

## The bend at Angrois (B)

### The response of the Spanish public administrations

#### “I shall not rest until the truth is known”

From the very beginning, the authorities declared that they would guarantee an exhaustive investigation of the accident at Angrois. The president of the Xunta de Galicia, Alberto Núñez Feijóo, demanded that investigations should proceed “with the utmost speed, but also with the utmost certainty”. The president of the Government set himself the challenge to see them through “with the greatest possible urgency and naturally, to come to the right conclusions.”<sup>1</sup>

On the 8<sup>th</sup> and 9<sup>th</sup> of August, two weeks after the accident, the presidents of Adif and Renfe, Gonzalo Ferre and Julio Gómez-Pomar respectively, and the minister of Development, Ana Pastor appeared before the Spanish parliament to report on the accident. Pastor stated:

My objective, honorable members, is none other than that the whole truth be known and that such a terrible accident should never happen again. That is our duty towards the victims and they have my word that I shall not rest until the truth is known. To this end, we have been collaborating closely with the investigations: on the one hand with the judicial proceedings taking place at County Court Nº 3 of Santiago de Compostela and on the other with Rail Accident Investigations Commission.<sup>2</sup>

There were two serious risks inherent in that desire for transparency. The first was commercial in nature. The Spanish rail industry was in the process of tendering for HST infrastructure in several different countries. One of the conditions of those tenders required a clean record of incidents related to such installations. If the conclusion of the investigation indicated that the catastrophe at Angrois had in any way been brought about through faulty design or poor regulatory implementation, multi-million-dollar contracts might be lost.<sup>3</sup>

The second was personal. If the conclusions of the investigation indicated deficiencies in infrastructure, those responsible for their design, building and authorization might have to face penal charges of reckless homicide and 145 counts of injuries. The mere assumption of political responsibility – any *mea culpa* – could become an indictment and possible imprisonment.

This was the reason why what the Administration *did* was not in line with what it *declared*. The objective of all the acts of the Administration, from the very first day after the accident, seems

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to aim at neutralizing the threats described and at situating itself as far as possible from the causes of the accident. To achieve these aims, the institutional response was based on six pillars, which we will now describe.

### **1) The driver was to blame**

Very soon after the accident, the call from the driver to the Traffic Control Centre at Atocha, run by Adif, was filtered to the media. However, the press only received the self-inculpatory fragment in which the driver admitted that the train had entered the bend at more than twice the permitted speed. The parts of the conversation in which José Garzón Amo repeated that “they’d already been told that the bend was very dangerous” and that “it’s just not right that they should do this sort of thing” were not divulged and therefore not mentioned by the media.<sup>4</sup>

The evening after the accident in Angrois, the magistrate on duty was supervising the removal of the corpses when he was told that the Minister of Development and the secretary of state for infrastructure had arrived. The two senior officials were anxious for him to listen to a number of recordings immediately. The magistrate asked them kindly to hand them over to the judicial secretariat because at that moment his foremost urgency was to carry out his work in respect of those who had died.<sup>5</sup>

That same night, the Interior Ministry added to the police statement on the accident a Facebook post by the driver with a photograph of the train speedometer reading 200 KPH and the comment: “At that speed it would bust all the radar traps of the Traffic Police”. The information was irrelevant, because that was the standard speed of the train, and he was not in fact the driver of that train, but that joke out of context reinforced the impression that Garzón was reckless.

Once the recording and the post reached the public, the official narrative had a solid basis to point to the driver as being the sufficient cause of the accident.<sup>6</sup> The politicians involved developed the narrative indirectly, and the technicians, explicitly.<sup>7</sup>

To back up this version, Adif, Renfe, the Ministry and even the Secretary of State claimed that the Angrois bend was just another bend and that there was no evidence to show that it was particularly dangerous.<sup>8</sup> (At this time, the email from the head of the drivers, José Ramón Iglesias Mazaira, had not yet come to light.)

The driver was arrested and detained in the hospital; following his lawyer’s advice, he refused to give evidence to the Police. The next day, he was medically discharged and, with several broken ribs and a hemopneumothorax drainage in place, taken to prison.<sup>9</sup>

### **2) Urgency in the payment of indemnities**

The Spanish legal system is highly protective of senior officials of the Administration and public companies in respect of the civil responsibility (not so in the case of criminal responsibility) in which they may incur in the exercise of their duties and prefers the State to be the guarantor of the economic consequences of that responsibility.<sup>i</sup> But in addition. In this case, it was the insurance companies who were to bear the brunt of the indemnities.

<sup>i</sup> The 1954 law on expropriation ([BOE N.º 351, 17 December 1954](#)) determined that the Public Administration had direct liability to citizens in the event of damage. In this way, it ensured reparation regardless of the personal responsibility that the civil servant might have. Then, if necessary, the Administration could in turn hold the civil servant liable. Shortly after the Alvia case, the Law 40/2015, of 1 October 2015, on the Legal Regime of the Public Sector ([BOE N.º 236, 2 October](#)

The tragedy of Angrois was on the agenda of the first Cabinet meeting after the accident. On 2<sup>nd</sup> August, the decision was made to renovate the regulations regarding the relief of victims and several measures were passed to give immediate support to those affected by the accident.

Since medical attention for the injured was covered by the National Health Service, the Cabinet focused its attention on the economic aspects. First, it authorized Renfe to cover the travel expenses of the families and relatives in respect of burials and other immediate needs of those affected. The Cabinet also urged the insurers to expedite as far as possible the advance payment of indemnities:

The Ministry of Development is coordinating with the insurance companies and Renfe to ensure the rapid payment of indemnities of those affected by the rail accident in Santiago de Compostela. For their part, the insurance companies have shown a spirit of collaboration and a willingness to advance payment of the indemnities as soon as is humanly possible.<sup>10</sup>

Following the line of the official narrative regarding the causes of the accident, the Cabinet only mentioned the civil responsibility of Renfe as the company which employed the train driver; no mention was made of the possibility that Adif might also have an obligation to pay indemnities.

In respect of the civil responsibility of Renfe, the company is covered by a policy with QBE Insurance (Europe) Ltd, to guarantee payment of the indemnities for which Renfe may have civil or asset liability. [...] Since the responsibility to make monetary payments for civil liability is only demandable after the courts have passed the corresponding sentence, this advance payment is voluntary.<sup>ii</sup>

Perhaps the authorities thought that saying this might placate the victims and moderate their demands to find those who were guilty of the accident.

These payments depended on the insurance companies, which followed differing criteria.<sup>iii</sup> In any event, the Government did not follow up specific cases.<sup>iv</sup>

[2015](#)), extended this protection to public employees who are board directors of state-owned commercial companies appointed by the Public Administration. More recently, Royal Decree-Law 25/2020, of 3 July ([BOE N.º 185, 6 July 2020](#)), it extended it to public employees who are appointed directors in companies that receive public aid. The Spanish law contradicts the [OECD Principles of Corporate Governance](#) (2015) which determines that directors of state-owned companies must take responsibility for their actions.

<sup>ii</sup> Ministerio de la Presidencia, *Consejo de Ministros. Referencia*, 2 August 2013, p. 19. In reality, that statement was not correct: the obligation of insurers to pay compensation resulting from an accident does not depend on the existence of a court ruling that decides so, nor is the payment prior to that moment voluntary. The obligation derives from the fact that the incident is within the covered risk defined in the contract and must be made within the period of three months that, on that date, was counted from the accident.

<sup>iii</sup> The two insurance companies involved did not act in the same way. While QBE made the first advance payment fairly soon and in 2015 had already transferred the main amounts, Allianz dragged their heels, even in cases which were at the same time dramatic and simple (the payment of crutches or a wheelchair) and did nothing until the victims' lawyers threatened to take the matter to the press and organize protests in front of their head office. Another difference between the insurers was that while QBE transferred provisional amounts on account of the final amount which would be determined by the court, Allianz demanded that their payments included a waiver of any later claims.

<sup>iv</sup> According to the minutes of the meeting with the minister of Development, which was held a year and a half after the accident, the representatives of the victims asked for "the immediate solution of the personal problems of each one of the victims and their family members. There have been medical, therapeutic and other related expenses which have been waiting months for settlement. In reply, the minister maintained that this was a question for the insurance companies and therefore fell outside her jurisdiction.

### 3) Urgent reforms

In an appearance in Parliament some two weeks after the accident, the minister Pastor declared that she had ordered a safety audit of the Spanish rail system: she announced a bundle of 20 measures to improve safety on the trains and to ensure that there could not be a repetition of a catastrophe like that of Angrois.<sup>11</sup>

The first six measures were aimed at improving the signaling and at upgrading the ASFA system. In actual fact, a week after the accident (even before the minister's announcement) Adif had already installed a speed limitation signal in advance of the Angrois bend and had begun to install ASFA balises at different points of the route with significant changes of speeds.<sup>12</sup> They were exactly the same signals and balises demanded by the drivers, which, according to what Adif had claimed before the accident, were not possible.

The following seven measures reinforced the official narrative regarding the causes of the accident, they were related specifically to the selection, training, supervision and vigilance of drivers. The final measures included improvement of baggage regulation, listing of passengers and the support to be provided for them in an accident, and free tickets for children under four years of age.

To put into effect these last proposals, a cabinet meeting in July 2014 approved a royal decree which regulated the assistance to victims of a rail accident and their family members.<sup>13</sup> The new regulation included important aspects regarding the identification of passengers, the coordination and functions of different levels of the administration in the provision of emergency measures and it reformulated the rights of accident victims.<sup>14</sup> The new regulation also covered aspects relating to the indemnities for those affected.<sup>v</sup>

### 4) "It was not an HST"

Because the accident took place relatively near a station and in a section of track where speed was limited 80 KPH, both the Central and local Governments insisted that it should not be considered as an accident of a Spanish HST. When the media used that term, they were reproached for the error: "It was not a high-speed train, as some have damagingly claimed", Rafael Catalá (deputy minister of Development) claimed on various occasions.<sup>15</sup>

The official line was that the foreign companies which were competing in the tenders for this type of rail infrastructure all over the world were fostering the idea that it had been an AVE accident (the Spanish HST) with the aim of derailing the Spanish consortium.<sup>16</sup>

The message was aimed especially at the foreign governments or other entities which were responsible for awarding the tenders, but it caused surprise in Spain because all the news that appeared in the press and on television, on the web pages of Adif and Renfe, in the speeches of the authorities before the accident and in the press releases from the Ministry spoke about the line as a *high speed train line*.<sup>17</sup>

<sup>v</sup> In Spain, two types of insurance protect the traveller: general civil liability which is obligatory for any entity providing public services, and the SOV (Seguro Obligatorio de Viajeros, or Obligatory Traveller Insurance). Indemnities under the SOV had not been updated since 1989 with the result that the figures now under consideration were obsolete. The newly approved regulation doubled these amounts, but even so the scale of the updated indemnities was far lower than those of civil liability. Cf. Europa Press, "El Gobierno duplica las indemnizaciones a las víctimas de accidentes ferroviarios", *El Confidencial*, 18 July 2014; Real Decreto 627/2014, de 18 de julio, de asistencia a las víctimas de accidentes ferroviarios y sus familiares, *BOE*, 19 July 2014; Ley 35/2015, de 22 de septiembre, de reforma del sistema de valoración de los daños y perjuicios causados a las personas en accidentes de circulación, *Boletín Oficial del Estado*, 23 September 2015.

## 5) From transparency to opacity

As usually happens with any accident of this magnitude, the media, especially the media in Galicia, devoted various pages daily to the tragedy of Angrois. To begin with, they focused on following the emergency measures and the medical aspects, survivors' stories, profiles of the dead, interviews with the local people of Angrois, news of the condolences arriving from all over the world and reports of the commemorative ceremonies.

When those story lines dried up, they switched the focus from the effects to the causes: the changes made in the project, the differences in gauge between Galicia's AVE and other HST lines, the safety systems, and the locomotives...

With all the information published in the media, the predominant idea in public opinion that the driver had been to blame began to be questioned. Many people asked themselves if it could be considered normal that the safety of a train of the latest technological generation depended on the driver not being distracted. Common sense clearly indicated that such was not the case.

When journalists began asking the political authorities and the senior rail executives specific questions about the causes of the accident, the attitude of the latter changed. Availability to speak to the press about the performance of the emergency services and the generous popular response vanished. Media questions remained unanswered.

Suspicious began to harden on 20<sup>th</sup> August when the magistrate in charge of the case issued a writ in which he extended the possible causes of the accident and asked Renfe and Adif to identify those responsible so that they could be called to testify as defendants:

The essential cause of the derailment was bad practice on the part of the driver by driving the train at an excessive speed [...]. But a more detailed examination of the known circumstances in which an accident may happen leads us to infer that they are connected to the omission of preventive trackside safety measures, and, ultimately, to imprudent conduct by those responsible for guaranteeing the safety of rail traffic.

It can be concluded, finally, that there has been an omission of elementary caution by those whose mission is to guarantee the safety of rail traffic on the line; this omission constitutes punishable recklessness. Although a serious risk to traffic safety was known, no steps were taken to install a safety system to automatically annul that risk.<sup>18</sup>

The writ furthermore asks Adif to provide, among other reports and documents, those concerned with the design of the track and its safety measures, and calls on the Ministry of Development to provide evidence of its prior knowledge of incidents on the stretch of the track where the accident happened and the recommendations made thereon.

It is from this moment when the official position became overtly defensive, although the promises of total transparency and exemplary collaboration in the investigations ("her complete and absolute collaboration with the magistrate", the minister repeated) continued to figure in official speeches.<sup>19</sup>

The following are a few examples of how the official position had become defensive:

- One week after the writ was issued, PP blocked a request for a new appearance of minister Pastor in Parliament to give an explanation regarding the charges against employees in her ministry.<sup>20</sup>
- The creation of a parliamentary commission of investigation was refused.<sup>21</sup> A vote for the proposal to be heard in the plenary session of the Congress was rejected four times.

When it was finally debated, it was rejected with the votes PP, PSOE and the Catalan and Basque nationalist parties.

- The proposal for a commission of investigation was also blocked in the Parliament of Galicia.<sup>22</sup>
- In contrast, the creation of a sub-commission which would limit its action to “an analysis of the Spanish railway system” was passed unanimously.<sup>23</sup>
- The senior executives of Adif refused to give evidence to the judge in charge.<sup>24</sup>
- The technical staff of the public companies simply hedged their answers: “I don’t know”; “that’s not up to me” ... They claimed that “the bend was safe” but conceded that they did not know why the ERTMS was never installed.<sup>25</sup>
- Adif took four months to produce the report which the magistrate had asked for. When it finally handed in the document, there was not one mention in the more than 1000 pages of the safety analyses. This procrastination continued for years.<sup>26</sup>

## 6) Officially controlled investigations

Investigations were carried out on four different fronts:

- 1) The audit of the Spanish rail system announced by the minister was entrusted to employees of Adif, which depended on the ministry.
- 2) The investigation required by law of the CIAF, the Rail Traffic Investigation Commission, was entrusted to personnel designated by the Ministry.
- 3) The inquiries of the commission of the Congress, in accordance with the Spanish parliamentary system, had no legal force and could be terminated without having reached any conclusions. Furthermore, PSOE – who changed the project and built the line – and PP – who were in government when notifications of the risk were ignored – had a colossal majority which could quash any troublesome political resolutions.
- 4) And, finally, the judicial investigation.

It seems beyond question that the only investigation which could give the Administration headaches was the judicial.

## The reaction of the victims

Having covered their most urgent needs (medical attention via the public health system and economic indemnity through the insurance companies<sup>vi</sup>), the victims were still dissatisfied but for other reasons. They demanded a full investigation of the accident and that those responsible should be punished so that such a tragedy should not happen again.

<sup>vi</sup> The SOV (seguro obligatorio de viajeros) insurer Allianz provided indemnities of €60,000 for death and between €15,000 and €70,000 for injury, according to the categories established in the Royal Decree 1575/1989 ([Real Decreto 1575/1989](#)) and updated amounts as defined in the Royal Decree 627/2014 ([Real Decreto 627/2014](#)). For their part, the Renfe civil liability insurer QBE began making advance payments during the first three months and, by 2015, had paid most of their corresponding indemnities.

The attitude adopted by the Administration of keeping a low profile did not surprise the victims or their lawyers. The pattern was being repeated of previous accidents in which the State was liable, such as the Yak 72 plane crash in Turkey in 2003, the Valencia overground train crash in 2006 and the Spanair plane crash in 2008.<sup>27</sup>

Given these precedents, many of the victims decided to organize themselves together and soon two platforms of victims took shape: the Association of Victims of the Alvia Rail accident at Santiago de Compostela (APAFAS) and the Association Platform of Alvia 04155 Victims (APVA).

APAFAS was constituted on 23<sup>rd</sup> August 2013 under the presidency of Cristóbal González Rabadán, a 51-year-old retired Army officer. This is how he recalls the birth of the association while he was still in hospital:

After four or five days, when we could actually move, some of us injured and affected people got to know each and the idea arose of organizing ourselves, through the experience we had of other tragedies which had happened in Spain. In a tragedy of this magnitude, one person on his own can't do anything.<sup>28</sup>

The association managed to muster 150 victims and relatives and from the first it was encouraged and promoted by the law firm González Martín & Asociados.<sup>vii</sup> Its objectives were:

To safeguard the rights of the victims of the accident [...], and to take care of their needs. [...] to follow up the judicial proceedings [...] and to contribute [sic] with justice in order to ascertain all the causes of the accident and to attempt to establish responsibilities [...] . To collaborate with the law and pertinent organisms and entities to introduce as many safety measures as were necessary to make rail transport in Spain safer<sup>29</sup>.

At the beginning, the activity of the association was mainly directed towards improving medical attention to the victims. It provided its members with legal advice, and it appeared in court as a “people’s accusation”. Almost immediately they provided the investigation with a lengthy report on the conditions of the track signaling and on the actions of Renfe and Adif prior to the accident. Later, during the trial, they presented numerous appeals and other legal challenges.

APVA was constituted a few days after APAFAS, with an even more militant character. They defined themselves as follows:

Victims and relatives of victims who seek the truth and justice in the widest sense because we are aware that [the investigation] must also include those politically responsible who put their own interests first, reducing deadlines in order to start the service and run that train [...] We demand truth and justice and the prosecution of all those institutions, political parties, companies and individuals who obstruct justice and who conceal those who are responsible.<sup>30</sup>

APVA’s president is the computer sciences engineer Jesús Domínguez and represents about 200 victims. APVA does not provide its members with legal advice; its principal activity is to appear in court as plaintiff and to publicly report on the Administration through its web page and in the media, calling protest demonstrations before Parliament, courts and at different institutional ceremonies. They also brought their case effectively to the offices of European institutions, as we shall see shortly. One of its main criticisms focusses on the fact that there has not been one

<sup>vii</sup> Until the year 2016 it was legal in Spain for those affected by an accident to sign a contract with a law firm and leave the judicial proceedings in their hands in exchange for a percentage of the compensation. That year, after the experience of the Spanair crash, the government passed a new victims’ statute which prohibited the practice – frequent in other countries – of lawyers visiting hospitals in search of potential clients.

single resignation or dismissal, despite the tragic death toll; and that there have not only been no sanctions, but also some of the defendants were rewarded with promotion.<sup>31</sup>

APVA became a noisy and uncomfortable adversary of the Administration and soon their demonstrations began to be watched by considerable police presence. The most noteworthy was the occasion of the presentation of Medals of Galicia to the victims of the Alva crash, organized by the Xunta on the first anniversary of the accident. A minority accepted the deserved homage, but many others, among them almost all the members of APVA, declared that they did not want medals but justice, dismissals, and resignations.<sup>32</sup>

Although those who rejected the medal were not invited, they demonstrated at the place where the ceremony was being held. Riot police surrounded them and prevented them from entering the site.<sup>33</sup> The ceremony, profusely covered by the media, was clouded by the protesters shouting, “We`re not terrorists. We`re victims”. Far from alleviating wounds, the ceremony only deepened them.

## A compromising documentary

Driven by a desire to obtain information and to alert and mobilize society, similar to that which arose among the people affected by the Spanair accident,<sup>34</sup> many of the victims of the Alvia (in particular, those of the APVA platform), teamed up enthusiastically with film-maker Aitor Rei in the production of the documentary *Frankenstein 04155*.<sup>35</sup> To obtain funds, a micro-finance campaign was launched through the platform Verkami and managed to raise 53,400 euros. In the film, they explain their motives: “After more than a year gathering information and, consulting engineers and rail experts, we want to uncover what they don`t want us citizens to know”.<sup>36</sup>

The director explained that he wanted the work to throw light on the case with rigour and without making baseless allegations or accusations:

[In this audiovisual project] we haven`t invented anything. If we had, they would have sued us. All the information we give is documentation from Adif and Renfe. And it demonstrates that there was a chain of errors.<sup>37</sup>

The documentary was first shown at the International Cinema Week of Valladolid in 2015, where the jury gave it a special mention; it was also shown in festivals held in Vigo and Santiago.<sup>38</sup>

Because its authors only used official sources, the Administration could not sue them, but it did everything in its power to prevent it from being shown widely. Broadcast was forbidden on all public channels: national (RTVE) and regional (TVG, etc.). The private channels were not willing to show it either. The only broadcaster to break the blockade was the Catalan channel TV3 (the editorial line of the documentary coincided with TV3`s own habitual criticism of the central Government); the showing had a channel share of over 20%.<sup>39</sup>

*Frankenstein 04155* had a brief spell in commercial cinemas, and is now available on Filmin, one of the main Spanish streaming platforms.<sup>40</sup> It was also shown at the European Parliament.

## The results of the Administration's investigations

### a) The audit of rail safety

The audit of rail safety announced by the Minister, Ana Pastor, in her appearance in Congress in August 2013 was carried out by Renfe and the Directorates General of Ground Transport and the Railways and was coordinated by the Vice Minister Catalá.

The document was signed by the Renfe Director of Traffic, Antonio Lanchares, who, at that moment, was one of the accused by the investigating judge (in fact, he was the very person who had asked his opposite number in Adif to authorize the disconnection of the ERTMS in the trains – which was carried out without any prior risk evaluation).<sup>41</sup>

The aim of the audit was to verify the fulfilment of safety regulations across the rail network, and its conclusion surprised no one: “The conclusion arising from the analysis is that Renfe completely fulfills all the regulations and requirements at present legally in force”.<sup>42</sup>

Although the conclusion was favorable to the Administration, the victims' platforms were denied access to the audit by the Ministry. APVA appealed to the Council of Transparency and Good Government, which found in their favor and obliged the Ministry to hand it over.<sup>43</sup>

### b) The investigation by CIAF (Rail Accident Investigation Commission)

The work of CIAF was centered specifically on determining the causes of the accident at the Angrois bend. The commission was made up of Renfe and Adif personnel, with the support of the technicians of INECO. In other words, they were investigating themselves.

The report was published in May 2014 and certified that all the infrastructure (the tracks, the signaling, the trains and the carriages, along with all the safety systems) fulfilled all regulatory requirements and was up to date in terms of maintenance. Its conclusion was brief and explicit:

Conclusion: the cause of the accident was the excess speed of the train (it was travelling at 179KPH) at the entry bend to the A Grandeira fork (the Angrois bend, speed limit 80 KPH), the driver failing to respect the stipulations of the Timetable Logbook of train 150/151 and of the Table of Maximum Speeds on line 082.

The report indicated as a contributing cause the lack of attention of the driver when he responded to an in-train telephone call from the controller, the result of which was the non-application of the brakes in the correct fashion to reduce speed before entry into said bend.<sup>44</sup>

These conclusions were rejected by APVA, who presented an allegation to the Committee on Petitions of the European Parliament. In November, various representatives of the platform of victims went to Brussels to meet with community rail experts. Their petition was granted: the European Union (EU) agreed to carry out a report on the investigation of the Angrois accident.<sup>45</sup>

The report was completed in two months and was signed by Christopher Carr, director of the Safety Unit of the Rail Agency of the European Union (ERA). ERA had promised APVA that they would make the results of the investigation public, but the Spanish Government put pressure on the agency not to publish the report.<sup>46</sup> The letter from the Minister Ana Pastor to the then Commissioner of Transport, Violeta Bulc, seeking to block publication reads as follows:

Madrid, 26 May 2016

Dear Commissioner:

*I am sorry to have to inform you of a matter which, in my opinion, is especially grave and which I am sure you are unaware and (sic) which the General Secretary of Infrastructure and the President of the Spanish Agency for Rail Safety has just brought to my knowledge, which I attach.*

*With this in mind, I have asked our legal department to draw up a report on its repercussions and I beg you to take note that the Kingdom of Spain reserves the right to adopt any necessary measures in view of the defenselessness which this action could cause.*

*Yours very sincerely,*

*Ana Pastor<sup>47</sup>*

Only after intense media pressure and 277,000 signatures of support on the platform change.org demanding that the UE authorities ignore pressure from Madrid<sup>48</sup> did ERA publish its report.

The government had good reason to be worried. As far as the official narrative was concerned, the Brussels document was devastating (perhaps for that reason it only saw the light of day in July 2016, after the elections<sup>49</sup>). First, it was highly critical of the fact that Renfe, Adif and INECO should have been part of the investigating team; this was a clear conflict of interest since all of them were directly involved in the accident.

In respect of the investigation itself, ERA formulated numerous criticisms:

- The investigation centered on the driver's error, without looking for underlying, subjacent causes or considering key elements relating to the line and the composition of the train.
- The CIAF described the derailment without providing a detailed and critical description of the collision, the impact, and the resulting fire; nor did they reach any conclusions.
- The investigation did not give any information about the criteria Renfe applied to operate at high speed in spite of the clear risk of human error and without having the technical means to prevent such a risk.
- Insufficient information was provided in respect of the authorization of the line, its modifications, its routing, curve radius and speeds, risk evaluation and safety inspections.
- The investigation did not include the document in which the head of drivers warned about the abrupt change of speed at the bend: this was considered scandalous.

In conclusion, ERA favored the opening of a new investigation.<sup>50</sup>

Later, Brussels opened a sanctions process against Spain for failing to comply with the community regulation which specifies that investigations must be independent:

This organism (the investigating body) shall be independent in its organization, juridical structure and power of decision of any administrator of the infrastructure, of the rail company, of the pricing body, of the assigning body and the notified body and of any party whose interests could come into conflict with the task entrusted to the investigating organism. In pursuance of its ends, it shall be independent of the authority responsible for safety and of any entity regulating the railways.<sup>51</sup>

### c) The commission of investigation of the Congress

After the publication of the ERA report, it made no sense for the Congress to continue to block the creation of a parliamentary investigation commission. At this point, as the result of several meetings with the associations of victims, part of the socialist party (PSOE) changed their stance and convinced the party's national bosses that the cost in terms of their image was no longer worth it. "We're sorry about the delay, but we'll walk together", declared the socialist MP from Galicia Pilar Cancela.<sup>52</sup>

Finally, after four years of opposition, the Congress passed the creation of the commission in September 2017, with the support of all the groups of the opposition and the votes against of PP (the governing party) and its electoral partners, Unión del Pueblo Navarro (UPN) and Foro Asturias.

The commission began its work in April of the following year. The two ministers of Development, Blanco and Pastor, the senior executives of Renfe and Adif, and railway experts appeared before it. As was to be expected, the questions asked by members of PSOE and PP were very accommodating and only the other parties made accusations and asked embarrassing questions.

The main line of defense was always that everything had been done according to the rule book of the time (passed by Adif itself). All those appearing used a similar strategy:

- The politicians alleged a lack of technical knowledge and that they would not give their opinion about that type of question nor about what others who had appeared had said. This was enough to evade most of the questions.
- Since the project, the execution of the works involved and the management of the line had taken place under different governments, they could allege that the relevant decisions had been taken by others.
- The senior executives discharged their responsibilities on their subordinates, the subordinates on the managers, and everyone on different departments. "The director general signed that, not me"; "Adif signed that, not me" were heard often.
- When asked if there had been pressure to finish the work quickly, or conceal data or try to influence the judicial investigation, the answer was always to challenge the accuser to prove it: who had called who, when, etc.
- In respect of the European agency which had rejected the investigation of CIAF, the answer was that it only contained opinions which they respected but did not share. In the same way, when asked about the declarations of experts who said that the bend was badly signaled and constituted an obvious risk, the answer was that this was their opinion and that the experts in the Ministry had a different opinion.
- On the few occasions when the person appearing was in a predicament, the line of argument was that it was necessary to await the future judicial decisions; if that was questioned, the answer was that to question the independence of the judiciary was to question "our democracy and the working of our institutions"<sup>53</sup>

However, in the context described above, three confrontational exchanges are worth mentioning:

1. Jorge Iglesias, the author of the European engineering regulations regarding the ERTMS, accused the executives of Adif of falsehood when they stated that the change of gauge made it necessary to do without the ERTMS.<sup>54</sup>

2. Jaime Tamarit, one of the acknowledged European experts on ERTMS (and highly critical of Adif), when contradicted by the declaration of an expert from the Ministry, replied: “I watched her appearance and I think people are afraid. I’ve retired; I’m free”.<sup>55</sup>
3. Vicente Rallo, president of the CIAF, declared that the minister Pastor had refused to repeat the investigation which Brussels had asked for, because of its lack of depth and independence. PP representative threatened Rallo with legal action unless he withdrew this accusation; that same afternoon, Rallo recanted what he had said in the morning.<sup>56</sup>

The commission of investigation was closed when the legislature ended, without consequences.<sup>57</sup>

## The judicial investigation

In accordance with the procedural law of the time, judge Luis Aláez, who was on duty in that jurisdiction when the accident happened, took charge of the investigation.<sup>58</sup> Aláez was helped by José Antonio Vázquez Taín, also an investigating magistrate, who had already taken part in the recovery and identification of corpses in the early hours of 25<sup>th</sup> July.

The investigation of the case was particularly tortuous, plagued by delays, changes of direction and premature closure which prolonged it for seven years. Let us look at this in detail.

### The battle of the experts

At the beginning of the investigation, the magistrate Aláez chose three independent professional experts on a random draw basis. The government of Galicia, following the legal regulation of the community which made it obligatory to carry out the selection first among public employees, disallowed two of the three appointed experts and substituted them with engineers who had no experience in railway matters. It was impossible to disallow the third because the Xunta could not find among all its staff a telecommunications engineer who was willing to take on the job.<sup>59</sup>

After dismissing the appeals of the two parties, the magistrate confirmed the two experts of the Xunta.<sup>60</sup>

As the associations of victims and the defense lawyer of the driver had feared, both experts supported the idea that all responsibility fell on the driver; in fact, one of them presented a report as if it were his own which had been copied literally from the CIAF investigation.<sup>61</sup> The only expert to mention the deficiencies of the signaling and the lack of a risk analysis before disconnecting the ERTMS was the expert chosen through the draw.<sup>62</sup>

### Charges made and charges quashed

From the first day of the investigation, the magistrate, contrary to the criterion of the public prosecutor, wanted to investigate possible causes of the accident which went beyond the excess of speed. To this end, he issued the writ we have already mentioned summoning Adif to identify those responsible for the design of the safety systems on the line. Aláez called to testify as defendants five of the technicians identified by Adif, and after their testimony, he also called 22 senior executives and members of the Boards of Directors of Renfe and Adif, in whom he saw possible signs of responsibility.<sup>63</sup>

The senior executives refused to testify. One month later, the County Court of La Coruña quashed all the charges,<sup>viii</sup> on the grounds that the investigation had not revealed signs of punishable actions on their part and that the mere fact that they held particular jobs was not sufficient.<sup>64</sup>

Wishing to get to the bottom of the affair, the investigating magistrate required the experts to provide preliminary reports on which to base the charges of responsibility on employees of Renfe or Adif. Six months later, on the basis of a number of those reports and of that issued earlier by the head of drivers Mazaira, Aláez charged 11 senior executives of Adif. The public prosecutor again expressed his opposition and appealed against the charges.<sup>65</sup>

The County Court also quashed this second round of charges on the grounds that all concerned had acted in accordance with the regulations in force and that, while they might be criticized, none of their actions could be typified as a crime under the criminal code.<sup>66</sup>

## Delays

The magistrate reprimanded Renfe and Adif for the fact that their reports focused exclusively on the human error of the driver and failed to explore any other possible cause of the accident. On various occasions he called for additional documentation on these aspects but only received invalid documents, or he was informed that they were no longer available; in some cases, it took the two companies months or even years to hand over documents.<sup>67</sup>

One example of the above is the risk entailed in disconnecting the ERTMS, one of the most important documents which Aláez demanded. The state attorney who was defending Adif implied that this evaluation did not exist because it was not mandatory and that, in any event, decisions regarding the speed control systems were made by Renfe; he even accused the magistrate of wanting to set up a “general inquisition”.<sup>68</sup>

## The changes of the investigating magistrate and the public prosecutor

On 13<sup>th</sup> August 2014, the General Council of the Judiciary issued an invitation for applications for vacancies which included a vacancy at Criminal Court N<sup>o</sup> 1 at Santiago. Investigating magistrate Aláez applied for and obtained the post. Some days later, the General Council announced his transfer, although he was to continue with investigation of the Alvia case until the appointment of his successor.<sup>69</sup>

Magistrate Andrés Lago took over the case.<sup>70</sup> The handover produced an inevitable delay, but, above all, a change of direction. The new magistrate was of the same mind as the public prosecutor in that the excess speed was sufficient cause of the accident. The charges against the executives of Renfe and Adif were dropped, the experts were re-examined, and the investigation was soon ready for closure.<sup>71</sup> The public prosecutor was also changed in May 2017 but this change made no difference since he maintained the same line as his predecessor.

After four years of investigation, the writ of execution now had more than 40,000 folios.

<sup>viii</sup> It is relevant to realize that the presidents and magistrates of the County Court are appointed at the discretion of the General Council of the Judiciary. Cf. [Reglamento 1/2010, que regula la provisión de plazas de nombramiento discrecional en los órganos judiciales](#), 25<sup>th</sup> February 2010, General Council of the Judiciary, *Boletín Oficial de Estado* núm. 56, of 5 March 2010.

## Failed closures

In October 2015, Magistrate Lago closed the investigation with the driver as the sole accused.<sup>72</sup>

However, the publication of the European agency ERA obliged the County Court to order the case to be reopened to investigate the possible relation of Renfe, Adif, INECO and the construction companies involved with the causes of the accident.

The investigation continued for another three years, in which senior executives of the three public companies were called to testify: they defended themselves by passing the buck from one to the other.<sup>73</sup> The investigation was closed for the second time in December 2018, this time with only two accused: the driver, Garzón, for recklessness at entering a bend with a speed limit of 80 KPH at a speed of 190KPH; and the Director of Traffic Safety of Adif, Andrés Cortabitarte, because -in the words of prosecuting counsel- “the accident would not have happened if he had evaluated and taken steps to obviate the risk of excess speed in the stretch of line where the accident happened”. The other executives of Renfe and Adif were acquitted of all charges.<sup>74</sup>

In October 2019, an employee of Talgo reported that, half an hour after the accident, his superiors ordered him to erase the record containing the history of malfunctions of the crashed locomotive.<sup>75</sup>

At the request of APVA, the investigation was reopened for the third time. Talgo denied the accusations, which, furthermore, were considered by the magistrate, the prosecuting counsel, and the State legal counsel to be of little bearing on the case. Finally, the investigation process was definitively closed in September 2020, with just two accused. Now the trial could begin.

## The trial

The trial was heard at Criminal Court 2 of Santiago de Compostela, by the sitting judge Elena Fernández Currás.<sup>ix</sup> The judge had an authentic macro-trial on her hands: a criminal case of over 70,000 folios, containing charges of reckless homicide, injuries, and infrastructure damage; and more than 200 associated civil cases, one for each prejudiced party, in which the corresponding indemnities would be settled.

The hearings lasted for 9 months, with over 500 witnesses, 150 different experts and more than 100 attorneys who represented the two accused, Adif, Renfe, their respective insurers and the victims; all the proceedings were covered by the 30 accredited press and television media.

The numbers involved in the case were much greater than the courtroom could accommodate, so the trial was moved to Cidade da Cultura de Galicia, a group of museum buildings situated on the outskirts of Santiago whose size, availability and ease of access made them the best place for the trial to take place. It began on 5<sup>th</sup> October 2022.

The trial brought back memories of those fateful days to all those concerned but it also provided an occasion to move on and to better understand what had happened. For example. The computer generated simulations showed that if the driver had reacted differently and instead of using the emergency brakes which locked the wheels of the front and rear power cars, as a result of which the passenger cars uncoupled and flew off the rails - the driver had used the

<sup>ix</sup> In Spain, the county courts only hear cases of crimes carrying sentences of more than five years. Cf. [El Supremo fija criterios de competencia de los juzgados penales frente a las audiencias provinciales](#), *Europa Press*, 26 January 2018. This was not the case of the Alvia accident, since the maximum sentence for reckless homicide was four years and the case included one single punishable act (Código Penal, art. 142.1, according to the Ley Orgánica 10/1995 of 23 November).

brakes progressively, the train would have been slowed when it impacted against the cement walls of the curve.

A number of revelations allowed preventive measures to be taken and reforms to be made: for example. Each tunnel was given a name in order to be able to rapidly identify the locations of an accident (until then the tunnels had been unnamed). Other suggested measures were rejected: providing passenger seat belts (the travellers on the Alvia who died were those who had already left their seats and were standing ready to disembark); placing the luggage in closed compartments (because some of the victims died or were injured because of suitcases flying out of the overhead racks).

The relatives of the victims had two allies in the trial: one was, as already mentioned, Christopher Carr, head of the European Union Agency for Railways, who testified as a technical expert; and an anonymous group of engineers and technicians belonging to the organisms under investigation, who alerted them to the irregularities of Adif, who wanted the line to be opened in all haste.<sup>76</sup>

## What was at stake?

The two accused were charged with 80 counts of homicide through grave professional recklessness, 145 counts of injury for the same reason and one crime involving damage. Prosecuting counsel called for a sentence of four years imprisonment and disqualification from the exercise of their respective professions for both the accused.

The civil actions deriving from the criminal case were to decide the final amounts of indemnity under the heading of civil liability which the affected would receive. In this respect, prosecuting counsel called for 57,686,635,93 euros in damages<sup>77</sup> The figure was based on the jurisprudence of the Supreme Court in the sentences handed down in the Spanair case, which applied the scale of assessment established for traffic accidents but increased by 50%, and, in the Costa Concordia case, in which an indemnity for moral damages of 12,000euros for each affected was added to the first scale.<sup>78</sup>

One of the key factors of the trial is whether Cortabitarte is found guilty or not, because that will determine who will have to foot the bill of the indemnities. Renfe's civil liability corresponds to the multinational insurer QBE and that of Adif to the German insurance group Allianz. If only the driver (a Renfe's employee) is found guilty, QBE will have to face the payments on its own. Anticipating that possible outcome, the company has already paid in advance a good part of the indemnities claimed by the prosecuting counsel-

On the other hand, if the Adif executive is also found guilty, Allianz will have to assume half of the cost of the indemnities. That is to say, it would have to repay to QBE half of the money already paid out and share in equal proportions the amount still outstanding.

Thus, the parties fall into two groups. On one side, the defending counsels of the driver, Renfe's insurer and the associations of victims, who are looking for a conviction of Cortabitarte. On the other side, seeking the absolution of the Adif employee, the massive judicial machinery of the State: the state's legal counsel, an army of experts on the payroll of the Administration and the law firm Hogan Lovells, retained by Adif to defend their employee.

In the final stages of the trial. The prosecution (who had been in favor of Cortabitarte's arraignment throughout the investigation) surprised everyone with a change of criterion, and in their conclusions defended the thesis that the executive of Adif had acted in accordance with the

current regulations and had therefore not committed any crime typified as such in the Criminal Code. As a result, the prosecution withdrew its accusation against him.<sup>79</sup>

## The strategy of the parties

From the outset, the driver recognized his portion of responsibility in the accident and repeatedly asked forgiveness of the victims for the error committed on 24<sup>th</sup> June 2013. It seemed highly unlikely that he would be acquitted. What he did not accept was that he was the only one responsible and for that reason his defense tried to demonstrate the implication of all those who, with their risky decisions, left the bend without protection, even when the “Mazaira Report” had raised a specific alert about the dangers of the bend at Angrois.<sup>80</sup>

Furthermore, his counsel pointed out the conflict of interest of the state’s legal counsel, which was present at the trial to defend one public entity (Adif) against another (Renfe) when both companies paid an agreed annual fee to that legal body for it to defend them.<sup>81</sup>

The attorneys of QBE followed the same line of argument. They considered that it had been demonstrated that if Adif had lessened the risk at the Angrois bend, the accident would not have happened. This would attenuate the criminal responsibility of the driver, who would not have committed a crime but a serious misdemeanor.

If this position were accepted, the indemnities would be considerably less because, in their opinion, “if there is no crime, there can be no civil liability deriving from it”.<sup>82</sup>

The defense of the other accused, Cortabitarte, was exactly the opposite. It was based on the idea that if the driver had not been distracted, nothing would have happened, since many trains had gone through Angrois before this one without derailling; all the decisions of the accused were in accordance with regulations; and, in essence, they placed all the responsibility for the accident on Renfe and other parties implicated.<sup>x</sup>

The insurer of Adif adopted the same stance. As far as Allianz was concerned, all the debates about the safety of the line and the trains were technically interesting, but in criminal terms irrelevant. They considered as proved that “all the applicable regulations were fulfilled in every case and nothing more could be demanded”. They admitted that the original project for the line was safer but “the relevant consideration is that the modifications did not infringe any regulations, and therefore that no criminal accusations could be levelled at anyone in Adif”.<sup>83</sup>

The duel between the counsels of these two international insurance giants lasted until the day before the end of the trial. However, this battle did not affect the victims in economic terms since it mattered not whether they were paid by one insurer or the other. Notwithstanding, many disagreed with the forensic assessment and requested higher indemnities than those which the public prosecutor had solicited on their behalf. For that reason, they were all called to give evidence in the trial.<sup>84</sup>

<sup>x</sup> In this sense, Cortabitarte’s counsel argued that the responsibility for the control of speeds and the evaluation of human factors corresponded to Renfe, not to his client or to Adif; that his authorization for the rollout of the line was only one of many necessary decisions and that he could not be blamed exclusively; that the report of the head of drivers about the dangers of the bend was an internal document pertaining to Renfe of which he never had knowledge and that his authorization to disconnect the onboard ERTMS could not have caused the accident because the Angrois bend was not covered by that system. This last argument was rejected by the experts of the other parties because, if it had been connected, it would have warned the driver four kilometers before the bend and if the driver had done nothing, would have stopped the train.

The majority, however, hoped that Cortabitarte would be found guilty because the economic compensation was not their only interest. They knew full well that the cause of the irreparable trauma of losing their children or close relatives and the consequences for the injured was the distraction of the driver. But they wanted to prevent the courts from leaving it at that. They wanted an exemplary sentence against those who had allowed the bend to remain without protection, which would serve to prevent negligence in safety measures from being repeated in the future.<sup>85</sup>

They would have liked to have seen many more people in the dock, but their only hope now was that Cortabitarte would be convicted to show, in a symbolic way, that the accident had much deeper causes than a simple, untimely telephone call.

On 27<sup>th</sup> July 2023, 3655 days after the accident, the case was ready for sentencing. It remains for the judge to decide the conviction or the acquittal of the accused, the final amount of the indemnities and who will pay them. The sentence will foreseeably be given in Spring 2024.<sup>86</sup>

In August 2023, while the judge was studying the case, Adif completed the implementation of ERTMS on the entire Galician high-speed line.<sup>87</sup>

## **The sentence in the first instance**

The sentence, which ran to over 500 pages, was given on 26 July, 2024. In it, Judge Elena Sánchez Currás, of Criminal Court No.2 of Santiago, condemned the driver, Francisco José Garzón, to two and a half years of imprisonment on 79 charges of homicide and 143 charges of grievous bodily harm through grave recklessness, on account of “his gravely negligent actions” when he took a telephone call “which lacked any urgency” from the guard of the train, which lasted for scarcely a minute and a half (100 seconds), which “distracted” him and caused the speeding train to enter the curve at A Grandeira (Angrois) at a speed of 176 kilometers per hour at 20.39 hours, when the speed of the train should not have exceeded 80 kph.

The sentence also declared the director of Adif, Andrés Cortabitarte, guilty of 79 charges of homicide and 143 charges of grievous bodily harm through recklessness. Cortabitarte had certified the line as safe for commercial use, in spite of the fact that the risk analysis carried out by the joint venture of constructors warned of the risk of derailment at that very point and recommended the installation of the ERTMS.

The magistrate underlined the fact that part of Cortabitarte’s job was the legal and contractual obligation to guarantee the safe use of the new line, the construction, maintenance and commercial use of which was entrusted to ADIF. ERTMS was not installed; the train was only equipped with the older ASFA system, which placed all the responsibility on the driver, in this case with fatal results. The judge found it “incomprehensible” that the train lacked “an all-embracing protection system like the ERTMS which could control the speed of the train.

The sentence also debarred the two accused from exercising their respective professions for a period of four and a half years and ordered them to pay the victims compensation in respect of direct civil liability through the companies OBE and Allianz Global, the insurers of RENFE Operations and ADIF respectively, of over 25 million euros.

The sentence declared that, after exhaustive investigation and through the evidence given in the court proceedings, it had been established that, apart from the 100 second telephone call taken by the driver, another of the reasons for the derailment was that “there was no safety system installed in the line which could provide protection in the event that the driver failed to observe the maximum speed limit of 80 KPH at that point”.

The judge ruled that both accused, through their actions, failed in their duty to observe due caution and care, thereby causing “an illicit increase in risk, resulting in damages which they were obliged to foresee and trained to prevent, and which, because of the importance of the legally protected goods placed at risk, can only be described as grave”.

The judge stated that the accident would not have happened

... not only if the driver had been attentive but also if measures had been taken which could have controlled the speed of the train in a section of the line with severe speed limitations, or which would have alerted the driver to reduce speed in a more ostensible way than those present at the time of the accident.

The sentence indicated that it was highly meaningful that, after the accident, ADIF had identified more than 300 significant speed changes in different places throughout the Spanish rail network: that was only possible - the judge declared - “because beforehand consideration was not given to the fact that the person responsible for generating excess speed is a human being who can be subject to error”, nor to the fact that “technological advances had made possible the adoption of measures to avoid excess speeds or, at least, to minimize the risk of derailment.”

The judge affirmed in the sentence that it was incomprehensible that “a high speed line should be planned with one of the most advanced train protection systems available - the ERTMS - only for the original project to be modified, leaving a section of the line without this protection and only protected by the ASFA system, under which all responsibility rests on the driver, without an analysis and management of the risks involved in respect of safety.”

In respect of civil liability, the judge set compensation using the so called “traffic scale”, with an increment of 50% on the basic compensation for death, and temporary or permanent disability- This increase is intended to cover the greater moral damage deriving from living through a catastrophic accident such as that which occurred, or to cover the anguish, anxiety and distress suffered by the relatives of those killed, which, because of the circumstances surrounding the accident and the frustration of the trust placed in a means of public transport such as the railways, was more likely to produce in the victims or those effected traumas or other pathologies which should be compensated independently of the personal damages of the injured or the psychological damages caused by the loss of a loved one.

Both the accused and the two insurance companies, Allianz Global for ADIF and OBE for RENFE, were sentenced to pay the relatives of 61 of the victims damages amounting to 12, 751,446 euros. The families of another 15 victims were to receive 2,417,555euros, in this case only payable by OBE; this was because the people effected had not brought an accusation against the head of Traffic Safety of ADIF or they were represented by the public prosecutor, who withdrew charges against him at the end of the trial. The children of the remaining three victims considered that they had received sufficient compensation, or they reached an out of court settlement with RENFE.

The judge also set differing amounts of damages for the 154 injured passengers, for a total of 10.064,240 euros. The remaining ten effected persons decided not to proceed with the prosecution, for a variety of reasons. In her sentence, the judge also recorded a sum of 1,916,159 euros as the amount payable by the accused and the insurance companies to Allianz, Seguros y Reaseguros, as the company liable for the obligatory travel insurance, on account of the expenses it had met in respect of medical care incurred by the victims.

## Reactions

The conviction of the senior executive of ADIF represented something of a victory for the victims in their battle to bring to the dock the employees of a public company to face their share of responsibility in the certification of a line which was not endowed with all the necessary safety equipment. The two largest associations of victims, APAFAS and PVA, celebrated the explicit conviction of ADIF for lowering the necessary safety level of a high-speed line and for entrusting all responsibility to the skill of a driver who made a terrible mistake, who was singled out in political and judicial terms and who shouldered all the emotional discharge produced by the deaths.

Jesús Domínguez, spokesman of the platform Víctimas Alvia 04155, described the presiding magistrate as “a brave and independent judge”.

The official version of the accident - that the driver was uniquely responsible - was demolished. ADIF committed negligence by signing up a change in the project which lowered the safety level and by allowing the disconnection of the ERTMS braking system which would have avoided the accident, for the simple reason that it produced delays.<sup>88</sup>

Other victims, who had entered individual prosecutions, felt that the verdict against ADIF fell short. For example, the family of the passenger who died two months after the accident, struggled to obtain recognition that his death was number 80 and allege that his injuries and the depression caused by the loss of his wife aggravated the leukemia which he was suffering from.

The reaction of the driver’s union was also to reject the verdict. They gave notice that they would lodge an appeal to “equate responsibilities” between the individual driver and the whole of the administration. The driver’s counsel was also dissatisfied: he had hoped that mitigating circumstances would be taken into account, since, from the very outset, the driver had expressed his preoccupation for the fate of the passengers and had repeatedly pleaded forgiveness.

The fiercest reaction, and the longest - running to 149 pages - was that of the counsel representing Allianz Global, ADIF’s insurer. On the one hand, he wondered whether it was “a mistake that such a complex lawsuit should into the hands of one sole judge (however well prepared she may have been)..(...) We are naturally sure that the magistrate of the first instance is (we sincerely believe) an experienced professional who has devoted a notable effort to resolve the case according to her best and most honest technical ability”.<sup>89</sup>

Nonetheless, he continued to state that the case “has been far too much for her” (the judge) “who has perhaps been influenced by personal circumstances such as her residence in the place of the tragedy and her proximity to the victims” and he went on to declare:

It is not easy to rid oneself of the sensation that the decision to condemn Mr. Cortabitarte (ADIF) and Allianz Global was not taken from the very beginning and that the judge has only taken into consideration those facts and arguments which justify her decision. The result is a ruling which is technically incorrect, juridically untenable and in practical terms completely unacceptable.<sup>90</sup>

Furthermore, the counsel for Allianz was confident that the provincial court would “correct the situation and acquit Mr. Cortabitarte”.

The appeal of the driver’s counsels was of the same length (181 pages) but was much more subdued in tone:

Garzón Amo is the victim of all the irregularities pertaining to the train line, which were the responsibility of ADIF, which created an intolerable level of risk, which we have exposed since the beginning of the trial, which have been substantiated during proceedings.<sup>91</sup>

Appeals against this sentence may be made at the Provincial Court at A Coruña. Deadlines for appeals were not those usually granted: after the sentence was made public, counsels for the victims detected possible errors in the calculations of damages and presented such a large battery of requests for clarification that the court decided to suspend the period of appeals “until such time as the requests for clarification, rectification complementary items could be settled.”<sup>92</sup>

On 3<sup>rd</sup> December the court heard the 60 appeals which had been lodged.<sup>93</sup> The majority - 52 - had been presented by the representatives of the families or their relatives; almost all were to do with the part of the sentence concerning the civil action. APAFAS (the Asociación de Perjudicados por el Accidente Ferroviario del Alvia de Santiago de Compostela), the Public Prosecutor, ADIF, Renfe, the two insurance companies - Allianz Global and OBE, and the two convicted also lodged appeals against the sentence.<sup>94</sup>

From that moment, the parties involved have 30 days to answer the appeals which concern them, which will be settled in Section Six of the Provincial Court of A Coruña situated in Santiago de Compostela.

## Going back to Europe

Beyond the lawsuit regarding criminal responsibilities in the accident, the victims' associations did not accept the government's refusal to repeat the technical investigation carried out by the Commission for the Investigation of Railway Accidents (CIAF) on behalf of the ministry (at that time, led by Minister Ana Pastor, PP) just after the tragedy.

That investigation, which had exonerated the Administration of the accident and limited the responsibility to the train driver, was rejected by the victims due to the lack of independence of the investigators: the commission was made up of executives from Adif, Renfe and Ineco, the companies investigated, and it even Andrés Cortabitarte, the director of Adif who was later convicted, was one of its members.

Faced with the refusal of the government (at the time, of the Socialist Party), the Association Plataforma Víctimas del Alvia 04155 appealed to the Spanish courts to force a new investigation, but in 2023 the Supreme Court rejected its request.<sup>95</sup> In its ruling, it confirmed that the CIAF was competent and ratified "its full independence".<sup>96</sup> The group requested then the protection of the Constitutional Court, but without success.

Once the itinerary in Spanish legal system was closed, those affected went to the European Court of Human Rights (ECHR), to rule on whether the Kingdom of Spain had violated their rights, since in 2016 the European Railway Agency ruled that the CIAF investigation had violated the European railway safety directive. In the lawsuit, the Platform argued that the official investigation did not respect "the canons of independence, impartiality and objectivity" because its members "presented a conflict of interest." A victims' spokesperson explained their move with these words:

Having exhausted all the avenues offered by Spanish domestic law [Supreme and Constitutional Court], we went to the European Court of Human Rights, which has admitted our application and will have to rule on the violation of the right to a fair trial and verify whether the Spanish State respected and protected the rights of the victims and their families.<sup>97</sup>

In February 2025, the ECtHR accepted the application. The decision of the court (which usually admits only 5% of the lawsuits filed), was greeted with enthusiasm by the victims. "We hope to obtain a favorable resolution that orders the Spanish State to carry out a new independent investigation. Given the complexity of the matter and the lack of precedents, at least as far as I am aware, I believe that the victims of the Alvia are making history in this legal fight," said one of the platform's lawyers.<sup>98</sup>

In that same statement, those affected criticized the "hypocrisy" of the Minister of Infrastructure, the socialist Óscar Puente, who in 2016, when the PSOE was in opposition, publicly urged the PP government to "constitute a commission of inquiry composed of independent experts and technicians"; and now in power, he had rejected that investigation and had even refused to receive the victims.

In the words of the victims' lawyer, "more than 11 years have passed, four governments and five ministers of Infrastructures and there is still no independent technical investigation as Europe demands".<sup>99</sup>

To be continued...

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- <sup>13</sup> “Aprobado el Real Decreto de asistencia a las víctimas de accidentes ferroviarios y sus familiares”, Ministerio de Transportes, Movilidad y Agenda Urbana, 18 July 2014.
- <sup>14</sup> “Derechos de las víctimas de accidentes ferroviarios y sus familiares”, Ministerio de Transportes, Movilidad y Agenda Urbana, accessed on 9 October 2023.
- <sup>15</sup> X. A. Taboada, “El accidente, gravísimo, no es del tren de alta velocidad como algunos, dañinamente, dijeron”, *Faro de Vigo*, 29 July 2013.
- <sup>16</sup> M. Cheda y R. Santamarta, “Gobierno y Xunta airean la conspiración”, *La Voz de Galicia*, 28 July 2013; Europa Press, “Feijóo ve ‘intereses de empresas’ contra la alta velocidad española”, *El Mundo*, 27 July 2013.
- <sup>17</sup> Daniele Grasso, “Adif continúa ‘vendiendo’ como alta velocidad la línea Orense-Santiago”, *El Confidencial*, 27 July 2013; Ministerio de Fomento, “José Blanco supervisa las obras de la línea de alta velocidad Ourense-Santiago-A Coruña”, press release, 23 June 2011.
- <sup>18</sup> Auto de 20 August 2013, del Juzgado de Instrucción n.º 3 de Santiago de Compostela, dictado en el procedimiento abreviado 4069/2013.
- <sup>19</sup> “Pastor reitera su colaboración ‘total y absoluta’ al juez por el accidente de tren”, *Diario de Ferrol*, 22 August 2013; EFE, “Pastor recalca la ‘máxima’ colaboración tras la imputación de cargos de Adif”, *El Mundo*, 28 September 2013. EFE, “Ana Pastor reitera la total colaboración con el juez para que se conozca la verdad”, *noticiasgalicia.com*, 20 May 2014; J. Méndez “Ana Pastor vuelve a ofrecer colaboración con la Justicia en el caso Alvia”, *Diario de Pontevedra*, 21 October 2015.
- <sup>20</sup> “Accidente de Santiago: El PP bloquea una segunda comparecencia de la ministra Pastor”, *La Voz de Galicia*, 28 August 2013.
- <sup>21</sup> Europa Press, “El PP, PNV y UPN rechazan crear una comisión de investigación en el Congreso sobre el siniestro de Santiago”, *20 Minutos*, 17 October 2013.

- <sup>22</sup> Sonia Vizoso, “PP y PSOE vetan por sexta vez una investigación política sobre Angrois”, *El País*, 21 February 2017.
- <sup>23</sup> “El Congreso aprueba la creación de la subcomisión ferroviaria”, *La Voz de Galicia*, 11 October 2013.
- <sup>24</sup> “Los nueve vocales del Consejo de Administración de Adif se niegan a declarar ante el juez instructor”, *RTVE.es*, 27 May 2014.
- <sup>25</sup> “Dos de los imputados de Adif por el accidente de tren aseguran que la señalización era ‘correcta’”, *RTVE.es*, 18 September 2013.
- <sup>26</sup> These documents were provided four years later, just before the evidence given by the experts, which, because of the delay, had had to be postponed. Cf. Europa Press, “Adif entrega al juez del Alvia tres años después folios que omitió ‘por error’”, *El País*, 3 October 2016.
- <sup>27</sup> Europa Press y EFE, “Las víctimas del accidente de Spanair denuncian el bloqueo político a la investigación”, *El Mundo*, 20 August 2022; EFE, “Asociación de Víctimas del Yak-42: ‘¿Ahora, quién va pedir perdón?’”, *La Voz de Galicia*, 3 January 2017; “La Asociación de Víctimas del Metro de Valencia presenta lista con 16 quejas sobre la investigación y pide ayuda al Síndic”, *Europa Press*, 28 June 2007.
- <sup>28</sup> “Quiénes somos”, APAFAS, accessed on 21 June 2023.
- <sup>29</sup> Ibidem.
- <sup>30</sup> Ibidem.
- <sup>31</sup> Juan Luis Fabo, “Jesús Domínguez: ‘Se ha premiado a los posibles responsables del accidente de Angrois’”, *El Asterisco*, 16 July 2017.
- <sup>32</sup> M. Cheda, “La Medalla de Galicia divide a las víctimas de Angrois”, *La Voz de Galicia*, 12 July 2014.
- <sup>33</sup> “Medallas para la minoría. Antidisturbios y secreta para la mayoría de las víctimas y familiares”, APVA, 25 July 2014.
- <sup>34</sup> Ione Hernández, *JK5022. Una cadena de errores*, vídeo on YouTube, Asociación de Afectados del Vuelo JK5022, 13 May 2014.
- <sup>35</sup> “Frankenstein-04155”, website, 2019; “Frankenstein – 04155”, Imdb, accessed on 10 October 2023; “Frankenstein-04155”, Filmaffinity, accessed on 10 October 2023.
- <sup>36</sup> Ibidem.
- <sup>37</sup> Fran Serrato, “El documental sobre el accidente de Angrois que se niegan a emitir las televisiones”, *The Objective*, 5 October 2022.
- <sup>38</sup> A. Lago, “El documental sobre el Alvia impacta al jurado de la Seminci”, *La Voz de Galicia*, 1 November 2015. At the *Cineuropa 2015* festival, in Santiago de Compostela, the documentary got the Price from the public, and at the *Primavera do Cine 2016* festival in Vigo got the prize for the best film.
- <sup>39</sup> “Frankenstein-04155, un documental sobre els interrogants de l'Alvia”, Corporació Catalana de Mitjans Audiovisuals, 29 January 2019.
- <sup>40</sup> Aitor Rei, *Frankenstein-04155*, documentary film available on Filmin, accessed on 10 October 2023
- <sup>41</sup> David Reinero, “A auditoría de seguridade ferroviaria que encargou Ana Pastor tras Angrois asínaa un imputado polo accidente”, *Praza Pública*, 20 October 2018.
- <sup>42</sup> Reinero, “A auditoría de seguridade”, cit.
- <sup>43</sup> Europa Press, “Las víctimas acceden a la auditoría encargada por Ana Pastor: ‘Miente porque dice que se hizo bien’”, *20 Minutos*, 20 September 2018.
- <sup>44</sup> Comisión de Investigación de Accidentes Ferroviarios, *Informe final sobre el accidente grave ferroviario n.º 0054/2013 ocurrido el 24.07.2013 en las proximidades de la estación de Santiago de Compostela (A Coruña)*, 20 May 2014.
- <sup>45</sup> Sonia Vizoso, “Angrois, el escándalo ferroviario que destapó Europa”, *El País*, 24 July 2018. On this visit the documentary *Frankenstein-04155* was shown at the European Parliament: see “*Frankenstein-04155 in the European Parliament*”, website Frankenstein-04155, 24 November 2015.
- <sup>46</sup> “El Gobierno consigue aplazar el varapalo de Bruselas por el accidente del Alvia”, *El Confidencial Digital*, 3 June 2016; David Reinero y Manuel Rico, “Documentos internos de Fomento desvelan maniobras en defensa de la versión oficial que culpó del accidente de Angrois al maquinista”, *Infolibre*, updated on 18 May 2022.

<sup>47</sup> David Reinero, “A carta coa que Ana Pastor manobrou ante a UE na defensa da versión oficial que culpou o maquinista do accidente de Angrois”, *Praza Pública*, 30 September 2022; Europa Press, “Pastor advertiú de la ‘gravedad’ de publicar el informe crítico sobre el accidente de Angrois”, *El Español*, 30 September 2022.

<sup>48</sup> Rogelio Bernardo, “UE, hagan público el informe sobre el accidente de tren de Santiago”, *change.org*, 17 May 2016.

<sup>49</sup> “El Gobierno consigue aplazar el varapalo de Bruselas por el accidente del Alvia”, *El Confidencial Digital*, 3 June 2016.

<sup>50</sup> EFE, “La Comisión Europea pidió a España una nueva investigación independiente del accidente del Alvia”, *RTVE.es*, 8 July 2016; “La UE concluye que la investigación española del Alvia no fue independiente”, *Faro de Vigo*, 8 July 2016; “Bruselas: La investigación de Angrois no fue independiente y faltan ‘elementos clave’”, *Europa Press*, 8 July 2016.

<sup>51</sup> Directiva 2004/49/CE del Parlamento Europeo y del Consejo, de 29 de abril del 2004, sobre la seguridad de los ferrocarriles comunitarios y por la que se modifican la Directiva 95/18/CE del Consejo sobre concesión de licencias a las empresas ferroviarias y la Directiva 2001/14/CE relativa a la adjudicación de la capacidad de infraestructura ferroviaria, aplicación de cánones por su utilización y certificación de la seguridad (Directiva de seguridad ferroviaria), *Diario Oficial de la Unión Europea* L164, 30 April 2004; Pablo R. Suances, “La UE abre un procedimiento de infracción a España por cómo investiga los accidentes de trenes”, *El Mundo*, 24 January 2019.

<sup>52</sup> Europa Press, “El Congreso aprueba la creación de una comisión de investigación sobre el accidente del Alvia”, *RTVE.es*, 28 September 2017.

<sup>53</sup> Rafael Catalá, in his appearance before the Commission of Investigation of the rail accident at Santiago (available on the Congress channel of YouTube - [Spanish Congress channel on YouTube](#)), minute (3:24:30). The literal quote is “[...] you also have doubts about the independence of the judiciary... because of your political background, I understand that that is what interests you, to question all the institutions [...] Thanks to the standpoint which you are using at this moment, public opinion may well have doubts about the independence of the judiciary and you are doing a great service (sic) to our democracy and the working of our institutions”.

<sup>54</sup> “Un cargo de Fomento contradice la versión oficial sobre la seguridad de Angrois”, *Faro de Vigo*, 20 November 2018.

<sup>55</sup> “Uno de los mayores expertos en ERTMS: con el sistema activado ‘nunca’ habría habido accidente de Angrois”, *Europa Press*, 10 October 2018.

<sup>56</sup> Pablo González, “El jefe de la investigación de Angrois se desdice y reconoce que Pastor no impidió repetirla”, *La Voz de Galicia*, 4 October 2018.

<sup>57</sup> “Diarios de sesiones”, web page of the Congress, accessed 10 October 2023. The commission was reopened later, in September 2021, but on that occasion it also failed to reach a relevant conclusion. See: [El Congreso se prepara para reabrir la investigación sobre el accidente del Alvia en Angrois](#), *El Independiente*, 23 September 2021.

<sup>58</sup> Luís Aláez Legerén (Pontevedra, 1967) was well known as being a patient and meticulous magistrate, fearless of those in power and diligent in getting to the bottom of things. He was not fond of making declarations to the media or giving interviews either. See: López Fernández, *El peor día de Galicia*, p. 56; Fernando González Macías, “Prejuizando a los jueces”, *La Opinión de A Coruña*, 27 August 2013.

<sup>59</sup> David Reinero, “La Xunta propone para el Alvia a peritos no especializados en trenes”, *La Voz de Galicia*, 18 November 2013.

<sup>60</sup> The appointments made by the Xunta were immediately appealed by the counsels of the driver and of the two associations of victims, who feared that these experts would testify in favour of the official line. In its turn, the State legal counsel recused the Dutch expert, Frans Heijnen, proposed by Renfe’s insurers, because they considered that his testimony should be made at the trial; they also recused the expert proposed by the driver’s defence on the grounds that he lacked suitable qualification. Cf. Europa Press, “El juez Aláez rechaza recusar a cuatro de los peritos nombrados como reclamaban las partes”, *20 Minutos*, 15 January 2014.

<sup>61</sup> David Reinero, “Caso Alvia: Un perito de Angrois plagió párrafos de otros informes previos”, *El País*, 15 October 2015.

<sup>62</sup> David Reinero, “El perito clave de Angrois concluye que no se analizó el riesgo de la línea”, *El País*, 5 February 2015.

<sup>63</sup> Natalia Puga, “El juez ve una imprudencia de Adif por la falta de elementos de seguridad”, *El Mundo*, 22 August 2013; “El juez cita a declarar como imputados a los tres últimos presidentes de Adif y a otros 19 cargos”, *RTVE.es*, 24 September 2013.

<sup>64</sup> “La Audiencia de A Coruña desimputa al presidente de Adif y Renfe y a otra veintena cargos”, *RTVE.es*, 5 November 2013; Europa Press, “Sin efecto las imputaciones de los técnicos de Adif por el accidente de tren de Santiago”, *RTVE.es*, 4 November 2013; “La causa del Alvia seguirá con el maquinista y el exdirector de seguridad de Adif como imputados”, *RTVE.es*, 3 December 2018.

<sup>65</sup> “El juez imputa a once directivos de Adif por el accidente del Alvia de Santiago de Compostela”, *RTVE.es*, 9 May 2014; “El fiscal recurre las imputaciones de once cargos de Adif en el caso del accidente del Alvia”, *RTVE.es*, 16 May 2014.

<sup>66</sup> David Reinero y Xosé Hermida, “La Audiencia retira por segunda vez los cargos contra Adif por Angrois”, *El País*, 8 October 2014.

<sup>67</sup> David Reinero, “El juez reprocha a Adif que no le entregue documentos que reclama”, *El País*, 21 de diciembre del 2013; D. Domínguez, “El juez critica el ‘silencio’ de Adif y Renfe sobre las señales en Angrois”, *La Opinión de A Coruña*, 15 November 2013; David Reinero, “Adif no conserva los documentos de 1991 que le reclamó el juez del Alvia”, *El País*, 17 February 2014; David Reinero, “El juez de Angrois apercibe a Renfe por no entregarle documentos”, *El País*, 4 February 2015; Europa Press, “Adif entrega al juez del Alvia tres años después folios que omitió ‘por error’”, *El País*, 3 October 2016; Pablo González, “¿Cuántos papeles secretos más se guardan sobre Angrois?”, *La Voz de Galicia*, 9 November 2017; “Adif aportó a la causa del Alvia una versión de las reglas de ingeniería anterior a la que usó para la línea”, *Europa Press*, 13 December 2022.

<sup>68</sup> Xosé Hermida, “La abogada del Estado acusa al juez del Alvia de hacer una ‘inquisición general’”, *El País*, 14 March 2014.

<sup>69</sup> Acuerdo de 26 de diciembre del 2013, de la Comisión Permanente del Consejo General del Poder Judicial, por el que se convoca concurso para la provisión de determinados cargos judiciales entre miembros de la Carrera Judicial, con categoría de Magistrado, *Boletín Oficial del Estado* núm. 11, 13 January 2014; “El juez Aláez seguirá en el Juzgado que instruye el caso Alvia”, *La Región*, 26 February 2014.

<sup>70</sup> Andrés Lago Louro began working in the judiciary in 2004 and his first post was at the Galicia High Court of Justice. Through relocation tender, he was posted to the First Magistrate’s Court of Cistierna (Castilla y León), where he remained until he returned to Galicia in 2005 to work at the Second Magistrate’s Court of the town of Concurbión. See; “Andrés Lago Louro, reelegido juez decano de Santiago”, *La Voz de Galicia*, 26 October 2022; Europa Press, “El magistrado Lago Louro continuará con la instrucción del caso del Alvia a pesar de su cambio de destino”, *20 Minutos*, 10 January 2020.

<sup>71</sup> David Reinero, “Un rótulo confirma el baile de pesos del tren Alvia siniestrado en Santiago”, *El País*, 29 February 2016.

<sup>72</sup> Sonia Vizoso, “El maquinista será el único juzgado por el accidente del tren de Santiago”, *El País*, 7 October 2015.

<sup>73</sup> Elisa Lois, “El juez del Alvia cita como imputados al director de Seguridad de Renfe y tres técnicos de Ineco”, *El País*, 20 October 2017; Sonia Vizoso, “El jefe de Seguridad de Renfe alega que nadie le avisó de los riesgos en Angrois”, *El País*, 7 November 2017.

<sup>74</sup> Pablo González, “La instrucción del caso Alvia se salda con 80 delitos de homicidio por imprudencia grave”, *La Voz de Galicia*, 13 de diciembre del 2018.

<sup>75</sup> “Un técnico revela a las víctimas de Angrois que Talgo mandó borrar averías media hora después del accidente”, *Europa Press*, 24 October 2019.

<sup>76</sup> Lorena Bustabad, “El caso Alvia ya tiene sentencia, pero todavía hay una pregunta que todos se hacen en Santiago”, *El Confidencial*, 1 de agosto de 2024.

<sup>77</sup> Oficina de Prensa del Tribunal Superior de Justicia de Galicia, *Guía para medios de comunicación para el seguimiento del juicio del tren Alvia*, 17 November 2022.

<sup>78</sup> Ley 35/2015, de 22 de septiembre, de reforma del sistema para la valoración de los daños y perjuicios causados a las personas en accidentes de circulación, *Boletín Oficial del Estado* núm. 228, de 23 September 2015; Sentencia 1513/2019 de la Sala de lo Civil del Tribunal Supremo, de 17 May 2019; “El Tribunal Supremo fija una mayor indemnización por el accidente de Spanair”, *La Vanguardia*, 7 January 2022; Sentencia 1420/2016 de la Sala de lo Civil del Tribunal Supremo, de 8 de abril del 2016; “El Supremo confirma la indemnización para 22 españoles víctimas del Costa Concordia”, *20 Minutos*, 13 April 2016.

<sup>79</sup> Pablo González, “Y el fiscal del Alvia retrocedió al kilómetro 0”, *La Voz de Galicia*, 21 June 2023.

<sup>80</sup> Manuel Prieto, counsel for the driver. latched on to a key phrase in the written accusation of the prosecuting counsel: “The tragic accident would not have happened if Adif had evaluated and taken steps to contain the risk of excessive speed”. According to this interpretation, the driver’s distraction would pass into the background in terms of responsibility. He also requested that, if Garzón were considered responsible, it should be considered as simple negligence, which would be considered a minor offence and therefore not a criminal offence. He also requested that attenuating circumstances should be taken into account, including the redress of moral and material damage, the undue length of the judicial process - which by that time had lasted over nine years, although the jurisprudence of the Supreme Court sets the reasonable maximum duration of a process at eight - and the driver’s confession. See: Pablo González, [“La Fiscalía retira su acusación contra el excargo del Adif por el accidente del Alvia”](#), *La Voz de Galicia*, 20 June 2023.

<sup>81</sup> Javier Suárez (State prosecutor) stated that his position in the trial was as one of the aggrieved, and that it was Renfe - and not the counsel of one of the accused - who should question that hypothetical conflict of interest, insinuating that she had not done so. See: Pablo González, [“Guerra soterrada entre los seguros de Renfe y el Adif por la factura del accidente del Alvia”](#), *La Voz de Galicia*, 9 October 2022.

<sup>82</sup> González, “Guerra soterrada”. “Undercover war”

<sup>83</sup> Xurxo Melchor, [“Guerra de aseguradoras en el penúltimo día del juicio del Alvia: la del Adif acusa a la de Renfe de 'la persecución' a Cortabitarte”](#), *La Voz de Galicia*, 26 July 2023.

<sup>84</sup> [Recopilatorio: Declaran las víctimas](#), *La Voz de Galicia*, p. 2; Pablo López, [“Las vidas truncadas del Alvia: los estremecedores testimonios de las víctimas del accidente”](#), *El Confidencial*, 26 February 2023.

<sup>85</sup> [“El padre de un fallecido pide a la jueza una sentencia 'ejemplarizante' para que 'no vuelva a pasar'”](#), *La Vanguardia*, 30 March 2023.

<sup>86</sup> Xurxo Melchor, [“La sentencia del Alvia tardará por la complejidad de una causa que acumula 70.000 folios”](#), *La Voz de Galicia*, 28 July 2023. If the parties were not satisfied with the sentence, the only ordinary recourse against it is an appeal to the County Court of Galicia. Recourse to cassation by the Supreme Court is, in effect, an extraordinary measure, which, in theory, could be applied to the sentence of appeal; its use is very limited but not necessarily to the infringement of fundamental rights.

<sup>87</sup> [“Adif completa la implantación del ERTMS en Angrois y el eje atlántico”](#), *Diario de Pontevedra*, 11 August 2023.

<sup>88</sup> Poder Judicial – España. [“El maquinista del Alvia y el exdirector de seguridad en la Circulación de aDIF saon condenados a dos años y medio de prisión por 79 homicidios y 143 lesiones imprudentes”](#). 26 July 2024.

<sup>89</sup> *Ibidem*.

<sup>90</sup> *Ibidem*.

<sup>91</sup> *Ibidem*.

<sup>92</sup> *Ibidem*.

<sup>93</sup> Poder Judicial – España. [“El juzgado admite a trámite los 60 recursos presentados contra la sentencia del accidente del tren Alvia”](#). 3 December 2024.

<sup>94</sup> Pablo González, [“Suspendidos los plazos para los recursos del caso Alvia ante las numerosas peticiones para aclarar la sentencia”](#). *La Voz de Galicia*, 10 September 2024.

<sup>95</sup> Reyes Rincón, [“El Supremo entierra el último intento de las víctimas del accidente del Alvia de forzar una investigación independiente.”](#) *El País*, 22 December 2023.

<sup>96</sup> The argument used by the Supreme Court to deny any conflict of interest was that the CIAF was already independent, because the ministry had changed its composition so that those under investigation could not be investigators. The victims rejected that argument as “a vicious circle”: it was not the independence of the CIEF now that was in question, but the one that made the specific report of the Alvia accident.

<sup>97</sup> Pablo González, [“El accidente de Angrois llega a la Justicia europea”](#), *La Voz de Galicia*, 17 February 2025.

<sup>98</sup> Sonia Vizioso, [“El Tribunal Europeo de Derechos Humanos admite a trámite la demanda de las víctimas del Alvia”](#). *El País*, 17 February 2025.

<sup>99</sup> Susana López Carbia, [“Las víctimas del Alvia piden «justicia» en Europa: Estrasburgo revisará el caso”](#), *El Correo Gallego*, 18 February 2025.