

33/01 Case against Gestoras Pro-Amnistia-Askatasuna

Basque Country, April 2008

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Description of the case

Spanish original version: website *EH Watch* (<http://www.ehwatch.org/>)

Repression against the Basque People, conducted by the Spanish State and - to a lesser degree- by the French State has been constant in recent years. It is easy to trace a continuous line throughout the last decades that can show us the persistence of torture, massive and arbitrary detentions, a penitentiary policy with terrible consequences, banned associations and organizations, closure of media, outlawing of political parties and total discrimination from public life against a section of the population. To sum up, an exceptional situation that has generated a dangerous scenario of suppression of the most basic political and civil rights, a scenario that can now be seen in all its brutality.

These circumstances have forced hundreds of Basque citizens to create a retaining wall, to confront repression and participate in different civic organisations, human rights organisations, and activist organisations in what has become known as the Amnesty Movement. Without such a movement, the lack of activation of the people and, therefore, of social opposition would have resulted in a total acceptance of the impunity of the structures of the Spanish State. That is why many and varied activities have been channelled through this Movement -conferences, demonstrations, public appeals, contacts with all kinds of political and social agents...- in order to demand a scenario of respect for basic democratic conditions, of enjoyment of basic civil and political rights.

In this context, the organisation Gestoras Pro Amnistía was born three decades ago as the main platform for solidarity with the people that suffered political repression and to campaign against the situation. This association carried out a process in 2002 to converge with the association Koordinaketa, made up of the committees that worked in solidarity with political prisoners in the North of the Basque Country, under French administration. Askatasuna emerged as a result of this process, to carry out these activities in the whole of the Basque Country. In other words: an organization that focuses its activity on the promotion and protection of the human rights of the victims of repression, that fights for the eradication of torture, for the rights of arrested or imprisoned Basque citizens and the overcoming of the causes that are at the origin of State violence.

This task has always been carried out completely within the law and with a continuous public expression of its activities –press conferences, peaceful demonstrations, organisation of debates, conferences, compilation of information and figures of repression, the diffusion of these through reports, publications, public exchange with other social agen-

cies, political parties, trade unions...-. That is why Gestoras Pro Amnistía–Askatasuna have become a reference for the grassroots movement, with a reputation and social recognition and an important capacity for activating Basque society. We could say that this organisation is present in all cities and neighbourhoods throughout the Basque Country, with the participation in its activities of thousands of people.

Police operations

This task and goals mentioned were criminalized and, in fact, suspended after the police operation carried out by the judge at Central Investigation Court nº 5, Baltasar Garzón. On October 31st, 2001, 12 organizers or spokespeople of this organisation¹ were arrested under the accusation of belonging to a terrorist organisation. Juan Mari Olano, its national coordinator was arrested some weeks later in Bayonne –North Basque Country, under French administration- and after a long process, extradited to the Spanish state. All those people were been in pre-trial imprisonment –remand in custody- for the maximum limit allowed by Spanish law in these cases, of four years awaiting trial. The right to be presumed innocent has disappeared; convictions are now served in advance, before any hearing at a trial. They were released under astronomical amounts of money as bail in May and June 2004.

In the context of this operation, a virulent campaign by the media and politicians was implemented against the professional activity of the lawyers that work on cases that can be labelled “political”, under the argument that these lawyers belong to the “prison front” of the armed organisation. Thus, on the morning of October 31st, as the premises and offices of the Gestoras Pro Amnistía were searched, the police entered the offices of lawyers which are registered in the Bar Association of Lawyers in Gipuzkoa and Pamplona respectively. It must be remarked that the judge Baltasar Garzón, who was leading the operation in Bilbao was personally warned of this situation. Nevertheless, the judge took no notice of that information and carried on with the search, with both offices being sealed off and computers and documents belonging to the twelve lawyers that worked there being seized.

The investigation judge later ordered the lifting of the sealing of both offices and the restitution of the confiscated material, after duplicating and copying all the content of the computers and the documents seized during the searches. This is a flagrant violation of the rights of the lawyers to professional secrecy, as well as other guaranties that must be observed in these cases. Lawyer Julen Arzuaga will be subjected to these proceedings because of this illegal action.

On February 5th 2003, in a new raid, five people that worked as spokespersons in the new association Askatasuna² were arrested, their homes searched as well as the premises of the association of relatives of political prisoners Etxerat in Bilbao, Hernani and Gasteiz. On February 6th Central Court of Investigation nº 5 took the decision to merge the proceedings into Case 33/01.

¹ In this first operation Gorka Zulaika, Aratz Estonba, Ainhoa Irastorza, Julen Larrinaga, Julen Zelarain, Josu Beaumont, Jagoba Terrones, Jon Beaskoa, Maite Diaz de Heredia, Iker Zubia, Alex Belasko and Juan Antonio Madariaga were arrested. Later, Juan Mari Olano was arrested in Bayonne.

² In this second operation Iñaki Reta, Asier Virumbrales, Ixone Urzelai, Iñaki Loizaga and Sabin Juaristi were arrested.

These operations have a continuity in the present, as on September 11th 2007 Juan Maria Olano and on October 3rd 2007 Ohiana Agirre, also spokespersons of Askatasuna were been arrested and jailed for “reiteration in their public activity as representatives of Askatasuna”. Olano will be released in early March 2008. Meanwhile, Ohiana Agirre is in prison, under new proceedings opened by judge Baltasar Garzón against Askatasuna.

Charges

With these proceedings, the investigation judge Baltasar Garzón suspended the activity of Gestoras Pro Amnistía and Askatasuna, considering its public activity illegal from the point of view of the criminal law and accused the 17 that were in prison and other 10³ of a crime of “belonging to an armed organisation”.

The judge reverts the process of the investigation, contrary to law and logic, as first, a conclusion is given out –that Gestoras belongs to the structure of ETA- and later, through interpretations and speculations they look for the evidence, the factual arguments to support that theory.

The alleged criminal actions of Gestoras would be:

- «1.- Exercising control over the collective of ETA prisoners, connecting and communicating with the members and representatives through their lawyers.*
- 2. - Guaranteeing internal cohesion and obedience to the discipline imposed by this organization on the collective, avoiding any individual initiative in the course of their prison sentence and cancelling any possibility of dissent or breaking from the collective.*
- 3.-Co-operating with and financing the maintenance of ETA prisoners and refugees.*
- 4.- Co-ordinating and driving forms of struggle that complement those of ETA and support for the demonstrations of the prisoners' collective.*
- 5. - Gathering important information for ETA's internal security, taking this from the penal processes that members are involved in, and passed on by some of their lawyers, greatly exceeding the right to defence.*
- 6. - Pointing out who they believe are responsible for the situation and condition of ETA prisoners, turning them into possible targets for that organization; or against persons or institutions that don't back the demonstrations called in support for and solidarity with ETA prisoners.*
- 7.- Taking advantage of the sensitivity caused by the supposed violation of the rights of ETA prisoners to induce volunteers and regenerate the operational structure of ETA.*

³ The people never arrested but included in these proceedings are Jorge Txokarro, Jorge Luis Arredondo, Txema Olabarrieta, Gotzon Amaro, Maitane Mendez, Mixel Sarasketa, Gari Arriaga, Aitor Jugo and the aforementioned Julen Arzuaga.

- 8.- *The setting up and development of the project named Alde Hemendik⁴.*
- 9.- *Co-ordinating and directing the so-called "X and Y struggles" Kale borroka (urban struggle) and "days of struggle" that are carried out in support of ETA members or due the death of a member, or other contingent circumstances.*
10. - *The initiative and decision on when the ETA prisoners collective begin a hunger strike or cell lock- in and other actions.*
- 11.- *Publishing the magazine ZOHARDIA, directed by Mikel Korta Carrión, who was included in the Indictment 18/98 for his membership of ETA-Ekin.*
- All these activities are carried out by Gestoras, under the control and direction of ETA-KAS and ETA-Ekin, through the corresponding instruments developed by those detained and others accused".*

In the following points of the indictment he goes over each one of the detainees and assigns them greater responsibility in one or another of the activities above, in an attempt to justify their supposed "criminal" activity. Amongst the elements of accusation in the indictment is the fact of having belonged in the past to other student, youth or social organizations, to be connected emotionally with a prisoner or a political refugee, participation in acts of homage to prisoners, campaigning, calling demonstrations, attending meetings, developing projects...

These activities, in any case, were publicly carried out by this organisation and in no way could be understood to constitute a crime, as is proven by the fact that they have never been accused of other minor crimes such as "glorifying terrorism".

In the case of other activities that have are criminal and are may lead to the charge of belonging to a terrorist organisation, they is no way to prove these charges, as no rational evidence of criminality has been presented, no reference to damage against any juridical good protected by the criminal legislation. Again, the charges are generic, brought against groups of people, collectively, in a clear breach of the individuality and precision that must be the basis of any criminal charges.

Conclusions

In the face of these charges and in these circumstances, the trial against these 27 colleagues from the Amnesty Movement will begin on April 21st, 2008, with a petition from the public prosecutor of 10 years in prison.

In view of all the above, we would like to make the point that the participation of these people in different areas and organizations of the broad Amnesty Movement has always been open and transparent and has always been known to the public. The connection of this social activity and the actions committed by ETA is absolutely unacceptable and is based on arguments and interpretations lacking any kind of factual or rational basis. We are aware, nevertheless, that this extensive application of anti-terrorist definitions to public and transparent actions has a long history in the Spanish justice system, hence

⁴ Project Alde hemendik/ go home": the judge refers to the activity proposed by Gestoras Pro Amnistía to remove the Spanish Security Forces from the Basque territory, one of the most militarized areas in Europe.

the Supreme Court in the case of Haika-Segi⁵ and the subsequent Audiencia Nacional verdict in reference to Case 18/98⁶, which only makes the position of our colleagues facing this trial worse.

This process is simply a smoke screen that attempts to discredit a social organization and tries to criminalize the work of denouncing the vulnerability of the rights of Basque prisoners, refugees and deportees and also tries to avoid the social expressions of solidarity with this collective. The r3emand in custody for four years of 13 of these colleagues, released on millionaire bails, the suspension of the activities of these organizations, have generated a total block of freedom of expression and of the right of association and peaceful petition, because the mobilizations and demonstrations organized by this movement have been consistently forbidden by court, suspended administratively and violently attacked by the State Security Forces.

This trial is a further landmark on the road to criminalize, with no legal basis, solidarity with political prisoners, opposition to repression and to state violence and mobilization in defence of human rights. The states, convinced of their strategy of maintaining the repression against increasingly broader sections of the population, require higher levels of impunity.

The way of doing things of the Audiencia Nacional as an instrument for the application of special antiterrorist laws, a vivid example of the “law for an enemy” shows us the impossibility of receiving a fair trial in front of this exceptional tribunal. Furthermore, keeping in mind the events mentioned above, we believe that the trial will be a mere masquerade designed without content to administer a previously written political verdict. We are not expecting, hence, justice from this court. Nevertheless, we are expecting an opportunity to explain to Basque and international society who we are and what we are seeking.

This type of political-judicial trials moves us further away from the aims we share with Basque society: ending the repression and seeking the definitive resolution of the Basque conflict.

⁵ In verdict 50/2007 dated 01/19/07 the Supreme Court considered the participation of 23 young Basques in the youth organizations Haika and Segi a crime of terrorism, claiming that their participation in those groups “complemented” ETA’s activity and sentencing them to a total of 138 years in prison.

⁶ On December 19th, 2007, The Audiencia Nacional sentenced 47 people in the Case 18/98 to a total of 525 years in prison for their participation in various political and social organizations and different cultural businesses, among which there was a newspaper, claiming that there was a connection between those and ETA, establishing for the first time the idea that “Everything is ETA”.