



European Parliament

VICE-PRESIDENT FRANS TIMMERMANS
EUROPEAN COMMISSION
Rue de la Loi/Wetstraat 200
1049 Brussels
Belgium

Brussels 14.06.2019

Dear Sir,

We, the undersigned, are once again writing to you as the person responsible for the rule of law in the EU and now, as a candidate to preside over the European Commission. We would like to bring to your attention a matter that demonstrates, once again, the serious problem that the highest authorities in the Spanish justice system have in contributing to the truth, justice and reparation that the victims of the criminal regime of the dictator Francisco Franco deserve. This week, the administrative division of the Supreme Court of Spain stopped the exhumation of the remains of the dictator from his current place of burial, the so-called "Valle de los Caídos" (Valley of the Fallen).

"Valle de los Caídos" is the largest mass grave in Europe. In it lie thousands of Spanish citizens, buried against their will, who fought on the Republican side or were victims of Franco's repression after the Spanish Civil War. The dictator was buried there as a further humiliation to these victims. In addition, acts of glorification and tribute to a regime that should be criminalised in accordance with Framework Decision 2008/913/JHA continue to be held there, in light of the inaction of the Spanish authorities.

In order to put an end to this shameful situation, in accordance with the Law on Historical Memory, the current Spanish government set in motion a procedure to exhume the dictator, which should have concluded with the transfer of his remains to the El Pardo cemetery on June 11. Francisco Franco's family appealed the decision and the Supreme Court suspended the government's decision because it could lead to *"a serious disruption to the public interests embodied in the State and its constitutional institutions, in view of the significance of Don Francisco Franco. The fact that he was head of state from October 1, 1936 until his death on November 20, 1975 gives special significance to the whole dispute which cannot be ignored and that would cause irreversible harm to the execution of the decision made by the Council of Ministers to exhume his remains if it were subsequently deemed to be against the law"*.

As can be seen, the judges who signed this decision legitimised the Franco regime in it, by claiming that the soldier who put an end to the regime of the second republic by means of a coup d'état and then led a genocidal regime for forty years, had been head of the Spanish state since October 1, 1936. At that time, the legitimate president of the Spanish republic was Don Manuel Azaña Díaz. The treatment of respect that the expression "Don" conveys in Spanish, which is inconceivable when applied to other European dictators, is equally unspeakable. No Italian or German court would even conceive of the possibility of writing the equivalent of the respectful term "Don" before Benito Mussolini or Adolf Hitler.

The decision and the circumstances surrounding it elicited an immediate reaction from the judges' association "Judges for Democracy". Its members feel that this ruling *"confirms the inability of the Spanish justice system to prosecute the crimes of dictatorship and compensate the victims"*. In addition, they consider that *"the urgent, precautionary protection of the dictator's family interests compared to the state's neglect and abandonment of the relatives of so many victims of forced disappearances and extrajudicial executions who are still waiting for truth,*



European Parliament

justice and reparation is utter farce". It is a mistake that we must remember has repeatedly been denounced by the United Nations and the Council of Europe.

We would like to remind you that the signatories of this letter, members of an informal group working on behalf of the victims of this criminal regime, have written to you on several occasions alerting you to the seriousness and depth of this problem. We think that your inaction is eroding the credibility of European institutions, hitherto oblivious to the suffering of tens of thousands of families who continue to search for their relatives murdered in ditches and mass graves.

The fact that we are complaining here once again highlights the fact that the highest authorities in the Spanish justice system continue to have serious problems in accepting the Community acquis and values in this area. This situation, together with its serious problems in terms of impartiality, which have been repeatedly denounced by parliamentary initiatives, should finally be brought to the attention of the Community authorities.

We therefore ask you once again to take an interest in this problem and help resolve it from your position. It would be serious if it affected a European citizen. However, it is intolerable when it violates the right of so many to truth, justice and reparation that the citizens of other countries who were victims of totalitarian regimes have enjoyed for decades.

Yours faithfully,

Izaskun Bilbao Barandica

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