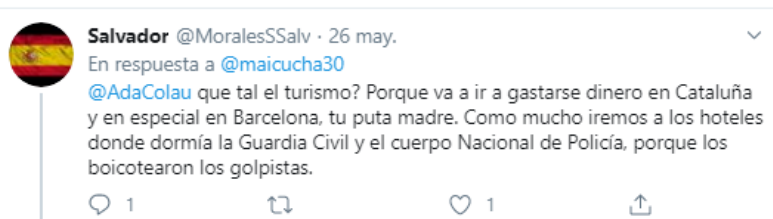
<https://twitter.com/extremopepero/status/1264784289373343750?s=20>

“#BoicotProductosCatalan That never again concentrate companies in regions with a coup past. The boycott must be lifelong and transmitted to the descendants”



<https://twitter.com/jucavipe/status/1264543026220806145?s=20>

“No water or holidays for Catalonia, let independence die of disgust. What a pity the good people who live there and have to put up with these scoundrels. We must intervene now with two balls #BoicotProductosCatalanes”

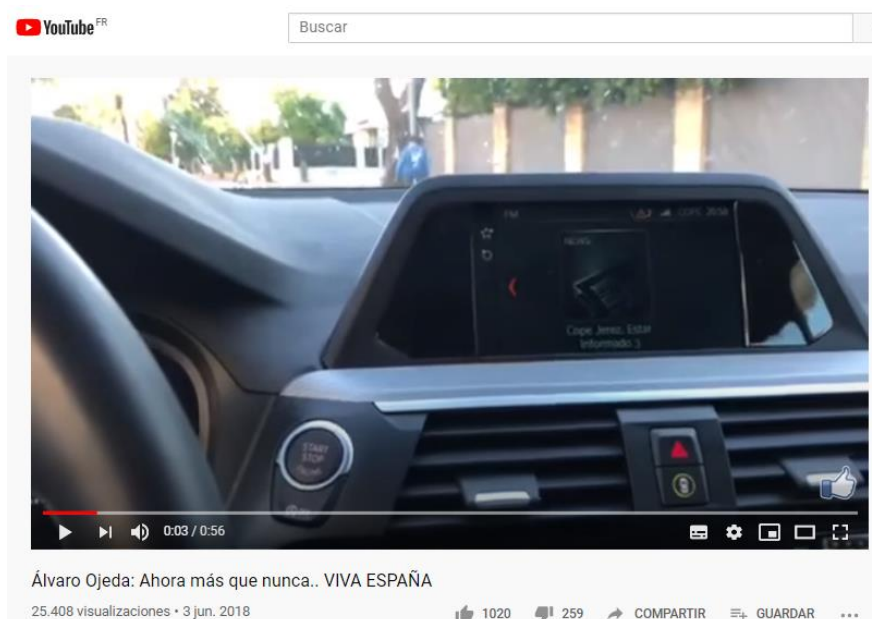


<https://twitter.com/MoralesSSalv/status/1265274855462584320?s=20>

“@AdaCoulau -Mayor of Barcelona-, what about tourism? Because it's going to spend money in Catalonia and especially in Barcelona, your fucking mother. At most we'll go to the hotels where the Guardia Civil and the National Police force slept, because they were boycotted by the coup plotters”

### 3. Álvaro Ojeda's demonstrations on social media

#### 3.1. Nationalist statements and posts



<https://www.youtube.com/watch?v=rVCd2yfw0-Y>

*Alvaro Ojeda: Now more than ever. Long live Spain*

Mental breakdown over the Spanish anthem playing on the radio



[https://www.youtube.com/watch?v=lgspwEII\\_Zg](https://www.youtube.com/watch?v=lgspwEII_Zg)

Proclaims its support for ultra-nationalist groups demonstrating against the right to self-determination in Catalonia

### **3.2 Catalanophobic posts**



*Three million cocks for Catalonia.*

@perikatorRCDE: Don't say Catalonia, say "Culeruña"<sup>228</sup>

@JoseMAriSG83: Catalufos<sup>229</sup>, see if you're going outside of Spain to fuck off



<https://twitter.com/alvaroojeda80/status/923938964398067713?s=20>

*In jail with all the asshole coup-heads. Long live Spain!*



<https://twitter.com/alvaroojeda80/status/917842366844850176?s=20>

*KEEP SUCKING!!! DEDICATED TO INDEPENDENCE PROPONENTS, SHITTY POLITICIANS AND GOOD SPANIARDS. LONG LIVE SPAIN! FUCK MY DEAD !!!*

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<sup>228</sup> FC Barcelona fans are called "culés". Assuming that all Catalans support this football team, the message suggests that they refer to this territory as "Culeruña"

<sup>229</sup> Pejorative name to refer to the Catalans



## 4. The denigration of symbols of Catalan culture



<https://twitter.com/gfcgolf/status/868567702364987392?s=20>

*You guys whistle our hymn once a year. I use your flag as a doormat every day.*



(Access to this message is impossible since the account that posted it was suspended)

Good response and good measure. That “rag” is NOT OFFICIAL anyway. #Great

## 5. Iker Jiménez's support for the Guardia Civil and National Police



<https://twitter.com/navedelmisterio/status/915484696133476352?s=20>

*A big hug to @guardiacivil and @policia from The Mystery Ship.<sup>230</sup>*

*Iker J*

## 6. Feliciano López and Catalonia



[https://twitter.com/feliciano\\_lopez/status/257572992312287234?s=20](https://twitter.com/feliciano_lopez/status/257572992312287234?s=20)

*From space it's very clear. Catalonia belongs to Spain.*

[https://twitter.com/feliciano\\_lopez/status/659303432889716736?s=20](https://twitter.com/feliciano_lopez/status/659303432889716736?s=20)

*It seems that the "politicians" of a region of my country are starting a process to create the "Catalan Republic! #Joke #SpainIsDifferent*

<sup>230</sup> It's how the TV show is known

## 7. Posts by Carlos Herrera in social media



<https://twitter.com/carlosherreracr/status/1197107623176409088?s=20>

*We have to vindicate it. It's right.*

(Image) *Freedom for Andalusian political prisoners*



## 8. Posts by Mariano Rajoy



<https://twitter.com/marianorajoy/status/961159447463845888?s=20>

*“The problem in Catalonia has been created by the leaders of the process. It seems that Mr Rivera is more critical of the Spanish Government than of those who are genuinely responsible for the Catalan crisis. #SessionofControl”*



**Mariano Rajoy Brey** ✓ @marianorajoy · 23 ene. 2018  
Desde la cuna del parlamentarismo, #León, insto a iniciar en **Cataluña** una etapa de sentido común, normalidad y cumplimiento de la legalidad. Sin respeto a la ley no hay democracia.

<https://twitter.com/marianorajoy/status/955794550714445826?s=20>

*“From the cradle of parliamentarianism, #León, I urge the beginning of a period of common sense, normality and compliance with the law in Catalonia. Without respect for the law there is no democracy”*



**Mariano Rajoy Brey** ✓ @marianorajoy · 8 may. 2018  
**Cataluña** merece un gobierno autonómico que respete la legalidad, logre superar la fractura social, recupere la normalidad y gobierne para todos.  
#SesióndeControl

<https://twitter.com/marianorajoy/status/993870072027500546?s=20>

*“Catalonia deserves an autonomous government that respects legality, overcomes social fracture, recovers normality and governs for all. #SessionofControl”*



**Mariano Rajoy Brey** ✓ @marianorajoy · 9 may. 2018  
El Gobierno celebra un Consejo de Ministros extraordinario. Vamos a recurrir una decisión que permite que un fugado de la Justicia que vive en el extranjero pueda ser investido en **Cataluña**. Queremos que se recupere la normalidad.

<https://twitter.com/marianorajoy/status/994148369290362882?s=20>

*“The Government is holding an extraordinary Council of Ministers. We are going to appeal a decision that allows a fugitive from justice living abroad to be invested in Catalonia<sup>231</sup>. We want normality to be restored”*



**Mariano Rajoy Brey** ✓ @marianorajoy · 29 dic. 2017  
En **Cataluña**, ante el mayor ataque a nuestra Constitución, se ha aplicado la ley para defender la ley, la convivencia y el bienestar de todos los catalanes y del conjunto de españoles. España no es susceptible de someterse a ningún chantaje.

<https://twitter.com/marianorajoy/status/946729711866122241?s=20>

*In Catalonia, in the face of the greatest attack on our Constitution, the law has been applied to defend the law, coexistence and the well-being of all Catalans and all Spaniards. Spain is not susceptible to any kind of blackmail.*



**Mariano Rajoy Brey** ✓ @marianorajoy · 24 abr. 2018  
**#Cataluña** necesita un gobierno autonómico que tenga la capacidad y la voluntad de dialogar en el marco de la ley y gobierne para todos. Hay que recuperar la normalidad política, institucional, económica y social.

<https://twitter.com/marianorajoy/status/988790343666733057?s=20>

*“#Catalonia needs an autonomous government that has the capacity and the will to dialogue within the framework of the law and govern for all. Political, institutional, economic and social normality must be recovered”*

<sup>231</sup> In this statement he refers to Carles Puigdemont who was already in exile in Belgium and who was running for the regional elections



Mariano Rajoy Brey  @marianorajoy

El Gobierno está determinado a combatir los actos vandálicos en Cataluña con todos los medios policiales y judiciales a su alcance: la ley se seguirá cumpliendo. El Parlamento autonómico debe elegir un presidente que pueda serlo. Confío en que pronto se recupere la normalidad.

<https://twitter.com/marianorajoy/status/981163422766260224?s=20>

*“The Government is determined to combat acts of vandalism in Catalonia with all the police and judicial means at its disposal: the law will continue to be enforced. The autonomous parliament must elect a president who can be one. I trust that normality will soon be restored”*



Mariano Rajoy Brey  @marianorajoy · 21 mar. 2018

Los secesionistas se han saltado los límites de la ley, han echado a empresas de **Cataluña** y han pretendido usurpar el derecho del conjunto de los españoles a decidir lo que es su país. Recuperemos la normalidad y resolvamos los problemas reales de la gente. #SesióndeControl

<https://twitter.com/marianorajoy/status/976375635949051904?s=20>

*“The secessionists have overstepped the bounds of the law, kicked out companies in Catalonia and sought to usurp the right of all Spaniards to decide what their country is. Let us recover normality and solve the real problems of the people. #SessionofControl”*



Mariano Rajoy Brey  @marianorajoy · 27 oct. 2017

Los responsables en **Cataluña** se han situado al margen de la ley liquidando la Constitución y el Estatuto de Autonomía. No lo podemos aceptar

953

2,1 mil

5,1 mil



<https://twitter.com/marianorajoy/status/923827536668319746?s=20>

*“Those responsible in Catalonia have placed themselves at the margin of the law by liquidating the Constitution and the Statute of Autonomy. We cannot accept this”*



Mariano Rajoy Brey  @marianorajoy · 11 oct. 2017

Ni siquiera la farsa de ese referéndum ilegal y fraudulento de secesión puede servir para legitimar la independencia de **Cataluña** #11Oct

<https://twitter.com/marianorajoy/status/918122211478777858?s=20>

*“Not even the farce of that illegal and fraudulent referendum on secession can serve to legitimize the independence of Catalonia #11Oct”*

## 9. Posts by Albert Rivera Díaz



Albert Rivera  @Albert\_Rivera · 23 feb. 2018

Fiscales y jueces abandonan un acto en el que Torrent habla de los políticos **golpistas** como 'presos políticos'. Bien hecho, ya está bien de aguantar victimismo de los que quisieron destruir nuestra democracia.

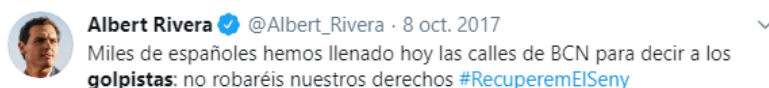
[https://twitter.com/Albert\\_Rivera/status/967119779151609862?s=20](https://twitter.com/Albert_Rivera/status/967119779151609862?s=20)

*“Prosecutors and judges abandon an act in which Torrent speaks of the coup politicians as 'political prisoners'. Well done, it's enough to endure victimhood from those who wanted to destroy our democracy.”*



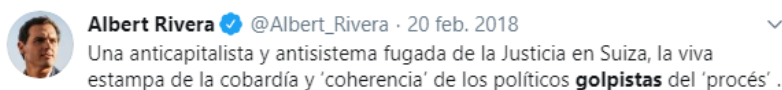
[https://twitter.com/Albert\\_Rivera/status/1057556977881178112?s=20](https://twitter.com/Albert_Rivera/status/1057556977881178112?s=20)

*“The question was very clear: "Do you promise not to pardon the coup perpetrators, yes or no?" Sanchez did not answer, there is no longer any doubt about what he intends to do: humiliate the Spanish people in order to be able to hold out at La Moncloa. What a shame. #ControlSession”*



[https://twitter.com/Albert\\_Rivera/status/916989894299455488?s=20](https://twitter.com/Albert_Rivera/status/916989894299455488?s=20)

*“Thousands of Spaniards have filled the streets of BCN today to say to the coup leaders: you will not steal our rights #RecuperemElSeny”*



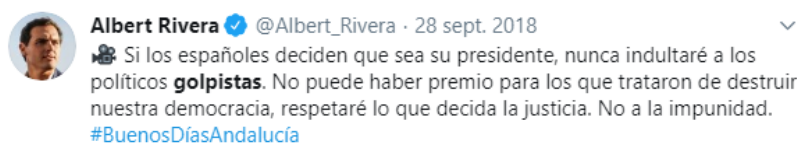
[https://twitter.com/Albert\\_Rivera/status/965861352647675904?s=20](https://twitter.com/Albert_Rivera/status/965861352647675904?s=20)

*“An anti-capitalist and anti-system fugitive from justice in Switzerland, the vivid picture of the cowardice and 'coherence' of the coup politicians of the 'procés'”*



[https://twitter.com/Albert\\_Rivera/status/1130816215562293248?s=20](https://twitter.com/Albert_Rivera/status/1130816215562293248?s=20)

*“Today, the coup politicians who tried to destroy our democracy have humiliated the Spanish people from the National Assembly. And Batet and the PSOE have allowed them to do so. That is why I have defended all Spaniards who do want our Constitution to be respected”*



[https://twitter.com/Albert\\_Rivera/status/1045599053881507841?s=20](https://twitter.com/Albert_Rivera/status/1045599053881507841?s=20)

*“If the Spanish decide to make me their president, I will never pardon the coup politicians. There can be no reward for those who tried to destroy our democracy, I will respect what justice decides. No to impunity. #GoodDayAndalusia”*



**Albert Rivera** ✓ @Albert\_Rivera · 27 sept. 2018

Usar las escuelas para dar un golpe de Estado e intentar manipular a nuestros hijos es repugnante. Y ante esta situación, en vez de corregir la situación, el Gobierno de España legitima a los **golpistas** como socios y mira hacia otro lado ante estos atropellos. Basta ya.

[https://twitter.com/Albert\\_Rivera/status/1045199649068453888?s=20](https://twitter.com/Albert_Rivera/status/1045199649068453888?s=20)

*“Using schools to stage a coup d'état and trying to manipulate our children is disgusting. And in the face of this situation, instead of correcting the situation, the Spanish Government legitimises the coup perpetrators as partners and looks the other way in the face of these outrages. Enough is enough”*



**Albert Rivera** ✓ @Albert\_Rivera · 1 mar. 2019

“Quien ha pactado con **golpistas** o con amigos de ETA está inhabilitado a ojos del constitucionalismo”. No se pierdan este repaso de @joanmesquida62, un hombre de Estado y comprometido con España, a Sánchez y su 'todo vale por el poder' 🙄

[https://twitter.com/Albert\\_Rivera/status/1101432008784470018?s=20](https://twitter.com/Albert_Rivera/status/1101432008784470018?s=20)

*““Whoever has made agreements with coup leaders or with friends of ETA is disqualified in the eyes of constitutionalism”. Do not miss this review of @joanmesquida62 A statesman committed to Spain, Sanchez and his 'anything goes for power'.”*



**Albert Rivera** ✓ @Albert\_Rivera · 1 feb. 2019

Tiene que protegernos a todos los demócratas de los políticos **golpistas** que intentaron liquidar España y sacarnos a todos los catalanes de la Unión Europea.

[https://twitter.com/Albert\\_Rivera/status/1091358818225786880?s=20](https://twitter.com/Albert_Rivera/status/1091358818225786880?s=20)

*“It -The European Union- must protect all of us democrats from the coup politicians who tried to liquidate Spain and get all of us Catalans out of the European Union.”*



**Albert Rivera** ✓ @Albert\_Rivera · 23 sept. 2017

Puigdemont y Forcadell son **golpistas** contra el Estatut y la Constitución. Y los que acosan a concejales y policías no son gente pacífica.

17

50

122



[https://twitter.com/Albert\\_Rivera/status/911683944214605824?s=20](https://twitter.com/Albert_Rivera/status/911683944214605824?s=20)

*“Puigdemont and Forcadell are coup leaders against the Statute and the Constitution. And those who harass councillors and police are not peaceful people.”*



**Albert Rivera** ✓ @Albert\_Rivera · 18 oct. 2019

Estoy siguiendo lo que pasa ahora en Cataluña... Estoy indignado y harto de ver cómo los **separatistas** queman y destrozan mi ciudad y mi tierra, agreden a policías y atemorizan a millones de familias mientras Sánchez no hace nada. ¡Ya basta! #155YA 🇺🇦🇪🇸🇪🇸

[https://twitter.com/Albert\\_Rivera/status/1185299919718014976?s=20](https://twitter.com/Albert_Rivera/status/1185299919718014976?s=20)

*“I'm following what's happening now in Catalonia... I am outraged and sick of seeing how the separatists are burning and destroying my city and my land, assaulting police and terrorizing millions of families while Sanchez does nothing. Enough! #155NOW”*



[https://twitter.com/Albert\\_Rivera/status/1184758087628005382?s=20](https://twitter.com/Albert_Rivera/status/1184758087628005382?s=20)

*“This isn't Aleppo, or Baghdad... it's Barcelona. We are facing a national emergency and a regional president leading the separatist commandos. The government can no longer be paralyzed by the tsunami of violence. Mr. Sanchez, #155NOW, we are late.”*



[https://twitter.com/Albert\\_Rivera/status/1185859010249084928?s=20](https://twitter.com/Albert_Rivera/status/1185859010249084928?s=20)

*Here, in the Superior Headquarters of Via Layetana in Barcelona, radical separatists harass our police every day. Today I went to thank them personally for their service to the Spanish people and for risking their lives to protect ours.*



[https://twitter.com/Albert\\_Rivera/status/1073635096975106048?s=20](https://twitter.com/Albert_Rivera/status/1073635096975106048?s=20)

*“Here you have the 'brave' of Waterloo, the fugitive and compulsive liar Puigdemont, calling the Catalans who clean the separatist propaganda from the public spaces "terrorists". Surrender to justice, coward.”*



[https://twitter.com/Albert\\_Rivera/status/1182223011262472192?s=20](https://twitter.com/Albert_Rivera/status/1182223011262472192?s=20)

*“Not only does this speech by Pedro Garrido not bother me, but I feel proud of the work of the*



'civil guard'. Separatist politicians are upset because they did stop the terrorist commandos or discovered the corruption of Pujol and Convergencia. Thank you Flag of Spain”



**Albert Rivera**  @Albert\_Rivera · 11 sept. 2019

Torra utiliza a los Mossos para perseguir a quien simplemente pone el himno nacional, mientras alienta a sus comandos separatistas **CDR** que cortan calles y carreteras y hacen la vida imposible a millones de catalanes. Sánchez calla y otorga. #155YA

[https://twitter.com/Albert\\_Rivera/status/1171814211653120005?s=20](https://twitter.com/Albert_Rivera/status/1171814211653120005?s=20)

“Torra is using the Mossos to persecute those who simply play the national anthem, while encouraging his separatist CDR commandos to cut off streets and roads and make life impossible for millions of Catalans. Sánchez is silent and gives in. #155NOW”

## 10. Posts from *Ciudadanos* militants



**Inés Arrimadas**    @InesArrimadas · 3 jun. 2019

El separatismo sigue dando tratos privilegiados a sus amigos, ya sean corruptos o **golpistas**. Es vergonzoso que se exija a los ciudadanos que cumplan con la ley, mientras los líderes nacionalistas quieren impunidad para seguir haciendo de las suyas.

<https://twitter.com/InesArrimadas/status/1135507022231801856?s=20>

“Separatism continues to give privileged treatment to its friends, whether they are corrupt or coup leaders. It is shameful that citizens are required to comply with the law, while nationalist leaders want impunity to continue to play their part.”



**Inés Arrimadas**    @InesArrimadas · 27 sept. 2019

El President de la Generalitat y diputados **separatistas** jalean a los detenidos por presunto terrorismo cuando algunos de ellos han reconocido que planeaban usar explosivos el 1-O. ¿Qué mensaje lanzan? Que son héroes. ¿Están animando a los jóvenes a seguir su ejemplo? Gravísimo

<https://twitter.com/InesArrimadas/status/1177575699370131456?s=20>

“The President of the Generalitat and separatist deputies are cheering the detainees for alleged terrorism when some of them have admitted that they planned to use explosives on Oct. 1. That they are heroes. Are they encouraging young people to follow their example? Very serious”



**Inés Arrimadas**    @InesArrimadas · 23 sept. 2019

Torra llama a apretar y los CDR obedecen. Radicales **separatistas** podrían haber intentado fabricar precursores de explosivos para cometer acciones violentas mientras los catalanes siguen desprotegidos por el Gob. de España. ¿Esto es normalidad, Sr Sánchez?

<https://twitter.com/InesArrimadas/status/1176071062544625666?s=20>

“Torra calls for a squeeze and the CDRs obey. Separatist radicals may have attempted to manufacture explosive precursors to commit violent actions while the Catalans remain unprotected by the Spanish government. Is this normal, Mr. Sanchez?”



**Inés Arrimadas** 🇪🇸 @InesArrimadas · 18 abr. 2019

En Vic los comandos **separatistas** intentan atacarnos y gritan consignas de enaltecimiento a ETA y Terra Lliure. Es vergonzoso que se haya permitido esto durante tantos años en nuestro país. La libertad y la democracia llegarán a todos los rincones de España cuando gobierne Cs 🍊🍊

<https://twitter.com/InesArrimadas/status/1118849947670056960?s=20>

*“In Vic the separatist commandos try to attack us and shout slogans of praise to ETA and Terra Lliure. It is shameful that this has been allowed to happen for so many years in our country. Freedom and democracy will reach every corner of Spain when Cs”*



**Inés Arrimadas** 🇪🇸 @InesArrimadas · 18 dic. 2019

Otra vez los radicales **separatistas** manchando la imagen de Barcelona, Cataluña y España con sus barricadas, su violencia y sus ataques a la libertad. Lo peor de todo es que este comportamiento totalitario parezca ya normalidad en Barcelona.

#ElClasico

<https://twitter.com/InesArrimadas/status/1207418850070933509?s=20>

*“Once again, the radical separatists are staining the image of Barcelona, Catalonia and Spain with their barricades, their violence and their attacks on freedom. Worst of all, this totalitarian behaviour now seems normal in Barcelona.”*



**Inés Arrimadas** 🇪🇸 @InesArrimadas · 12 dic. 2018

La realidad para muchos servidores públicos y demás ciudadanos en Cataluña: preguntarse cada día si los comandos atacarán vías de tren, carreteras, sus lugares de trabajo o incluso sus domicilios. Sánchez nos ha abandonado y dejado en manos de Torra y los **CDR**

<https://twitter.com/InesArrimadas/status/1072979751806091264?s=20>

*“The reality for many public servants and other citizens in Catalonia: asking themselves every day if the commandos will attack train tracks, roads, their workplaces or even their homes. Sánchez has abandoned us and left us in the hands of Torra and the CDR”*



**Juan Carlos Girauta** @GirautaOficial · 2 abr. 2018

Los comandos **separatistas** actúan abierta y coordinadamente mientras señalan, amenazan, coaccionan, destrazan, queman, colapsan, vandalizan. Todo ello impunemente. Al menos hasta ahora. [elmundo.es/espana/2018/04...](http://elmundo.es/espana/2018/04...) vía @elmundoes

<https://twitter.com/GirautaOficial/status/980872054399488000?s=20>

*“Separatist commands act openly and in coordination as they signal, threaten, coerce, destroy, burn, collapse, vandalize. All with impunity. At least until now.”<sup>232</sup>*

<sup>232</sup> Juan Carlos Girauta is no longer a member of the party. After the electoral debacle of the 2019 elections, a huge number of party members left the party. However, this does not prevent from considering that his demonstrations contributed to create a negative narrative against the Catalan minority



**Juan Carlos Girauta**  @GirautaOficial · 29 feb.

Instalaos allí con vuestro libelo de sangre, **separatistas** de mierda, a ver qué tal os va.

Aunque si José Antich, alias Pepa Labiempagá, oliera subvención, ya lo habría hecho.

<https://twitter.com/GirautaOficial/status/1233868096114438144?s=20>

*“Settle down there with your blood libel, you fucking separatists, see how you do. Although if José Antich, aka Pepa Labiempagá, smelled a subsidy, he would have done it already.”*



**Carlos Carrizosa**    @carrizosacarlos · 27 sept. 2018

Hay quienes piensan que las calles son solo de ellos. Nosotros defendemos que las calles **#SonDeTodos**. Ni plásticos amarillos, ni pancartas **separatistas**, ni esteladas en los espacios públicos. Seguimos trabajando por una Cataluña para todos

<https://twitter.com/carrizosacarlos/status/1045251210108956672?s=20>

*“Some people think the streets are theirs alone. We defend that the streets #belongtoeveryone. No yellow plastics, no separatist banners, no stenciling in public spaces. We continue to work for a Catalonia for all”*



**Carlos Carrizosa**    @carrizosacarlos · 9 oct. 2018

Los partidos **separatistas** tienen el Parlament bloqueado porque su única salida es calentar las calles y la desobediencia. Estamos en un territorio sin ley gobernado por el cabecilla de los comandos **separatistas** con la complicidad de Sánchez. No todo vale para mantener el sillón

<https://twitter.com/carrizosacarlos/status/1049598845074726912?s=20>

*“The separatist parties have the Parliament blocked because their only way out is to heat the streets and disobedience. We are in a lawless territory governed by the leader of the separatist commandos with the complicity of Sanchez. Not everything is good enough to keep the seat”*



**Carlos Carrizosa**    @carrizosacarlos · 20 ago. 2018

Mientras, según la Confederación de Agencias de Viajes, el turismo nacional se desploma un 50% en Cataluña, los socios del Govern siguen perjudicando nuestros bolsillos. Sombrillas amarillas en Blanes, la nueva acción de los **CDR** [@lavanguardia shr.gs/YmnrQN](https://twitter.com/lavanguardia)

137

300

345



<https://twitter.com/carrizosacarlos/status/1031550914711248897?s=20>

*“While, according to the Confederation of Travel Agencies, national tourism has plummeted by 50% in Catalonia, the Government's partners continue to hurt our pockets. Yellow umbrellas in Blanes, the new action of the CDR”*

## 11. Posts by Santiago Abascal

### 11.1 Denial of historical Catalan nationality



[https://twitter.com/Santi\\_ABASCAL/status/304542047258439680?s=20](https://twitter.com/Santi_ABASCAL/status/304542047258439680?s=20)

*“Let no one be fooled. Catalonia is not a nation. It is something much more important: a Spanish region.”*



[https://twitter.com/Santi\\_ABASCAL/status/436582369794224128?s=20](https://twitter.com/Santi_ABASCAL/status/436582369794224128?s=20)

*“Catalonia is not a nation, it is something much more important; a Spanish region and an essential part of Spain” #VOX*

### 11.2. Stigmatization of dissenting opinions



[https://twitter.com/Santi\\_ABASCAL/status/376029520899612672?s=20](https://twitter.com/Santi_ABASCAL/status/376029520899612672?s=20)

*“The worst enemies of Catalonia and my Basque land are their respective separatists. Long live Spain!”*

### 11.3. Attacks on Catalan education



7 replies, 20 retweets, 17 likes

[https://twitter.com/Santi\\_ABASCAL/status/378480008081457152?s=20](https://twitter.com/Santi_ABASCAL/status/378480008081457152?s=20)

*“Here's the article I'm publishing today in @larazon\_es on the separatist challenge in Catalonia”*

Excerpts from the text

*“More than 35 years not wanting to see the problem, lowering its seriousness (...), giving up more and more competences, turning a blind eye to the judicial failures in linguistic matters, relegating education to nationalism and ignoring it, facilitating all and each one of the instruments that the different Governments<sup>233</sup> have needed for their work of social engineering. The nonsense has gone too far; if the State does not act, it will be responsible for and complicit in whatever may happen in the future.*

*The inaction of the government and national political institutions is irresponsible and suicidal.”*



February 12, 2020

[https://twitter.com/Santi\\_ABASCAL/status/1227558192000983040?s=20](https://twitter.com/Santi_ABASCAL/status/1227558192000983040?s=20)

*“Separatist apartheid is advancing, with the complicity of the government.*

*Linguistic racism is as disgusting as biological racism.*

*VOX will soon be in the Catalan parliament to speak in the languages of the Catalans without excluding anyone. Visca Espanya!”*

#### **11.4. Further attacks on Catalan education**



[https://twitter.com/Santi\\_ABASCAL/status/403508589438193664?s=20](https://twitter.com/Santi_ABASCAL/status/403508589438193664?s=20)

@EsperanzaAguirre: *“The desire of some to separate from Spain is based on stories, myths and legends that have been told to them since they were children.”*

@Santi\_ABASCAL: *“This is why education cannot be in the hands of the Generalitat of*

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<sup>233</sup> Catalan government

*Catalonia or the Basque Government. They use it against Spain”*

### **11.5. Demonstrations in Barcelona on October 12**



[https://twitter.com/Santi\\_ABASCAL/status/251943029798211585?s=20](https://twitter.com/Santi_ABASCAL/status/251943029798211585?s=20)

@Fredy\_ajs: *Good morning, one more day from Barcelona, catalonia [sic], Spain.”*

@Santi\_ABASCAL: *“good morning. The 12 at 12 at Barcelona. Day of the Hispanic community. No to separatism”*



[https://twitter.com/Santi\\_ABASCAL/status/256716529540939778?s=20](https://twitter.com/Santi_ABASCAL/status/256716529540939778?s=20)

*“In Barcelona with the Hispanic community! Long live Spain!! with a good friend*

*@Albert\_Rivera”*



[https://twitter.com/Santi\\_ABASCAL/status/388878030900592640?s=20](https://twitter.com/Santi_ABASCAL/status/388878030900592640?s=20)

*“On your feet. We're going to Barcelona. For the unity of Spain. @fdnaes”*



[https://twitter.com/Santi\\_ABASCAL/status/521284331856490496?s=20](https://twitter.com/Santi_ABASCAL/status/521284331856490496?s=20)

*“In the Plaza de Cataluña in Barcelona next to @ivanedlm in defence of the Hispanic and Spanish communities in Catalonia”*



[https://twitter.com/Santi\\_ABASCAL/status/653669855854493696?s=20](https://twitter.com/Santi_ABASCAL/status/653669855854493696?s=20)

*“Today in #Barcelona ,capital of #Hispanidad ,with our colleagues from #VOX in #Catalonia #VivaEspaña”*



[https://twitter.com/Santi\\_ABASCAL/status/785925214660067328?s=20](https://twitter.com/Santi_ABASCAL/status/785925214660067328?s=20)

*“Tomorrow #12Oct Hispanic Day, #VOX will be in Barcelona again to claim the unity of our country”*

## **11.6. Demonstration for the unity of Spain**



📍 Libertad, legalidad y orden constitucional.

🇪🇸 ¡Te esperamos! #CataluñaEsEspaña #GolpistasAPrisión



💬 63    ↻ 638    ❤️ 1,2 mil    ↗

[https://twitter.com/vox\\_es/status/1202673985055526912?s=20](https://twitter.com/vox_es/status/1202673985055526912?s=20)

*“@Santi\_ABASCAL will attend the demonstration for the unity of Spain tomorrow in Plaza Urquinaona in Barcelona together with Jorgebuxade, @lgarrigavaz y JuanjoAizcorbe. Tachuela redonda Libertad, legal and constitutional order.*

*We are waiting for you! #CataloniaSpain #GolpistasAPrisión”*

## 11.7. Stigmatization of civil society



[https://twitter.com/Santi\\_ABASCAL/status/1060591315669475328?s=20](https://twitter.com/Santi_ABASCAL/status/1060591315669475328?s=20)

*"It is clear that some continue with Leninist policies : "Against souls lies, against bodies violence". At VOX we always defend the rule of law. That is why we will denounce coup perpetrators, terrorists or thugs in court."*



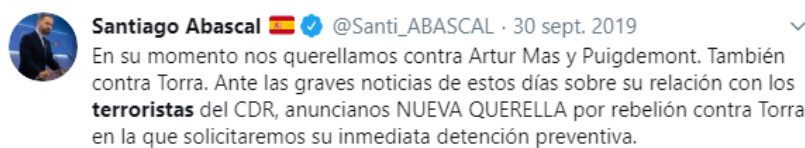
[https://twitter.com/Santi\\_ABASCAL/status/992143227036762113?s=20](https://twitter.com/Santi_ABASCAL/status/992143227036762113?s=20)

*"My support for @javiernegro10 in the face of the disgusting harassment of Catalan separatism, which is taking on a clearly terrorist and signposting nature to individuals and families."*<sup>234</sup>



[https://twitter.com/Santi\\_ABASCAL/status/988699501958516737?s=20](https://twitter.com/Santi_ABASCAL/status/988699501958516737?s=20)

*"CDR terrorists "attack" a military man in Catalonia. More accurate than "harass". Smashing the car's windscreen with him inside goes far beyond harassment. They seek civil confrontation and that will bring consequences."*



[https://twitter.com/Santi\\_ABASCAL/status/1178589693685972992?s=20](https://twitter.com/Santi_ABASCAL/status/1178589693685972992?s=20)

*"At the time we sued Artur Mas and Puigdemont. Also against Torra. In view of the serious news of these days about his relationship with the CDR terrorists, we announce NEW QUERREL for*

---

<sup>234</sup> In this post Santiago Abascal refers to the publication in social networks of images of the family of journalist Javier Negre. This controversy has its origin in a hoax according to which some Catalan teachers would have pointed out students who are children of the *Guardia Civil* members. An investigation was carried out by the public prosecutor's office and, in the absence of evidence, the case was dismissed. Throughout the process, the anonymity of the teachers who had been targeted was protected. Javier Negre published the faces of the teachers in a national newspaper and in retaliation some people spread images of his family in social media. Immediately, this retaliation was assumed to be an organized attack by pro-independence sectors and some politicians such as Santiago Abascal or Albert Rivera turned out to support the journalist.

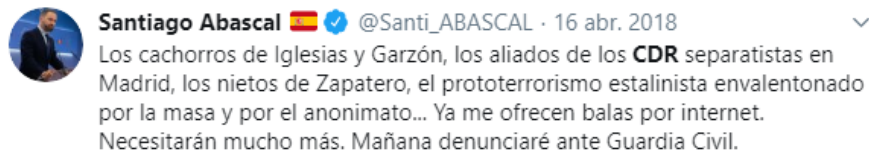


*rebellion against Torra in which we will request his immediate preventive detention.”*



[https://twitter.com/Santi\\_ABASCAL/status/1071501528425467904?s=20](https://twitter.com/Santi_ABASCAL/status/1071501528425467904?s=20)

*“The coup d'état continues to be installed in Catalan institutions. Only the cut of the A7, and the impunity of the violence of the CDR, justifies the immediate suspension of autonomy.”*



[https://twitter.com/Santi\\_ABASCAL/status/985967970622074880?s=20](https://twitter.com/Santi_ABASCAL/status/985967970622074880?s=20)

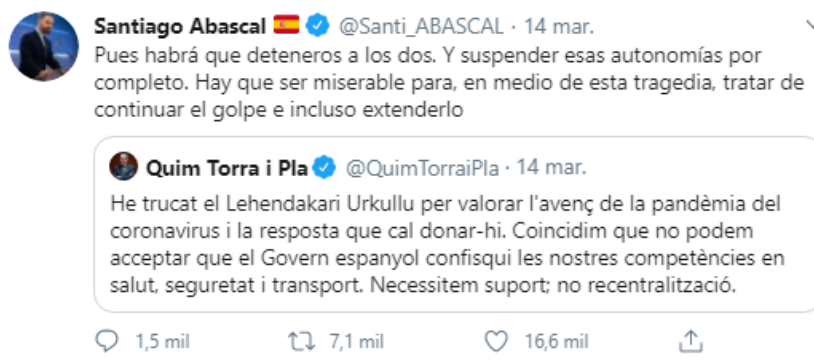
*“The puppies of Iglesias and Garzón, the allies of the separatist CDRs in Madrid, Zapatero's grandchildren, the Stalinist proto-terrorism emboldened by the masses and by anonymity... They're already offering me bullets on the internet. They'll need a lot more. Tomorrow I'll report to the Guardia Civil.”*



[https://twitter.com/Santi\\_ABASCAL/status/1176043368293576704?s=20](https://twitter.com/Santi_ABASCAL/status/1176043368293576704?s=20)

*““tighten up”, Torra told the RDCs. And the CDRs have started making bombs. Only VOX continues to demand the immediate suspension of autonomy, and the arrest and bringing to justice of Torra and his henchmen. Just as we asked for Artur Mas and Puigdemont.”*

## **11.8. Call for the arrest of Quim Torra**



[https://twitter.com/Santi\\_ABASCAL/status/1238871130083078145?s=20](https://twitter.com/Santi_ABASCAL/status/1238871130083078145?s=20)

Quim Torra's tweet: *“I have called Lehendakari Urkullo to assess the extent of the coronavirus*

*pandemic and the response that must be given. We decided that we cannot accept that the Spanish government confiscates our competences in health, security and transport. We need support, not recentralization”*

Reply from Santiago Abascal: *“Then we'll have to arrest you both -Quim Torra and Iñigo Urkullu-. And suspend those autonomies completely. You have to be miserable to, in the midst of this tragedy, try to continue the coup and even extend it”*

## ***12. Instrumentalisation of terrorist attacks***



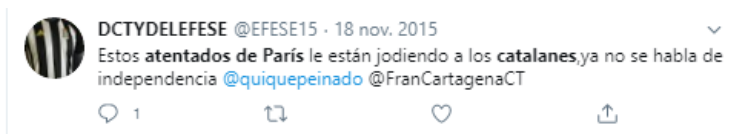
<https://twitter.com/hispanignoto/status/665351034521460736?s=20>

*“The attacks in Paris are devastating for the Catalan secessionists, as they lose all the attention and publicity they so badly need.”*



<https://twitter.com/RasputinOlga/status/671065189601644544?s=20>

*“The Catalans, poor things! so eager to be the protagonists, and they have been overshadowed by the Paris bombings. Ha ha”*



<https://twitter.com/EFESE15/status/667060563051216896?s=20>

*“These attacks in Paris are screwing up the Catalans, there is no longer any talk of independence @quiquepeinado @FranCartagenaCT”*

### 13. Study of trends in social media

#### 13.1. Trends associated with Catalonia

132.6K

ENGAGEMENT

343.2K

SENTIMENT

12% Positive  
33% Negative

POTENTIAL REACH

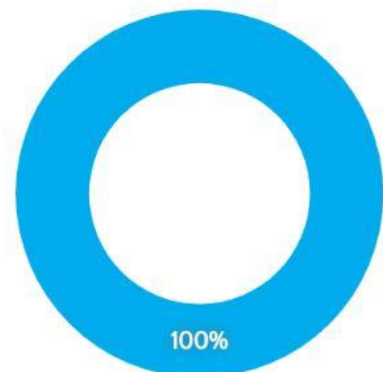
400M



INDIVIDUAL AUTHORS

11.1K

SHARE OF MEDIA TYPES



Twitter

Influencers	Posts	Reach	Reach per mention	Engagement	Engagement per mention
Víctor Trujillo @V_TrujilloM	1	321.2K	321.2K	9.9K	9.9K
Eugenio d'Ors @EugeniodOrs_	4	423.9K	106K	21.9K	5.5K
Hermann Tertsch @hermanntertsch	3	651.4K	217.1K	10.9K	3.6K
Alejo Vidal-Quadras @VidalQuadras	3	241.1K	80.4K	10.6K	3.5K
Pedro Blanco @pedroblancoa	1	65.2K	65.2K	3.2K	3.2K
Juan Arza @juanarza	1	12K	12K	3.1K	3.1K
Juan Carlos Girauta @GirautaOficial	2	458.9K	229.5K	6.2K	3.1K
Suso De Toro @SusodeToro1	2	184.2K	92.1K	5.9K	2.9K
Jorge Martínez @jorgepravias	1	7.2K	7.2K	2.9K	2.9K
Alejandro Fernández @alejandroTGN	2	84.4K	42.2K	5.4K	2.7K

## 13.2. Trends associated with the health crisis



Influencers	Posts	Reach	Reach per mention	Engagement	Engagement per mention
EsterSR MD PhD @ester0961	1	11.7K	11.7K	805	805
JCCruz @JC_C_A	1	10K	10K	654	654
VilaWeb @VilaWeb	1	310.4K	310.4K	346	346
Emily Habsburg @emily_habsburg	1	8.2K	8.2K	289	289
Socialistes (PSC) / @socialistes_cat	1	118.9K	118.9K	126	126
okdiario.com @okdiario	5	1.4M	282.4K	629	125.8
Carlos Cuesta @carloscuestaEM	1	199.6K	199.6K	108	108
EL ESPAÑOL @elespanolcom	1	402.4K	402.4K	91	91
Caliuet @AlbertoCaliu	1	1.9K	1.9K	89	89
Impulso Ciudadano @Impulso_Ciudadana	1	7.5K	7.5K	88	88

### 13.3. Trends associated with the factory relocation

# OF CONVERSATIONS

13.4K

ENGAGEMENT

46K

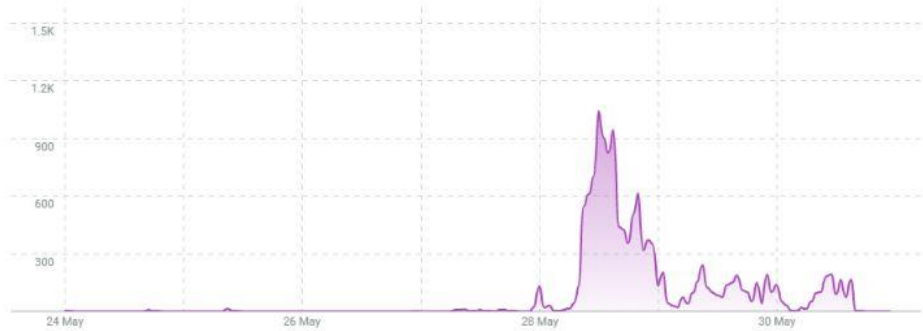
SENTIMENT

17% Positive 30% Negative

POTENTIAL REACH

29.4M

CONVERSATIONS OVER TIME



SENTIMENT OVER TIME



Influencers	Posts	Reach	Reach per mention	Engagement	Engagement per mention
Eugenio d'Ors @EugeniodOrs_	1	106K	106K	5K	5K
Carlos Mtz Gorriarán @cmgorriaran	1	47.2K	47.2K	2.7K	2.7K
Mazzinguerzetta @Mazzinguerzett1	5	125.3K	25.1K	10K	2K
Alejo Vidal-Quadras @VidalQuadras	1	80.5K	80.5K	1.5K	1.5K
Alégame el día @harryelsocio	1	31.8K	31.8K	1.1K	1.1K
HayQpensar @HayQpensar	1	13.3K	13.3K	965	965
Lna @elenay29	1	16.3K	16.3K	847	847
Arturo Pereitor - Cat... @arturopereitor	1	609	609	784	784
Albert Soler Bufí @albertsolerbufi	1	8.2K	8.2K	774	774
Ángel Expósito @ExpósitoCOPE	1	222.7K	222.7K	681	681

## 14. Instrumentalisation of the health crisis



Carlos Cuesta  
@carloscuestaEM

Quim Torra pasa del coronavirus: defiende ante Sánchez «ejercer el derecho de autodeterminación» de Cataluña:

<https://twitter.com/carloscuestaEM/status/1264615488916721672?s=20>

*“Quim Torra does not care about the coronavirus: he defends before Sánchez “the right to self-determination” of Catalonia”*



Emily Habsburg  
@emily\_habsburg

Quim Torra incluye "la autodeterminación" entre las 40 medidas que exige para la desescalada -



Quim Torra incluye "la autodeterminación" entre las 40 medidas que exige para l...  
Reivindica el "pago de la deuda histórica del Estado de 9.000 millones de euros", y de los 4.000 millones en los que la Generalitat cifra los gastos extra sanitarios.  
elespanol.com

6:49 p. m. · 24 may. 2020 · Twitter for iPhone

167 Retweets 139 Me gusta

[https://twitter.com/emily\\_habsburg/status/1264599295610753025?s=20](https://twitter.com/emily_habsburg/status/1264599295610753025?s=20)

*“Quim Torra includes "self-determination" among the 40 measures it requires for de-escalation”*



Luis I. Martinez  
@LuisIMartnez1 · 24 may.

En respuesta a @emily\_habsburg

Pues que no desescale. Punto.  
Se puede quedar toda la vida en cuarentena.  
Incluso me parece aconsejable.  
Todos los indepes en cuarentena. Un problema menos.



3



<https://twitter.com/LuisIMartnez1/status/1264614506396823552?s=20>

*“Well, don't de-escalate. Period.*

*He can stay in quarantine for the rest of his life.*

*I even think it's advisable.*

*All independents in quarantine. One less problem.”*



[https://twitter.com/Impulso\\_Ciudadana/status/1264962633997996032?s=20](https://twitter.com/Impulso_Ciudadana/status/1264962633997996032?s=20)

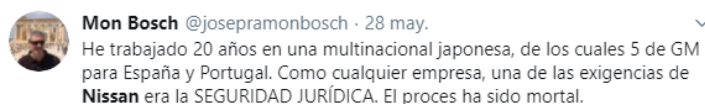
*“Quim Torra's obsession with disassociating himself from any decision taken by the Government leads Barcelona to become the only Spanish capital isolated of the rest of the municipalities in its province despite entering Phase 1 of the de-escalation.”*



<https://twitter.com/JON0J0/status/1266478321405214723?s=20>

*“The green line corresponds to the increase of cases of coronavirus, the blue one... is the increase of bullshit, nazism and intransigence of the pro-independence during the pandemic.”*

## ***15. Instrumentalisation of factory relocation***



<https://twitter.com/josepramonbosch/status/1266065183736246274?s=20>

*“I have worked 20 years in a Japanese multinational, of which 5 years with GM for Spain and*

Portugal. Like any company, one of Nissan's requirements was **LEGAL SAFETY**. The *procés*<sup>235</sup> has been deadly.”



<https://twitter.com/cmgorriaran/status/1265749938895556608?s=20>

“Sánchez, Puigdemont, Torra and Colau had guaranteed that Nissan would not leave Barcelona. With such guarantees, what could go wrong (the Lazis<sup>236</sup> will be happy, Catalonia can go back to 1713 and manufacture sustainable harnesses for native donkeys).”

<sup>235</sup> Name given to the series of steps taken to guarantee the right to vote for self-determination

<sup>236</sup> It is a play on words in which "lazos" and "nazis" are mixed, i.e. ties and Nazism. The aim is to establish that those wearing yellow ribbons in support of Catalan leaders imprisoned after 1 October are Nazis.





<https://twitter.com/Igarrigavaz/status/1265903928757157888?s=20>

*“Nissan closes its plant in Barcelona: 3,000 workers lose their jobs and thousands more will be affected*

*Consequences of contempt for the automobile industry and turning Catalonia into a powder keg. They destroy Catalonia and our industry”*

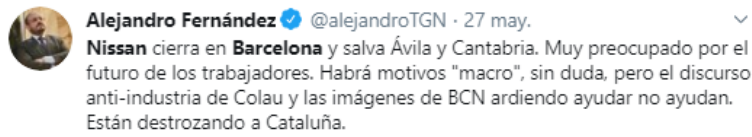


[https://twitter.com/Bcnisnotcat\\_/status/1265889626218209286?s=20](https://twitter.com/Bcnisnotcat_/status/1265889626218209286?s=20)

*“NISSAN CLOSES ITS BARCELONA ASSEMBLY PLANT: 3,000 direct and 20,000 indirect.*

*Is it because of the coronavirus or because of the procés? NISSAN SAVES THE PLANTS OF ÁVILA*

AND CANTABRIA. Let everyone draw their own conclusions, but we are very clear about that. Thank you, Mr. Torra.”



<https://twitter.com/alejandrotgn/status/1265744067675242503?s=20>

“Nissan closes in Barcelona and saves Avila and Cantabria. Very concerned about the future of the workers. There will be "macro" reasons, no doubt, but Colau's anti-industry discourse and the images of BCN burning to help do not help. They are destroying Catalonia.”



<https://twitter.com/Milton20113/status/1265761860911083521?s=20>

“The Nissan factory in Barcelona has fallen. In the end, all that fooling around in Catalonia didn't come for free.”



<https://twitter.com/pimientoman/status/1266341709664919552?s=20>

“The Process is UNEMPLOYMENT and DEATH

Nissan is leaving Barcelona, the result of the efforts of Torra and his Procés buddies to make companies flee and, as always, their broken plates are paid for by working families.”



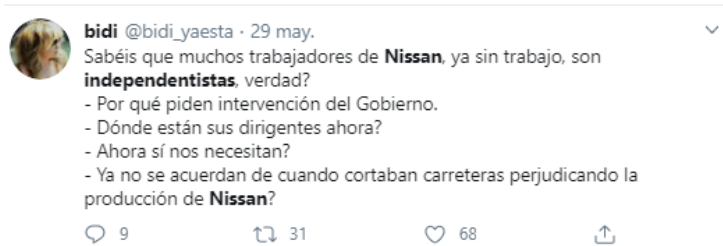
<https://twitter.com/harryelsocio/status/1266062026029367303?s=20>

“Nissan's going, but you're left with the estelada ones and the yellow ribbons. And the CDRs. And the robbers gangs. And the machete fights in the Raval. It's the Barcelona Gaudí dreamed of. It's the Catalonia of 5G.”



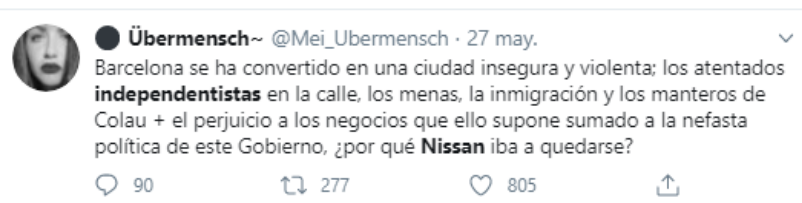
<https://twitter.com/WaltWhite77/status/1266043506856005635?s=20>

*“The Jordis<sup>237</sup> on the crushed car of the Guardia Civil. Model #NISSAN Patrol. Poetic justice. #NissanEnLucha #nissanbarcelona”*



[https://twitter.com/bidi\\_yaesta/status/1266300842585370625?s=20](https://twitter.com/bidi_yaesta/status/1266300842585370625?s=20)

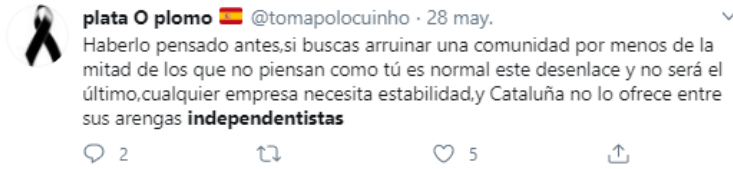
*“You know that many Nissan workers, already out of work, are in favor of independence, right?  
- Why they're asking for government intervention.  
- Where are their leaders now?  
- Do they need us now?  
- Don't you remember when you used to cut off roads to the detriment of Nissan's production?”*



[https://twitter.com/Mei\\_Ubermensch/status/1265760602049392643?s=20](https://twitter.com/Mei_Ubermensch/status/1265760602049392643?s=20)

*“Barcelona has become an unsafe and violent city; the pro-independence attacks in the streets, the menas, immigration and Colau's manteros + the damage to business that this represents, added to the nefarious policy of this government, why should Nissan stay?”*

<sup>237</sup> Two social leaders imprisoned after the October 1 referendum

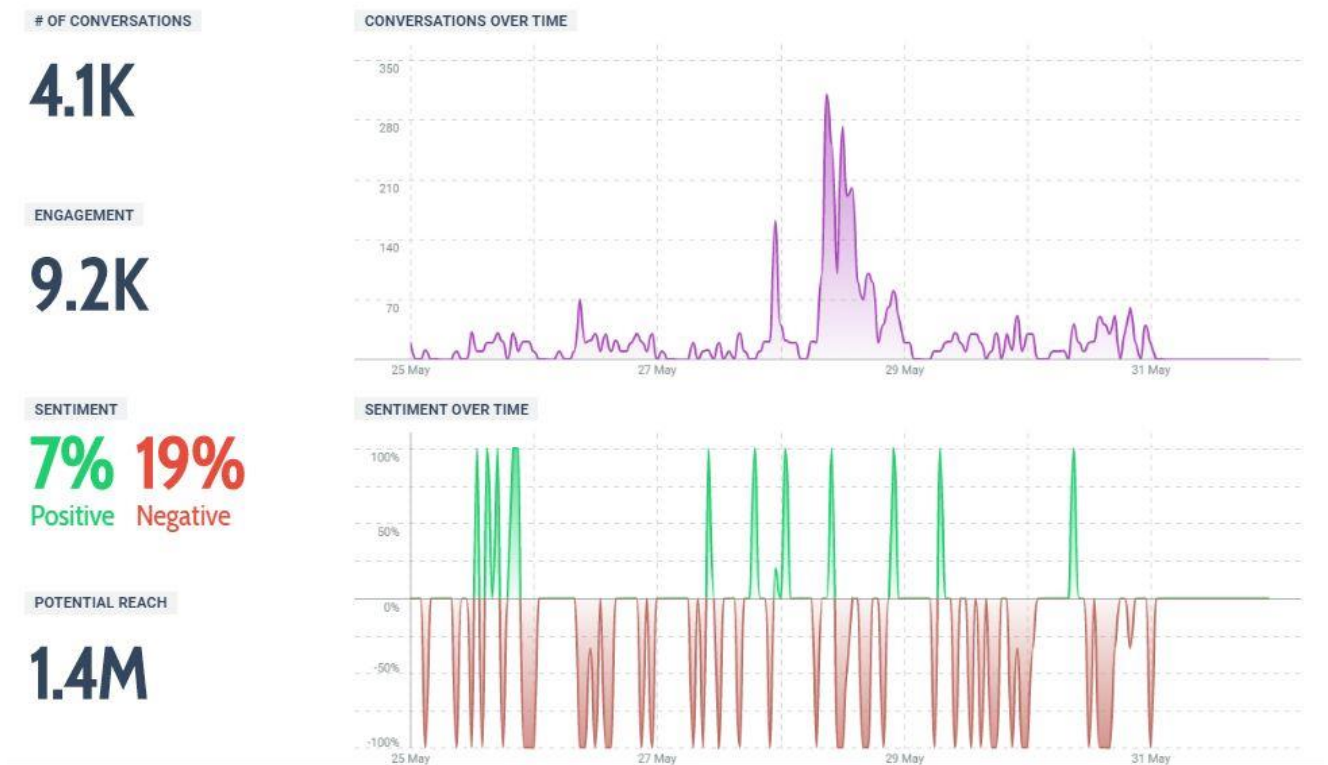


<https://twitter.com/tomapolocuiho/status/1265950782790209537?s=20>

*“You should have thought of that before. If you want to ruin a community for less than half of those who don't think like you, this outcome is normal; and it won't be the last. Any business needs stability, and Catalonia does not offer it among its pro-independence harangues”*

## 16. Use of stigmatizing terms

### 16.1. General trends in the use of the term “lazis” in social networks

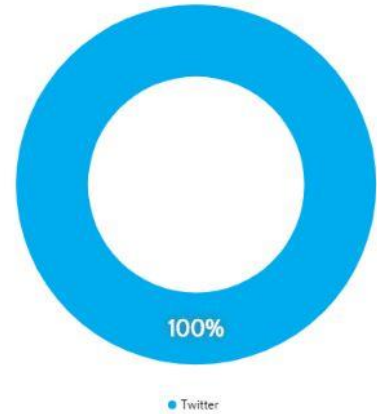


INDIVIDUAL AUTHORS

Influencers	Posts	Reach	Reach per mention	Engagement	Engagement per mention
Mazzinguerzetta @Mazzinguerzett1	3	75.1K	25K	5K	1.7K
Carlos Mtz Gorriarán @cmgorriaran	2	94.5K	47.2K	1.2K	615.5
Uriel 🇪🇸🇬🇧🇪🇺 #Mie... @Uriel_vox	1	7.1K	7.1K	307	307
forest @chinguitino	1	1.9K	1.9K	102	102
Iván Vélez @IvanVelez72	1	13.7K	13.7K	98	98
Ignasi catusús @ignasiCAT	1	857	857	84	84
Official GP Anzor @Official_Ansor	1	70.3K	70.3K	69	69
Ferran Martín @ferranmartin	2	53.2K	26.6K	96	48
Monica Limón @MonicaLimoni	1	9.5K	9.5K	46	46
LA CID CAMPEADORA @Viveselmomento	1	4.1K	4.1K	44	44

424

SHARE OF MEDIA TYPES



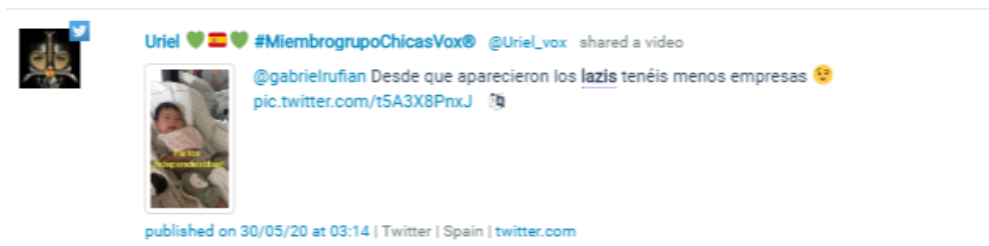
<sup>238</sup> It is possible to observe that the use of this term corresponds to a word in another language, this explains the margin of positive connotation in its use. However, when referring to its stigmatizing meaning for Catalans, we can see that this term is related to others used by extreme right-wing sectors in social media. Several examples would be #GolpismoBlando (#SoftCoup), #Procés, #TorraAPrision (#TorraToPrison) or #TiraníaNacionalista (#NationalistTirany).

## 16.2. Examples of the use of the term "lazis" by users



<https://twitter.com/Mazzinguerzett1/status/1258655225755455488?s=20>

*“As I said, I am Catalan but after the mistreatment by the Lazis of the "evil Spaniards" and the businesses that did not attend to the police and civil guards, I will go to Andalusia this summer if I can.”*



(Post inaccessible as the account no longer exists)

*“@gabrielrufian Since the appearance of the lazis you have fewer companies”*



<https://twitter.com/IvanVelez72/status/1266402846712500227?s=20>

*“The time to return to the sedition table is approaching. I don't know who's more eager, @PabloIglesias, @sanchezcastejon or the Lazis”*



<https://twitter.com/Viveselmomento/status/1266635088642682882?s=20>

*“Good morning, Spaniards. Can you be any sillier? That none of them speak in Catalan and that they're going to beg Spain then... You're the Lazi pest. Ahh tell your president not to ask Spain for money. Effrontery!”*

## 17. Rejection of Catalan culture



<https://twitter.com/tonicabrera80/status/1253287278560018432?s=20>

*“Today is San Jorge. I don't know what Sant Jordi is.”*



[https://twitter.com/Alf\\_Cornejo/status/1253316489211449346?s=20](https://twitter.com/Alf_Cornejo/status/1253316489211449346?s=20)

*“San Jorge, kid. San Jorge.*

*Even if it bothers you, it is San Jorge.*

*Sant Jordi doesn't exist, you idiot!”*



[https://twitter.com/caaar\\_93/status/1253407686177284097?s=20](https://twitter.com/caaar_93/status/1253407686177284097?s=20)

*“I think it's amazing that today the news is about Barcelona and not about Zaragoza, Huesca or Teruel... Today is ARAGON day... today is SAN JORGE, not "Sant Jordi”*



<https://twitter.com/IreneSebastian3/status/326628771518111744?s=20>

*“Today is San Jorge not Sant Jordi!!! And he is the is the patron saint of aragon, not of catalonia! Long live Aragon!!!!”*



<https://twitter.com/missballantines/status/458878580442005504?s=20>

*“Today it is San Jorge not Sant Jordi #Concept”*



<https://twitter.com/migueesanzz/status/856143804734287873?s=20>

*“It is SAN JORGE!!!!!!!!!!!! NOT SANT JORDI!!!!!!!! PLEASE... enough, it is San Jorge in honor to the Aragon crown”*

## 18. Attacks against Catalan speakers - I



<https://twitter.com/SIN0MBR3/status/1239383833532915712?s=20>

*“I don't like the sound of Catalan. Here listening to Samantha singing. #OTYoMeQuedoEnCasa”*



<https://twitter.com/fatisn/status/1239317848964714496?s=20>

*“#OTYoMeQuedoEnCasa Samantha, is not to speak Spanish out of obligation but out of respect and empathy with the thousands of Spaniards who follow OT and are watching the gala and don't understand Catalan.*

*#EspañolNoEsObligación Spanish is the language we all share.”*

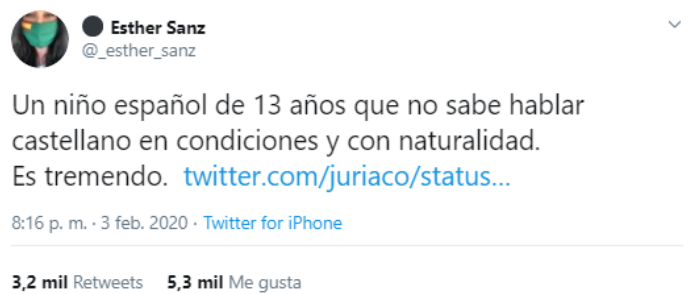




<https://twitter.com/Prometh71304479/status/1226860876277440512?s=20>

*“Samantha, the independentist contestant from OT: she belonged to the CAJEI-Assemblea de Joves del Comptat, a Catalanist assembly that was the origin of "Arran", the most violent branch of the youth of the CUP, the radical anti-system Catalan party.”*

## ***19. Attacks against Catalan speakers - II***



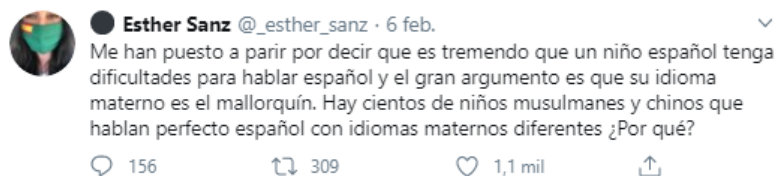
[https://twitter.com/esther\\_sanz/status/1224411349318619137?s=20](https://twitter.com/esther_sanz/status/1224411349318619137?s=20)

*“A 13-year-old Spanish boy who cannot speak Spanish properly and naturally. It is tremendous.”*



[https://twitter.com/esther\\_sanz/status/1225337372562337797?s=20](https://twitter.com/esther_sanz/status/1225337372562337797?s=20)

*“I'm sorry to tell you, progress and Catalanazis, that I'm not going to ask your permission to give my opinion about what I really want, I'm going to defend whatever comes out of my bow and not only am I not afraid of your attacks but I don't give a damn about your opinion. Happy Thursday!”*



[https://twitter.com/esther\\_sanz/status/1225332853048737793?s=20](https://twitter.com/esther_sanz/status/1225332853048737793?s=20)

*“I have been insulted for saying that it is tremendous that a Spanish child has difficulty speaking Spanish and the great argument is that his mother tongue is Mallorcan. There are hundreds of Muslim and Chinese children who speak perfect Spanish with different mother tongues. Why?”*