

AMNESTY INTERNATIONAL PUBLIC STATEMENT

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ANDORRA: CHARGES AGAINST WOMAN HUMAN RIGHTS DEFENDER MUST BE DROPPED

Amnesty International is deeply concerned at the ongoing criminal charges of defamation against human rights defender, Vanessa Mendoza Cortés. The Andorran government filed a case against Vanessa Mendoza Cortés following her criticism of the Andorran authorities on issues relating to the protection of women's and girl's human rights in Andorra, including statements she made during a meeting with a UN expert Committee. Amnesty International is concerned that Vanessa Mendoza Cortés is being criminalized for merely conducting her legitimate work as a human rights defender. A hearing before the judge as part of the preliminary proceedings against her is scheduled for 17th February.

The use of defamation laws by the Andorran authorities against Vanessa Mendoza Cortés violates her right to freedom of expression and appears to be in retaliation for her actions to uphold the rights of women and girls and advocate for the decriminalization of abortion in Andorra.

Amnesty International urges the General Prosecutor to immediately drop ongoing charges. The Andorran authorities should refrain from bringing additional criminal charges or take administrative measures against Vanessa Mendoza Cortés that stem from her human rights work. On the contrary, we urge the state to take action to ensure Vanessa Mendoza Cortés and other human rights defenders can carry out their legitimate human rights work free from reprisals and intimidation.

Amnesty International is further concerned about the signal the authorities are sending by pursuing a human rights defender in this way. Through their actions against Vanessa Mendoza Cortés the Andorran authorities risk having a chilling effect on other members of civil society who may be increasingly fearful of sharing information, expressing concerns and conducting their legitimate and vital work towards the greater protection of human rights.

THE CASE OF VANESSA MENDOZA CORTES

Vanessa Mendoza Cortés is the president of the women's rights organization Association Stop Violence (*Associació Stop Violències* in Catalan) that works on gender-based violence, sexual and reproductive rights, and advocates for the decriminalization of abortion in Andorra. Andorra is one of the few remaining states in the world with a draconian total ban on abortion still in place.

In October 2019, she attended the fourth periodic review session of Andorra before the United Nations Committee on the Elimination of Discrimination against Women (UN CEDAW) where she presented her expert opinion on the situation of the protection of women and girls and the harmful impact of the current full ban on abortion in Andorra documented by *Associació Stop Violències*. It is important to note that this is normal legitimate and vital work conducted regularly by human rights defenders around the world.

Shortly after, the Andorran government filed a complaint against her before the public prosecutor's office arguing that she was undermining the prestige and good name of the government. Subsequently, in July 2020 Vanessa Mendoza Cortés was charged with 'slander with publicity' (article 172 of the Penal Code), 'slander against the co-princes' (article 320 of the Penal Code) and 'crimes against the reputation of the institutions' (article 325 of the Penal Code). These provisions carry heavy penalties, including a potential sentence of up to four years imprisonment and/or a fine of up to 30,000 euros.

Shockingly, amongst the supposed evidence presented by the public prosecutor's office in the case against Vanessa, included the content of the report that her organization *Associació Stop Violències* submitted to the UN CEDAW. It also contained related media statements by Vanessa Mendoza Cortés expressing critical opinions of the government on issues relating to the protection of women's and girls and criticizing the position of the Bishop of Urgell and Co-Prince of Andorra against the decriminalization of abortion in Andorra.

Amnesty International deplores the decision by the authorities to pursue a criminal investigation against Vanessa Mendoza Cortés following her legitimate work as a human rights defender including her engagement with UN CEDAW to review Andorra's record on women's rights. As described in the UN Human Rights Council's resolutions 12/2 (2009) and 24/24 (2013), acts of intimidation against those who seek to cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights, or who have provided testimony or information to them constitute acts of reprisals that should be halted and addressed.¹ Furthermore, the right to communicate with the United Nations is articulated in Article 5(c) and 9(4) of the UN Human Rights Defenders Declaration and numerous other international instruments, including those related to the rights to freedom of expression.

UNDUE USE OF DEFAMATION LAWS TO CRIMINALISE FREEDOM OF EXPRESSION AND HUMAN RIGHTS DEFENDERS

Legal provisions to protect the right to honor and reputation are designed to protect individuals, not abstract values or state institutions. Criminal or other laws which provide special protection against criticism for public officials and institutions are inconsistent with the right to freedom of expression and should therefore be repealed and in the meantime not used.

Instead of using current provisions of the Penal Code to prevent her or other individuals from voicing her opinions freely, Amnesty International calls on the Andorran authorities to decriminalize defamation and repeal or substantially amend all problematic articles that constitute restrictions on the right to freedom of expression not permissible under international human rights law.

Amnesty International would like to reiterate that the judicial proceedings against Vanessa Mendoza Cortés for exercising her human right to freedom of expression as guaranteed under international human rights law, violates her rights and appears to be in retaliation for her actions as a human rights defender. As such, we maintain that all charges of defamation against her should be immediately dropped.

Andorra is bound by the UN International Covenant on Civil and Political Rights (ICCPR) and the European Convention on Human Rights (ECHR) to respect, protect and fulfill the right to freedom of expression. The use of defamation laws with the purpose or effect of inhibiting criticism of government or public officials violates the right to freedom of expression guaranteed under Article 19 of the ICCPR and Article 10 of the ECHR.

International human rights law allows for certain restrictions on the right to freedom of expression, including for the protection of the rights or reputations of others, but such restrictions must be provided by law, and be necessary and proportionate to that aim. According to international human rights standards, legal provisions to protect the right to honor and reputation are designed to protect individuals, not abstract values or state institutions. State institutions should always be both open to and subject to scrutiny, comment, or criticism.² Furthermore, the UN Human Rights Committee, the expert body which monitors compliance with the ICCPR, notes that public figures and institutions should tolerate a greater degree of criticism than the general public and that laws prohibiting insult or disrespect of heads of state or public figures, including those exercising the highest political authority such as heads of state and government, the military and other public institutions, or flags and symbols, are contrary to international standards.³

¹ www.ohchr.org/EN/HRBodies/SP/Pages/Actsofintimidationandreprisal.aspx

² Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Mr. Frank La Rue, A/HRC/14/23, 20 April 2010 para.84, available at: <https://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/a.hrc.14.23.pdf>

³ Human Rights Committee: General Comment No. 34 on Article 19 ICCPR, UN Doc. CCPR/C/GC/34, 21 July 2011, para 38, available at: <https://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf>

BACKGROUND INFORMATION

In December 2020 and February 2021 Amnesty International sent private letters to the government of Andorra and the General Prosecutor expressing concerns about the criminalization of Vanessa Mendoza Cortés and urging that all charges against her to be dropped.

In November 2019 the UN CEDAW Committee sent a private communication to the Andorran authorities expressing concern about what they considered to be disproportionate measures taken by the government against Vanessa Mendoza Cortés and the *Associació Stop Violències* following her engagement with the Committee in the context of the review of Andorra.⁴

⁴ Report of the United Nations Secretary General, Cooperation with the United Nations, its representatives and mechanisms in the field of human rights, A/HRC/45/36, September 25, 2020, available at: https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/session42/Documents/A_HRC_42_30.docx