



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 Condemns Spain's Third Refusal to Recognise José Miguel Etxeberria Álvarez ("Naparra") as a Victim of State Terrorism

The European Association of Lawyers for Democracy and World Human Rights (ELDH) strongly condemns the Spanish Government's third refusal to recognise José Miguel Etxeberria Álvarez, known as "Naparra", as a victim of State terrorism. ELDH considers this decision particularly serious in light of the longstanding allegations of State involvement in his disappearance and the continuing demand for his recognition as a victim of State terrorism.

Naparra disappeared on 11 June 1980 in the French Basque Country. The Batallón Vasco-Español (BVE), a far-right paramilitary organisation, repeatedly claimed responsibility for his abduction and killing. Substantial historical evidence points to links between the BVE and elements of the Spanish State apparatus, particularly its security and intelligence structures. The BVE has consequently been characterised as a parapolice organisation associated with State-sponsored terrorism, operating in a context of collaboration, tolerance and alleged complicity involving sectors of the State security apparatus. These connections are essential to understanding Naparra's disappearance in the broader context of State terrorism directed against Basque political militants. More than 46 years later, his fate and whereabouts remain unknown, his remains have not been recovered, and those responsible have not been brought to justice.

The Basque Observatory of Human Rights (Euskal Herriko Giza Eskubideen Behatokia) has challenged the Spanish authorities' repeated refusal to recognise Naparra, following earlier decisions in 2008 and 2013.

Naparra's case has been registered with the United Nations Working Group on Enforced or Involuntary Disappearances since 2014, under Case No. 10004310, and remains unresolved.

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State terrorism, victim recognition and international law

ELDH stresses that allegations of State terrorism require independent and effective investigation, particularly where serious human rights violations are attributed to armed groups allegedly operating with State support, collaboration or acquiescence.

Under international human rights law, State responsibility may arise not only from the direct actions of public officials but also, under the applicable legal conditions, from State support for or acquiescence in serious violations committed by non-State actors, or from failures to prevent, investigate and remedy such violations.

Principle 9 of United Nations General Assembly Resolution 60/147 establishes that a person may be recognised as a victim irrespective of whether the perpetrator has been identified, apprehended, prosecuted or convicted.

Similarly, Directive 2012/29/EU recognises that victim status does not depend on the identification or conviction of an offender.

These standards reinforce the distinction between individual criminal accountability and the recognition of victims. The absence of a criminal conviction cannot, by itself, justify denying the rights of victims of serious human rights violations.

ELDH considers that Spain's repeated refusal to recognise Naparra must be subjected to rigorous scrutiny in light of these principles and the evidence concerning his disappearance.

The right to truth and the obligation to investigate

Article 24 of the International Convention for the Protection of All Persons from Enforced Disappearance recognises the right to know the truth concerning the circumstances of an enforced disappearance and the fate of the disappeared person.

The Convention defines enforced disappearance by reference to deprivation of liberty involving State agents or persons acting with State authorisation, support or acquiescence, followed by concealment or refusal to acknowledge the deprivation of liberty.

The allegations surrounding Naparra's disappearance therefore require effective investigation into possible State involvement, without prejudging findings of responsibility.

ELDH recalls that the rights to truth, justice and reparation cannot be made dependent solely on the success of criminal proceedings.

Equal recognition without discrimination

Article 26 of the International Covenant on Civil and Political Rights guarantees equality before the law and equal protection without discrimination.

ELDH maintains that victims of politically motivated violence must receive equal protection irrespective of their political identity or the identity of the alleged perpetrators.

Recognition mechanisms must not exclude victims merely because their cases involve allegations of State terrorism or potential institutional responsibility.

The continued refusal to recognise Naparra raises serious questions about whether the Spanish authorities are applying recognition standards consistently and without discrimination.

ELDH calls upon the Spanish authorities to:

- Reverse the third refusal and recognise Naparra as a victim of State terrorism through a full assessment of the evidence and the applicable legal standards.

- Conduct an independent investigation into the allegations of State involvement in his disappearance and address the family's demand for recognition as a victim of State terrorism.
- Guarantee the right to truth, including access to relevant State archives and effective cooperation with the French authorities to locate his remains.
- Ensure equal treatment of all victims of State terrorism, without discrimination based on political identity or the alleged perpetrators.
- Provide appropriate recognition, remedies and reparation to Naparra's family in accordance with international human rights standards.
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