

**The Catalan Ombudsman has addressed this letter to the European Commissioner for Human Rights, the Director of the European Union's Fundamental Rights Agency, the European Ombudsman, all his European counterparts, the Ombudsman of Spain and all Spanish regional ombudsmen.**

As Catalan Ombudsman, and within the framework of the competence to defend fundamental rights granted by the Statute, the Constitution and international treaties, I am writing to you to make some considerations regarding the lack of institutional dialogue among the Spanish and Catalan political authorities, and how this is degrading the exercise of rights and freedoms and the conditions of democracy in Spain.

Since the ruling of the Spanish Constitutional Court of 2010 on the Statute of Autonomy of Catalonia, we have witnessed seven years of closure of the Government of the State against democratic demands in Catalonia, which has resulted in a political process that has taken successively to: the recent approval of several laws in the Parliament of Catalonia, in particular the Law of the referendum on self-determination in Catalonia, with possible disregard of the Regulation of the Parliament, and the subsequent call for referendum on 1<sup>st</sup> October; the suspension of these laws by the Constitutional Court at the request of the Government of the State for considering that they exceed the constitutional and statutory framework, and several judicial initiatives and measures ordered by the Spanish Executive without judicial authorization.

In April 2017 the Catalan Ombudsman submitted in the Parliament of Catalonia a report titled *Human Rights regression in Spain: elected officials' freedom of expression and the separation of powers*. The report, among other issues, alerted about the partisan use of justice, which involves a growing judicialization of the political debate with regards to Catalonia, the erosion of the separation of powers and the limitations on the freedom of expression of elected officials.

A recent report by the Committee on Legal Affairs and Human Rights of the Parliamentary Assembly of the Council of Europe has stated that in our societies it should be possible to address these issues related to self-determination or secession "by means of a peaceful and democratic dialogue that respects the rule of law and human rights (including the rights of national minorities) between the region concerned and the government of the state to which it belongs" (report of September 4<sup>th</sup>, 2017 , Doc. 14390).

Some recent decisions in the executive and jurisdictional fields could go in the opposite direction and appear to be manifestly contrary to fundamental rights recognized constitutionally and statutory, as well as in the international treaties ratified by Spain, in particular the European Convention on Human Rights. We are referring to the precautionary prohibition of an act in Madrid to support the right to decide issued by the Contentious-Administrative Court 3 (ruling of September 12, 2017); the apparent prohibition for the media of the Catalan Broadcasting Corporation (TV3 and Catalunya Ràdio) "to inform about any agreement or action that allows the preparation and/or holding of the referendum of self-determination in Catalonia (notification of September 12 of the TSJC of the providence of the Constitutional Court of September 7 of this year); the Order of the Attorney General of the State to initiate investigative proceedings –invading other proceedings in process– in relation to more than 700 elected municipal officials and to summon the mayors as investigated persons, with the explicit warning that, in the event of a non-appearance, they will be arrested; and the search of the printing press or the order of intercepting communications without judicial authorization.

With regard to these measures, it must be remembered that the ideological freedoms of expression, assembly and information are pillars of democracy and that judicial action and prosecution of alleged criminal acts must be inspired by the principle of proportionality (Article 5 of the Organic Statute of the Fiscal Ministry).

The Catalan Ombudsman warns about these facts and addresses all European counterparts in defence of rights, and makes a solemn call so that all the institutions involved engage in the necessary political dialogue to address such transcendental issue.

In this regard, the Catalan Ombudsman is addressing the European Commissioner for Human Rights, the Director of the European Union's Fundamental Rights Agency, the European Ombudsman, all his European counterparts, the Ombudsman of Spain and all Spanish regional ombudsmen.

Likewise, the Catalan Ombudsman commits to continue analysing the actions of the public authorities that have an impact on Catalonia with regards to the safeguard of human rights, and to deal with the queries and complaints received related to this matter to European domains, if applicable.