



ELDH European Association of  
Lawyers for Democracy and  
World Human Rights



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EUROPESE DEMOKRATISCHE ADVOKATEN  
EUROPEAN DEMOCRATIC LAWYERS

London, Farciennes, Barcelona, Düsseldorf, 4<sup>th</sup> November 2013

## **Motion regarding the situation of Lawyers and Human Rights defenders in the Basque Country**

We, members of the European lawyers organisations, ELDH and EDL, would like to denounce the criminalisation and harassment of Human Rights defenders, lawyers and political activists by the Spanish authorities.

Despite the fact that since years Basque parties, institutions and civil society are immersed in a process towards a peaceful resolution of the conflict and despite the fact that ETA declared the definitive cessation of its armed activities, the violation of Basque lawyers' and citizens' rights continues.

On the 30th of September, 18 people were arrested, 4 offices searched, 32 Twitter accounts and 138 Facebook accounts closed down and bank accounts frozen in a Spanish police operation against Herrera, the Basque Human Rights organisation for the defence of political prisoners and exiles rights.

Herrera, a legally registered association, has been campaigning for the end of the policy of dispersion, the release of prisoners affected by the doctrine 197/2006, release of the seriously ill prisoners and the dismissal of the processes to all persons for their mere political activity. Last January 2013 more than 115.000 people marched on the streets of Bilbao supporting those demands.

The 18 human right activists arrested during the police operation ordered by the special court Audiencia Nacional have been released waiting for trial and under hard precautionary measures as the ban of acting politically or leaving the Spanish State. In fact, Spanish justice has banned all public activity done by Herrera acting against civil and political rights included in the European Convention of Human Rights as the right of association, right to defence and the right to a fair trial.

As lawyers and European citizens working for the defence of civil and political rights, we are especially concerned for the arrest of the lawyer Oskar Sanchez, representative of the Basque Human Rights Observatory, Behatokia. Spanish Civil Guard has taking the electronical devices of the office of Behatokia and several documents from different court cases have been taken away. Oskar Sanchez is one of the lawyers on charge of the appeal against the Doctrine 197/2006 before the ECHR in Strasbourg. We ask the Court to give back the files without copying them as they are confidential files.

Those facts suppose a clear attack to the basic rights of lawyers for the practice of their work and shows that Spanish authorities continue attacking fundamental rights of Basque lawyers as we posted this year during the celebration of the Day of the Endangered Lawyer 2013.

Unfortunately, criminalisation and persecution of political activities affects not only Herrera but a large number of Basque citizens and organisations. More than 200 people will processed by the Spanish Audiencia Nacional for their mere political activity in political parties, youth organisations, internationalist associations...

Two of this processes have started this October 2013 and 76 political activists of political parties and youth organizations (Case 35/02 and Case 26/11) are under trial accused of being members of a terrorist organisation with a demand from the prosecutor of more than 600 years of prison. We show our concern on

the torture complaints of several of the defendants, torture happened during incommunicado detention<sup>1</sup>

As we have stated several times last years, the application of a series of laws of exception hollow out universal principles of law, basic guarantees and fundamental rights of detainees and those who are under trial. The extensive interpretation of terrorist activities and the application of these laws of exception have given way to the violation of fundamental rights, the right to a defence and the presumption of innocence

Taking into account the efforts of Basque political actors for a peaceful resolution of the conflict, the grave violations of civil and political rights of lawyers, human rights defenders and political activists by the Spanish authorities, we, the ELDH and EDL state:

- We urge the Spanish authorities to stop persecution of the legitimate and legal activities of the Human Rights organisation Herrira; the immediate release of prisoners affected by the doctrine 197/2006 specially after ECHR has established<sup>2</sup> it is going against Human Rights Convention; to stop the dispersal policy against Basque Political prisoners and to be taken to prison close to their home, the release of the seriously ill prisoners and the dismissal of processes to all persons for their mere political activity.
- We support those fundamental demands based on the European Convention of Human Rights, the UN's "Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment", the International Covenant on Economic, Social and Cultural Rights - ICESCR and the International Covenant on Civil and Political Rights ICCPR
- We denounce the detention, violation of the right to defence and to professional secrecy or our colleagues of Behatokia, especially of Oscar Sanchez, arrested for three days last 30th September. We reject the criminalisation of the exercise of the right to a defence with the aim of limiting this right and demand the immediate restore of Oskar Sanchez rights as a lawyer giving back all his work documents and ending all preventive measures as the prohibition to leave the Spanish State, in the case the Judge considers he has to interrogate Mr Sanchez, he can ask him to go to the court without sending the Guardia Civil to arrest him.
- We demand the dismissal of the court cases against 76 political activists included in the cases 25/02 and 26/11. We reject the arbitrary and inadmissible extension of the concept of terrorism to include public and democratic activities that fall under the right of expression and the right to a free political and social engagement We demand as well the abolition of exceptional courts like the Audiencia Nacional.



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<sup>1</sup> "The Commissioner regrets that human rights violations –in particular, ill-treatment- in the context of incommunicado detention by the Guardia Civil continue to occur, despite long-standing recommendations by several international human rights institutions". The commissioner focuses his attention to all the judgements against Spain in cases of torture, by Strasbourg and UN CAT. "The Commissioner notes with concern that the failure of the authorities to identify the perpetrators of ill-treatment is a main reason for dismissing complaints against law enforcement officials and for the closure of investigations into complaints concerning the excessive use of force". "The Commissioner notes with deep concern that charges relating to allegations of ill-treatment inflicted by law enforcement officials are frequently dismissed by judges". See the last Report CommDH(2013)18 of Nils Muiznieks, Commissioner for Human Rights of the Council of Europe, following his visit to Spain from 3 to 7 June 2013.

<sup>2</sup> Del Río Prada v Spain, judgement of 21 October 2013