

Boriss Cilevics: “Arresting and convicting the Catalan exiles would make little sense”

An interview with the Latvian socialist politician who penned the Council of Europe’s report calling on Spain to release the Catalan political prisoners



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Boriss Cilevics (Daugavpils, 1956) is a seasoned socialist politician from Latvia who has recently been targeted by angry Spanish media in an attempt to cast doubt over his independence and professionalism. Mr Cilevics was the rapporteur who wrote the document on Spain and Turkey that was approved by the Parliamentary Assembly of the Council of Europe in June ([Should politicians be prosecuted for statements made in the exercise of their](#)

[mandate?](#)). This dealt an unprecedented blow to Spain's crackdown policy because it urged Madrid to release the Catalan political prisoners, to withdraw the European arrest warrants against the exiled leaders and to drop all charges filed against former high-ranking officials in Catalonia. We interviewed Mr Cilevics remotely: him in Riga, us in Barcelona. He refrained from disclosing any feelings or political views because he is fully convinced that the credibility of his work rests on the neutrality and objectivity that he is able to display. It is for this very reason that his words carry so much more weight. As does his report. Our conversation kicks off with a discussion about his long career.

—Who is Boriss Cilevics?

—I have lived two different lives. I am a physicist who was born in the USSR. Before 1990, prior to the collapse of the Soviet Union, I used to work in the field of mathematical simulation. I was a computer scientist. Then, when Latvia regained its independence, I worked with human rights groups and wrote in newspapers, worked in television and led some human rights organisations that focused on minority rights. I was first elected to our national parliament in 1998 and served on the Parliamentary Assembly of the Council of Europe, where I wrote a great deal reports, many of which on human rights, minority rights, migration and so forth. I also chaired the Committee on the Election of Judges to the European Court of Human Rights and, since 2019, I have led the Committee on Legal Affairs and Human Rights.

—How did you shift from one life to the other? How did a physicist wind up being a human rights politician?

—I'd say I'd always been interested in such matters, but it was impossible for me to get involved. During the perestroika and the transition to democracy in the 1980s I tried to get educated on human rights, learn languages, etc.

—What about during Latvia's independence process?

—I was an active member of Latvia's Popular Front. Not as a leader, but an activist. This was important because the movement's grassroots had always had a clearly nationalist streak. The Front's leadership felt it was important for it to be broadly inclusive and democratic and to include national minorities. Nearly half the population of Latvia spoke Russian. So we tried to make the Popular Front a democratic, non-nationalist movement. I can't say it was a complete success and full integration of minorities is still a problem in my country. Of course, I opposed the Soviet Union's

totalitarianism and supported independence for Latvia, but it was equally important for me that my country became a democracy.

—What did you know about the case of Catalonia and Spain when you were tasked with looking into the persecution of Catalan politicians?

—I can't say that I'm an expert on Spain. In my previous job in minority rights I studied several such cases in depth. Spain is an interesting one. Spain's laws and policies aren't quite consistent with the main instruments of the Council of Europe in the Framework Convention for the Protection of National Minorities. I knew that the various Spanish administrations, regardless of their political leaning—right or left—, had struggled to submit a report on the implementation of the Framework Convention. Spain didn't quite comply with the concepts and terminology used in the Convention following the end of the Franco regime and in the use of the word "nation". Spain defines itself as a nation of nations, but in other European countries this term carries a different meaning. On the whole, I was aware of the way Spain tried to resolve minority issues, both in the Basque Country and in Catalonia.

—In 2017 you witnessed the Spanish police violence against voters in the independence referendum in Catalonia. What did you think at the time?

—Whenever I see violence of any kind, I can only say I am very upset and concerned. I'd like to state—as I did in my report—that the referendum contravened the Spanish constitution. Responding to that disobedience was a great challenge for the Spanish authorities, especially when you consider Spain's tragic history and the aftermath of the Franco dictatorship. Of course there were incidents, but generally speaking I felt that both sides showed reasonable restraint. How could a democratic government react to a situation like that? Here lies a central element of my report: whether, in this case, it was acceptable to prosecute elected officials or not.

—Why do Spain and Turkey feature in the same report?

—Many of my Spanish colleagues and friends and members of the Parliamentary Assembly were very uncomfortable when Turkey and Spain were the only two countries mentioned in my report. Many of them told me that Spain is a different case from Turkey. I agree: the situations are completely different. Spain is a democracy, I will say it a thousand times, but there were only two countries in Europe where elected officials were sentenced to many years in prison during their term in office. Naturally the situations, assessments and recommendations are approached differently in the report.

—How did your mission turn out? Did everyone cooperate?

—Yes. I have publicly thanked the Spanish delegation. When Council of Europe rapporteurs visit member states, their schedule is normally agreed upon beforehand and when we request to have meetings not everyone is happy about it. That was not so during my visit. We were able to have all the meetings we had requested and everything was organised in an excellent manner from a technical standpoint. All discussions were frank and open, despite some disagreement. It was very important to be able to [visit the Lledoners prison facility](#), where the male Catalan prisoners were held, and meet the convicted officials. With the help of Catalonia's Ombudsman, we also had a videoconference with the women political prisoners. It was a very worthwhile trip.

—Did you meet any hurdles?

—Of course there was some disappointment. For instance, when we visited the Catalan parliament we asked to meet all the political groups at the same time. I would have liked to have separate meetings, but time constraints made it impossible. I am sorry that some of the groups turned down our invitation for a meeting. At the last minute some asked to have an individual meeting and later claimed on Twitter that I had refused to meet with them.

—Did that attitude surprise you?

—I'd rather use a different term: I was disappointed. I believe that all political leaders should be treated equally in a democracy and no exceptions should be made. I can imagine this is an emotionally loaded question for everyone involved. Still, most politicians and NGO activists were open, diligent and sincere and I feel it is a good sign: a solution is possible. If people are determined to not just talk but listen, you can always find mutually acceptable solutions, no matter how difficult the problem.

—Did you get the impression that the Spanish authorities felt you were taking sides?

—You should ask the people I interviewed with. Of course my interlocutors might have seen me as someone who argued on behalf of the other side, but I saw that in both camps. I am absolutely certain that I did everything within my ability to remain impartial and objective, without taking sides. Naturally my political experience means that I understand how the position of international organisations is always used as an argument in political disputes at home. But it's not for me to say whether Catalonia should be independent or not. The mandate that I received was crystal clear.

—In your report you wrote: “I found that those men and women, some of which I met at their place of detention, did not belong in prison”. Did your visit to the Lledoners facility have an impact on you?

—Those words are loaded with emotion, but my personal meetings with them led to some legal conclusions: indeed, those people shouldn't be in prison, even less for such long terms. They are not killers, rapists or terrorists. They didn't incite violence. In many similar cases, that is a red line as far as the European Court of Human Rights (ECHR) is concerned. Freedom of expression should be limited when it involves calls to violence, but that's not what happened in Catalonia. Whatever their goals, they aimed to achieve them basically by means of legitimate methods as political leaders. Clearly, they ignored the instructions they received from Spain's Constitutional Court and perhaps they deserved to be punished for that. But ten years or more in jail is obviously a disproportionate sentence that is at odds with the rule of law. My conclusions were fully corroborated during my prison meeting.

—Do you mean to say that the ECHR rules were disregarded in this case?

—Yes. My Spanish colleagues argued that the Catalan leaders had broken the law and, therefore, they had to be punished and that's what the rule of law was about. My reply to them was that there is more to it. The Catalan leaders deserved to be penalised, but in a proportionate manner. The punishment they received was clearly out of proportion, as several experts have stated. I had a couple of meetings with highly reputable experts, including former members of the ECHR, one of whom a Spaniard. Most of them concluded that the penalties imposed were disproportionate.

—Will the ECHR take your report into consideration when it rules on the appeals filed by the Catalan prisoners?

—The court is totally independent. This is a very sensitive matter. One of the criticisms made by my Spanish colleagues was that the report would put pressure on the ECHR. If you examine the section of my report on Turkey, you'll see that I echo many of the things which the Assembly had already said, including criticism levelled at the decisions taken by Turkey's courts of law. The ECHR had voiced the same views several times. It happens quite often: we give our opinion as politicians and we know that court proceedings are slow, unfortunately. It's often the case that some months or years later the court issues a ruling which fully confirms what we had stated as politicians. The ECHR will occasionally disagree with us, there are

exceptions. It takes into consideration legal arguments and if our report mentions some documents, the judges can read it and take them into account. If the judges deem some of the report's considerations worthwhile, then it's not unthinkable that they might use them.

—In your report you mention a potential violation of Article 7 (nobody may be convicted for something that's not a crime) and Article 11 (freedom of assembly) of the European Convention on Human Rights. However, you do not mention Article 18 (permitted restrictions to Convention rights shall not be applied for any purpose other than those for which they have been prescribed). Do you think it may have been breached, as well?

—That article is usually disregarded, as in a recent case involving Georgia and also Russia. But I'd rather not make a prediction because it is contingent on how the court wishes to invoke the article. It is a very complex, legalistic question and jurisprudence is very scarce. In our report we deliberately did not refer to that article. Instead, we brought up articles 7 and 11 because we have extensive jurisprudence on the matter.

—Do those two articles strike you as more pertinent?

—As the ECHR has issued rulings on those articles based on its interpretation of earlier cases, we see no reason why it should act differently in the case of the Catalan leaders. We'll see. We have good reasons to believe that the court will take a very thorough approach. That is not the case with Article 18, so it's not good to speculate about it and I won't.

—I was asking about Article 18 in case you felt that the Spanish authorities have abused their power against Catalonia's independence leaders.

—Abuse of power is not a legal term. Administrative authorities have some power, as do the judicial authorities. The point is whether that power is wielded in accordance with human rights and the rule of law. Therefore, I'd rather not use terminology that is not fully defined from a legal standpoint.

—Have you been pressurised by the Spanish authorities?

—It's not easy to put pressure on me. I'm an independent politician and my party —which entrusted me with the job in the Assembly— backs me up one hundred per cent. I've had many meetings and discussions. I've exchanged email messages with people from several institutions, ranging from the Spanish lower chamber to the Catalan

parliament, with various organisations, with MEPs ... I wouldn't use the word "pressure". It is part of my job: I need to listen to all the parties involved. I've had many debates.

—And by Spain's socialists?

—I happen to belong to the socialist group, as does the party currently in office in Spain. But this is not a political affair. If you look at the result of the vote, you will see that an outright majority of the socialist representatives endorsed my report. Therefore, this was not a political vote. This isn't a blow against solidarity within the socialists or our friendship. True friends will tell you the truth, even when you are mistaken. A true friend will not slap you on the back whatever you do. That is a false kind of friend. So I wouldn't speak of pressure but an exchange of views, sometimes rather emotional, which is understandable. But that is my job as rapporteur.

—Do you think that the Spanish socialists have understood the sort of friendship you have described?

—I hope so. I have the utmost respect for my Spanish colleagues and I understand the scope of the challenge very well. It's not an easy one. I've seen how nationalist feelings run very deep on both sides and I firmly believe that the premier minister of Spain is sincerely determined to find a solution. It was very encouraging to see that he pardoned the political prisoners following the release of the report and he travelled to Barcelona to talk to the Catalan authorities. Finding a solution is not easy. But I can see that the Spanish government is committed and the outlook is positive on both sides.

—Still, has he taken enough steps? Shouldn't they drop the European arrest warrants against the Catalan exiles, like you asked for?

—Yes. It would make little sense to pardon several leaders while, at the same time, you pursue the extradition of their colleagues whose actions were the exact same. The accusations they are facing are identical, they merely left Spain and when the charges were brought, they weren't there physically. It would make little sense to arrest and convict them. Furthermore, lower-ranking officials are still being prosecuted, even though it is encouraging to see that some have been acquitted in court. I'm also aware that there are discrepancies within Spain's constitutional court. The position of Spain's judiciary is not unanimous and that is very important.

—What do you think of Spain's judicial system?

—Independent courts are a cornerstone of the rule of law. Other countries, as well as Spain, are facing these same issues. Who should

appoint judges so that their independence is safeguarded? On the other hand, judges must also be accountable. How do you strike a balance between independence and accountability? Each country must find a way to meet both goals. For now I cannot draw any conclusions.

—Did your mission change your original perception of the conflict between Catalonia and Spain?

—I wouldn't call it a conflict... You see, in the early 1990s I was involved in conflict resolution and travelled to a number of places, including the Balkans, where there were many victims and a bloodbath. I am somewhat reluctant to call it a conflict. It is a political problem. I've certainly learnt a lot: now I have a better understanding of the arguments, the emotions and the considerations of both sides. All matters to do with sovereignty and the status of a territory are always extremely complex and international law does not provide a blueprint to accommodate a group's demand of independence. It is resolved in accordance with the principle of case by case in international law, the interpretation of the right to self-determination and what constitutes a nation. International law does not clarify the matter either, as the word "nation" is used as a synonym of "state". For instance, when we talk about the United Nations: in fact, they are states. International law is an ever-evolving instrument and every new precedent contributes something novel. It is complicated and I cannot see an easy solution rather than engaging in a comprehensive, sincere dialogue with full respect for human rights and the rule of law.