



19.12.2018

## NOTICE TO MEMBERS

**Subject: Petition No 0373/2018 by Jose Manuel Martin Álvarez (Spanish) on freedom of expression**

### 1. Summary of petition

The petition calls for a change in Organic Law 4/2015, dated 30 March 2015, on the Protection of Public Safety. This law came into force on 1 July 2015, and breaches of the law include failure to comply with rules on holding meetings and demonstrations. The petitioner claims that liberties such as freedom of expression, freedom of information and the right to demonstrate are classified as offences. The petitioner also criticises the arrests of social activists and rap artists.

### 2. Admissibility

Declared admissible on 20 August 2018. Information requested from Commission under Rule 216(6).

### 3. Commission reply, received on 19 December 2018

Freedom of assembly is a right enshrined in national, European and international human rights instruments. Articles 11 and 12 of the Charter of Fundamental Rights of the European Union underline the respect of the freedom of expression, and the freedom of assembly and of association.

The Commission, within its competences, has always been strongly committed to ensuring that freedom of expression and freedom of assembly are strictly respected since they are the basis for a free, democratic and pluralist society.

However, the Commission can only intervene in circumstances where there has been an alleged breach of EU law. In that connection, it should be noted that pursuant to its Article 51(1), the Charter of Fundamental Rights of the EU applies to the Member States only when

they are implementing EU law.

Since there is no indication that the law put into question is implementing EU law, the Commission cannot follow-up on this matter.

In such cases, it is for Member States and national authorities and courts to ensure that their obligations regarding fundamental rights – resulting from international agreements and from its internal legislation – are respected.

### Conclusion

Based on the elements provided in the petition, and in the absence of EU competence in the matter, the Commission is not in a position to pursue this case any further. It is for the Member State concerned to ensure that its obligations regarding fundamental rights – resulting from international agreements and from its internal legislation – are respected.