

SPAIN

A brief summary of Amnesty International's concerns: January - October 1997

This document is an updated version of the entry on Spain in *Amnesty International Concerns in Europe: January - June 1997* (AI Index: EUR 01/06/97).

Alleged torture and ill-treatment by law enforcement officers

According to statements made by 17-year-old **Iván González Polanco** and by his brother, Daniel, Iván González was riding his Vespiño motorcycle around the centre of Badajoz on the evening of 15 January when an officer of the local police (*Policía Local*) signalled to him to stop. He began to brake and turned off the motor, travelling slowly in the officer's direction, when the officer, rebuking him for not having completely stopped, pushed him to the ground. After an argument, the officer hustled him into a police car, where he alleged he was beaten and his nose was broken. He was escorted to the *Hospital Provincial* and later to the *Hospital Regional*, where he and his relatives were told that the injuries were serious and required urgent surgery. The hospital issued a medical report confirming that his nose was fractured and that the bone structure had been shifted towards the left side of the face. He was then transferred to a police station where he was held overnight.

According to the police version of events, Iván González had been travelling too fast and his injuries were sustained by collision with the officer's arm, outstretched in a "Stop!" signal, thereby also causing injuries to the police officer. However, two independent eye-witnesses reportedly stated that this was not the case, and that Iván González had been uninjured before entering the police car.

The family of Iván González said that they attempted to lodge a formal complaint against the police officer during Iván González's detention at the police station, but were not allowed to do so. A request that the police officer and his colleague take a breathalyser test was also rejected. The family was obliged to make the complaint in court, on 17 January. By that time the police officer had apparently already lodged his own complaint against Iván González, in connection with the injuries he claimed to have sustained during the alleged collision.

Amnesty International urged the prompt and thorough investigation of the allegations made by Iván González and his family, as well as of those made by the police officer.

The organization also sought information from the authorities about the alleged torture during interrogation of **Fernando Elejalde Tapia**. On 11 March two members of the armed Basque group *Euskadi Ta Askatasuna* (ETA), Basque Homeland and Liberty, killed Javier Gómez Elósegui, the psychologist in the Basque prison of Martutene, in San Sebastian (see below - *Human rights abuses by armed Basque group, ETA*). Fernando Elejalde Tapia, who

fired the fatal shot, was taken into custody by three officers of the National Police (*Cuerpo Nacional de Policía*) after a short chase. He was taken to a police station for interrogation and held under the antiterrorist legislation which allows extended incommunicado detention of up to five days.

Two days after his detention, on 13 March, Fernando Elejalde was taken to Nuestra Señora de Aranzazu hospital by the police. He had a perforated eardrum, four broken vertebrae in his back, bruising all over his body, blackened eyes, a kidney malfunction, and was in a state of semi-consciousness.

Amnesty International was concerned that the injuries might have been the result of torture while under interrogation and called for the fullest judicial investigation, with the results being made public as soon as possible.

An inquiry ordered by the Interior Ministry concluded that, contrary to Fernando Elejalde's claims, no torture or ill-treatment had taken place while he was in police custody and that his injuries had resulted from collision with a car during the chase, and from the circumstances of the arrest, when he violently resisted the police officers seeking to detain him. However, the Minister of the Interior accepted the resignation of the Provincial Governor and dismissed the San Sebastian police chief in connection with a failure to inform the government that Fernando Elejalde had been badly injured upon his arrest and neglect to ensure that he was taken to hospital sooner. A judicial inquiry into the torture allegations was also opened in San Sebastian and was still in progress in June.

The organization was concerned about allegations by **Mamadou Kané** that he was ill-treated and racially abused by officers of the municipal police (*Policía Local*) at Vigo (Galicia) on 16 March. Mamadou Kané, a Senegalese who has been living in Spain for about 10 years and earns his living by selling merchandise, was arrested on the beach at Samil after two officers asked him for his identity papers. According to Mamadou Kané, he replied that he had a valid residence permit, but not a passport or identity card. A patrol car was called. It contained two other officers. The Senegalese was told that he would be taken to a police station in Vigo so that his identity could be checked. He was placed between the former two officers in the rear of the car but, instead of being driven to the station, he was taken along a route that led out of town, to an area near the campus of Vigo University at Marcosende. Mamadou Kané alleges that at this stage he began to fear for his life. The two officers with whom he was sitting began to beat him, while the other two shouted insults at him, such as "You black shit!"¹ and "You lot, you're crap. The Spanish Government is totally to blame for letting you into the country. Go back and get on with your tribal killings"². According to Mamadou Kané, the officers at one point threatened to kill him. They also threatened to get him expelled from Spain if he insisted on going to the police station and making a complaint against them. He nevertheless insisted on going to

¹"*Negro de mierda*".

²"*Vosotros sois una mierda; el Gobierno español tiene toda la culpa por dejaros entrar en el país; marchaos para vuestro país y mataros entre vuestros tribus.*"

the station, arriving at the *Comisaria de López Mora*, with the officers, at about 7.15pm, and lodged a complaint. He was given a medical examination at the *Hospital Xeral-Ciés*. Doctors reportedly found no external evidence of marks indicating that he had been beaten. However, the medical report apparently stated that Mamadou Kané was suffering from pains on the left side and chest and severe pains in the head.

The municipal police denied that Mamadou Kané had been taken for a "*paseillo*" (slang to mean literally "taken for a walk" or "ride"; see penultimate paragraph on this case, below) to a place near the university, and that he had been beaten and insulted. They maintained that Mamadou Kané had been arrested not at 5.30pm, as he alleged, but at about 6.45pm, and was taken straight to the station. A Vigo city councillor (*concejal de Tráfico y Seguridad Ciudadana*) stated that an action for defamation would be taken against Mamadou Kané for making false accusations against the police, but this action appears to have been dropped as, in the days following the incident, up to 14 eye-witnesses, three Senegalese and 11 Spanish, came forward to confirm that they had indeed seen Mamadou Kané being arrested at 5.30pm. Another four eye-witnesses were reported to have seen a black man and four police officers in a patrol car on a road near the university campus.

An investigation into the case was opened by the Ombudsman (*Defensor del Pueblo*). A judicial inquiry was also opened. The officers, who remained in service, and who continued to deny any wrongdoing, were charged with illegal detention, abuse and ill-treatment. The prosecutor requested that they be sentenced to up to three years' imprisonment and eight years' absolute disqualification from public employment (*inhabilitación absoluta*) and that they also be fined. Owing to the seriousness of the charges, the trial of the police officers was assigned to the Provincial Criminal Court of Pontevedra (*Audiencia Provincial de Pontevedra*).

According to claims made by the Information Centre for Foreign Workers (*Centro de Información para Trabajadores Extranjeros* - CITE) in an article in the newspaper *Faro de Vigo* (19 March 1997), which gave extensive coverage to the case, the "*paseillo del 092*" describes a practice current among some police officers in the area. CITE is quoted as saying that a number of Senegalese workers selling their merchandise in the area have been taken by police patrols to places up to 30 kilometres outside town, rather than to a police station, and left there, but are too frightened to lodge complaints against the police. Amnesty International meanwhile continues to seek information about the progress of the inquiry into the complaint of ill-treatment by municipal police of a Moroccan immigrant, **Sallam Essabah**, working in Orihuela (Alicante), who alleged that he had been taken to a deserted area on the outskirts of town and there beaten and abandoned. He was treated in hospital for multiple injuries to his stomach, chest and lumbar region (see AI Index: EUR 01/02/96).

Amnesty International is currently investigating a number of other cases of alleged ill-treatment by the *Policía Local* in the Vigo area.

Trials of law enforcement officers charged with torture

In March a Madrid court sentenced four officers of the National Police to three months' imprisonment and one year's suspension from duty for torturing **Enrique Erreguerena** in September 1982. Enrique Erreguerena is to receive compensation of a million pesetas. The officers were acquitted of illegally detaining him and denying him his rights.

Enrique Erreguerena had been detained in connection with inquiries into ETA operations and held incommunicado for 10 days in Pamplona and Madrid, under the antiterrorist legislation in force in 1982. When he was presented to the National Court in October 1982 the judge ordered him to be taken immediately to hospital. He later complained that he had been beaten, plunged in a bath until near the point of drowning and given electric shocks to his penis. In 1993, some 11 years after the events, six officers were charged with torturing Enrique Erreguerena. However, the trial was postponed on numerous occasions on a variety of grounds, including the holiday leave of one of the accused (see AI Index: EUR 41/07/96).

On 22 September the trial opened before the First Section of the Provincial Criminal Court of Vizcaya (*Sección Primera de la Audiencia Provincial de Vizcaya*) of six officers of the Civil Guard, accused of ill-treating **Kepa Urrea Guridi**, a member of the "Bizkaia" commando of the Basque armed group, ETA. Kepa Urrea, who was arrested on 29 January 1992 (see AI Index: EUR 01/04/92 and EUR 01/01/93), had complained that, before being taken to Civil Guard barracks at La Salve, he had been driven into a deserted area, stripped of most of his lower clothing and shoes and beaten, and that a gun had been put in his mouth while he was being questioned about his identity. The beating, by a number of hooded guards, resumed in the barracks, where he was found by the doctor lying unconscious on the floor and breathing very rapidly, with marks on his face, eyes, wrists and with recent bleeding at the back of his throat (pharynx), nose and mouth. He was subsequently transferred under escort to the civil hospital in Basurto, where he was again beaten and threatened by two Civil Guards who were in the room with him. A nurse, hearing him cry out, approached the door as the two officers left.

At his trial before the National Criminal Court (*Audiencia Nacional*), in December 1995, when he was sentenced to 29 years and six months' imprisonment for a number of crimes connected with terrorism, the court recognized that Kepa Urrea, and others sentenced with him, could have been tortured at the time of their arrest. (One of these, **Juan Ramon Rojo**, had later appeared in court wearing a cervical collar). Remarking on the allegations of torture, the court was quoted as saying that it "recognized its possible existence ... in the face of copious and detailed evidence, given not only by those on trial but by some of the witnesses ..." ³. The trial of the six Civil Guards, who deny the charges against them, continues at the time of writing.

³"reconoce su posible existencia ... ante las abundantes manifestaciones, todas ellas detalladas, efectuadas no sólo por los procesados, sino por parte de los testigos propuestos" - *El País*, 30 December 1995.

Human rights abuses by armed Basque group, ETA

ETA continued to commit human rights abuses, including attacks on security forces and civilians. By mid-October it was held responsible for 12 deaths during 1997, a significant increase on 1996 during which five people were killed by ETA. In public statements Amnesty International reiterated its unreserved condemnation of deliberate and arbitrary killings as well as of kidnapping and hostage-taking by ETA, as a contravention of international humanitarian standards. The organization continued to urge the immediate and unconditional release of hostages such as José Antonio Ortega Lara and Cosme Delclaux (see AI Index: EUR 01/01/97 and below).

José Antonio Ortega Lara, a prison officer, was abducted in Burgos in January 1996. On claiming responsibility for the kidnapping, ETA stated that its action was in response to the policy of dispersal of some 500 Basque prisoners in penal institutions throughout Spain. In its statement ETA called on the Spanish authorities to abandon what it defined as their strategy of repression of Basque prisoners, saying that in return it would be prepared to make an "equivalent gesture". It further stated that prison officers would cease to be the object of their actions.

On 1 July 1997 José Antonio Ortega Lara was discovered by Civil Guard officers in a concealed, underground cell inside an abandoned warehouse. As the longest serving ETA hostage, he had spent 532 days in the cell located in an industrial estate near Mondragon. The conditions of his detention were cruel and inhuman. He was held in a damp, badly ventilated cell three metres long, 80cms wide and 1.80 metres high. On release he was found to have lost 23 kilos in weight and was suffering from malnutrition and muscle waste as well as impaired vision.

Hours before the prison officer was rescued **Cosme Delclaux**, a lawyer and son of a wealthy industrialist from the Basque country, was found tied to a tree near Elorrio following an anonymous tip-off to a regional Basque newspaper. He was suffering from the effects of sedative drugs administered prior to his release. His family had reportedly paid a substantial ransom to ensure his release after 232 days.

Cosme Delclaux had been taken hostage in November 1996 while on his way home from work. His kidnapping coincided with a renewed campaign by ETA to raise funds through the means of the so-called "revolutionary tax".

On 10 July 1997 ETA kidnapped **Miguel Ángel Blanco Garrido**, a local town councillor for the ruling Popular Party in Ermua. ETA issued a statement threatening to execute the 29-year-old man unless the Spanish Government met its demands to relocate some 500 Basque prisoners nearer their homes.

On 11 July 1997, in a public appeal which received widespread coverage in the national media, Amnesty International urged the immediate and unconditional release of the ETA hostage. The organization called on all those in a position to influence events to do everything in their power to save his life and appealed for all members of society to mobilize to the same end. Amnesty International stated that his murder would constitute an attack on the basic principles of international humanitarian law.

On 12 July 1997 Miguel Ángel Blanco was discovered on the outskirts of Lasarte by passers-by who had overheard gun shots. He was in a critical condition with two bullet wounds to the head and was pronounced dead following his transfer to a hospital in San Sebastian. His death provoked an unprecedented level of national and international condemnation. Mass demonstrations took place throughout Spain with a march of an estimated one and half million people in Madrid and similar marches in towns and cities across the country.

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