

Spanish Parliamentarians make formal appeal against ‘unconstitutional’ change in law following Tibet lawsuits

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Spanish Parliamentarians issued an appeal today to the Constitutional Court in Madrid, declaring that a change in Spanish law in response to Chinese pressure over two Tibet lawsuits was illegal and unconstitutional.

After two Tibet lawsuits led to arrest warrants being issued by the Spanish courts for several Chinese officials for their Tibet policies, the Spanish Parliament had voted in February in favor of a bill limiting the power of the judiciary to investigate human rights abuses committed outside the country (ICT report, [Spanish Parliament ruling following arrest warrants for Chinese leaders ‘should be of concern to all European citizens’](#)).

The ruling was deeply controversial both internationally and in Spain, where it made headlines and led to a national debate, with many Spaniards arguing that China should not be allowed to influence either domestic policy or international law. One hundred and twenty-two non-governmental organisations signed a statement calling on the Spanish Parliament to uphold its international legal commitments and ensure that any reforms to its universal jurisdiction laws are consistent with international law (ICT open letter, [Open Letter to the Spanish Socialist Workers’ Party \(PSOE\)](#)).

The Spanish Socialist Party today made a formal challenge to the change in legislation, presenting an appeal to the court in Madrid arguing that this change in the law on the internationally-recognised principle of universal jurisdiction is unconstitutional. The Spanish lawmakers are seeking to prevent a change in the law that would limit courts in trying cases of the most serious crimes regardless of where they were committed and the nationality of the perpetrator and/or the victim. They argue that this development would put Spain in breach of its international obligations and offer the prospect of impunity to many responsible for serious crimes.

The action by the Spanish Socialists follows international pressure from other European Parliamentarians, lawyers and NGOs, including a [joint appeal by the International Campaign for Tibet and Comité de Apoyo al Tibet](#). Soraya Rodriguez, the Socialist Party spokeswoman who announced the news of the appeal today, said that the international response to the reform had influenced their decision.

Alan Cantos of the Spanish Tibet support group, Comité de Apoyo al Tibet, said today: “After so much uncertainty, this appeal is great news not only for justice, but also for democracy. We cannot say this is a major victory, yet, but it is certainly an important step in the right direction that could yield concrete results. It will certainly make our leadership think twice about reversing this law on universal jurisdiction as it was written in the international treaties signed by Spain and most other countries. We are grateful to legal organisations in the UK, ICT, and many other supporters all over the world for their work and support in expressing concern for the appalling precedent that this hasty reform would set.”

Matteo Mecacci, President of the International Campaign for Tibet, said today: “We welcome the action of the Spanish Socialists in challenging the government’s attempt to overturn such an important principle of international law. The result of the earlier vote by the Spanish Parliament underlined the unprecedented pressure that the Chinese government is imposing on European governments on Tibet, up to obtaining changes to the national legislation of a democratic country. This action taken by Spanish opposition can be an important first step to resist the pressure from China and to reaffirm the primacy of democratic institutions against the blackmails of authoritarian governments.”

An open letter to the Spanish Socialists by ICT stated: “The principle of universal jurisdiction allows national courts to try cases of the most serious crimes, including war crimes, torture, enforced disappearance, regardless of where they were committed and the nationality of the perpetrator and/or the victim. The current reform in Spain would restrict the cases capable of being tried in the Spanish courts to those involving defendants who are Spanish nationals and/or habitually resident in Spain. The consequence will be that international crimes will go unpunished and impunity will prevail. Already there are at least two cases in which the negative effects of the new law have been evident, with the release of suspected drug traffickers from Egypt and another concerning an extradition request from Argentina on the grounds of torture, which were not possible to prosecute due to the reform of the law.

“The changes to the law violate several key international treaties ratified by Spain, such as the Geneva Conventions of 1949 or the Rome Statute of the International Criminal Court, which all enshrine the principle of ‘prosecute or extradite’.”