



Quenby Wilcox
Founder - Global Expats
10 Southway Rd, Unit P
Greenbelt, MD 20770
quenby@global-xpats.com
www.global-xpats.com

Ilustre Colegio de Abogados de Madrid
C/ Castello No. 50 – 1^o Dcha.
28001 – Madrid
Tel. 91 431 76 33

November 19, 2014

Dear Sirs;

I am hereby, appealing the latest communication from the Colegio de Abogados signed on September 26, 2014, and in relation to my original complaint, *Preliminar* No. 859/13 and *Recurso al Expediente* No. 279/13.

Sincerely,

Quenby Wilcox
Fundadora – Global Expats

Response to the Correspondence of the Consejo de Colegios de Abogados de la Comunidad de Madrid with receipt on Oct. 8, 2014 in relation to Expediente No. 279/2013 and (Ref. ICAM: Preliminar No. 859/13) of the Ilustre Colegio de Abogados de Madrid

I, Quenby Wilcox, with NIF X-5737207-H, hereby (on November 19, 2014), in response to the communication from the Colegio de Abogados (signed Sept. 26, 2014, received on Oct. 8, 2014, and with 2 months to appeal – **thereby well within the appeal date**) I am appealing the decision of the Consejo de Colegios de Abogados de la Comunidad de Madrid which returned my appeal of Sept. 16, 2014 “without record,” without legitimate reason. Due to the impossibility of finding a Spanish lawyer and procuradora to represent me before the Colegio de Abogados de Madrid, and present my complaints, under art. 24 of the Spanish Constitution I am soliciting that the Colegio de Abogados de Madrid appoint a court-appointed lawyer and procuradora to represent me, and present my case.

And, in relation to my complaints before the Colegio de Abogados de Madrid and other Spanish authorities, I constate the following:

Protest to the lack of due diligence by the Colegio de Abogados de Madrid

In the first place, I protest to the return of my appeal “without record” by the Colegio de Abogados de Madrid. I received the Expediente 279/13 del Colegio de Abogado on July 26, **2014**, (more than one year after having been signed by the Colegio de Abogados – July 5, **2013**) and only after me having filed a complaint with the *Defensor del Pueblo* against the inaction of the Colegio de Abogado. I sent my response (signed and sent on September 16, 2014) to the Colegio de Abogado within the 2 months accorded by the Consejo de Colegios de Abogados de la Comunidad de Madrid. **Therefore, the devolution of my appeal by the Colegio de Abogados de Madrid (signed Sept. 26, 2014) is without legitimate reason, and in violation or art. 9 and 10 of the Spanish Constitution, inter alia.**

In the second place, I protest to the failure, and refusal, of the Colegio de Abogados de Madrid to complied with their obligation under art. 21.1 of the Ley 19/97 de Colegios Profesionales de la Comunidad Autónoma de Madrid, in accordance with articles 114 and 115 of the Ley 30/92 of Nov. 26, of the Régimen Jurídico de las Administraciones Publicas y del Procedimiento Administrativo Común, art. 2.1 del Decreto 245/2000¹ (and art. 451 of the Spanish penal code) **to have notified the Ministerio Fiscal regarding allegations of penal infractions** (from the onset) against Gonzalo Martínez de Haro, Belén García Martin, Jose

¹ 2.1 del Decreto 245/2000 “*hechos y fundamento entre la presunta infracción administrativa y una posible infracción penal, lo comunicará al Ministerio Fiscal o al órgano jurisdiccional competente, solicitando testimonio sobre las actuaciones practicadas respecto de la comunicación,*”

Manuel Hernández Jiménez, Jorge Capell Navarro de Cuatrecasas, Gonçalves Pereira, Alberto Fontes García Calamarte, Miguel Martínez López de Asiain, and Ignacio González Martínez **before proceeding with their own investigation – noting that at no time the Colegio de Abogado investigated my allegations, or handed down a decision, regarding the facts, one by one.**

The contention of the Colegio de Abogados de Madrid in Preliminar 859/13 that the violation of the rights of a victim of gender violence and discrimination against women by her lawyers (and/or Spanish tribunals) is “nothing more” than “*decisions by lawyers [that] fall under their independence, prerogative that assist in the execution of their function as provided for under article 542.2 of the Ley Orgánica del Poder Judicial, 33 of the Estatuto General de la Abogacía and 2 of the Código Deontológico de la Abogacía Española, [and] that immunizes them from all interference and is the exclusive territory of the defense, without any possibility of a deontological revision*” and that actions and omission of actions cited “*exclusively affect fundamental rights recognized in the Spanish Constitution (CE) and norms in international agreements, and not in any way norms under ordinary laws*” therefore are not ‘grave,’ or important.

The declarations of the Colegio de Abogados de Madrid in Preliminar 859/13 as well as Expediente 279/13 that absolves the cited lawyers of all ‘revision’ and/or sanctions, due to ‘judicial independence’ and for simple have denied guilt, are ambiguous and confusing, **and do not address the legality of their actions and omission of actions that were meticulously detailed in my complaints against the cited lawyers.** Under the reasonable person principle, the omission of actions by the Colegio de Abogados de Madrid (to investigate my allegations), does not fill even a minimum of due diligence in their actuation.

The refusal of the Colegio de Abogados to investigate my allegations in accordance with the law is in violation of the following articles:

- art. 1, 7, 9, 10, 13, 14, 15, 17, 18, 19, 20, 24, 27, 39 and 40 of the Spanish Constitution
- art. 404, 408, 412, 450, 451, 510, 511 and 512 of the Spanish penal code
- art. 2, 3, 4, 6, 9, 10, 11, 13, 14 and 15 of the Equality Act 3/2007
- art. 2(d-f), 3, 5, 7, 11, 15 and 16 of the Convention of the Elimination of all forms of Discrimination Against Women
- art. 2(c), 3 and 4 of the Declaration of Elimination of Violence Against Women
Declaración sobre la eliminación de violencia contra la mujer
- art. 1, 2, 3, 4, 5, 6, 7, 10, 11 and 15 of the International Convention on the Economic, Social, and Cultural Rights
- art. 1, 2, 3, 7, 12, 17, 19, 20, 22, 26 of the Convention on the Civil and Political Rights
- Declaration on the Fundamental Principles of Justice for Victims of Crimes and Abuses of Power
- Art. 1, 2, 3, 8 and 10 Convention on Human Rights

Regarding the ‘statute of limitations’ of cited lawyers, as well ‘public authorities’ in their obligation to examine my allegations

(art. 24.2 of the Spanish penal code –

“Civil servant status shall also be deemed to be held by all those who [] participate in the exercise of public duties)

Whereas, the actions of my ex-husband are penal offenses under the Spanish penal code arts. 147.1, 148, 151, 169, 170, 172, 173, 174, 208, 209, 245, 248, 250, and 252, inter alía, with the negligence of the law firms and lawyers cited in my complaints making them complicit to and accessories to the criminal infractions of my ex-husband under arts. 11, 22, 27, 28, 31, 195, 510, 511, and 512 inter alía of the penal code.

Whereas, Capitulo I, de titulo VII on expiration of criminal accountability and its effects says,

Art. 132.1 - [the statute of limitation] In cases of continued offence, permanent offence, as well as offences requiring assiduity, those terms shall be calculated, respectively, **from the day on which the last infraction took place, from when the unlawful situation or the conduct ceased.** 2. **Prescription shall be interrupted, leaving the time elapsed without effect, when proceedings are brought against the person deemed to be responsible for the felony or misdemeanor...**

Whereas, art. 131.4 of the Spanish penal code “Crimes against humanity, **shall not have a statute of limitations.**”

Whereas, título II of the Spanish penal code on criminally responsible for felonies and misdemeanors: –

Art. 27 - Those criminally responsible for felonies and misdemeanors are the principals and their accessories.

Art. 28 - Principals are those who perpetrate the act themselves, alone, jointly, or by means of another used to aid and abet. The following shall also be deemed principals: b) Whoever co-operates in the commission thereof by an act without which a crime could not have been committed.

Art. 29 - Accessories are those who, not being included in the preceding Article, co-operate in carrying out the offence with prior or simultaneous acts.

Whereas, Capitulo II of the Spanish penal code on omission of the duties to prevent felonies or to promote their persecution: –

Artículo 451 - Whoever has knowledge of a felony committed and, without having intervened in it as a principal, subsequently intervenes in its execution, in any of the following manners, shall be punished with a sentence of imprisonment of six months to three years:

1. Aiding the principals or accomplices to benefit from the gains, product or price of the offence, without intending personal profit;
2. Hiding, altering or destroying the evidence, effects or instruments of an offence, to prevent it being discovered;
3. Aiding the suspected criminals to avoid investigation by the authority or its agents, or to escape search or capture, whenever any of the following circumstances concur: b) When the person abetting has acted in abuse of his public functions

Whereas, Capítulo IV, del código penal española, sección 1ª On felonies related to the exercise of fundamental public rights and liberties guaranteed by the Constitution

Artículo 510 - **Those who provoke discrimination, hate or violence against groups** or associations due to racist, anti-Semitic reasons or any other related to ideology, religion or belief, **family situation**, belonging to an ethnic group or race, national origin, **gender**...

Artículo 512 - A sentence of imprisonment of six months to two years and a fine of twelve to twenty- four months and special barring from public employment and office for a term from one to three years shall be incurred by **private individuals in charge of a public service who refuse a person a service to which he is entitled due to** his ideology, religion or belief, belonging to an ethnic group or race, national origin, **gender**, sexual preference, **family situation**

The acts, and omission of acts, of cited lawyers that transpired between September 2007 and November 2013, when Srs. Martinez and Gonzalez notified me that they had finished with all judicial actions in relation to my divorce and liquidation of assets. However, I received all documents at the end of April 2013 (through the American Embassy in Madrid), and thereby able to obtain all knowledge of all actions, and omission of actions of the cited lawyers.

As all actions, and omission of actions, of the cited lawyers were complicit with to the cover-up of gender violence and fraud (of their client) in a manner of “anterior or simultaneous” and were “continued offence, permanent offence, as well as offences requiring assiduity” calculates the termination of the penal infractions when the “conduct ceased” – therefore in April 2013.

I filed my first complaint with the Colegio de Abogados de Madrid in June 2013 (noting that I had filed a complaint with the Defensor del Pueblo, Consejo General del Poder Judicial and Instituto de la Mujer in April and May 2012, well before the termination of the penal infractions). **Therefore, the statute of limitation was interrupted in June 2013 and remains interrupted until there is an investigation and final decision by the Fiscalía in relation to the penal offenses, and then a final decision by the Colegio de Abogados according to the decision of the Fiscalía – therefore the statute of limitation is interrupted at present.**

I call attention to the fact that presently, during which time ‘public authorities’ (art. 24 of the penal code) of the Spanish government refuse to investigate my allegations and the facts of my case, any ‘public authority’ who by their actions, or omission of actions, covers-up criminal offenses of cited lawyers (and/or others), becomes complicit to the penal offenses of the cited lawyers (as well as the penal offenses of my ex-husband) under art. 451, 511, and 512, inter alía.

The legal responsibility of public authorities in my case according to the decision of CEDAW, *González Carreño vs. España*, July 18, 2014

In July 2014, the Committee on the Elimination of all forms of Discrimination Against Women (Committee) in their decision *González Carreño vs. España*, found the Spanish government in violation of art. 2 and 5, in conjunction with art. 1 of the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW).

The Spanish government, in the response to the Committee, contended that the discrimination against ‘the author’ by Spanish tribunals was due to “judicial error, as provided for in art. 291.1 of the Organic Law on the Judiciary (LOPJ).” Also, the government contended that the case was inadmissible because “the author had not correctly exhausted all domestic remedies” in seeking “reparation for the mal-functioning administration of Justice” (4.2).

In response the Committee declared that the Spanish State “does not provide information on the effectiveness of the procedures [for pecuniary liability], for example through statistical data or examples of similar cases in which victims have obtained redress through this means.”(5.2)

In the first place, it should be noted that discrimination against women by the courts, and judicial actors, is systematic and extensive in Spain. The proof of this “systematic and extensive” failure was presented in my last communication to the Colegio de Abogados de Madrid – noting the illegitimate devolution of said documents and appeal. The documents were the following:

- *Domestic Abuse as a Human Rights Violation and the Principle of Due Diligence: an Intersectional Approach – Case Study, Spain* (<http://warondomesticterrorism.com/category/report-dv-as-human-rights-violation-duty-to-protect/>)
- Newsletter *Family Courts in Crisis*, Nov. 2013 – June 2014 (<http://warondomesticterrorism.com/category/fcc-newsletters/>)
- *Domestic Violence and Abuses of Power in Societies and the Courts* (<http://warondomesticterrorism.com/category/report-domestic-violence/>)
- *Failure of Family Court to Protect Child Victims of Sexual Abuse* (<http://warondomesticterrorism.com/category/report-child-sex-abuse/>)

In second place, the following Spanish authorities refused to investigate my allegations against judicial actors, from May 2012 until present;

- *Defensor del Pueblo y Consejo General del Poder Judicial, 2012* (http://warondomesticterrorism.com/category/defensor_del_pueblo_1-2012_espanol/)
- *Instituto de la Mujer, 2012* (http://warondomesticterrorism.com/category/instituto_de_la_mujer-2012/)
- *Colegio de Abogados de Madrid, 6/13* (<http://www.warondomesticterrorism.com/>)
- *Colegio de Abogados de Madrid, 8/13* (http://warondomesticterrorism.com/category/colegio_de_abogados_recurso_8-13_espanol/)
- *Defensor del Pueblo, 4/14* (http://warondomesticterrorism.com/category/defensor_del_pueblo_4-14_espanol/)
- *Colegio de Abogados de Madrid, 9/14* (http://warondomesticterrorism.com/category/defensor_del_pueblo_9-14_espanol/)

The omission of actions by ‘Spanish authorities’ clearly show that the **contention of the Spanish State, in *González Carreño vs. España*, “that judicial errors in the failure to protect victims from domestic violence in Spain is not caused by any negligence of the State” is completely false.**

In relation to the negligence of judicial actors in my case, and my complaints against them, I wish to constate that since September 2007 until present I presented myself, and (repeatedly) solicited, assistance from the Centro de género de Villanueva de la Cañada (and all related centers), Federación de Asociaciones de Mujeres Separadas y Divorciadas, Federación de Mujeres Progresistas, y turnos de oficio en los Colegios de Abogados de Villanueva de la Cañada, Majadahonda, y Madrid, a dozen times.

My solicitations included finding a lawyer in Spain that would protect and defend my rights and interests before Spanish tribunals, information about judicial procedures, information about Spanish laws, and information about the legal obligations of my lawyers regarding my defense. In all meeting reunions (particularly all meetings with abogados de turnos del Colegio de Abogados de la Comunidad de Madrid) I never received the assistance or information that I solicites – noting that the occultation of information by the abogados de turnos del Colegio de Abogados de la Comunidad de Madrid was particularly flagrant, contending that they could not responde to my questions because there “were not lawyers” or that family law was “not their speciality” refusing to provide me with their names when asked.

It is important to note that while the negligence of judges is important in combating the systematic and extensive discrimination against women in Spain, **the first step in combating it is terminating the impunity of negligent lawyers in Spain. Without lawyers, and bar associations, that are dedicated to developing an honest and fair legal profession, which promotes and defends the rights of women, it is difficult to hold judges responsible for their discriminatory decisions and/or violations of the law. Therefore, it is imperative that actions and omission of actions of lawyers in cases of negligence be meticulously examined, and that all actions, and omission of actions are sanctioned to the letter of the law.**

In relation to the obligation of the Colegio de Abogados to examine the actions and omission of actions of the cited lawyers, I cite CEDAW in *González Carreño vs. España* (7.6) “In order to discharge its duty of diligence, it is not enough for the State to adopt legislation on the subject; it is necessary for the legislation to be applied. In Spain, State negligence in protecting women and minors from domestic violence persists to the present time, despite the adoption of legislative measures.”

Also, I cite Rebecca J. Cook in *The Responsibility of the State and the Convention of Women in Human Rights of the Women*,

State parties agree to take “all appropriate measures” in Article 2(c) of the Women’s Convention,

To establish the legal protection of the rights of women on an equal basis with men to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination.

The article leaves states parties a choice of means and creates legal obligations to exercise the choice diligently.

Domestic law furnishes relatively few instances of legal responsibility arising from the official conduct of judges, because of doctrines of judicial immunity. At the international level, a state’s responsibility for the conduct of its judiciary is frequent masked because judicial acts of an administrative nature appear as executive action and acts of adjudication may interpret legislation or determine the legal character of executive action, so that attention is deflected from the judiciary itself onto the legislature of the executive.

The judiciary has the responsibility to determine the application of principles of international human rights laws, including relevant conventions, at the national level. If final courts of accessible appeal consider themselves bound by national legislation or legal doctrines in ways that obstruct enforcement of human rights, national judicial remedies will be exhausted and the claim will assume an international character.

If... the courts commit errors in that task [or treaty interpretation] or eline to give effect to the treaty or are unable to do so because the necessity change in, or addition to, the national law has not been made, their judgments involve the State in a breach of treaty.

...Important powers and responsibilities lie in the hands of the judiciary to give effect to women’s rights.

Conclusion

The refusal of the Colegio de Abogados to investigate the allegations against the cited lawyers, instead of absolving cited lawyers for responsibility for the violation of the rights of their clients, transfers the legal responsibility for violation of said right to the Spanish State, as well as their liability for all financial damages produced.

Therefore, I am soliciting the Colegio de Abogados to appoint a lawyer and procurador to represent me, and then fulfill their obligation to notify the Ministerio Fiscal of my allegations of penal infractions by Gonzalo Martínez de Haro, Belén García Martín, Jose Manuel Hernández Jiménez, Jorge Capell Navarro de Cuatrecasas, Gonçalves Pereira, Alberto Fontes García Calamarte, Miguel Martínez López de Asiain, and Ignacio González Martínez, (as provided for under art. 21.1 of Ley 19/97 de Colegios Profesionales de la Comunidad Autónoma de Madrid, in accordance with arts. 114 and 115 of la Ley 30/92 de 26 de noviembre, de Régimen Jurídico de las Administraciones Publicas y del Procedimiento Administrativo Común, art. 2.1 del Decreto 245/2000² (and art. 451 of the Spanish penal code).

And, after having received a final decision from the Ministerio Fiscal on the penal infractions, I solicit the Colegio de Abogados de Madrid to review the allegations and evidence presented in my previous complaints and appeals, and sanction all responsible parties to the letter of the law.

Signed, on November 19, 2014



Quenby Wilcox

NIF X-5737207-H

² 2.1 del Decreto 245/2000 “*hechos y fundamento entre la presunta infracción administrativa y una posible infracción penal, lo comunicará al Ministerio Fiscal o al órgano jurisdiccional competente, solicitando testimonio sobre las actuaciones practicadas respecto de la comunicación,*”