

PANEL ONE: FREEDOM OF SPEECH

ECBA CONFERENCE BARCELONA

25th April 2026

HYPOTHESIS

The key concepts of the dictatorship's legal culture

- the Catholic Church,
- the Head of State,
- the army
- the unity of Spain

remain overprotected

THE CATHOLIC CHURCH (art. 525 CP)

The case of the kiss of the two virgins as a poster for the Gay Pride demo in Valencia.

(2016) Dismissed



THE KING (insult /defamation, 491 CP)

A pro-independence group staged a protest in the streets and, at the end of the march, burned a picture of the King and Queen.

(2007) Convicted



ECHR case *Roura i Stern v. Spain* 2018

“The ECHR has had to deal with cases involving statements denying the Holocaust, justifying a pro-Nazi policy or associating all Muslims with a serious act of terrorism (...)

The inclusion in hate speech of an act which, like that of which the applicants are accused in this case, is the symbolic expression of rejection and political criticism of an institution (...) would entail an overly broad interpretation of the exception recognised by the case law of the ECHR – which would likely undermine pluralism, tolerance and the spirit of openness without which no ‘democratic society’ can exist.”



THE ARMY – THE MILITARY POLICE

A very peculiar situation has arisen in Spain, namely the use of hate crimes to overprotect police forces from *rude criticism* by citizens.

HATE CRIME (510.1.A CP)

“Anyone who publicly encourages, promotes or incites, directly or indirectly, hatred, hostility, discrimination or violence against a group, a part thereof or a specific person on the grounds of their membership of that group, for racist, anti-Semitic, anti-Roma or other reasons relating to ideology, religion or beliefs, family situation, the membership of its members to an ethnic group, race or nation, their national origin, their sex, sexual orientation (...)”

IGNASI SABATER, major of Verges (2017)

Opinion about the Guardia Civil:
“They wear their uniforms by day
and are uncontrolled by night.”

Dismissed



HATE SPEECH TO POLICE

- A) Police as a “target” group
- B) Police identified with an ideology (Spanish nationalism)
- C) Police discriminated by their national origin when comments are made by people belonging to other internal nationalities

THREE YEARS JAIL FOR A TWEET IN X

“Oh, what a shame! One less Nazi! I hope you rot in hell, you fucking Spanish fascist scum!”

Prosecuted (2026)

Three years jail and six years ban on teaching

Pending a possible amnesty



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¿HATE CRIME PROTECTS
“FAR RIGHT”?

“The anti-Nazis rule. Any Nazi
we catch, we’re going to smash.”

(2023)

Dismissed

NON SERVIVUM



EL IMPERIO DEL MAL



SPAIN'S UNITY: JOAN COMA

'To make an omelette, you first have
to break the eggs.'

(2016)

Dismissal



SPAIN'S UNITY: JORDI CUIXART

During a peaceful demonstration involving thousands of people, had posted a tweet (2017) saying:

“No pasaran.” (They shall not pass)

Convicted

In ECHR since 2021

SPAIN'S UNITY: TAMARA CARRASCO

Spreading messages inciting public disorder
(art.559 CP)

(2018) Prosecuted and acquitted



AMNESTY ACT (2024)

This has been enshrined in the recent Amnesty Act of 2024.

The Act expressly exempts from punishment:

‘acts of disrespect, criticism or insult directed against public authorities and officials, as well as their symbols or emblems’

(Art. 1.1.c, in its final provision)

CONCLUSION:

STILL A LONG WAY TO GO