

Brussels, 8th November 2019

Dear Mr. Juncker,
President of the European Commission,

Dear Mrs. Von der Leyen,
President-designate of the European Commission,

On Wednesday 6th November, the Spanish Minister of Foreign Affairs and current commissioner-designate for the position of High Representative/Vice-President for foreign affairs and security policy, Mr. Josep Borrell, published a tweet¹ that he delated some hours later. In this tweet, he included a screen shoot of the SIRENE document from the United Kingdom authorities requesting further information to Spain before taking the decision on the European Arrest Warrant, which was issued by Spain seeking to extradite Ms. Clara Ponsatí, former Catalan minister based in UK.

This public disclosure of restricted documents might represent a breach of EU law for the following reasons:

- **The access to the information in the SIRENE system is restricted** to competent law enforcement and judiciary authorities and Member States shall apply its rules of professional secrecy accordingly, as enshrined in Article 11 of the Council Decision 2007/533/JHA of 12 June 2007 on the establishment, operation and use of the second generation Schengen Information System (SIS II) and in the SIRENE Manual;
- **Political authorities are not included in the List of the Spanish competent authorities** which are authorised to search directly the data contained in the second generation Schengen Information System pursuant to Article 46(8) of Council Decision 2007/533/JHA on the establishment, operation and use of the second generation Schengen Information System;
- **A Minister should not have access to the SIRENE document; neither publish restricted information or personal data of individuals in the social media, which is a serious negligence.** Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, stipulates in its Article 4.1(a) that Member States shall provide for personal data to be *not processed in a manner that is incompatible with those purposes* and in its Article 4.1(f) that the processing of personal data should be in a *manner that ensures appropriate security of the personal data*; Article 29 of the same Directive lays down the

¹ See document attached.

provisions concerning the security of processing; and Article 46(7) of the Council Decision 2007/533/JHA of 12 June 2007 on the establishment, operation and use of the second generation Schengen Information System (SIS II) provides that *“any use of data which does not comply with paragraphs 1 to 6 shall be considered as misuse under the national law of each Member State”*;

- **The judiciary process for Ms. Clara Ponsatí is still ongoing, thus, presumption of innocence must apply.** According to Article 4 of the Directive (EU) 2016/343 of the European Parliament and of the Council of 9 March 2016 on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings *“Member States shall take the necessary measures to ensure that, for as long as a suspect or an accused person has not been proved guilty according to law, public statements made by public authorities, and judicial decisions, other than those on guilt, do not refer to that person as being guilty”*.

Mr. Josep Borrell access to restricted information, misuse of data, and violation of Ms. Clara Ponsatí presumption of innocence, is extremely worrisome and unacceptable behaviour for a commissioner-designate. Therefore, for all the above-mentioned I urge you to:

1. Urgently open an investigation to Mr Josep Borrell and make public the findings.
2. Dismiss the appointment of Mr Josep Borrell for the position of High Representative/Vice-President for foreign affairs and security policy if the misuse of confidential information is proven.

Yours sincerely,

Diana Riba i Giner (Greens/EFA)



Josep Borrell Fontelles  @J... · 10h 

La policía británica corrige la utilización del término "desproporcionado" para calificar la petición de extradición de Ponsatí. En su nueva comunicación aclaran que simplemente se trata de pedir más información. Este es el documento de rectificación que han enviado:



FORM F – Flag

Form details	
Date + time of message	001 2019-11-06 20:35 UTC
Message reference number	002 342514
Sending SIRENE	003 UNITED KINGDOM(0027)
Destination SIRENE	004 SPAIN(0005)
Schengen reference number	005 ES10006761771A3000001
Important notice	311 URGENT(0001)
Importance notice text	URGENT
Targeted to	
Identity	
Main record	316 <input type="checkbox"/>
Identity alias number	310 0000
Family names	006 PONSATI OBIOLS // PONSATI OBIOLS
First names	007 CLARA // CLARA
Name at birth	008
Previously used name(s)	206
Date of birth	009 19/03/1967
Place of birth	010 BARCELONA BARCELONA // BARCELONA BARCELONA
Gender	011