



ELDH European Association of Lawyers for Democracy & World Human Rights

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

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ELDH Statement on Torture in the Basque Country

The European Lawyers for Democracy and Human Rights (ELDH) is gravely concerned at the recent criminal trial in Spain of the ETA spokesperson Iratxe Sorzabal.

We note that it was she who announced the end of ETA's armed activity, and led to its dissolution.

On 7-8 January 2022 the Special Court of the Audiencia Nacional convicted Iratxe Sorzabal of an alleged armed action in Gijón in 1996 that did not cause victims. She has recently been temporarily surrendered by the French State, where she is serving sentence. The Spanish prosecution has requested 46 years in prison for her.

There is reason to believe that the evidence against her at trial was based solely and exclusively on self-incrimination obtained based on torture.

During her trial, Iratxe Sorzabal, gave evidence of the torture she suffered at the hands of the Guardia Civil during her period of incommunicado detention after her arrest in March 2001. "I incriminated myself and blamed others. The Guardia Civil tortured me and forced me to make these statements. All these accusations are false" she declared. "During those torture sessions they force me to learn things by heart, we repeat statements."

On the second day of her incommunicado detention Iratxe Sorzabal had to be taken to the hospital, where she was examined by the forensic doctor. Although her complaint in Spain did not succeed in court, new evidence may reopen the case. The case of Iratxe Sorzabal was included in the 2002 Annual Report on Torture by the Special Rapporteur of the UN Commission on Human Rights, Mr.Theo van Boven.

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In addition, an expert witness gave clinical credibility in 2017 to her statement in France after the Istanbul Protocol was applied to her. The expert's conclusion was that the scars that Sorzabal presented "corroborate in a particularly convincing manner her allegations of ill-treatment". He also found that these psychological scars were "very highly compatible with the account" given by the complainant in the complaint that was finally dismissed in 2002 by a Madrid Court. The Court of Appeal of Paris rejected in 2017 a Euro warrant of the Spanish State against Iratxe Sorzabal by considering that Spain did not provide sufficient elements to rule out this possibility.

ELDH recalls what has already been repeatedly stated by international bodies such as the Committee Against Torture, the Committee for the Prevention of Torture, the UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment or the European Court of Human Rights itself, which on more than 12 occasions has condemned the Spanish State for the use of torture or the lack of adequate investigation of torture against Basque citizens as in the case of Iratxe Sorzabal.

The recent judgment of the Court in the case of *Atristain Gorosabel v. Spain* in which the European Court of Human Rights (ECHR) condemned the Spanish State for not allowing access in 2010 to his defense lawyer to Xabier Atristain, who was then detained incommunicado, is a good example of this. The Third Chamber of the Strasbourg Court concluded that Article 6 of the European Convention on Human Rights was violated with respect to the rights to a fair trial and to legal assistance chosen by the detainee.

In these circumstances and in view of the fact that there are clear indications that the accusations against Iratxe Sorzabal are based on self-incriminations obtained during the period of incommunicado detention based on the use of torture or ill-treatment, ELDH calls on the Spain to act accordingly and to conduct effective investigations in relation to the alleged torture of Iratxe Sorzabal.

ELDH is concerned that there may be more convictions and incarcerations based on the violation of fundamental rights such as the use of torture or ill-treatment, the right to a fair trial and legal assistance of the detainee's choice, as a consequence of the systematic application of incommunicado detention to Basque detainees during the years of armed conflict. We urge the Spanish authorities to carry out an impartial and independent investigation of all alleged cases where conviction and imprisonment could be based on evidence allegedly obtained through the use of torture or ill treatment during incommunicado detention and where detainees were not assisted by trusted lawyers.