

ANNEX 2 - Formal Complaint to the Spanish Minister of Finance (Don Cristóbal Montoro Romero), July 26, 2013 (Proof of Silencio Administrativo)

RESPONDENT STATE PARTY: The Kingdom of Spain **NATURE OF DOCUMENT:** Formal Notification of "Force Majeure" and Proof of Institutional Silence (*Silencio Administrativo*) **SUBMISSION FOR:** UNCAT Individual Communication

1. Factual Background and Purpose of the Communication

On July 26, 2013, the complainant, Ing. Hans Smedema, submitted a formal, detailed open letter to Don Cristóbal Montoro Romero, the Spanish Minister of Finance and Public Administrations (*Ministro de Hacienda y Administraciones Públicas*) 1, 2.

The immediate purpose of this communication was to formally declare an inability to pay 2012 Spanish income taxes, explicitly invoking "force majeure" 1, 2. The complainant detailed that this financial breakdown was the direct result of the extraordinary financial burden of forced exile, having to maintain two separate households to support his severely traumatized wife in the Netherlands, and the costs of fighting a "horrifying Dutch conspiracy" and "severe Human Rights violations" perpetrated by the Dutch Government 3-5.

Crucially, the legal significance of this document extends far beyond a tax dispute. By submitting this letter, the complainant placed the highest levels of the Spanish Executive Branch on formal notice regarding severe, ongoing transnational human rights abuses. The complainant explicitly requested that the Spanish Minister of Finance intervene by formally contacting his Dutch counterpart (Minister of Finance and Eurogroup Chairman Jeroen Dijsselbloem) to confirm or deny the accusations and to demand an end to the human rights violations 2, 6, 7.

2. The State's Response: Proof of *Silencio Administrativo*

Despite the gravity of the allegations presented to the Spanish Minister, which formally notified the Kingdom of Spain of a transnational state capture scenario severely impacting a resident on its sovereign soil, the Spanish government responded with absolute institutional silence 8, 9.

The complainant never received any answer, formal acknowledgment, preliminary inquiry, or reasoned administrative rejection to this formal petition 8, 10, 11. Under Spanish administrative law, this total failure of a public administration to respond to a citizen's formal petition is governed by the doctrine of negative administrative silence (*silencio administrativo*) 12. Annex 2 stands as objective documentary proof that the Spanish state was formally notified of the abuses but willfully chose to ignore the victim's plight 8, 12.

3. Legal Significance for UNCAT Proceedings against Spain

This document serves as a cornerstone piece of evidence in the UNCAT communication against the Kingdom of Spain, proving multiple treaty violations and satisfying strict procedural admissibility requirements:

A. Direct Violation of UNCAT Article 12 (Failure to Investigate) Article 12 of the Convention Against Torture imposes a mandatory, non-derogable obligation on a State Party to proceed to a "prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed" 13. The evidentiary threshold to trigger this investigation is simply having "reasonable grounds to believe," not absolute proof 13. The detailed 2013 ministerial communication unequivocally met this threshold, yet Spain failed to initiate any form of ex officio preliminary inquiry, constituting a direct breach of this fundamental international duty 14, 15.

B. Direct Violation of UNCAT Article 13 (Denial of the Right to Complain) Article 13 guarantees the right of any individual alleging torture to complain to, and to have their case "promptly and impartially examined by," competent authorities 8. By utilizing *silencio administrativo* at the ministerial level to completely ignore the July 26, 2013 complaint, the Spanish state structurally stripped the complainant of this fundamental right, enforcing a transnational "cordon sanitaire" and denying any avenue for a domestic remedy 8, 15.

C. Establishing the "Futility Exception" for Exhaustion of Domestic Remedies (Article 22(5)(b)) To submit an individual communication to the UNCAT, a complainant must generally exhaust all domestic

remedies 9. Annex 2 provides critical proof that domestic remedies within the Kingdom of Spain fall under the "futility exception" of UNCAT Article 22(5)(b) 9. The absolute institutional silence from the Spanish executive branch demonstrates a systemic denial of access to justice 8. When combined with structural blockades such as the 1968 Spanish Official Secrets Act (*Ley de Secretos Oficiales*), which creates a "jurisdictional black hole" shielding necessary intelligence evidence from the courts, pursuing further domestic judicial remedies in Spain is proven to be structurally incapable of bringing relief and practically futile 16.

Conclusion Annex 2 demonstrates that the Kingdom of Spain was explicitly and formally notified of severe human rights violations impacting a resident alien. By responding with absolute *silencio administrativo*, Spain actively failed its positive territorial obligations under the Convention Against Torture, rendering domestic remedies exhausted by futility and justifying immediate international intervention.