

TWEET...

IF YOU DARE

HOW COUNTER-TERRORISM LAWS RESTRICT
FREEDOM OF EXPRESSION IN SPAIN



AMNESTY
INTERNATIONAL



Freedom of expression in Spain is under attack. The government is targeting a whole range of online speech – from politically controversial song lyrics to simple jokes – under the catch-all categories of “glorifying terrorism” and “humiliating the victims of terrorism” set out in the country’s vaguely worded counter-terrorism laws.

Social media users, journalists, lawyers and musicians have been prosecuted under Article 578 of the Spanish Criminal Code, which prohibits “glorifying terrorism” and “humiliating the victims of terrorism”. Although this provision was first introduced in 2000, it is only in recent years, following its amendment in 2015, that prosecutions and convictions under Article 578 have sharply risen. The result is increasing self-censorship and a broader chilling effect on freedom of expression in Spain.

The rise in prosecutions under Article 578 has taken place in the context of the rapidly shrinking space for expressing dissent in Spain. Austerity policies, implemented following the 2008 financial crisis, were met with mass opposition in the form of new social movements and waves of protests. The Spanish authorities subsequently curtailed the rights to freedom of expression and peaceful assembly.

In 2015, parliament amended the Law on the Protection of Public Security – commonly known as the “gag law” (*ley mordaza*) – and introduced new limitations on protests and administrative



← Protestors march through central Madrid, in opposition to Spain's new public security law, 7 May 2016. © Marcos del Mazo/ Getty Images

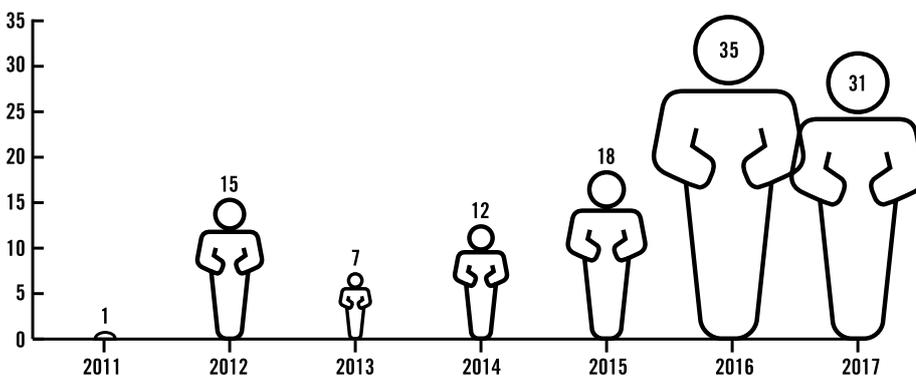
“I don’t think the aim is to target people individually. The objective is to create a climate of self-censorship in the population.”

J.C.V., prosecuted for his tweets under counter-terrorism laws

finances targeting those participating in public assemblies. The authorities then imposed tens of thousands of fines on protesters, human rights defenders and journalists for conduct that is protected by the rights to freedom of expression and peaceful assembly.

Following terrorist attacks in Paris in January 2015, including on the magazine *Charlie Hebdo* and a kosher supermarket, the Spanish government introduced amendments to the Criminal Code, broadening the scope of Article 578 to criminalize “glorification of terrorism” through “the distribution or public dissemination of messages or slogans”; making the commission of such an offence online an aggravating factor; and increasing the maximum penalty from two to three years’ imprisonment.

PERSONS CONVICTED UNDER ARTICLE 578



WHAT'S WRONG WITH THE LAW

AGAINST “GLORIFYING TERRORISM”?

“The peaceful pursuance of a political, or any other, agenda – even where that agenda is different from the objectives of the government and considered to be ‘extreme’ – must be protected.”

Ben Emmerson, former UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism

As the cases included in this briefing demonstrate, the authorities have used Article 578 to target political speech, particularly on social media, and the creative community in Spain. This is an especially troubling aspect of the restrictions on freedom of expression under this law. Political expression is essential to informed and dynamic debate on issues of public interest, and artists and musicians play a crucial role in challenging the status quo and inspiring critical thinking. The right to freedom of expression more broadly includes speech that offends, shocks and disturbs. By using Article 578 in this way, the authorities have signalled to wider society that some forms of dissent, questioning and alternative perspectives will not be tolerated; indeed that they can be interpreted as criminal actions.

Spain is a state party to a number of binding treaties that guarantee the right to freedom of expression – that is, the right of every person to seek, receive and share information and ideas. These

treaties include the International Covenant on Civil and Political Rights (ICCPR, Articles 19 and 20) and the European Convention on Human Rights (Article 10). Spain has an obligation to respect, protect and promote these rights.

International law permits states to impose certain limitations on the exercise of freedom of expression. It also explicitly requires states to prohibit advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence (commonly known as “hate speech”). But international law sets out strict conditions that all limitations must fulfil in order for restrictions on expression to be lawful. Such restrictions must be set out in law and in a clear and accessible way. They can be imposed only for certain



A woman holds a placard reading “censorship” as she takes part in a demonstration called by the “Dignity Marches” platform against the new public security law, dubbed “ley mordaza” (gag law), in Madrid on 25 January 2015.
© DANI POZO/AFP/Getty Images



specified legitimate purposes (such as preserving national security, public order or, as in the case of advocacy of hatred, to protect the rights of others). They must be demonstrably necessary (that is, the least intrusive measure that will achieve the specified purpose) and proportionate. And they must not jeopardize the fundamental right to expression itself.

THE LACK OF LEGITIMATE PURPOSE

Many recent prosecutions for “glorifying terrorism” in Spain fail to meet the requirement under international human rights law that restrictions on freedom of expression must be strictly necessary and proportionate for a legitimate purpose, in this case national security.

Most of these prosecutions relate to statements perceived to “glorify” the actions of domestic armed groups, such as ETA (*Basque Homeland and Liberty*) and GRAPO (*First of October Anti-Fascist Resistance Groups*). While the threat of violence from domestic armed groups in Spain has historically been high, with over 800 lives lost in attacks by ETA, domestic groups currently do not appear to present an imminent threat to national security. On 20 October 2011, ETA declared a permanent ceasefire, which was followed by its disarmament in 2017; GRAPO has been inactive since 2007.

National security is not the only legitimate purpose for which states can restrict freedom of expression. States are also permitted to use criminal law to repress advocacy of national, racial or religious hatred that amounts to incitement. However, criminalising speech deemed to “humiliate the victims of terrorism” does not meet these requirements.



TOO BROAD AND TOO VAGUE

To counter threats to national security, states may criminalize *incitement* to commit a terrorism-related offence, but only where a statement is made with the intention to deliberately encourage others to commit a recognizable criminal act, with a reasonable likelihood that they would carry it out, and where there is a clear causal link between the statement and the criminal act. Incitement to commit a terrorism-related offence is prohibited in Spain under a different article of the Criminal Code, Article 579.

In contrast to laws on direct incitement, laws like Article 578 that prohibit “glorifying” or “apology of” terrorism are broadly defined and vague. They give states the power to criminalize a wide



range of expression that does not meet the high threshold of incitement. In a widely criticised move that broadened the scope of the law – and the possibilities for its misuse – even further, Spain’s Supreme Court ruled in January 2017 that it is possible to commit an offence under Article 578 even if there was *no intention* to glorify terrorism or to humiliate victims.



ARTICLE 578

- Punishes any person who commits a public act that **either** glorifies or justifies a terrorism-related offence, or those who committed such an offence, **or** any act that discredits, disparages or humiliates victims of terrorism or their relatives.
- Penalties may include between one and three years' imprisonment, a fine and several years' mandatory disqualification from the public sector (which includes prohibitions on practising certain professions, holding public office, obtaining public scholarships and more).
- Where the internet or other electronic media is used, this is punishable by a penalty at the higher end of the range of possible sanctions.



Demonstrators calling for the acquittal of Pablo Hasél and Kaiet Prieto, both charged with “glorifying” terrorism, in Madrid, 1 February 2018.
© absolucionhasel via Twitter



The Civil Guard conduct online monitoring as part of their counter-terrorism operations.
© Private



The Spanish Ministry of the Interior tweets a warning that even retweeting a message that glorifies terrorism can amount to a criminal offence.

THE IMPACT OF ARTICLE 578

The impact of prosecutions under Article 578 has been considerable. As with all terrorism-related offences in Spain, those convicted under this provision must be subjected to a lengthy period of disqualification from the public sector, which means, among other restrictions, that they are excluded from pursuing a wide range of professions and from running for public office. Excluding individuals from political positions because they have expressed alternative political views perceived to “glorify terrorism” is particularly troubling. The stigma associated with charges of “glorifying terrorism” can also have long lasting and devastating effects on people whose aim was to freely and lawfully express ideas and opinions.

In addition to individual sanctions, those investigated under the law report that they now exercise extra caution before posting on social media. The wider chilling effect of these cases has reduced the online space for people to express critical opinions. The following cases demonstrate how a wide range of expression – from political satire to radical song lyrics – has been criminalized under Article 578. None of the cases detailed here involved statements that could legitimately be considered incitement to commit a terrorism-related offence, or advocacy of hatred amounting to incitement under international human rights law.

TARGETING DISSENT: “SPIDER OPERATIONS”

“I am pro-independence and a communist and I have no problem in saying that. I don’t think it is by chance that many of the people prosecuted in the aftermath of the Spider Operations have the same political profiles; they are pro-independence, anarchist or communist.”

Arkaitz Terrón, lawyer



Since 2014, law enforcement officials have conducted four coordinated operations across several regions in Spain leading to the arrests of people on suspicion of “glorifying terrorism” or “humiliating victims of terrorism” on social media platforms, in particular Twitter and Facebook. The authorities called these actions the “Spider Operations”. During the first such operation in April 2014, law enforcement officers from the Civil Guard arrested 21 people. Three other police operations followed, the latest of which was carried out in April 2016. Specialized investigative units of the Civil Guard and the National Police collected the information on which the arrests were based, while the National Court (*Audiencia Nacional*), the judicial body responsible for dealing with terrorism-related offences in Spain, coordinated and supervised the operations.

On the morning of 13 April 2016, eight Civil Guard officers arrested **Arkaitz Terrón**, a 31-year-old Basque lawyer living in Barcelona, as he was about to leave home for work. He was detained for a day and charged with “glorifying terrorism” and “humiliating victims of terrorism” on social networks. On the same day, another man, **J.C.V.** returned home in Aiguafreda (a town 55km from Barcelona) after his night

shift at work and found five plain-clothes officers waiting outside his house. He was detained for six hours and then charged with “glorifying terrorism” and “humiliating victims of terrorism”. Arkaitz and J.C.V. were two of the 14 people arrested on 13 April 2016 during the fourth Spider Operation.

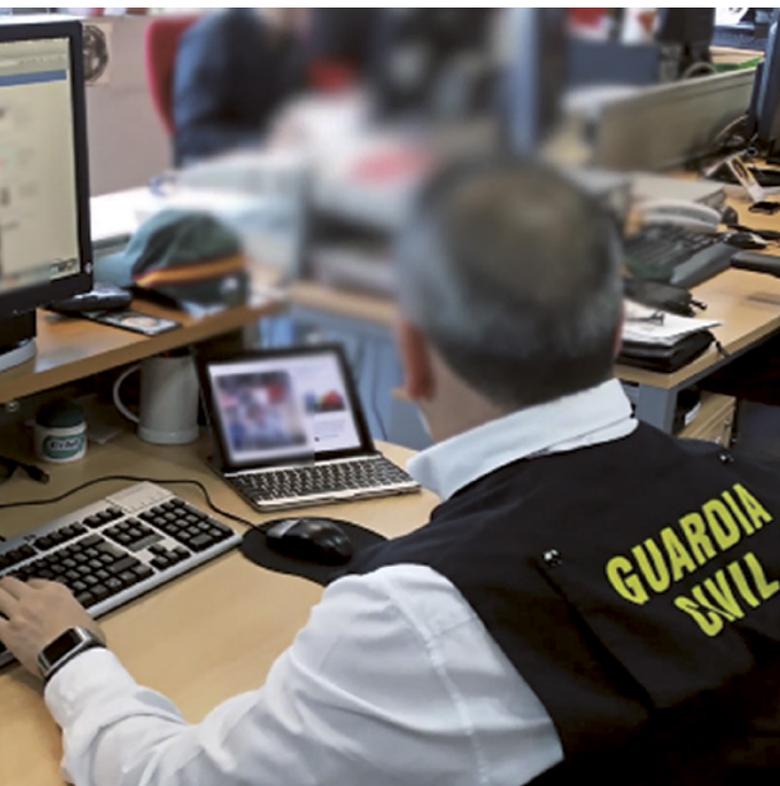


Cartoon used by the online platform for those prosecuted as part of the Spider Operations (@encausadosarana) ©Tasio

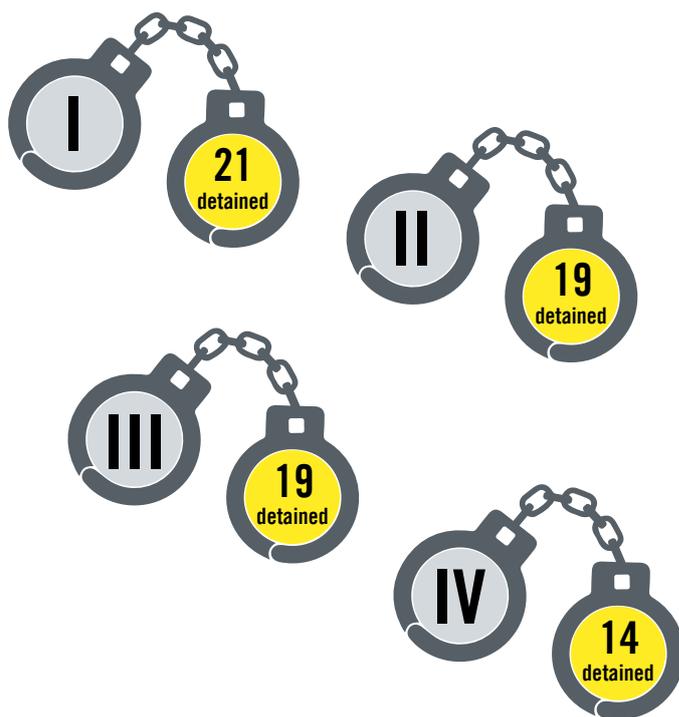


The Civil Guard conduct online monitoring as part of their counter-terrorism operations. © Private





FOUR SPIDER OPERATIONS



The authorities prosecuted Arkaitz for nine tweets posted between 2010 (when he started using Twitter) and 2016. For example, on 7 November 2014, the media reported that the Madrid municipality had decided to put up a commemorative plaque to Admiral Luis Carrero Blanco, a prime minister under the Franco dictatorship who was killed by ETA in 1973. Arkaitz responded by tweeting: “I don’t understand why the producers of Cava don’t put up a plaque for Carrero. The day ETA blew him up, lots of bottles were opened.”

On 21 March, the National Court acquitted Arkaitz, arguing that his messages had not incited anyone, either directly or indirectly, to commit a terrorism-related offence. The prosecution appealed to the Supreme Court, which confirmed the acquittal of Arkaitz on 31 January 2018.

Arkaitz believes that the real aim of the authorities goes beyond individual convictions. He told Amnesty International in October 2017: “In my case, they did not achieve anything, but their target is not the 60 people prosecuted in the aftermath of the Spider Operations. These operations and the subsequent prosecutions attract a lot of media attention. The authorities’

aim is to make people think twice before expressing their opinions online, especially those who are the most critical”.

The authorities prosecuted J.C.V. for 13 messages posted on Twitter between 2012 and 2013. The prosecutor argued that his tweets had “glorified” several armed groups – namely ETA, GRAPO and Terra Lliure (*Free Land*) – none of which had been active for some time and all of which remain inactive. For example, on 30 May 2013, J.C.V. wrote: “They killed Xabier López Peña Thierry [a former ETA political leader] in a French prison. We will always remember him. Soldier, the people are with you. We will win for you.” López Peña died on 30 March 2013 from a brain haemorrhage in a hospital in Paris.

In January 2018 J.C.V. was convicted and sentenced to one year in prison, and seven years’ disqualification from the public sector. J.C.V. had explained to Amnesty International in October 2017: “I don’t think the aim is to target people individually. The objective is to create a climate of self-censorship in the population. They have succeeded with me. I started to be more careful when using Twitter already after the conviction of [the musician] César Strawberry. Since my detention, I am extra-cautious”.

The cases of Arkaitz and J.C.V. demonstrate how narrow the boundaries of “acceptable” online speech have become in Spain.

“I was treated like a terrorist, with eight people [police officers] waiting for me outside my house.”

Arkaitz Terrón, lawyer

ATTACKS ON ARTISTIC FREEDOM

The shrinking space for dissenting opinions has also stifled artistic freedom. During the last few years, the Spanish authorities have investigated and prosecuted several artists for “glorifying terrorism” and “humiliating” its victims. For example, on 5 February 2016, in one of the most infamous cases, Alfonso Lázaro de la Fuente and Raúl García Pérez, two professional puppeteers, were arrested after a performance during the Madrid Carnival because one of the puppets had held a sign with a slogan similar to one used by ETA. The National Court eventually dropped the charge of “glorifying terrorism” against them on 9 September 2016. The charge of “incitement to hatred”, which had been referred to an ordinary court in Madrid, was also dropped on 5 January 2017.

In another disturbing but far less reported case, on 4 December 2017, the National Court convicted twelve rappers, part of a collective called **La Insurgencia**, under Article 578 and sentenced each of them to two years and a day in prison, as well as nine years’ disqualification from the public sector and a 4,800 Euro fine. The rappers’ appeal against the verdict was pending at the time of writing.

Nyto Rukeli, 23-years old, who joined the collective in 2015, told Amnesty International in October 2017 that the purpose of the collective was “to provide a platform for musicians to speak out about political issues”. Each member of the group worked independently but shared a YouTube channel and a webpage.



Twelve members of the musical collective “La Insurgencia” appear before National Court judges.
© EFE







Rapper Nyto at home in Gijón in the Asturias region of northern Spain, 10 February 2018.
© Amnesty International

Nyto said that his vision was to use his music to address social and political issues: “There are two main issues I touch upon in my music: the capitalist system, which I consider the main source of today’s problems, and political prisoners, in particular the members of the PCE-r (*Communist Party-Reconstituted*) who are still in jail”.

In October 2016, law enforcement officials launched a coordinated operation in several locations to arrest all 12 rappers of La Insurgencia. Two police officers arrested Nyto in Santiago de Compostela, where he was living at the time. The prosecutor charged them with “glorifying terrorism” on the basis of their song lyrics, including the following line in Nyto’s song “Subversive Rhymes”: “We must fight decisively, only the ideological line of the Communist Party-Reconstituted will save us.”

The National Court ruled that the 12 rappers glorified the armed group GRAPO, which the authorities argued is tied to the PCE-r, and several of its members, and, in addition, had the potential to encourage people to commit terrorism-related offences. In addition to the prison sentence, Nyto fears that being sentenced to nine years’ disqualification from the public sector will significantly limit his ability to find employment in his chosen profession, care of the elderly.

Nyto told Amnesty International that even before their convictions, the prosecution of the collective had already had a negative impact on its members. “Many got scared.

“I haven’t, but other rappers have been prosecuted more than once because they haven’t stopped [rapping]... I think the authorities prosecute us because they fear people getting organised”.

Nyto Rukeli, rapper



The rapper César Strawberry.
© Private





The authorities succeeded as about half the members have stopped singing or have changed the messages in their songs.”

The authorities have prosecuted several other rappers under Article 578. On 19 January 2017, the Supreme Court sentenced the singer **César Strawberry** to one year in prison, and six years and six months’ disqualification from the public sector for “glorifying terrorism” and “humiliating” its victims. The conviction related to a series of tweets he had posted in 2013 and 2014. In December 2013, César Strawberry tweeted “how many more should follow the flight of Carrero Blanco?” referring to Admiral Luis Carrero Blanco, a prime minister during the Franco dictatorship who was killed by ETA in a car bomb attack in 1973.

César Strawberry previously had been acquitted by the National Court in July 2016. However, in a landmark ruling heavily criticized by human rights organizations, the Supreme Court stated that whether César Strawberry had

intended to glorify ETA and GRAPO or humiliate the victims of terrorism in his Twitter posts was irrelevant in establishing his criminal liability. The Court stated that Article 578 does not require courts to take intention into account. At the time of writing, his appeal was pending before the Constitutional Court.

Rapper **Pablo Hasél**, who was sentenced in 2014 to two years’ imprisonment for “glorifying terrorism” in his songs on YouTube, was convicted again for his lyrics and Twitter posts on 2 March. In one of the tweets, posted on 1 April 2016, he said: “2 years since Isabel Arpacio [a member of PCE-r] was exterminated for being a communist, after the state denied her medical care in prison”. He received a two year prison sentence and a 24,300 Euro fine for “insults and slander against the Crown and other state organs”, as well as “glorifying” terrorism.

These cases reflect a growing and dangerous intolerance for expression, including artistic expression, that may

↑ The rapper Pablo Hasél.
© Private

be considered provocative, disturbing, or even offensive. But shocking people by saying or tweeting or singing offensive things is not a crime. To apply the criminal law to such expression is not only stigmatizing but the severe consequences that can follow – such as a criminal record, imprisonment and disqualification – are disturbingly disproportionate.

RESTRICTIONS ON MEDIA FREEDOM



The journalist Boro.
© Private

Article 578 has also been applied to media workers reporting or commenting on contentious issues. Expressing unconventional ideas or opinions is part and parcel of the right to journalistic freedom. The imposition of excessive and unnecessary restrictions on media workers has resulted in an ever-shrinking space for independent and critical journalism.

Alex García, a 23-year-old filmmaker, launched a YouTube channel in 2013 called “Resistencia Film”. The authorities are prosecuting him under Article 578 for his feature film “Repression: A double-edged sword” in which he interviewed several people who themselves had been prosecuted on charges of “glorifying terrorism”, including Pepita Seoane, the

mother of three GRAPO members; and the rapper Pablo Hasél.

On 21 July 2017, police served Alex with a subpoena; they offered no further explanation. On 26 July, Alex and his lawyer were given access to a 1,000-page police investigation report that listed all the videos on Alex’s YouTube channel, along with photographs and audio transcripts of the videos and biographies of some of those interviewed. On 28 July, Alex appeared before the National Court. He told Amnesty International in September 2017 that most of the questions put to him at Court related to his political opinions.

Alex believes that the opinions expressed in his films should be protected by the

right to freedom of expression. He told Amnesty International: “I didn’t commit any crime. In any case, in my videos I never talked about ETA, for example. I expressed opposition to the detention of prisoners charged with terrorism offences”.

On 13 November 2017, Alex was charged with “glorifying terrorism”. The prosecutor has requested a sentence of two years and a day in prison, plus disqualification from the public sector for nine years and a 4,800 Euro fine. At the time of writing, Alex was waiting notice of his trial date.

The Prosecutor’s Office of the National Court is also prosecuting **Boro**, a journalist, on charges of “glorifying” ETA in several messages he posted on his Facebook account between April 2012 and February 2014. Since 2008, Boro has been associated with the independent online platform La Haine, reporting on protests, police violence and imprisoned political activists.

Some of the messages criticized the detention of former ETA members. In one of his posts, Boro wrote: “The struggle is the only way forward”. At a hearing before the National Court in May 2016,

the Prosecutor asked Boro if he knew that this sentence had been used by ETA. According to Boro, this misses the point as “many people use that sentence in the Basque Country, it is not only a sentence that has been used by ETA”.

On 19 January 2018, Boro was convicted and sentenced to one year and six months’ imprisonment, and has said publicly that he will appeal the decision.

It is a disturbing reflection of the state of freedom of expression in Spain that simply repeating a phrase used by an armed group, as in Boro’s case, or interviewing people who the state claims have “glorified” an armed group, as in Alex’s case, gives rise to criminal prosecution.

“I think they are doing this to intimidate people in the wider context of the crisis, to divert attention and to scare... In some cases they do succeed. Some people think twice now before tweeting out something because they know police are monitoring the internet and that you may end up in jail”.

Alex García, film-maker



*23-year-old film-maker
Alex García.
© Private*

“HUMILIATING VICTIMS OF TERRORISM”



“I was really surprised when they arrested me and told me it was for humiliating victims. . . . Those jokes are very well known in Spain and I did not write those messages with any other purpose than posting jokes.”

Cassandra Vera, student



*22-year-old student
Cassandra Vera.*

© Amnesty International

People beyond the ranks of activists, journalists and musicians have also been caught in the wide net that the prohibition of “glorification of terrorism” and “humiliation” of its victims casts, some simply for posting jokes on social media.

Cassandra Vera, a 22-year-old student from Murcia, was the victim of one such prosecution. The Civil Guard arrested Cassandra on 13 April 2016 for jokes and memes she had posted on Twitter between November 2013 and January 2016 regarding Franco-era Prime Minister Carrero Blanco. For example, on 22 September 2015, Cassandra tweeted a photo showing Spiderman watching a car in mid-air with the text “Spiderman VS Carrero Blanco”.

Many people came to Cassandra’s defense, including Lucía Carrero Blanco, Luis Carrero Blanco’s niece. In a letter sent to the prominent newspaper *El País*, and included in Cassandra’s legal defence, she expressed concern regarding the prosecution of Cassandra Vera. She wrote: “I am fearful of a society where freedom of

expression, however regrettable it may be, could lead to imprisonment”. The National Court, however, stated that the actual impact of the jokes published by Cassandra on the victim’s relatives was not relevant to the case because the jokes had the objective potential to humiliate victims of terrorism. On 29 March 2017, the Court sentenced her to one year in prison and seven years’ disqualification from the public sector.

On 1 March 2018, the Supreme Court acquitted Cassandra after a successful appeal by the law firm representing her, BGD Abogados. Although Cassandra’s conviction has been overturned, her prosecution had a seriously detrimental impact on her life. The sentence of disqualification from the public sector meant that she lost a public scholarship that covered her university fees. While Cassandra, like many transgender women, was no stranger to online abuse, she began to receive a far greater number of transphobic threats and insults over social media when her conviction was made public.

The same legal provision prohibits “glorifying terrorism” and “humiliating the victims of terrorism”, but the authorities distinguish between these two acts. In 2016, the Supreme Court stated that the crime of “humiliating victims of terrorism” is more “personal” than that of glorifying terrorism because it has a direct impact on the honour of the victims of terrorism. The court has also stated that jokes that mock the victims of terrorism-related crimes may not only incite hatred and justify terrorism but, most importantly, also force victims to relive their traumatic experiences. As in Cassandra’s case, the courts consider whether a message is objectively humiliating to the victims of terrorism, rather than whether any actual victim was affected.

While states may prohibit advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence, forms of expression that, intentionally or in their effect, “humiliate victims of terrorism” – even though they may be offensive and cause distress to such individuals – do not reach this threshold for prohibition. Such forms of expression may give rise to a civil suit but must not be criminalised.

WHY IS ARTICLE 578 USED SO RARELY IN RELATION TO FOREIGN ARMED GROUPS?

Most of the cases under Article 578 relate to either disbanded or currently inactive domestic armed groups, namely ETA and GRAPO. From 2011 to 2017, 92% of those charged under Article 578 were accused of “glorifying” domestic, rather than foreign, armed groups and “humiliating” their victims. In the same period, only 14, out of a total 117, judgements were issued in relation to the “glorification” of foreign armed groups, such as the group that calls itself “Islamic State” (IS).

The authorities explained to Amnesty International in December 2017 that Article 578 is used less frequently for foreign armed groups because more serious charges are brought against the accused in such cases, such as charges of membership of or collaboration with a proscribed organisation, or self-indoctrination. Changes to the Criminal Code in 2015, prompted in part by attacks in Paris, introduced new terrorism-related offences for prosecuting such cases, leaving Article 578 to be used in a small minority of cases of alleged international terrorism.

CONCLUSION

Across Europe, states are restricting various forms of expression, including online speech, in the name of national security. Laws criminalizing “glorification” or “apology” of terrorism exist in France and the United Kingdom as well as Spain, and have been proposed in states such as Belgium and the Netherlands. The European Union Directive on combating terrorism (2017/541), which contains a vague offence of “public provocation to commit a terrorist offence”, provides states with an added incentive to introduce such laws by expressly referring to “glorification” as an example of expression that may be criminalised. In Spain itself, amendments to Article 578 in 2015 only increased the reach of this already broad and vague provision.

By using these laws to criminalize lawful expression, the Spanish authorities are disregarding international human rights law and standards. The impact of Article 578 is devastating to individuals – ranging from hefty fines, to lengthy periods of exclusion from the public sector, to prison sentences.

But even beyond these sanctions, such misuse of counter-terrorism provisions leads people to engage in self-censorship for fear that they may be targeted. The criminalization of such a wide range of expression has a general chilling effect and can create an environment where individuals are afraid of expressing unpopular views, or even making controversial jokes.

Such a constrained and shrinking space for public and open debate, discussion and criticism poses a longer-term threat to the strength of civil society and the ability to ensure not only the right to freedom of expression, but the defence of a whole range of other fundamental human rights.



A man holds a finger puppet demanding freedom of expression during a protest calling for the release of imprisoned puppeteers accused of “glorifying” ETA, Madrid, 13 June 2016.

© Marcos del Mazo/Pacific Press/Getty





A man, with his mouth taped, during a protest against the Spanish government's new security law in Gijón, northern Spain, 30 June 2015.
© REUTERS/Eloy Alonso

RECOMMENDATIONS

Amnesty International urges the relevant Spanish authorities to:

- Repeal Article 578 of the Criminal Code and ensure that no provision of the Criminal Code violates Spain's obligations under international human rights law and standards, in particular Article 19 of the ICCPR; that is, only criminalise expression that encourages others to commit a recognizable criminal act with the intent to incite them to commit such an act and with a reasonable likelihood that they would carry

it out, and where there is a clear causal link between the statement and the criminal act.

- Ensure that no provision of the Criminal Code criminalises expression that does not amount to advocacy of national, racial, or religious hatred that constitutes incitement to discrimination, hostility or violence, in compliance with Article 20(2) of the ICCPR.
- Ensure that no one is arrested, investigated, charged or imprisoned under Article 578.
- Ensure that charges that have been brought under Article 578 against anyone solely for the

peaceful exercise of their right to freedom of expression are dropped; and ensure the immediate and unconditional release of all those who have been imprisoned or detained under Article 578 solely for the peaceful exercise of their right to freedom of expression.

- Enable victims of terrorism, through effective legislation and procedures (including legal aid), to pursue civil claims against perpetrators, their estates, their organizations or others who assisted in the commission of the crime.

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Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards.

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Cover image: Demonstrators sit outside the Spanish parliament during a protest against the Spanish government's new security law in central Madrid, Spain, 1 July 2015.
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AMNESTY INTERNATIONAL
INTERNATIONAL SECRETARIAT

www.amnesty.org

e: contactus@amnesty.org
t: +44-20-74135500
f: +44-20-79561157

Peter Benenson House, 1 Easton
Street, London, WC1X 0DW,
United Kingdom

AMNESTY
INTERNATIONAL

