



**DAY OF THE
ENDANGERED LAWYER**

**SUMMARY REPORT: BASQUE LAWYERS UNDER
THREAT
OCTOBER 2012**



AVOCATS EUROPEENS DEMOCRATES
ABOKATU DEMOKRATA EUROPARRAK
EUROPÄISCHE DEMOKRATISCHE RECHTSANWÄLTE
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AVVOCATI EUROPEI DEMOCRATICI
EUROPESE DEMOKRATISCHE ADVOKATEN
EUROPEAN DEMOCRATIC LAWYERS



ELDH European Association of
Lawyers for Democracy and
World Human Rights

1. INTRODUCTION

In 2010, the Day of the Endangered Lawyers was initiated by the European Democratic Lawyers (EDL) and the European Association of Lawyers for Democracy and World Human Rights (ELDH), and supported by many organisations. In 2011, the Day was devoted to endangered lawyers in Turkey and in 2010 to Iranian lawyers.

This report, written for the 3rd International Day of the Endangered Lawyer, gives details of the judicial measures directed against Basque lawyers during recent years. Several Basque lawyers had been prosecuted previously.

This case by case analysis demonstrates that lawyers have been arrested under the generic charge of «terrorism». The arrests were often accompanied by large scale media campaigns violating the presumption of innocence. Likewise, most cases (one case is still pending) were either dismissed or the lawyers were acquitted after having suffered arrest for several years, frequently in incommunicado detention while awaiting their trial, and, occasionally in isolation and in prisons far from the Basque country. The incommunicado detention regime has been severely criticized by international institutions^[1] and organisations^[2] on numerous occasions. Under this detention regime, the detainees do not have the right to consult a lawyer of their choice, and are detained up to five days

^{1]} Several Reports of international institutions criticise incommunicado detention first as a kind of detention that makes the use of the torture possible and also because it goes against the rights of the detainee. The use of this kind of detention is often considered as a kind of ill-treatment in itself:

- The Committee for the Prevention of Torture of the Council of Europe (CPT); See the reports CPT/Inf (2003) 22 on the visit carried out by the CPT to Spain from the 22nd to the 26th of July 2001 and CPT/Inf (2011) 11 on the visit carried out from the 19th of September to the 1st of October 2007.
- Report of the Special Rapporteur on the question of torture, E/CN.4/2004/56/Add.2, Theo van Boven, on his visit to Spain carried out from the 5th to the 10th of October 2003
- Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, A/HRC/10/3/Add.2, Martin Scheinin, on his visit to Spain carried out from the 7th to the 14th of May 2008.
- Report on Concluding Observations of the Human Rights Committee of United Nations on its examination to Spain, CCPR/C/ESP/CO/5, carried out from the 20th to the 21st of October 2008.
- Report on Concluding Observations of the Committee Against Torture of United Nations on its examination to Spain, CAT/C/ESP/CO/5, carried out from the 12th to 13th November 2009.
- Report from the Working Group on the Universal Periodical Review on Spain, A/HRC/15/6, held on the 5th of May 2010.

^{2]} Several organizations have criticized the use of the incommunicado detention:

- Human Rights Watch: "Setting and Example? Counter- Terrorism Measures in Spain", January 2005.
- Amnesty International: "Spain: Out of the Shadows – time to end the incommunicado detention", 2009.

in a police station with no contact whatsoever with their lawyer, family etc.. It is this kind of isolated arrest that makes torture possible.

A small collection of media articles is attached to this report, as well as pictures describing the different detentions; arrests are often accompanied by large deployments of police and media. Please see attachments.



1. Case: Julen Arzuaga

Julen Arzuaga was charged in Case 33/01 against Gestoras Pro Amnistía-Askatasuna: In this context two lawyers' offices in Hernani and Iruñea were searched. The case included accusations against lawyers who defend Basque political prisoners of belonging to an alleged "frente de macos" ("prisons front") of the armed organization ETA.

After Arzuaga's release, pending trial, late in 2002, the Spanish Delegation to the UN demanded Arzuaga be banned from the sessions of the human rights bodies he had been attending, branding him a "dangerous terrorist".

After being banned for three months and following requests from several NGO's and sections of the UN themselves, the security service at the UN admitted that there were no reasons to justify the ban and allowed him to attend again.

The trial of Arzuaga took place in 2008, and the Audiencia Nacional decided to drop all charges of involvement with ETA, ruling that, although Arzuaga had belonged to Gestoras pro Amnistía he was only carrying out legitimate legal work.



2.- Case: Aiert Larrarte

Aiert Larrarte, a lawyer from the Gipuzkoa Bar Association, was charged, together with Julen Larrinaga, of the charge of defamation of the security forces of the state, punishable in accordance to Article 504, 2º of the Spanish Criminal Code. He was sentenced to 15 months imprisonment but was allowed to pay instead a daily fine of 15 Euros. In case of non-payment the convicted person has to serve one day of imprisonment for each daily fine not paid.

He was charged after he informed a press conference on 25 April 2006 about evidence of torture of his client Ibon Meñika^{3]}.

^{3]} Ibon Meñika was arrested in the night of the 18th of April 2006 by the Grupos de Acción Rápida (GAR) of the Guardia Civil. Immediately he was subjected to incommunicado arrest pursuant to the Special Anti-terrorism Laws. He was transferred to the Dirección General of the Guardia Civil in Madrid, charged with belonging to an armed group.

- On the 22nd of April 2006 and after four days in incommunicado detention on the premises of the Guardia Civil in Madrid, Ibon Meñika was transferred to the Audiencia Nacional where he gave evidence to the Investigative Judge Santiago Pedraz that he had been tortured after he had refused to testify. He declared before the Judge that he had repeatedly been beaten on his head and his testicles. He also referred to having been deprived of sleep and being subjected to sensory deprivation (during the four days in incommunicado his eyes were covered with a black mask). He was also subjected to continuous humiliations and threats with the aim that he should incriminate himself and third persons. He filed a judicial complaint which is supported by TAT. The complaint was dismissed by a Judge in Madrid without any previous investigation, stating that his testimony was not credible.

- On the 24th of April 2006, Sandra Barrenetxea was arrested in Bilbao by the Guardia Civil in the context of the open police operation after the detention of Ibon Meñika. She was in incommunicado detention for three days. She was brought to the Audiencia Nacional where she also denounced ill-treatment. Then she was released.

- On the 25th of April 2006, different collectives denouncing torture (TAT, Askatasuna y Gurasoak) held a joint press conference in Bilbao in order to announce the different dates of the arrests by the Guardia Civil and also to make a political presentation on the facts. TAT, through the voice of the lawyer Aiert Larrarte, informed the press conference about the evidence he had given about to the torture of Ibon Meñika in the Audiencia Nacional and alerted about the situation which could cause harm to Sandra Barrenetxea.

- Days after the press conference, the collective "España y Libertad" submitted a complaint against Aiert Larrarte and Julen Larrinaga (members of Askatasuna) for defamation of the Guardia Civil on the basis of declarations and statements that had appeared in the media. Two months later, Aiert and Julen were summoned before a Judge in Bilbao in order to testify as charged persons, while the prosecution was still in the process of deciding on the complaint.

He also denounced the incommunicado detention of the arrested persons and insisted that the Human Rights Commission of the Basque parliament should undertake a visit to the prison where Ibon Meñika was held in order to learn first hand about his testimony. Days after the press conference the extreme right wing collective "España y Libertad" submitted a complaint against him for defamation of the Guardia Civil on the basis of the declarations and statements that had appeared in the media.

Nearly two years later, in April 2008, the prosecution accepted and processed the complaint of "España y Libertad". Eventually, in July 2008, the prosecution opened the oral hearing and requested for each defendant a fine of 7.000 Euro, or 15 months imprisonment (in case of non-compliance 7 ½ months of imprisonment)

Finally, the oral hearing was scheduled on the 11th of May 2009. Ms. Cheryl Lucassen, lawyer from the Netherlands, participated as international observer. She presented her report to the commission Defence of the Defence of the EDL (European Democratic Lawyers).

On the 13th of May 2009, Larrarte was acquitted, together with the accused Julen Larrinaga.

The case against Ibon Meñika, charged with alleged false accusation, was eventually dismissed on the 21st of October 2010.



3. - Case: Iñaki Goioaga

Iñaki Goioaga Llano, a lawyer in Bizkaia, was arrested by the Guardia Civil on the 13th of June 2009 at 2 p.m.. After having been informed about his arrest and incommunicado detention for terrorism, he was brought to his lawyer's office in Elkano street in Bilbao. His colleague, who was present in the office at the time, expressed his intention to assist him and requested the judicial search warrant. This was denied to both of them and he was shoved out at gunpoint. He was not allowed to be present during the search of Mr. Goioaga's office. Instead, a colleague on duty was present during the search. After the later search of his home, Mr. Goioaga was brought to Madrid.

At the same time, the media brought the arrest into the context of a spectacular police operation, in which an escape plan, dating back to 2007 and allegedly organized by ETA, was disrupted. Six more persons were detained, three of them were prisoners.

The President of the Bar of Bizkaia contacted the magistrate of the Audiencia Nacional, Mr. Fernando Grande Marlaska, in charge of the operation, and requested that the fundamental rights of the detainee be guaranteed. But the magistrate not only did not apply the official protocol newly created in the law to prevent torture (video recording, medical examination by a doctor of his choice etc.), moreover, he also refused to inform Goioaga's lawyers, even when he testified.

On the 16th of June, when the colleague testified in court, his lawyers, present in the waiting room, were evicted from the corridors of the Central Investigating Judge n° 3, while journalists were allowed to stay, as well as other lawyers. After his testimony and when the "incommunicado" aspect of his detention was lifted, one of his lawyers was allowed to have a brief talk to him in the cell of the Audiencia Nacional. Goioaga stated that he had been subjected to countless interrogations by the Guardia Civil without the presence of a lawyer, and had been insulted and threatened. In addition, in front of the judge he denied any link to the alleged escape plan and he denied the charge that he had facilitated the communication between a prisoner and ETA. Once again, none of the documents confiscated during the search supported the extreme charges as they appeared in the indictment.

After having testified before the judge while under incommunicado detention, he was sent for pre-trial detention to Segovia, 353 km away from Bilbao, where he lives. On the 30th of January 2011, one year and seven months after his arrest, Iñaki Goioaga was released.

In October 2012, the oral hearing against him and two other persons started in the Audiencia Nacional. The prosecution requested 16 years and three months of imprisonment for participation in an armed organization, conspiracy, breach of the terms of a sentence, in addition to kidnapping and theft. A penalty totaling 25 years of imprisonment was requested.

On the 31st of October 2012, Iñaki Goioaga and the other two persons accused with him were acquitted.



4. - Case: Joseba Agudo Mancisidor

Trial in France

On the 28th of October 2009, Joseba Agudo Mancisidor was arrested. He was about to travel to negotiations in Mexico, when he heard through the Spanish television that he was under arrest. The media knew in advance about his upcoming detention and they were already waiting in front of the door of his office. It was announced that the operation was continuing and that more detentions were expected. Once more, the Guardia Civil carried out an arrest which was ordered by the magistrate of the Central Investigating Judge no^o 6 of the Audiencia Nacional, Fernando Grande Marlaska. The search of Agudo's office was conducted by a large deployment of police while he was arrested on the same day in France in Hendaia, where he lived at the time. The home of Joseba Agudo's parents was also searched. The arrest was carried out by the French police on the basis of a European arrest warrant, issued by the Audiencia Nacional. While waiting for the decision on the European arrest warrant, Joseba Agudo was transferred to the prison of Muret. The media stressed that the arrest was based on the fact that the lawyer "defended the fugitive Etxarras" or speculated that the lawyer was the "connection between the committee of refugees and ETA".

On the 29th of October 2009, he appeared before the judge of Pau, who notified him of the content of the European arrest warrant with the charge of belonging to an armed group and ordered his detention. He was transferred to the Maison d' Arrêt de Seysses in Toulouse.

On the 10th of November 2009, a first hearing was held before the Court in Pau, in which the petition of the European arrest warrant, issued by Judge Grande Marlaska, was analyzed. The charge was based on documents, confiscated in Bordeaux during the arrest of various suspects and alleged members of ETA. His lawyer, Ms Paulus-Basurko, argued that the European arrest warrant can only be recognised for crimes that were allegedly committed in the state issuing the warrant, in this case in the territory of the Spanish state. This was not the case, according to his lawyer. Therefore, she concluded that the petition of the European arrest warrant was not justified and requested that the Court deny the request. The Court of Pau confirmed the arrest warrant but the French Supreme Court overturned the decision because the underlying facts of the charges

were not clear. The hearing on the European arrest warrant was transferred to another Court and held in Bordeaux. On the 6th of January 2010, Agudo was brought to the prison in Bordeaux.

The trial continued with problems for the prosecution and two more hearings had to be held. Finally, the Court ordered that the charged person be handed over to the Spanish authorities. This decision was appealed before the French Supreme Court but this time the extradition was confirmed.

On the 1st of April 2010, he was extradited to the Spanish authorities but not imprisoned. Surprisingly, he was brought to a police station in Moratalaz, where he spent the night before being imprisoned again.

Despite the fact that the charges against him were based on documents, which were supposedly confiscated in France and that the facts which were object of the accusation were supposedly committed in France, Judge Ms Le Vert did not oppose the execution of the arrest warrant against Mr. Agudo.

Therefore, in April 2010, he was extradited and imprisoned according to the European arrest warrant in Soto Real.

Trial in Spain

On the 2nd of April 2010, Mr. Agudo appeared before the Investigating Judge n° 5 where he refused to testify. He was sent to prison. On the same afternoon, he arrived in the prison Madrid V. Until the 20th June 2010, for almost three months, he was imprisoned under a regime of total isolation, when he was transferred to the prison of Alicante II, 800 km from his homeland.

On the 28th of October 2010, he was notified of the indictment.

On the 22nd of February 2012, the trial against him began.

The prosecution requested nine years of imprisonment. After having spent nearly two and a half years in prison, he was released on the 22nd of March 2012 while the judgment was pending. Days later, on the 9th of April 2012, he was acquitted by the Court, the First Section of the Penal Chamber of the Audiencia Nacional. The prosecution did not appeal the acquittal. In its judgment, the Chamber stated that the Guardia Civil arbitrarily persecuted the lawyer, which allows us to conclude that the charges were based on 'expert' reports without any evidence. The Chamber recognized that to give advice to his defendants is indeed the work of a lawyer.

During all the time he spent in prison, he was imprisoned on the first degree including everything which this encompasses. In addition to his stay in the prison of Villena, Alicante, more than 800 km from his homeland, the rule of prisoner-dispersion was applied on him.



5. - Case: Alfonso Zenon

The case of this colleague began in May 2010 with the complaint by the Counselor of Interior of the Basque government, Mr. Rodolfo Ares (PSOE), because of a press conference^[4] held by Zenon together with another lawyer of his office and with relatives of detainees arrested for alleged relations with ETA in Ondarroa on the 26th of January 2010.

At the time, several persons were arrested during a police operation. Some of them were subjected to up to eight days of incommunicado detention. They complained of heavy torture, both physical and psychological. Despite the fact that Alfonso Zenon, who from the beginning was assigned as lawyer by the relatives of the detainees, requested the application of the protocol of measures aiming at preventing torture (video recording, medical examination by doctors assigned by the families of the detainees etc...), the request was denied.

Among other things, Zenon stated during this press conference that "the very new anti-terrorism- division *Ertzaintza* tortures on the order of Mr. Ares."

Due to this statement, the Counselor of Interior submitted a complaint for alleged defamation against him which was later amended to an alleged offence of insult^[5].

^{4]} On the 26th of January 2010, a police operation through the "Ertzaintza", the Basque autonomous police, was commenced . Nine persons were arrested and all were subjected to incommunicado detention. According to their relatives, the protocol to prevent torture, which was adopted by the Basque Government, was not applied in these cases. The judge of the Audiencia Nacional did not take any measure nor responded to the submissions of the Defence to apply the new protocol.

The detainees could not communicate with their relatives or with their lawyers until they were transferred to prison. All of the detainees stated that they were beaten, threatened, were obliged to stay in forced body positions and suffered from psychological pressure. Asier Badiol, one of the detainees, was hospitalized twice during the incommunicado. The certificate of the doctor listed „rib fissures and displaced cartilage“. Despite this, he complained he did not receive the prescribed medicine and they continued beating him on his ribs. Consequently, he was transferred to hospital for a second time.

On the 8th of February, relatives and lawyers of the detainees denounced these acts and accused the Ertzaintza of "having tortured on the order of Mr. Ares". On the 9th of February, the Department of Interior of the Basque Government informed the media and assured that „the declarations were made with the assistance of the lawyer and were recorded on video“.

On the 22nd of April 2010, and before filing the complaint, there was an unprecedented parliamentarian proposal, suggested by the Partido Popular (PP) to file the complaint.⁷

This lawyer did nothing more than informing the public about what his clients had told him on the first day when he could meet them in the premises of the prison of Soto del Real, which he did with their consent and with the aim of defending them. He advised them to file complaints of torture and ill-treatment. The complaints were submitted before the competent judges. One of the defendants complained during his first appearance before the judge that he had been subjected to ill-treatment in the police station of Ertzaintza with the aim of incriminating himself.

On the 15th of June 2010 and after the complaint of the relatives of the detainees, the Ararteko (Ombudsman for the people of the Basque country) adopted a resolution, where he heavily criticized the Counselor of Interior of the Basque government, led by Mr. Ares, for refusing to disclose the records of the stay of the detainees in the judicial premises, as well as for not installing instruments of control of possible irregular actions of the police officers and refusing to open investigations with regard to the complaints for the ill-treatment.

Current Situation

^{5]} On the 9th of February, a parliamentarian of the PP, Carlos Urquijo, presented in the Basque parliament a proposal in order to request the Department of Interior to file a complaint against those who denounced torture. Later after the debate in the Basque parliament, the initiative was adopted with the votes of the PSOE, PP y UpyD. On the 23rd of April, the Counselor of Interior of the Basque Government, Mr. Ares, invited the media to the Palacio de Justicia of Bilbao and presented a complaint for an alleged offence of defamation against the lawyer Alfonso Zenon, lawyer of the detainees, who publicly denounced ill-treatment against his clients. Alfonso Zenon was summoned to testify as a charged person before the Investigating Judge nº3 in Bilbao on the 17th of May 2010.

⁷ Among other things, in this debate Mr. Urquijo Valdivieso, member of the parliament of the Grupo Popular, submitted statements like the following:

"This is - (beside of other improprieties)-what the lawyers of detainees, arrested by Ertzaintza in this police operation in February, state and therefore, we suggest that it shall be prohibited to repeat this kind of statements, which are all of the same nature and aim at discrediting police work in order to justify these attacks and assaults against any security force.

All of us know that the complaint of torture is a common practice of those who are in the police stations and charged with collaboration with or/ belonging to an armed group. This is not a problem of the incommunicado regime like the Grupo Nacionalista states in their motion of rejection of our draft law. It is rather a problem of the strategy, designed by the terrorist group, as I have said, in order to question the security forces and to discredit their work. This is to make it easier to accept for those, who still support the terrorist group, the commission of determined attacks."

Mr. Pastor, parliamentarian of the PSOE, said the following:

"And we do not want to allow a single joke on this, because we believe that on these topics one cannot joke. We will not accept that those, who support ETA, accuse and insult in impunity a police officer of Ertzaintza."

"I do not know why to exhaust the entire discourse on incommunicado detention because it would seem that we assume that in this concrete case the torture denounced by the lawyers of the Ertarras occurred."

The investigation of the case is finished. Indeed, it contained only the statement of the charged colleague and the testimony of two journalists who signed the notification of the press conference in their respective newspapers.

The proposed punishment of the accusation (the public prosecution and Mr. Ares) is one year and three months of imprisonment for defamation, the ban of practicing the profession during the same time and a compensation of 15000 Euro for Mr. Ares.

On the 6th of June 2012, the case was postponed. It is still pending and waiting for scheduling of the oral hearing.



6. - Case: Arantza Zulueta

7. - Case: Jon Enparantza

8. - Case: Iker Sarriegi

This case originated in the operation carried out by the Guardia Civil on the 14th of April 2010 in Bizkaia and Gipuzkoa. During the raids, ten people were arrested, amongst them the three lawyers. The operation was described by official sources as a police blow against the network that controlled ETA prisoners.

Searches were conducted in two lawyers' offices in Bilbao and Hernani.

Our colleagues, the lawyers and the other detainees spent 5 days in incommunicado detention in police premises. The lawyers reported overall having been treated correctly, whereas the rest of the detainees reported having been subjected to torture and ill-treatment and filed corresponding complaints.

Searches tainted with irregularities.

During the searches of the lawyers' offices in Hernani and Bilbao many irregularities occurred, as is evidenced by the Search and Entry Documents.

During the search of the Hernani offices, the Guardia Civil spent around twenty minutes in the offices, without the court secretary being present, moving around and doing as they wished. On several occasions, one of the arrested lawyers demanded the record of the search including the fact that items that the Guardia Civil said had been found at strange places, had not been there previously and that many of the items found did not belong to them. Professional confidentiality was violated by removing confidential correspondence between imprisoned defendants and their lawyers, highly relevant court files, belonging to the lawyers, such as those of the Jon Anza case, which contained confidential notes by the lawyers, investigation lines, defence strategies, etc...

During the search of the offices in Bilbao, constant protests were made by the lawyer, as she issued repeated warnings about the irregularity

of the search, because there were several Guardia Civil searching the room while the court secretary could not check whether the items they said they found were in fact there. She also repeatedly protested against the violation of professional confidentiality. Likewise, the lawyer sent by the Bizkaia Bar Association demanded that his protest about this matter be recorded. These protests did not prevent the Guardia Civil from taking confidential correspondence between prisoners and their lawyers, as well as delicate court files affecting, again, the Jon Anza case. Both Arantza Zulueta and Jon Enparantza are lawyers for the Anza family

Evidence of torture

The Guardia Civil left by accident an internal document on the operation at one of the searched premises. The defence handed this official document of the Guardia Civil over to Judge Grande Marlasca and he asked the police authorities to write an official report about it.

In their report, despite attempting to minimize the importance of the document by calling it a "working draft copy", the Guardia Civil admitted that it belonged to one of its officers, that the pseudonyms detailing the interrogation teams corresponded to members of the Guardia Civil Information Service, and that it detailed "police procedures in the anti-terrorist struggle". They asked that the diffusion of the document be limited and suggest the document be deleted from the case proceedings.

In view of the facts of the case, it can be concluded what took place coincides with the instructions contained in the above mentioned document: indeed, the lawyers were held in police premises very differently than other detainees; the lawyers were treated "exquisitely" and the others were treated in a way which aimed at their confirming the suspicions put forward by the prosecution. The existence of illegal interrogation sessions is confirmed by the presence of five interrogators, where the law only allows for an inspector and a secretary to be present during interrogation, in addition to the compulsory defence lawyer.

An assessment of the forensic-medical reports included in the case brought further evidence of the use of torture against the detainees who were not lawyers. Several of them complained of torture incidents when they first appeared before Judge Grande Marlasca.

Illegal Telephone Surveillance by CNI

The various reports of the Guardia Civil included in the proceedings, show on several occasions that the arrested lawyers' telephones were tapped by the CNI, at least since 2008.

Tapping a lawyer's telephone is very serious. It is in itself a violation of professional confidentiality (conversations with clients, defence strategies, etc.), it becomes an even more serious violation of the rights of the defence, when there is no order by a court or judge allowing the phone tapping, and no minutes transcribing the conversations either.

The lawyers have been (and probably continue to be) under illegal

telephone surveillance by the CNI, the Spanish secret services.

Illegal police operation. David Pla

According to the reports of the Guardia Civil, the discovery of the "aliases" attributed to the detainees stems from a specific fact, as stated in the custody warrant ordered by the Judge. This fact is the identification of David Pla at a meeting in France with an alleged member of the ETA leadership.

Surprisingly, at the end of the document there is a reference to a report of the Guardia Civil, dated on the 6th of July 2010, where the identification of David Pla is declared mistaken.

The entire theory assigning the various aliases, as developed in the warrant is thus faulty.

Illegal Arrest of Domingo Aizpurua

After studying the police statement of Domingo Aizpurua we are in a position to state that his arrest had no legal basis. He was exclusively interrogated about the activities he carried out as a member of ETA before his arrest in France. He had already been arrested and served a prison sentence in France for these activities. He was not asked any questions about any activities whatsoever after his release from prison in 2009.

Moreover, this confirms that the security forces sought the incrimination of the lawyers through the arrest of other people.

Conclusion

Due to the serious nature of the irregularities detected during the searches, the evidence of torture and illegal telephone surveillance by the CNI against several of the detainees etc. we conclude that the operation against the lawyers and colleagues was without legal basis from its very beginning, contrary to the most elementary principles of law and a violation of the most essential fundamental rights.

This police operation against the lawyers had very clear aims: to create obstacles for the defence of Basque political prisoners and to criminalize the defence of political prisoners. It had nothing to do with preventing any alleged control of ETA prisoners, as official sources stated.

Current Situation

On the 2nd of December 2010, the three arrested lawyers were provisionally released on bail of 60.000 Euros, after the appeal of the defence was partially granted.

On the 14th of July 2011, the colleague Arantza Zulueta was again arrested for similar charges in the context of the same judicial process.

On the 14th of September 2011, after the appeal was granted, she was released under the same conditions.

Now, two years after the operation, the case is still at the stage of investigation before the Central Investigating Judge n° 3 of the Audiencia Nacional.



9. - Case: Unai Errea

In April 2010, three Basque lawyers were arrested (Iker Sarriegi, Jon Enparantza, Arantza Zulueta) together with five Basque citizens, including Asier Etxabe, manager of a company called Antzibar SL. The operation was carried out under the lead of the Central Investigation Court (CIC) nº3 of the Audiencia Nacional. Two weeks later, the Basque lawyer Unai Errea found a note in his house in Hendaya whereby the French Police National requested his appearance at the Hendaya police station in order to pick up a court summons.

When he went to the French police station he received a summons to appear and testify as a charged person before the Central Investigating Judge on the 13th of May 2010. He was not informed about the charges in this case.

When he appeared to testify on the fore said date and his lawyer requested to study the case file in order to learn about the charges, he was told that the case was secret. From the questions asked, they concluded that the charges were based on the testimony of Asier Etxabe, given during his incommunicado detention, and which involved him in the alleged payment of the so called revolutionary tax.

The statements of the co-defendant Asier Etxabe were analyzed. According to the case file Asier Etxabe told the forensic doctor that he was subjected to pressure and threats by the Guardia Civil also against his mother and young daughters during his transfer from Donostia to Madrid and during his first testimony.

On the 13th of July 2010, Unai Errea requested to testify before the magistrate. During this statement he testified that the co-defendant Asier Etxabe made his testimony while his fundamental rights were violated. The magistrate interrupted Unai Errea's statement and reprimanded Unai and his lawyer.

In May 2011, the investigations were closed. The magistrate dismissed the case against the Director of the company and his Manager (Asier Etxabe). Consequently, Unai remained the only accused in the oral hearing. Upon request of the prosecution, the Director and the Manager,

who were co-defendants at the beginning, appeared as witnesses in the process.

During the oral hearing in November 2011, the witnesses confirmed their previous statements that Unai was the intermediary between them and ETA and witnessed to the fact that Asier addressed Unai in order to help them make the payment and thus avoid consequences against them and their goods.

Unai continued to firmly deny the acts.

In November 2011, eventually the lawyer Unai Errea was acquitted for three reasons:

- The facts of the indictment were not proved because the money which was allegedly paid to ETA did not arrive in their hands.
- The absolute attenuating factor of third-party state of need was applied, because it was judged proven that Unai only acted on request of the businessmen in order to prevent worse consequences for lives and goods.
- It was not proved that Unai acted in favour and in support of the aims of ETA



10. - Case: Amaia Izko

In the arrest warrant against the lawyers Arantza Zulueta, Iker Sarriegi and Jon Enparantza reference was explicitly made to the lawyer Amaia Izko, from the Bar Association of Pamplona, Nafarroa. It was stated that the lawyer had an alias name, assuring that she also was a member of the group Halboka jointly with others. (Halboka is allegedly a sub-group of ETA, created in 2002 in order to organize the collective of prisoners.)

All who were named in this report were already arrested except Ms Amaia Izko.

In light of this, Ms Amaia Izko requested **(WHEN?)** in writing from the investigating judge (Fernando Grande Marlaska, Central Investigating Judge nº 3) to be allowed to testify as a charged person because of the reference made to her in the arrest warrant, in order to defend herself in this manner. The response of the investigating judge was that she will have the opportunity at the appropriate procedural stage.



11. - Case: Haritz Escudero

12. - Case: Haizea Ziluaga

In the arrest warrant against Arantza Zulueta, Iker Sarriegi and Jon Enparantza it was affirmed that the lawyer Haritz Escudero took part in the alleged group of ETA, Halboka. Likewise as in the case against the lawyer Amaia Izko, he presented in writing to the investigating judge his willingness to testify as charged person in order to defend himself. He received the same response as Ms Amaia Izko. During this time Mr. Haritz Escudero of course continued to work in the Audiencia Nacional.

During another process on the 16th of December 2010, Haritz Escudero was arrested and placed in incommunicado detention together with the lawyer Haizea Ziluaga and several other persons. Both lawyers are members of the Bizkaia Bar Association.

For five days they remained in incommunicado detention in the premises of the police on the order of the same investigating judge of the case against the lawyers Zulueta, Sarriegi and Enparantza, all of whom declared their willingness to testify. After the period of incommunicado detention they were transferred to the Audiencia Nacional in order to testify before the judge Grande Marlaska.

The arrest of Escudero and Ziluaga took place in the context of the trial against the youth organization Segi. Previously, several young people were arrested. In the very same persecution the lawyers Escudero and Ziluaga, in which they defended the young detainees they were themselves arrested.

One of the young detainees in this case affirmed in his statement before the police that "a friend told him that Haritz and Haizea offered talks during student gatherings, in which they explained what to do before an arrest and which rights arrested persons have". The lawyers were arrested because of these facts.

All this information (given before the police by the young person during in-communicado etc.) was only available from the arrested young people. The case file remained confidential without access by the defence and -all the time_ without knowing the concrete and exact charges against

the lawyers Escudero and Ziluaga.

After the arrest and remand in incommunicado detention and the transferral to the Audiencia Nacional the court ordered the release on bail of both lawyers. Once the bail was paid, they were released. The concrete charge in the arrest warrant against both lawyers was being members of the terrorist organizations Segi and Halboka.

They were prosecuted under this charge but an appeal was admitted and granted by the 3rd Chamber of the Audiencia Nacional.

On the 14th of June 2012, the court ordered the dismissal of the case.

The only circumstantial evidence used against these lawyers was the fact they were lawyers of groups allegedly belonging to ETA and they were doing their professional work as lawyers.



13. - Case: Iñaki Carro

The events that led to his prosecution took place in the early hours of the 21st of September 2011 when he, as a lawyer exercising his duties, was assaulted several times by the police, during the eviction of the social centre known as «Kukutza III». This eviction had been ordered within a set of preliminary proceedings for an alleged crime of misappropriation. This lawyer had been a party to the proceedings since June 2011. He acted as lawyer for the defence, having taken part in several legal procedures before the date, including lodging an appeal against the eviction order.

The eviction began at about 05:00 in the morning of the 21st of September. As soon as he arrived, Carro asked to talk to the officer in charge of the eviction operation, he identified himself with his ID card and he explained that his intention was to remain in the area outside the building until the eviction was over and to assist the people on the inside if there were any arrests, and he expressly and clearly stated that he was there in his capacity as legal counsel for one of the parties to the proceedings and he did not intend to take part in any kind of protest. The commanding officer asked him to wait where he was, near nº 88 of Gordoniz St. in Bilbao. This can also be seen in several of the videos and photographs of the confrontations that ensued that morning.

Despite having properly introduced himself to the police officer as an acting lawyer and with a special authorization to be there at the premises, Carro was assaulted and beaten on four separate occasions —once when he approached the police cordon after the officer asked him to do so— once following a comment from the anti-riot policeman who hit him saying “I’m dying to get you”. As a consequence of these assaults he had several wounds and bruises, which were recorded in the corresponding medical report.

Carro sued the police and attached to the law suit the medical report and photographs and videos showing the events. In the reply the Court received from the Ertzaintza Station in Bilbao, the police declared that it is impossible to identify or find these policemen —they all wore balaclavas and did not wear their ID number anywhere visible— and that it was also not possible to give Carro the ID-numbers of the two officers responsible for the aggression. The judge immediately decided to dismiss the case without notifying the claimant, due to the impossibility of identifying the perpetrator or perpetrators of the actions by injunction of the 19th of January 2012.

To date, he is awaiting a decision from the Bizkaia Appeal Court where he lodged his appeal against the dismissal of the case.

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