

AMNESTY INTERNATIONAL PUBLIC STATEMENT

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Spain: No pardon for torture! Four police officers convicted of illegal detention and ill-treatment have pardons confirmed by Supreme Court.

London - Amnesty International expresses its deep concern at the partial pardon of four local police officers convicted of the illegal detention and ill-treatment of Mamadou Kane, granted by the Council of Ministers (Consejo de Ministros) in 2005 and confirmed by the Supreme Court when, on 18 January 2008 it rejected the appeal submitted against the concession of the pardon. The four local police officers from Vigo (Galicia) had been suspended from duty for between eight and ten years, and sentenced to between three and four years' imprisonment for beating, insulting and illegally detaining to a resident of Senegalese origin, Mamadou Kane in March 1997. As a result of the pardon the four police officers were reinstated in their duties in January 2006 and have never served their prison sentences.

Amnesty International has expressed its concern on many occasions regarding torture and other cruel, inhuman or degrading treatment (ill-treatment) committed by law enforcement officials in Spain, and the failure to put an end to the effective impunity of those responsible. The Spanish authorities are violating international human rights law by failing to ensure that acts of torture are prevented, thoroughly investigated, and punished by appropriate penalties.

Amnesty International is not alone in these concerns. In 1996, the UN Human Rights Committee stated in its concluding observations on Spain's report that it was concerned that "investigations [into suspected acts of ill-treatment] are not always systematically carried out by the public authorities and that when members of the security forces are found guilty of such acts and sentenced to deprivation of liberty, they are often pardoned or released early, or simply do not serve the sentence." This practise has also been criticised by the UN Committee against Torture in its 2005 decision on the case of Kepa Urra Guridi, in which it found that the reduction of the sentences and granting of pardons of three Civil Guards convicted of torture violated Article 4 of the Convention against Torture (which obliges the authorities to ensure that acts of torture are punishable by appropriate penalties which take into account the grave nature of the offence).

In Amnesty International's report "*Spain: Adding insult to injury: The effective impunity of police officers in cases of torture and other ill-treatment*" (AI ref: EUR41/006/007), published in November 2007, the granting of pardons to law enforcement officials convicted of ill-treatment is identified, amongst others factors, as contributing to the effective impunity of law enforcement officials responsible for human rights violations. The 2004 Amnesty International report "*España: Acabar con la doble injusticia. Víctimas de tortura y malos tratos sin reparación*" (available in Spanish only) contains further examples of cases in which police officers convicted of ill-treatment were granted pardons by the government, including in cases where this was against the recommendation of the sentencing court.

Amnesty International is also deeply concerned that the action of the Council of Ministers illustrates the failure of the government to deliver the clear message to law enforcement officials, as well as the general public, that ill-treatment of detainees is absolutely prohibited and will be subject to criminal and disciplinary investigation and sanctions.

Amnesty International calls on the Spanish authorities to take appropriate measures, in compliance with international legal standards, to ensure that those responsible for acts of torture and other ill-treatment are appropriately prosecuted and sanctioned in all cases.

Background information

On 16 March 1997, Mamadou Kane, a street vendor of Senegalese origin, was detained by four local police officers in Vigo (Galicia). Mamadou Kane said that he was told he was being taken to the police station for an identity check, but that he was driven instead to an area near the university campus of Marcosende, where he stated he was beaten, racially insulted, threatened with death and told he would be expelled from Spain if he insisted on lodging a criminal complaint against the police.

On 19 April 1999 the Court of Pontevedra convicted all four police officers to custodial sentences for illegal detention and two for ill-treatment, but found insufficient evidence that the officers had racially insulted Mamadou Kane. One officer was sentenced to four years' imprisonment, and three officer to three years' imprisonment. They were also sentenced to between 10 and eight years definitive disqualification from public service (*inhabilitación absoluta*) and to pay Mamadou Kane compensation. However, in 2005 the Council of Ministers granted a pardon to the four convicted police officers.

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