



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIFTH SECTION

CASE OF MOLINA MARÍN AND OTHERS v. SPAIN

(Application no. 61435/21)

JUDGMENT

STRASBOURG

3 September 2026

This judgment is final but it may be subject to editorial revision.

In the case of Molina Marín and Others v. Spain,

The European Court of Human Rights (Fifth Section), sitting as a Committee composed of:

Andreas Zünd, President,

María Elósegui,

Mykola Gnatovskyy, judges,

and Martina Keller, *Deputy Section Registrar*,

Having regard to:

the application (no. 61435/21) against the Kingdom of Spain lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) on 17 December 2021 by four Spanish nationals, relevant details listed in the appended table, (“the applicants”) who were represented by Mr E. Cáliz Robles, a lawyer practising in Barcelona;

the decision to give notice of the application to the Spanish Government (“the Government”), represented by their Agent, A. Brezmes Martínez de Villareal;

the parties’ observations;

Having deliberated in private on 9 July 2026,

Delivers the following judgment, which was adopted on that date:

SUBJECT MATTER OF THE CASE

1. The application concerns the applicants’ conviction for an offence against State institutions following their participation in a demonstration around the Parliament of Catalonia. They were sentenced to three years’ imprisonment. They alleged a violation of their rights under Articles 7, 10 and 11 of the Convention.

I. THE DEMONSTRATION OF 14 AND 15 JUNE 2011

2. The details of the demonstration of 14 and 15 June 2011 were summarised in *Alvarez Juan v. Spain* ((dec.), no. 33799/16, 29 September 2020, original in French):

“4. In the wake of the social movement that emerged in the spring of 2011 and became known as ‘15M’ (15 May), demonstrations were held outside the Parliament of Catalonia on 14 and 15 June 2011 in protest against the cuts to social spending provided for in the autonomous region’s budget, which was due to be approved during the sessions scheduled for those dates. In accordance with domestic law, the authorities had been notified in advance of the public gathering.

5. On the evening of 14 June 2011 around 1,000 people camped out on a square near *Parc de la Ciutadella*. They were forcibly removed by the police the following morning to allow entrance no. 7 of the Parliament of Catalonia to be opened and to allow members of parliament to gain access to it. Despite this, some MPs who were due to arrive by car were forced to change their route, others had liquid thrown on their clothes,

while others could only reach Parliament by helicopter. The MPs gradually managed to enter Parliament from 8 a.m. onwards, though not without difficulty on account of the number of people gathered around the building. At 9 a.m. a police cordon was set up to allow MPs to enter Parliament safely. Fifteen MPs were transferred from the local police headquarters to the Parliament building; 30 others – including the President of the Government of the Autonomous Community of Catalonia (*Generalitat*) and the President of the Parliament – were flown there by helicopter; and 25 were driven there in a convoy of 18 police vehicles. The President of the *Generalitat* had previously attempted to enter Parliament in his official car via entrance no. 7, but had been forced to turn back on account of the behaviour of numerous demonstrators who were blocking his path by standing in front of the car and shaking it. Other MPs also encountered difficulties in gaining access to Parliament: they were chased, pushed, shoved, and prevented from entering the building at the scheduled time. Some MPs were spat at and insulted, had liquid and food thrown at them, and were kicked, tripped and struck. Whilst attempting to enter Parliament, a blind MP accompanied by his guide dog, another MP from his parliamentary group who was helping him find his way, and an assistant found themselves caught up in a crowd of around 500 people who insulted them, blaming them for cuts to social spending. They decided to leave the area. The blind MP finally reached Parliament in the vehicle of the President of the *Generalitat* at around 10.20 a.m. The MP who had been caught up with him in the crowd initially attempted to reach the building in the car of the President of the Parliament, but only managed to do so by helicopter. Whilst walking to Parliament, another MP was grabbed by the arm and had liquid thrown at her ... Suffering from an anxiety attack, she was unable to attend the parliamentary session. V., the mayor of Figueres and an MP, also walked to Parliament. He was not threatened or physically assaulted, but he was insulted and had to stop several times to talk to the demonstrators and listen to their criticism before he could continue his way. Five police officers helped him enter Parliament ... Speaking later about these events, some MPs said they had been frightened and had felt intimidated, whilst others felt that the police operation had been mishandled and criticised the closure of the other entrances to Parliament. One MP stated that he had been surrounded by demonstrators who had raised their hands to prevent him from entering Parliament so that he could not take part in the budget vote, but that he had not been assaulted. He added that the demonstrators had not overstepped the mark and that, although he had been subjected to pressure, he considered it legitimate. Another MP stated that he had been stopped by the demonstrators without the use of violence whilst walking to Parliament, and that he had explained to them that he was going to vote against the draft budget and was therefore in favour of their demands.

6. The parliamentary session was due to begin at 10 a.m. It began at 10.11 a.m. with 70 MPs (out of 135) present, which led to a change in the agenda.

7. The slogan of the demonstration was ‘Let’s stop Parliament, we won’t let them approve [budget] cuts’ [in Catalan: *Aturem el Parlament, no deixarem que aprovin retallades*].”

3. With regard to the specific actions of the applicants, the *Audiencia Nacional* established the following.

(a) In respect of the first and fourth applicants: “[V.], an MP, encountered a group of protestors on his way to Parliament; they reproached him for the public spending cuts and told him that he did not represent them. Among those protesting were [the first and fourth applicants]. Police officers escorted the MP so that he could get past the protestors. There is no record of him being assaulted or pushed”.

(b) Concerning the second applicant, “at a certain point she followed [L., an MP,] with her arms raised, waving her hands and chanting protest slogans. There is no evidence that she pushed him”.

(c) The third applicant, for his part, “at a certain point ... stood in front of the MPs with his arms outstretched. There is no record of him spitting at them. He followed a regional MP, [L.], with his hands raised, shouting protest slogans”.

II. CRIMINAL PROCEEDINGS AGAINST THE APPLICANTS

4. Following the demonstration, the applicants, together with other participants, were accused of an offence against State institutions.

5. The first, second and third applicants were detained and released on 3 October 2011, while the fourth applicant was detained and released on 5 October 2011.

6. On 7 July 2014 the *Audiencia Nacional*, by two votes to one, acquitted the applicants, holding the following:

“Most of the proven acts ... consisted of taking part in the demonstration whilst remaining in the area – which had been delimited by the government authorities ... and specifically demarcated by the actions of the officers who intervened ... – and encountering some of the parliamentarians. That was the case with regard to [the first and fourth applicants and other participants]. As regards all of them, we can only affirm their presence at the location through which the MPs were forced to pass in order to gain access to Parliament, and in some cases, the confrontation with them. All of them exercised their fundamental right to assembly, and no act on their part can be deemed excessive or abusive.

Other actions may have additional significance. [Such is the case with regard to the second and third applicants]. Those actions must be understood within the context of the demonstration itself. They are intrinsically linked to the exercise of the right to demonstrate in accordance with the terms under which the protest had been organised: the actions were taken during the protest and within the area designated for it; they were intended to defend social rights and public services in the face of budget cuts, and to highlight the disconnect between elected representatives and the people they represented; and they were acts of confrontation with parliamentarians, which were inevitable given the way in which the government authorities had framed the exercise of that right. Among the acts in question, those of [the fourth applicant] are particularly noteworthy, because even without the use of violence or intimidation, they could be understood as acts of coercion against the will of the MPs and as a form of compulsion. We shall return to this later ...

...

The actions ... constituting an excessive or abusive exercise of the freedom of assembly consisted, as we have said, of standing in front of the MPs with arms outstretched or walking behind them with arms raised, whilst chanting slogans about budget cuts or the lack of legitimacy of their representation. Of course, that behaviour is intimately and unequivocally connected with the right to protest that was being exercised. We understand that, on the surface, the behaviour in question might have appeared coercive; but in substance, it lacked the necessary capacity (*idoneidad necesaria*) [to prevent Parliament from functioning] and sufficient gravity to be considered [criminal]. We reach this conclusion by taking into account: (i) the context of the event – a demonstration that had been organised and publicised in advance under

a slogan such as the one mentioned ('Let's stop Parliament'); (ii) the conditions set by the government authorities for the protest ...; and, above all, (iii) the presumed capacity of the victim (*sujeto pasivo*) to come to his or her own decisions – MPs attending an important plenary session, who were convinced of their position, on which they had previously reflected individually and deliberated collectively, and who are subject to the discipline of the [parliamentary] group to which they belong, which forms part of their profession.

It is here that the doctrine of the chilling effect ... comes into play. A criminal sanction that failed to take into account the fact that the defendants ... were exercising a fundamental right would send a message discouraging citizens' direct democratic participation in public affairs and the exercise of political criticism. The actions which the prosecution seeks to criminalise consisted of the public expression of criticism directed at those who, at that time, held public office, by a group of people who confronted their MPs – under the conditions deemed appropriate by the government authorities – in order to deliver a statement condemning the decisions they were about to adopt in the plenary session – something which lies at the very heart of democracy, at the heart of the system, in so far as it embodies direct citizen participation, freedom of expression, political pluralism and access to the public sphere for the voices of dissent from those affected by public austerity policies ... [A] strict interpretation of the criminal offence [is required] in the face of an act that is closely linked, by its content and aims, to the constitutionally protected sphere of fundamental rights, excluding from the prohibition conduct of limited harm, which lacks the sufficient capacity to compromise the relevant legal interest, [such as that of the applicants] since it was not capable of preventing MPs from attending the parliamentary session or of restricting, or even influencing, their freedom of opinion or of vote.

In sum, the actions attributed to [the fourth applicant] must be considered irrelevant from the perspective of the criminal offence and, in any event, justified by the exercise of the freedom of assembly (Article 20 § 7 of the Criminal Code)."

7. On 17 March 2015 the Supreme Court, by four votes to one, overturned the *Audiencia Nacional* judgment, upholding an appeal lodged by the prosecutors. It considered that the *Audiencia Nacional*, in performing the required balancing exercise, had failed to give sufficient weight to the right of political participation through elected representatives and the right of the MPs to exercise their functions – which, furthermore, were connected with the constitutional values of liberty and political pluralism established in Article 1 of the Constitution. It thus concluded that the conduct established in the facts, as declared proven by the *Audiencia Nacional*, could not be protected by Article 20 § 7 of the Criminal Code (which provides that the legitimate exercise of a right exempted an individual from criminal liability).

8. The Supreme Court thus declared the applicants guilty of an offence against State institutions and sentenced them to three years' imprisonment and disqualification from standing for election during the same period.

9. The relevant provision of the Criminal Code reads:

Article 498

"Whoever uses force, violence, intimidation or serious threats to prevent a member of the Congress of Deputies, the Senate or a regional parliament of an Autonomous Community from attending its meetings, or, by the same means, restricts the free

expression of his or her opinions or the casting of his or her vote, shall be punished by imprisonment for a term of three to five years.”

10. With regard to the elements of the offence, the Supreme Court held:

“This is a crime of intent, as is clear from the use of the phrase ‘to prevent’ ... [T]he most widespread understanding is that [the provision] does not require, for the offence to be committed, that, as a result of the means employed, the MP was unable to attend meetings, did not actually vote, or experienced an actual restriction of his or her freedom of expression. It is sufficient to make the MP the target of the violent or intimidating act, or to use force or make serious threats against them, for the offence to be committed – provided, of course, that the intended purpose is to prevent the member of parliament from attending sessions or, during those sessions, to restrict their freedom of expression or of voting. [The offence] is aimed at disrupting the normal functioning of the parliamentary body, with the consequent impairment of the right to participation recognised in Article 23 of the Spanish Constitution. It infringes not only the right of the elected MP to exercise the public office for which he or she was appointed, but also indirectly affects the right of all citizens to participate in public affairs through their representatives.”

11. Referring to a previous decision of 8 November 2012, it continued:

“Article 498 safeguards and protects the proper functioning of the legislative chambers, whether at national or regional level, as bodies representing and expressing the sovereignty of the people and as holders of legislative power. [This] is because that normal functioning is based on the fundamental premise that parliamentarians must be able to access parliamentary premises normally and freely, and thus perform their duties by expressing opinions, participating in debates or casting their votes. Although conduct involving force, violence, intimidation or serious threats may be directed specifically against the parliamentarian as a person, the aim is to disrupt the functioning of the institution itself ... In sum, this is a criminal offence of a multi-faceted nature in which the freedom and security of the MP are affected, but also, and fundamentally, in which the functioning of the parliamentary institution itself is attacked and called into question.”

12. Regarding the context, the Supreme Court observed:

“The demonstration had a clear objective, as declared by its slogan ‘Let’s stop Parliament’ ... ‘To stop’ (*parar*) is ‘to halt’ (*detener*), ‘to prevent’ the normal functioning of Parliament ... Its sole purpose ... was to render the body representing the Catalan people incapable of debate and political action ... [The protestors were seeking] to attack the very roots of the democratic system [and to] deprive the body that expresses the will of the people of any possibility of law-making.

...

As regards the defendants’ intended purpose, the account of the established facts is also clear ... It was necessary for the officers to use physical force to disperse the demonstrators and clear a passageway that would allow the parliamentarians access to the building ...

The attack on the protected legal interest ... cannot be minimised by the understanding for the defendants’ actions that some of the MPs came to show during their testimony as witnesses. We are dealing with a legal interest which, at least in its dimension as the right of citizens to political participation, is, as such, non-transferable to anyone who does not hold that right. Neither the fact that virtually no MPs suffered physical harm nor the fact that the damage caused to property was of little significance [changes the

criminal nature of the facts]. And, of course, the assessment of criminal liability is not altered by how accurately the law-enforcement officers established the security perimeters that might have been advisable given the gathering of citizens in the vicinity of Parliament.

Particularly revealing is the passage describing the failed attempt by the President of the *Generalitat* and other MPs to enter through the door that had been opened by the police. In this case, despite the stated lack of evidence regarding who the perpetrators of the violence were, the episode described is a good illustration of the coercive atmosphere created to bring to fruition the slogan of the demonstration – which, as we have been insisting, included a call to stop Parliament and prevent the restrictive budgetary measures from being approved.

...

It is therefore within this coercive climate, within this intimidating atmosphere described in the established facts, that several unsuccessful attempts were made to gain access to the parliamentary building under normal conditions, including by the President of the Catalanian government and several MPs. And it is within this context that the actions carried out by some of the defendants take on criminal significance.”

13. As concerns the specific conduct of the first and fourth applicants, the Supreme Court stated the following:

“We conclude that [the first and fourth applicants] – protestors acting in concert under a slogan that underpinned all their actions and called for the paralysis of parliamentary proceedings aimed at approving certain budgetary measures – forcibly prevented [V.] from freely accessing the body entrusted with representing the Catalan people. And it was only the intervention of a group of police officers, who accompanied the MP, that enabled him to get past the demonstrators. The fact that he was neither assaulted nor pushed ... does not diminish the criminal significance of the defendants’ conduct. The offence for which the charge was brought does not protect the physical integrity of MPs, but rather the normal functioning [of Parliament], as an expression of the principles upon which the functioning of the democratic system is based.”

14. In respect of the second and third applicants, it affirmed:

“To stand in the way of two MPs who were merely seeking to enter the chamber where they were to carry out their representative duties – and to do so with arms outstretched – amounted to an act of intimidation, which was nothing other than the materialisation of the slogans put forward by the organisers of the demonstration. [The third applicant] was carrying out his objective of paralysing Parliament and preventing the austerity measures from being approved. And he was doing so by any means necessary, taking advantage of the situation created by the concerted action of a hundred people who had set out to obstruct legislative proceedings.

... In the situation in which the two MPs found themselves – cornered whilst being harassed by around a hundred people, some of whom, though unidentified, were spitting at them, scolding them and pouring liquid over their clothes – the [second applicant] pursued an MP with her arms raised, waving her hands and chanting the demonstration’s slogans.

Given this description of her actions, [they cannot be considered] mere gestures on [her] part. The [second applicant] knew – because she was part of the group of one hundred demonstrators referred to in the proven facts – that she was harassing a democratically elected representative of the people who was carrying out his duties in the legislative body. She was aware that whilst the MP was attempting to gain access

[to Parliament] via the only route that had been made available, she was following him and chanting the slogan that gave meaning to the actions being carried out ... In short, she was making her own contribution to the collective act of obstructing parliamentary activities.

In sum, [the second and third applicants] contributed, by their actions, to reinforcing the violence and intimidation suffered by [two] MPs, preventing them from performing their representative functions normally.”

15. On 19 May 2015 the Supreme Court dismissed an action for the annulment of the proceedings lodged by the applicants.

16. The applicants lodged an *amparo* appeal with the Constitutional Court, arguing that there had been a violation of their freedoms of expression and assembly, their right to a fair trial, and the principles of legality and proportionality of criminal sanctions.

17. On 24 June 2021 the Constitutional Court dismissed the *amparo* appeal.

18. Concerning the applicants’ freedom of expression and assembly, the Constitutional Court held:

“Our balancing exercise between [the freedom of expression and assembly] and the right to political participation under Article 23 of the Constitution must start from the recognition of a double dimension of the latter: (i) an individual [dimension] in the sense that each and every member of the Parliament of Catalonia had the right to freely exercise his or her public office and, consequently, to be able to enter Parliament that day to freely perform his or her duties as a parliamentarian; and (ii) a collective dimension, in that the actions aimed at obstructing or preventing entry to the parliamentary building constituted an impediment to the exercise of the citizens’ own right to participate in public affairs through their legitimate representatives, since the intention was to prevent Parliament from freely performing its parliamentary function.

...

In the case under consideration, we must assess – as a preliminary matter ... – whether the conduct in question constituted the lawful exercise of the freedoms of assembly and demonstration, which are closely linked to the freedom of expression, and, consequently, whether it was justified by the overriding value of [the freedom of expression]. In this examination, we have reached a negative conclusion, as such conduct was not protected by the exercise of those rights, given that the [applicants’] actions, under the pretext of being an exercise of their rights, affected the rights of third parties (MPs) which, in that situation, should have taken precedence, having regard to the manner, time and place in which the protest took place.

...

Certainly, the criminal conviction ... objectively constituted a restriction on [the applicants’] rights of assembly and demonstration, interpreted in the light of freedom of expression, in so far as such interference occurs not only when assemblies are prohibited or, once authorised, are forcibly dispersed, but also when, once they have ended, their organisers or participants are penalised for conduct during the event ...

In the Supreme Court’s view, the [applicants’] conduct, as detailed in the statement of proven facts, was ... of criminal significance precisely because it took place ‘in a coercive setting and climate, in an intimidating atmosphere’, in which hundreds of people were advocating for the same common goal: to challenge the budget proposal

by hindering and obstructing MPs' access to the park within which the Parliament of Catalonia is located.

We agree with the assessment set out by ... the Supreme Court that the evaluation of the coercive or intimidating nature of the alleged conduct cannot be viewed in isolation from the context in which it took place. Prior to or at the same time as the actions [under consideration], other demonstrators engaged in specifically intimidating behaviour (throwing objects and liquid at MPs, spraying paint on an MP's coat, and even stealing personal belongings from another MP). Such incidents reflect a climate of physical tension that could not have gone unnoticed by the MPs – a climate in which the [applicants'] intervention, their personal confrontation with the MPs, their gestures and hand-waving, their shouting at other demonstrators to block [the MPs'] path, and the personal rebukes directed at [MPs, by which they] questioned the budget proposal [to be] put to a vote, constituted conduct objectively capable of influencing those attempting to gain access to the partially blocked premises to exercise their representative parliamentary function.

It should not be forgotten that, given both the advance [call for there to be a demonstration] and the duration for which it was called – starting the afternoon before the vote – as well as the hyperbolic nature of its slogan ... and the number of people who turned up – between 600 and 1,000 – the police security team protecting the parliamentary building ordered the closure of all access gates to *Parc de la Ciutadella* except for one, through which parliamentarians, whether by vehicle or on foot, necessarily had to pass, thus being ... exposed to direct and personal confrontation with the demonstrators who had gathered in the vicinity of that gate.

...

Messages which, by virtue of their content or the manner in which they are expressed, contain threats or intimidation towards others – that is to say, those cases in which rights are exercised in an excessive and exorbitant manner in relation to the purpose for which the Constitution grants them preferential protection – cannot be regarded as a legitimate exercise of the freedom of expression, assembly or demonstration.

In the present case ... the criminal sanction imposed is not intended to restrict the content of the message of the protest – namely, disagreement with the spending policy pending parliamentary approval – but rather the excessive and intimidating manner in which that disagreement was expressed, that is to say, by [the applicants'] conduct hindering MPs from accessing the Parliament building so that the plenary session which had been convened could not proceed normally and address the scheduled agenda, which included the debate on the autonomous community's general budget and, consequently, the annual public spending decisions, [including] the potential cuts against which the rally had been organised.

In the conduct exhibited by the applicants, it is easy to separate the message of protest from the obstructive acts that are punishable under criminal law. [Such] acts, in so far as they are objectively intimidating, may be subject to restrictions, including criminal sanctions, provided that they fulfil the elements constituting the offence defined by law and provided, furthermore, that the application of such sanctions does not, by virtue of their severity, cause an unnecessary or disproportionate sacrifice of the freedom concerned or ... a chilling effect ...

In the present case, having carried out the necessary balancing of the fundamental rights invoked by the [applicants] against those set out in Article 23 of the Spanish Constitution, in order to determine whether the conduct under scrutiny constituted a lawful exercise of the freedoms of assembly, demonstration and expression, as set against the right to political participation of MPs, we have concluded that it is not

possible to recognise that those rights were exercised legitimately by the [applicants], in view of the various circumstances of the case, the individual acts of each of them, and the context in which they were carried out. [Consequently], such conduct did not fall within the objective scope of protection of the freedoms they claimed to be exercising.”

19. In connection with the principle of legality, the Constitutional Court stated:

“In the present case, the criminal offence is worded in clear and precise terms, in that it criminalises the use of a range of coercive means, both physical and psychological ... as instruments intended to achieve a series of specific objectives set out in the provision. [The] factual account reveals that the actions of the individuals gathered in front of Parliament, among whom were the [applicants], were aimed at ‘preventing’ MPs from gaining access to the building of the Parliament of Catalonia, with the objective of preventing the plenary session of the chamber from being convened and the autonomous community’s budget from being approved.

...

The slogan ... of the demonstration ... is sufficiently expressive of that objective to naturally support the ... Supreme Court’s argument [concerning the demonstration’s purpose].

This court finds, in accordance with the reasoning of the Supreme Court, that the criminal offence ... protects not only the individual freedom of MPs and their right, as representatives of the will of the people, to access the parliamentary premises in order to fully perform their parliamentary duties, but that it is also aimed at preventing certain gatherings or demonstrations outside parliamentary institutions which use the coercive means set out in the provision from having the objective of impeding the normal functioning of the parliamentary body, with the consequent impairment of the right to participation recognised in Article 23 of the Spanish Constitution ... [To this,] the special constitutional significance of the venue that houses the legislative branch in a system of parliamentary democracy must be added ...

The ... Supreme Court, drawing on the established facts, cites up to ten factual elements, in addition to the slogan of the demonstration, to infer the existence of a context of coercion intended to prevent MPs from reaching the Parliament building, which had such a significant impact on the parliamentarians’ state of mind that some of them found it difficult to gain access to Parliament, others had to force their way through with the assistance of the police, and, finally, others had to arrive at Parliament using alternative means of transport. Likewise, the conduct of each of the [applicants] is described within that context and in accordance with it ... On the basis of the external assessment of reasonableness that this court is required to carry out, the [Supreme Court’s] reasoning complies with the literal wording of the criminal provision applied, conforms to the rules of logic, and does not deviate from the substantive scope of the provision or the constituent elements that define it.”

20. Regarding the proportionality of the sanction, the Constitutional Court reiterated that its case-law distinguished between three scenarios: (i) cases where the conduct was a “regular exercise of a fundamental right”, in which case the imposition of a criminal sentence was ruled out; (ii) cases in which a fundamental right had been exercised in an excessive manner, where the proportionality and chilling effect of the sanction should be assessed; and (iii) cases where “the invocation of a fundamental right becomes a mere pretext

or subterfuge for committing unlawful acts under the alleged protection of that right”, in which case criminal sanctions were potentially allowed. The Constitutional Court considered that the present case fell within the third category and held the following:

“We must agree with the Supreme Court’s ruling that the slogan used to publicise the rally was decisive in determining the objective pursued by the [applicants’] unlawful conduct.

We are therefore not faced with a case of a legitimate exercise of a right, nor with one of an abuse of that right, since the conduct of those individuals, as participants in that gathering, had a single objective: to ‘stop Parliament’; that is, to prevent [its] normal functioning, and, furthermore, to do so at a time when it was due to hold a plenary session to debate one of the most important legislative initiatives of the entire political year, namely the draft budget bill for that autonomous community.

Consequently, this first aspect of the applicants’ complaint – concerning the possible disproportionate nature of the penalties imposed on the grounds that they had been exercising their fundamental rights in a legitimate manner or, at the very least, in an excessive manner – must be dismissed. [This] also precludes the conclusion that the criminal conviction could have had a ‘chilling effect’ ... Rather, in the absence of the constitutional protection afforded by fundamental rights, the penalties imposed fulfil the purpose of general and specific deterrence, which is a characteristic feature of the rule of law’s response to the commission of criminal acts.”

21. As regards the proportionality of the penalty taken alone, the Constitutional Court noted that the Supreme Court had imposed the minimum penalty provided for the relevant offence.

22. Four judges out of ten issued dissenting opinions.

23. In parallel, the applicants applied to the Ministry of Justice for pardons. On 18 May 2015 they requested that the execution of the penalty be suspended pending a decision on their pardon application. On 16 June 2015 the *Audiencia Nacional* granted the request and ordered the suspension of the execution of the penalties. It appears that no decision about the pardons has yet been taken.

24. On 15 October 2024 the *Audiencia Nacional* declared that the penalties were time-barred, as the limitation period of five years since the judgment of 17 March 2015 had expired.

THE COURT’S ASSESSMENT

I. ALLEGED VIOLATION OF ARTICLES 10 AND 11 OF THE CONVENTION

25. The applicants alleged a violation of their freedom of expression and freedom of assembly, as they had been sentenced to three years’ imprisonment on the basis of their participation in a peaceful demonstration.

26. The Court notes that these complaints are not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention or inadmissible on any other grounds. They must therefore be declared admissible.

27. The Court considers that in the circumstances of the case the complaint should be examined under Article 11 alone, in the light of Article 10 (see *Navalnyy v. Russia* [GC], nos. 29580/12 and 4 others, § 102, 15 November 2018).

28. The applicants alleged that the demonstration had been peaceful. They argued that the criminal offence in question had been extensively interpreted to their disadvantage and that the sanction had been disproportionate, thus causing a chilling effect.

29. The Government accepted that there had been an interference with the applicants' rights under Articles 10 and 11 of the Convention. However, they held that the domestic authorities had acted within their margin of appreciation.

30. The relevant general principles have been summarized in *Kudrevičius and Others v. Lithuania* [GC], no. 37553/05, ECHR 2015 and *Tsaava and Others v. Georgia* [GC], nos. 13186/20 and 4 others, 11 December 2025.

31. It is undisputed that there has been an interference with the applicants' freedom of peaceful assembly. Such interference will constitute a breach of Article 11 unless it is "prescribed by law", pursues one or more legitimate aims under paragraph 2 and is "necessary in a democratic society" for the achievement of the aim or aims in question (see *Kudrevičius and Others*, [cited above](#), § 102, and *Tsaava and Others*, [cited above](#), § 430).

32. In the present case, the applicants' conviction had its legal basis in Article 498 of the Criminal Code (see paragraph 9 above). The Criminal Code was accessible, so the Court will examine whether the application of this provision was foreseeable (see *Kudrevičius and Others*, [cited above](#), § 111).

33. The applicants argued that the existence of a context which the domestic courts considered intimidatory could not result in their conviction, as they had not performed decisive acts of obstruction or exercised any constraint on MPs. Besides, their conduct had not been capable of impeding the normal functioning of Parliament, and the effective disruption had merely led to a delay in starting the session and a modification of the agenda.

34. The Government referred to the Supreme Court's arguments that the elements of the offence had been met as the demonstration had had the clear objective of preventing the normal functioning of the regional parliament. Being a crime of intent, that objective had been sufficient regardless of the specific consequences (see paragraphs 10-11 above). Furthermore, the Supreme Court considered that the applicants' actions had taken place in, and even in some cases had contributed to, a coercive and intimidating atmosphere (see paragraphs 12-14 above). Such an interpretation had also been supported by the Constitutional Court (see paragraph 19 above).

35. The Court is of the view that the interpretation of the domestic courts cannot be considered arbitrary or unpredictable (see *Kudrevičius and Others*, [cited above](#), § 114). The applicants could have foreseen, to a degree reasonable in the circumstances, that the presence of a significant number of

persons in the immediate vicinity of Parliament at the time when the MPs had to access it – persons who were protesting against the vote to be held during the parliamentary session and rebuking and throwing liquid on the MPs – could result in an intimidating environment preventing the MPs from reaching the venue, or restricting the free expression of their opinions or the casting of their vote.

36. The Court is therefore satisfied that the interference with the applicants’ right to freedom of assembly was “prescribed by law”.

37. The Government stated that the interference had pursued a legitimate aim – namely, preventing criminal acts and guaranteeing the right to political participation of the MPs and the people they represented.

38. The Court thus accepts that the applicants’ convictions pursued the legitimate aims of the prevention of disorder and the protection of the rights and freedoms of others.

39. It remains to be ascertained whether the interference complained of was “necessary in a democratic society” for the achievement of those aims.

40. In this regard, the Court is mindful of the fact that the demonstration took place around the Parliament of Catalonia and, according to the domestic authorities, resulted in an intimidating atmosphere, which prevented some MPs from freely accessing the premises. It emphasises in this connection the fundamental interest of ensuring the effective functioning of Parliament in a democracy (see *Tsaava and Others*, [cited above](#), § 434). The Convention establishes a close nexus between an effective political democracy and the effective operation of Parliament, and there can be no doubt that the latter is a value of key importance for a democratic society (*ibid.*). This consideration will therefore be of significance in the examination of the necessity of interferences with the right to freedom of peaceful assembly intended to prevent disorder in or around parliamentary premises and to preserve the effective functioning of Parliament (*ibid.*).

41. In the Court’s view, the structuring of the demonstration, which resulted in serious difficulties for the MPs in accessing the Parliament premises, created a disruption going beyond the level of minor disturbance, which could have justified the adoption of measures to restrict such conduct (see, also in connection with demonstrations around parliamentary buildings, *Makarashvili and Others v. Georgia*, nos. 23158/20 and 2 others, § 98, 1 September 2022). However, where the sanctions imposed on the demonstrators are criminal in nature, they require particular justification. A peaceful demonstration should not, in principle, be rendered subject to the threat of a criminal sanction, and notably to deprivation of liberty. Thus, the Court must examine with particular scrutiny the cases where sanctions imposed by the national authorities for non-violent conduct involve a prison sentence (see *Kudrevičius and Others*, [cited above](#), § 146, and *Chernega and Others v. Ukraine*, no. 74768/10, § 221, 18 June 2019).

42. The Court notes, firstly, that while the domestic courts considered that the applicants’ behaviour had contributed to an intimidating atmosphere, they

did not attribute any specific violent actions to them. The Court recalls in this regard that an individual does not cease to enjoy the right to freedom of peaceful assembly as a result of sporadic violence or other punishable acts committed by others in the course of the demonstration if the individual in question remains peaceful in his or her own intentions or behaviour (see *Kudrevičius and Others*, cited above, § 94, and *Tsaava and Others*, cited above, § 418).

43. Turning to the individual actions of the applicants, their conduct mostly involved following two MPs, chanting or shouting the protest's slogans, in some cases raising their arms and, in some cases, reproaching the relevant MP (see paragraph 3 above). Even assuming that such conduct could be considered as obstructive, and without disputing that it could have been disturbing for the MPs that encountered them, the Court considers that it did not amount to an act of violence or incitement to engage in violence (see *Kudrevičius and Others*, [cited above](#), §§ 173-74). The Court further observes that the applicants were not held individually responsible of any damages.

44. Furthermore, the Court notes that the applicants were participating in a protest that had been notified in advance to the authorities (see paragraph 2 above), of which they were not the organisers. It was not affirmed by the domestic courts that they had any leading role in its unfolding, or that they failed to fulfil any conditions imposed by the authorities or to follow any specific instructions given by the law enforcement officers (contrast *Kudrevičius and Others*, [cited above](#), § 165 and *Makarashvili and Others*, [cited above](#), § 101). In such circumstances, while the reasons given by the domestic courts were relevant to justify a restriction of their freedom of assembly, they appear insufficient to justify a particularly severe prison sentence, such as the one imposed on the applicants (namely, three years of imprisonment).

45. In this regard, the Court has in some cases accepted that measures involving deprivation of liberty of several days or suspended sentences of a few months in situations where demonstrators tried to prevent or alter the exercise of activities carried out by others could be considered as proportionate in the circumstances of the case (see *Kudrevičius and Others*, [cited above](#), §§ 171-72, with further references, and § 178; *Makarashvili and Others*, [cited above](#), § 103, with further references; and *Bodson and Others v. Belgium*, nos. 35834/22 and 15 others, §§ 119-21, 16 January 2025). Conversely, the imposition of lengthy prison terms in connection with the applicants' participations in protests, even if their conduct had been disturbing or in cases of unarmed confrontation with the police, has in a number of cases been considered disproportionate (see *Shmorgunov and Others v. Ukraine*, nos. 15367/14 and 13 others, § 492, 21 January 2021, with further references, and *Ekrem Can and Others v. Turkey*, no. 10613/10, §§ 89-96, 8 March 2022).

46. In the Court's view, irrespective of whether sanctions for the applicants' actions might have been warranted by the demands of public order, the lengthy prison sentences imposed were not proportionate to the legitimate aims of protecting public safety and the rights and freedoms of others, or of preventing disorder (see *Ekrem Can and Others*, cited above, § 93).

47. The Court notes that the relevant sentences were never served, as their execution was suspended during the processing of the applicants' pardon application, and became time-barred prior to the final decision on it, which appears to be pending (see paragraphs 23 and 24 above). However, this does not alter the Court's conclusion on the disproportionate nature of the penalties, as the suspension was only based on the lack of reply to their pardon request for more than nine years, during which the possibility of effectively serving the sentence was uncertain, and not on an explicit decision of the domestic authorities (contrast *Erol and Others v. Türkiye* (dec.), no. 68061/12, §§ 20-22, 22 November 2022).

48. Furthermore, the applicants' criminal conviction, confirmed after some ten years of criminal proceedings, and the severity of the sentences imposed, even if they were not effectively served, could not but have had the effect of discouraging them, as well as the public at large, from attending demonstrations and, more generally, from participating in open political debate.

49. Accordingly, the Court concludes that the interference with the applicants' right to freedom of assembly under Article 11 of the Convention, considered in the light of Article 10, was not "necessary in a democratic society".

50. There has accordingly been a violation of Article 11 of the Convention, in the light of Article 10.

II. OTHER COMPLAINTS

51. The applicants also complained under Article 7 of the Convention. Having regard to the facts of the case, the submissions of the parties, and its findings above, the Court considers that it has dealt with the main legal questions raised by the case and that there is no need to examine the remaining complaints (see *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC], no. 47848/08, § 156, ECHR 2014).

APPLICATION OF ARTICLE 41 OF THE CONVENTION

52. In their application, the applicants claimed 15,000 euros (EUR) each in respect of non-pecuniary damage and costs and expenses. However, in their observations, they made no reference to any claim for just satisfaction, nor did they specify the sums claimed in respect of non-pecuniary damage or

the costs and expenses incurred, either before the domestic courts or before the Court.

53. In the absence of an articulated and detailed claim for just satisfaction, the Court considers that there is no call to award them any sum on that account (see *Nagmetov v. Russia* [GC], no. 35589/08, §§ 57-93, 30 March 2017).

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaints under Articles 10 and 11 admissible;
2. *Holds* that there has been a violation of Article 11 of the Convention, in the light of Article 10;
3. *Holds* that there is no need to examine the admissibility and merits of the complaint under Article 7 of the Convention;
4. *Dismisses* the applicants' claim for just satisfaction.

Done in English, and notified in writing on 3 September 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Martina Keller
Deputy Registrar

Andreas Zünd
President

APPENDIX

List of applicants:

Application no. 61435/21

No.	Applicant's Name	Year of birth	Nationality	Place of residence
1.	Rubén MOLINA MARÍN	1989	Spanish	Barcelona
2.	Ángela BERGILLOS ALGUACIL	1985	Spanish	Barcelona
3.	Francisco José COBOS GARCÍA	1976	Spanish	Barcelona
4.	Carlos MUNTER DOMEC	1989	Spanish	Barcelona