



**ENGLISH**

# **Boriss Cilevics: “It’s a pity that Spain hasn’t withdrawn the European Arrest Warrants against Catalan politicians”**

**An interview with the Council of Europe rapporteur who has documented Spain’s crackdown on Catalan independence leaders**



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He is one of the longest-serving and most respected politicians in the Parliamentary Assembly of the Council of Europe. For the last two years

Boriss Cilevics (Daugavpils, Latvia, 1956) has devoted much of his career to investigating and documenting the persecution of Catalan political leaders in Spain and the Kurds in Turkey. His report, published by the Assembly last year, caused a stir in Spain and was one of the reasons why Pedro Sánchez's government was forced to grant pardons to the Catalan jailed leaders. Many Spanish politicians and certain media outlets despise him, smearing his reputation, both online and in person, as was the case last week in Strasbourg when Cilevics released a new report outlining the Spanish state's failures. Nevertheless, Cilevics remains unruffled. He is calm and collected when discussing the attacks and one senses a hint of irony in his replies.

**—You aren't satisfied with Spain's compliance with your recommendations.**

—From a political standpoint, I must state that no politicians are currently in jail in Spain for their activities. This is a fact. Nonetheless, I feel that there is still the possibility of more convictions and more people being sent to prison. The legislation [in Spain] hasn't changed, and some criminal cases are still ongoing, they haven't been dropped. I must also say that there have been some acquittals, which is positive and shows that there is still some degree of independence within the Spanish judicial system, although serious concerns remain with regard to this matter.

**—The crimes of rebellion and sedition still feature in the Spanish criminal code.**

—If we draw a parallel with the executive rulings of the European Court of Human Rights, there are always special and general measures for states which violate certain rights, especially the rights of a particular individual. If someone has been illegally imprisoned, they must be released, compensated and so on. But, in the meantime, states must also take some general steps, such as making the necessary changes in legislation or administrative practices so that no similar violations may occur in the future. Well, making this parallel, I would say that I still see that some general problems continue to exist in Spain.

**—But there are also some specific problems, which you pointed out a year ago, such as the refusal to drop the European Arrest Warrants.**

—Yes, but we've seen that the reaction of European countries has been virtually unanimous on this issue. In other words, every country that has considered these extradition requests has rejected them. It means that there is clearly a problem with the charges. It's obviously a pity that Spain is pressing on with the charges and that it hasn't withdrawn the European Arrest Warrants (EAWs) against these politicians, as their situation is identical to that of those who were convicted and then released. It's inconsistent, because the only difference is that the individuals who were jailed were in Spain at the time, within reach of the Spanish justice system. The others were abroad. But the facts remain the same. Those who were imprisoned were released and I don't see that it makes any sense to keep the charges against the others. It's a concern, but I'm optimistic. I hope it will be resolved, even more so when the attitude of other EU member states on this issue is very clear.

**—Are you optimistic?**

—Yes, I've said on more than one occasion that I believe that Spain is a democracy that can effectively address very complicated and sensitive issues such as this.

**—But it seems as if the way in which the issue of the exiles is to be resolved depends more on European justice than Spanish politics.**

—I don't think so, as there's a mechanism for verifying EAWs and extradition requests. The Council of Europe addressed this issue in a report on the UN blacklists. Until recently, every state could submit a request to the UN's Security Council whereby anyone under the jurisdiction of the state concerned could be blacklisted without the need for further justification. Luckily, this measure has been reconsidered. The same happened with Interpol, which has created a special committee to study the requests made by states as part of its system of red flags (validity indicators), which can lead to a request for an arrest to be turned down.

**—We saw that in action with the Catalans in exile.**

—All these decisions are in the hands of the states, they're the states' responsibility. Only states can decide whether to request an extradition or not, and it's up to the other countries and international

organizations to decide whether to accept them or not. It's up to the Spanish government, therefore, to pursue their requests and the EAWs. And I believe that the unanimous attitude of the other EU states to reject them ought to send a clear signal to the Spanish authorities that something is wrong. It's solely down to the Spanish government whether to drop them or not.

**—Or down to the Spanish justice system, rather, which does its own thing.**

—I'd like to mention the ECHR once again. All European human rights standards are binding on all branches of power, including the judiciary. We often find ourselves in a situation in which we criticize the government for a poor decision, and we're told, "We agree with you, but it's not our responsibility", but rather, for example, a matter for regional or local governments, which are independent and can't be influenced by the central government. However, the obligation to abide by human rights standards exists for all powers and for everyone equally. Formally, it's the central government which adheres to the European Convention on Human Rights and which is held accountable for any violations. Countries ought to have internal mechanisms to ensure that the Convention is equally binding for all. It's not possible for a part of the state's powers to operate on the sidelines. Democracies need to establish the mechanisms to resolve such contradictions.

**—Are you surprised that a year after being granted, the pardons are under review and might be overturned?**

—It's sad. I mention it in my report. From what I understand, the pardons were appealed in court by some political parties which oppose independence. It's clear that any decision by a government which abides by the rule of law must be open to question, and that it's down to the justice system. We've been told by the Spanish government that they don't support the appeals and that they will try to prove to the court that the decisions were properly justified and argued. We take note of these appeals and continue to maintain that the courts are independent and all we can do is express the hope that Spain's Supreme Court will rule in line with Spain's obligations and in accordance with international law.

**—Were you pressured by Spain last week not to make your report public?**

—I wouldn't say pressured. There's a normal working dialogue in which everyone is free to express their point of view. There were arguments against my report, there was a vote and a large majority of the committee decided to declassify it. Every member of the Assembly has the right to object.

**—But what do you think of the attitude of wanting to silence a report which analyses how the rule of law operates? Doesn't it go against the principle of transparency?**

—Yes, of course no one likes to be criticised. It's a typical situation in which MPs in a coalition government tend to oppose criticism of their states. In this case I was sympathetic to certain points, since the additional criticism is seen by some members of Spain's governing coalition as a pretext to undermine the dialogue process. It's not possible to ensure all representatives of the media are as diligent as you are in terms of checking all the details. We live in an age of propaganda and fake news, and I appreciate this concern as to how this report might be presented, or that it may be portrayed in a biased light by certain political activists or less diligent media. These are legitimate concerns.

**—Immediately after the meeting, a Spanish representative posted on social media that they'd won because you had to withdraw a statement about your report. What happened exactly?**

—In this instance I didn't have enough support to make a public statement about the report. So one wasn't released. It's standard practice. The committee decided that declassifying and publishing the report was enough, and that a statement would be redundant. I think it was a kind of admission of the difficulties that our Spanish colleagues experience when trying to strike a reasonable compromise, knowing that certain political parties in Spain staunchly oppose the Catalans who want independence. This is why they thought that releasing the statement would complicate matters for the [Spanish] government when it comes to getting more commitments.

**—But that wasn't your position.**

—This line of argument ultimately convinced some of my colleagues on the committee who, therefore, voted in favour of releasing the report while opposing the publication of an additional statement. I understand this argument, even though I voted to publish the statement. In a democracy, the majority decides, and I fully accept that perhaps my colleagues are smarter than I am and that they understand the unique Spanish situation better than I do. I believe that, as a rapporteur, I've done as well as I could to remain neutral and that I've been truly fair and solely guided by the principles and values of the Council of Europe in my work. And I hope that my Spanish colleagues will be successful in finding a reasonable compromise based on human rights and democracy.

**—Have you heard that your work and your impartiality as a speaker have been questioned by the Spanish?**

— Obviously no one is perfect and there are things I could've done better, but I have a good relationship with my Spanish and Catalan colleagues. We've had heated, highly emotional debates. Now, from a personal point of view, I'm nothing if not satisfied. The debate took place in a professional atmosphere. It's been tough, but mutual respect prevailed. If anyone has questioned my professional reputation and independence, I'm not aware of it. If someone makes serious accusations against the rapporteur, they need to back them up with evidence, and it seems to me that no one can find any. I know that I've been accused of something or other in the Spanish media a few times, but that's political life for you. I'm used to it. It's been hard, emotional, sometimes disappointing.

**—You refer to CatalanGate in the report, the recent phone-hacking scandal by Spain's intelligence services, mainly against leaders of the Catalan independence movement. Do you think that this shows that even with the Socialists in government, Spain continues to approach the Catalan issue as though it were an existential emergency?**

—This report is meant as a follow-up, so I haven't had the opportunity to learn more about the matter in order to draw any conclusions. Spain

isn't a unique case, and the Council of Europe has commissioned a special report on the Pegasus case and its implications in a number of countries. The volume of information on this topic is huge and it involves a lot of work, so I haven't added anything else on this issue.

**—Let me put it another way. Did you think that a year ago the pardons were the beginning of a new path and that now it looks like this isn't the case?**

—I'd say that's an overly-simplistic conclusion. The situation is more complex. Reaching a reasonable compromise is a complex process that has many components, and I don't think it can be described in terms of black or white. When the report was published a year ago, the most important thing was that there were people who had been deprived of their liberty and now they are no longer in prison. One person unjustifiably deprived of their liberty is one too many. And that's no longer the case, which means significant progress has been made. And while in some respects we can see that progress has been made, in others, unfortunately, it's not the case. But it's a process. Democracy is a process. The main thing is to ensure that the most basic human rights aren't violated. Everything can be debated, but I see that this dialogue is ongoing, even in the face of serious difficulties, which is understandable. I can only hope that this dialogue will bear fruit sooner or later. Because, ultimately, all decisions will be in the hands of the people, in Madrid and in Barcelona. We can only provide advice as to general European values, but the whole idea of democracy is that people have to decide for themselves. And I think that Spanish democracy is sufficiently mature to tackle a thorny issue such as this one.