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CRIMINALISATION OF TRADE UNIONISTS IN SPAIN

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ABSTRACT

1.- Explanation of the specificity of the criminalization of trade union action in the context of discourses on austerity policies.

2.- Strengthening of the direct repressive response of the State on the capacity of union mobilization (general strike of 2010, socialist government, general strikes of 2012, popular government).

a) Processing and massive criminal instruction against participants in strike pickets: more than 300 people in two years (trade unionists, shop stewards, leaders).

b) Regulation of the legal repressive floor after - and a result of - a strong social mobilization. Law on "citizen security" (2015), and reform of the offense of picketing in the Penal Code 2015 with reduction of penalties after the complaint of CCOO and UGT on the ILO.

3.- Resistance and union protest in CCOO and UGT action unit against mass criminal prosecution and the first convictions for the crime of picketing of art. 315.3 of the Penal Code. An exemplary case: The Airbus 8. Eight delegates from the Airbus Works Council prosecuted for the crime of picketing in a general strike with direct repressive police intervention. Assemblies and cultural events, manifestos, manifestations. International Solidarity. Complaint to the ILO Committee on Freedom of Association in July 2014. Report nº 380, October 2016, Case nº 3093 (Spain).

4.- Concerning art. 315.3 of the Penal Code as a political objective of trade union mobilization. The "coercion" in the context of the existing pressure in the conflict. Difference between violence and coercion in the context of the confrontation that occurs during the strike.

5.- The outcome of criminal proceedings and judgments. A repressive tendency interrupted in 2016 with the sentence of the 8 of Airbus. The presumption of innocence and personal responsibility vs. unilateral accusations of the police, a long period of investigation - five years - and imputation on the basis of "criminal types of author", that is to say, criminalization associated with the social position (trade unionist as a potential criminal) . Subsequent imputations on the basis of the crime of attack against police officers.

6.- The result from the trade union point of view:

a) Review of the criminal court of fundamental rights in the case of the right to strike and the elimination of anti-union use of criminal provisions. A law proposal of CCOO and UGT on the repeal of art. 315.3 CP (April 2017) that must be negotiated with the parliamentary groups with the exception of the Popular Party.

b) Reconstruction of the public space of the strike considered as a space of immunity from the intervention of the Police, which protects only property, consumption and trade, through coercion and violence against strikers. "Liberation" of the collective action beyond the barriers of the workplace and insertion of the right to strike in the urban tissue, in the normality/anormality of the daily life of the citizens. The collective action must be protected in the exercise of a fundamental right and not the contrary, protecting those who do not exercise the right to strike or obstruct it.

c) Claiming the constitutional function of the right to strike as a functional right to substantive or material equality and as a right of citizenship which in the specific case of the general strike expresses the value of fundamental social solidarity in democratic terms.