

**Mr Didier Reynders**  
Commissioner for Justice  
European Commission  
Rue de la Loi 200  
1049 Brussels

**Ms Michelle Bachelet**  
Office of the United Nations High Commissioner for Human Rights (OHCHR)  
Palais des Nations  
CH-1211 Geneva 10, Switzerland

Brussels, 1st April 2020

Dear Commissioner Reynders,  
Dear High Commissioner Bachelet,

Today, the Spanish Supreme Court issued a brief statement to the media<sup>1</sup> warning that if Catalan Prison Boards -on the execution of their legal mandate- allow jailed Catalan leaders to go home during the COVID-19 confinement period, they could be liable for the crime of “breach of official duty”. The Spanish Supreme Court statement preventatively notifies that, if permission is granted, they would urge the prison management and Prison Boards for explanations so that "they explain the legal basis behind this decision at the earliest opportunity."

As you are aware, the health and well-being of people held in detention in the European Union is extremely worrisome in the context of the COVID-19 pandemic. Following the call made by the United Nations High Commissioner for Human Rights, Michelle Bachelet, all Governments should work to release vulnerable people, low-risk offenders, people with permission to work or volunteer outside prisons and people without sufficient legal basis including political prisoners.

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<sup>1</sup> “En el caso de que la Junta de Tratamiento de las cárceles donde se encuentran los presos de la causa del procés acuerde su excarcelación para cumplir el confinamiento en sus respectivos domicilios, el Tribunal Supremo se dirigirá a cada de esas juntas de régimen general y al director/directora de los centros respectivos para que a la mayor brevedad expliquen el fundamento jurídico que justifica esa decisión e identifiquen de forma nominal a los funcionarios que han apoyado ese acuerdo. Ello se enmarcaría en la exigencia de responsabilidades penales por la posible comisión de un delito de prevaricación”.

Currently, nine Catalan political prisoners are entitled to regular temporary leave for work or voluntary activity under article 100.2 of Spain's law governing prison regulations. So, as they fulfil the conditions mentioned above, it is impossible to understand the Supreme Court's threats to the civil service.

The statement of the Spanish Supreme Court represents a breach of the separation of powers; a threat to Prison Board public servants; and a recurrent discriminatory treatment to Catalan prisoners as this instruction as provided only applies to nine people out of one hundred and two. Therefore, we urge you to investigate the case and act appropriately.

Yours sincerely,

Diana Riba i Giner

Member of the European Parliament (Greens/EFA)