

REPORT ON THE VISIT OF JOSEPH RATZINGER TO SANTIAGO DE COMPOSTELA

6 NOVEMBER 2010

BACKGROUND

On 1 March 2010, the Catholic archbishop of Santiago de Compostela, Mr. Julián Barrio, paid a visit to the Vatican City, where he was granted an audience by Joseph Ratzinger, Pope of the Catholic Church. During this audience, the Pope was once again invited to visit Compostela. Mr. Núñez Feijóo, the current President of the Galician Government, was part of the archbishop's delegation.

Prior to this, Mr. Ratzinger's visit to Compostela had been confirmed off the record to Mr. Barrio, and it had been stated that he accepted to visit the town as a "pilgrim of the faith", as "just another one of the thousands of pilgrims who visit the town for religious reasons".

After the audience with the archbishop, Mr. Ratzinger received Mr. Núñez Feijóo in his private library, who backed the invitation by pointing out that he was speaking, and we are translating his own words "on my own behalf, on behalf of all the political parties and **all sectors of Galician society, without any exception**" [emphasis in the original]¹.

These statements, and his journey while acting as President of the Galician Government as part of the archbishop's entourage, are incompatible with the principle of neutrality established in article 16.3 of the Spanish Constitution (SC), which "prohibits any kind of confusion between religious and state functions" in undertaking relations of cooperation by the state with the Catholic Church and other confessions (as stated by the Constitutional Court Judgments 24/1982, of 13 May and 340/1993, of November 16). Not only does this section ban the confusion between church and state, but rather, it also guarantees their separation, "thus introducing an idea of there not being an official faith*, or positive *laïcité*" (CCJ 46/2001, of 15 February, Legal Basis 4).

¹ *Vida Nueva* - 02/03/2010



Consequences of a “pilgrimage of faith”

Mr. Núñez Feijoo’s trip, funded with public resources, was only the prelude of a series of acts by the public authorities which are clearly in breach of democratic legality. The preparations to receive Mr. Razinger, who, we must recall, was travelling to Compostela “on religious grounds” (“a pilgrimage of faith”), were accompanied by extraordinary measures which seriously limited, when they did not entirely rule them out, basic rights and civil liberties that are recognised by the Spanish Constitution and other norms in our legal system.

Denial of rights

In practice, on 7 October Compostela Town Council posted the so-called *Agreement on operational and security measures to be adopted in the historical centre on occasion of the Pope’s visit on 6 November* in the “Notices” section of its website. EsCULcA argued that these measures directly affect three fundamental rights: the basic right to freedom of movement in the Kingdom of Spain (article 19 of the Spanish Constitution), the basic right of artistic creation (art. 20.1 SC) and the basic right of assembly (art. 21 SC), all of them in relation to the principle on the rule of law in art. 9 of the SC.

Moreover, the measures envisaged in this Agreement also violate the specific regulations concerning local authorities, specifically the one established in article 18 of the Law on Local Government, 7/1985 of 2 April, which establishes the right for residents to use, in accordance with their nature, municipal public services and to have access to public spaces, in compliance with applicable rules.

On the other hand, this restriction of movement and access to public spaces, the prohibition of peaceful assembly and the banning of artistic activities on the street, are adopted by means of “operational measures” which have a low legal status. The aforementioned measures were not approved in plenary session or in a Government cabinet meeting, and even if they had, a simple rule is not enough to restrict fundamental rights, otherwise there would be a breach of the provision on the rule of law in article 9 of the SC.

Appeal submitted by EsCULcA

The attack that this Agreement poses to the norms on democratic coexistence led EsCULcA to file a special administrative appeal for the protection of the basic rights of citizens and to demand the precautionary suspension of these measures which evidently constitute a disproportionate intervention against the freedom to move around public spaces in the city.



In its appeal, EsCULcA claimed that unless the execution of the act against which it submitted the complaint was suspended, the appeal would obviously not be effective, since it would be meaningless after the period when it is implemented has passed.

The claim for the precautionary suspension of the administrative act is essential, since these measures are to be adopted at a specific time and their effects will take place on the coming 6 November, meaning that the requested judicial protection cannot be delayed. Unless their effects are suspended, the infringement of fundamental rights will inevitably occur. (Third Claim, 3).

Coercive interventions

During the days before the Pope's visit, many citizens hung banners of the *Eu nom te espero* (I am not waiting for you) committee from their balconies. Several of these people were visited by police officers who asked to search their houses in some cases, or urged them to remove the banners criticizing Mr. Ratzinger's visit. In cases in which those living in the house were not at home, the officers asked their neighbours for information about them. The human rights association *Movemento polos Dereitos Civís* (www.movemento.org) reported these intimidating interventions and claimed it had direct evidence of three cases in the streets of San Pedro, As Salvadas and Avda.* do Restollal².

As for EsCULcA, it has evidence from first-hand witnesses of five police interventions of this kind: one of them in the Rúa dos Loureiros (involving the questioning of people in neighbouring flats), two in Avda. do Restollal (one of them in the house of an immigrant family which has since left Galicia), one in a business on Avda. San Lázaro (*Peixería do Camiño*) in which officers repeatedly urged the owner to remove the banner, and another one in a household in the same neighbourhood, where they conducted a search that was authorized by the owner.

A spokesman of the Galician Police Chiefs Authority declared that no specific orders to remove the banners or other messages against the visit had been issued, although he immediately added a peculiar observation: "given the large amount of police officers gathered in Santiago at the moment, it is very difficult for the chiefs of police to determine whether there were isolated interventions that went beyond official orders issued"³.

² La Opinión (29/10/2010)

(<http://www.laopinioncoruna.es/galicia/2010/10/29/asociaciondenuncia-policia-pide-quitar-carteles-visita-papa/433645.html>)

³ La Opinión (29/10/10)



Banning of public demonstrations

On 30 October, Mr. Xoan Xosé Pérez Lorenzo, Ms. Sandra Garrido Fernández, Mr. Ángel Enrique Abalde Gil and Mr. Vicente Vázquez Freire informed the government envoy's authority that there would be a demonstration on 4 November starting in the Alameda Park and ending in Praza do Toural, after marching through several streets. This demonstration was specifically banned on 2 November by a decision of the government's deputy envoy in A Coruña, Mr. José Manuel Pose Mesura, alleging that the communication had not been handed in within the 10-day advance notice period that is required for informing the government authority. This decision was immediately appealed by Ms. Sandra Garrido Fernández (Administrative appeal on the right of assembly no. 1/2010), and even though the processing of the appeal was allowed, the hearing was only held on 9 November, 5 days after the date that had been set for the demonstration.

We regard this denial of a fundamental right, based on an incidental matter like the communication period (and not the request for authorization), as an authoritarian interpretation of the requirements to exercise this right, and as an understanding of this fundamental right as subject to authorization, something which cannot be accepted if legislation is to be interpreted in a way that seeks to guarantee people's rights.

Moreover, we feel that the decision to ban the demonstration shows an intention to hinder the holding of any act against Mr. Ratzinger's visit by all possible means, even if these obstacles are liable to cause a greater harm for the public interest than what the measures supposedly seek to prevent. The strong police presence which surrounded the group of people who gathered anyways in Compostela's Alameda Park on 4 November at the set time and their subsequent actions caused disturbances that could have easily been avoided.

The police conduct on 4 December

Once the gathering was already dispersing, National Police officers charged against groups of people that were heading towards the historical town centre, assaulting several camera operators and photographers.

H.B., the cameraman of *Galiza Contrainfo*, was attacked by several agents in Praza de Galiza. After repeatedly striking him and his camera, one of the officers yelled: "A ti te veo en todas" (*I see you in all the meetings of this kind*).

Another cameraman of *TVE* [the Spanish public broadcasting company] was manhandled by the officers.

A photographer of *El País* newspaper was also hit by an officer.



An unidentified journalist was held by the police.

Apart from this, the *As Dúas* bar was surrounded by several riot police officers who insulted the clients inside it from the entrance and repeatedly hit the doors and windows with their truncheons. For slightly over an hour, they prevented people from either entering or leaving the establishment.

The police conduct on 6 December

On the evening of 6 December, a citizen who was walking along Praza de Cervantes with some friends was hit in the nape of the neck. Not knowing whom his assailant was, he instinctively turned around while yelling “Que fas mamon!” (*What the fuck are you doing?*) only to discover that he had been attacked by a police officer. The officer wanted to arrest him, which prompted the logical reaction of his friends. This confusion allowed the victim to escape, but one of his friends was required to show his ID card to the police.

Other interventions

Both the National Police and the representatives of the Spanish Conference of Bishops (CB) put forward security measures as the reason for denying a camera operator and a photographer of *Galiza Contrainfo* the press passes to cover the official acts of the visit, which they had been previously granted by the CB itself.

I.C., a journalist of *Novas da Galiza* who had applied for the passes, who already had her own press card, had her authorisation revoked after questioning the reasons for the serious conduct involving the denial of her colleagues’ passes.

All the people who tried to enter the perimeter of the blocked off historical town centre on the 6 November had to show their ID cards and allow their bags to be searched. They were then escorted to their final destination.

In an unusual claim from the perspective of International Public Law, the mayor of Santiago de Compostela went so far as to state that the “principle of extraterritoriality” would be applied in a large area surrounding of the cathedral, including the five adjacent squares (Obradoiro, Quintana, Praterías, Cervantes and Inmaculada), meaning that the area would temporarily form part of Vatican territory. In fact, on 6 November, the security of the mentioned squares and even of the town hall was coordinated by the Vatican police officials.

CONCLUSIONS

The actions by the public authorities in the organizing and holding of the recent visit of the head of the Catholic Church to Santiago de Compostela cannot fail to arouse the



serious concern of associations which, like our own, are committed to the defence of the rights and liberties granted by the Constitution.

The fact that leading representatives of the institutions were part of the archbishop's entourage which visited the Vatican City to confirm the visit, and that several others took part in the religious acts in Compostela on 6 November, including signs of submission, are directly in breach, as mentioned above, of the principle of religious neutrality set out in article 16.3 of the SC.

The secrecy with which all the public contracts regarding the advertising of the Pope's visit were awarded is yet another example of the lack of transparency surrounding the public expenses incurred for this visit: they were all awarded by means of a negotiated procedure without prior publication of a call for tenders, which is envisaged for emergency situations (entirely unwarranted in this case). This secrecy severely undermines the right to information recognized by the Spanish Constitution (article 20.1).

The climate of censorship which the public authorities imposed over any form of criticism of the visit resulted in other sectors of society, especially the mass media, doing likewise in their fields. On 22 November, the Association of Professional Journalists of Galicia sent a letter to the Government Envoy, Mr. Antón Louro, reporting several "complaints submitted to this Association about attempts to silence voices that expressed criticism of the Pope's visit, obstacles and hindrances to the publication of certain issues of magazines, threats of boycotts against media which dared to publish critical opinions, calls for censorship, insults against journalists and the failure to publish letters to the editor featuring critical views".

Unfortunately, this is not the first time in which EsCULcA witnesses an undemocratic, and even unconstitutional, behaviour by the public authorities in Galicia with concern. The participation of public authorities in religious acts, the use of legal ploys in order to conceal information from citizens, the unwarranted identification of people in public spaces and searches of their personal belongings, the bullying attitude of the police, and the express ban against demonstrations on the basis of merely technical matters appear, at present, to have become common practice by public institutions.

Compostela, December 2010.

