



ELDH European Association of Lawyers for Democracy & World Human Rights

WITH LAWYERS
IN 16 COUNTRIES

EJDM Europäische Vereinigung von Juristinnen & Juristen für Demokratie und Menschenrechte in der Welt
EJDH Asociación Europea de los Juristas por la Democracia y los Derechos Humanos en el Mundo
EJDH Association Européenne des Juristes pour la Démocratie & les Droits de l'Homme
EGDU Associazione Europea delle Giuriste e dei Giuristi per la Democrazia e i diritti dell'Uomo nel Mondo

Equality Privacy Social Rights
No Racism Peace No Torture Civil Rights No War
Self-Determination of Peoples Democracy
Human Rights Rights of Migrants

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European Lawyers demand: Respect the rights of Basque Lawyers

The European Association of Lawyers for Democracy and World Human Rights (ELDH) is gravely concerned about the arrest of three well known Basque lawyers who have over many years defended Basque political prisoners. They are Arantza Zulueta, Iker Sarriegi and Jon Enparantza. The work of such lawyers has been subjected to a campaign of criminalization by the Spanish state. These arrests took place at a very particular political moment, when there is a possibility of a peaceful resolution in the Basque Country, and there is a large-scale debate on the role of the prisoners.

The three lawyers are held in prisons in the south of Spain, very far away from their hometown, with an average distance of 950 km.

The three arrests took place on the 14th of April 2010, and the lawyers were accused of “terrorism” with no specific charges against any of them. There are severe doubts about the legality of the circumstances of the arrests and the tapping of telephones and emails. When they were arrested, the police officers did not show any warrant for their arrest. The officers who took part in the operation did not differentiate between confidential and non-confidential documents, or between the belongings of the lawyers and belongings of third persons. They knew that their phones were tapped by the CNI (Spanish secret services), but there was no judicial authority for it and no transcriptions of their conversations have been provided.

Although they denied all charges and although no evidence was produced, they were remanded in preventive imprisonment by a judge, only on the basis of the general accusation of “terrorism”.

There are severe concerns whether the circumstances as well as the conditions of their arrest under incommunicado detention and imprisonment under isolation and in distant prisons violated Spanish and international law, in particular

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- “Persons in detention shall be subject to treatment appropriate to their unconvicted status.” (Principle 8 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, UN Resolution 43/173 of 9 December 1988)
- “A detained person suspected of or charged with a criminal offence shall be presumed innocent and shall be treated as such until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.” (Principle 36.1, Body see above)
- “A detained or imprisoned person shall have the right to be visited by and to correspond with, in particular, members of his family and shall be given adequate opportunity to communicate with the outside world, subject to reasonable conditions and restrictions as specified by law or lawful regulations.” (Principle 19, Body, see above)
- “If a detained or imprisoned person so requests, he shall if possible be kept in a place of detention or imprisonment reasonably near his usual place of residence.” (Principle 20, Body, see above)
- “No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.” (Art. 12 of the Universal Declaration of Human Rights). Violated by the searching of their professional and confidential documents and the tapping of their phones without judicial order. The Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Martin Scheinin* has already demanded that the Spanish State should put an end to such practices.
- “Under this provision the State must ensure that statements made as a result of torture will not be used as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.” (Art. 15 of the Convention of Torture). The accusations against the lawyers are based on the confessions of other co-defendants, who following their release denounced the use of torture during incommunicado detention.
- “Except in special cases provided for by law, a person detained on a criminal charge shall be entitled, unless a judicial or other authority decides otherwise in the interest of the administration of justice, to release pending trial subject to the conditions that may be imposed in accordance with the law. Such authority shall keep the necessity of detention under review.” The judge refused to release the three lawyers, without taking into consideration the facts and arguments presented.

ELDH demands,

- Immediate review of the legality of the arrest and imprisonment of the three lawyers, mentioned above and, following such review, the immediate release of the three lawyers, at least until the final decision of the court.
- If the prisoners are not released immediately, they should be transferred to prisons in the Basque Country where they can be visited by their families and their lawyers