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#### SPAIN: SENEGALESE CLAIMS ILL-TREATMENT DURING ILLEGAL DETENTION

Mamadou Kane comes from the region of Touba in Senegal, about 600 km from the capital, Dakar. He has a residence permit and has been living in Spain for over 10 years by selling merchandise on streets and beaches. Based in Vigo (Galicia), he returns every year to Senegal during the winter months to see his family, which he supports.

In July 1996 Mamadou Kane was arrested by officers of the Municipal Police (*Policía Municipal*) and charged with "disobedience to authority" (*desobediencia a la autoridad*) in connection with his street trading. A judge recently found the charge to be without foundation, and it was dropped. However, Mamadou Kane claims that after July 1996 he was harrassed by the Municipal Police, who continually approached him to ask for his papers. The following account is based on his allegations.

On Sunday 16 March 1997, at about 5.30pm, he was talking on the beach at Samil (Vigo) with another Senegalese and two Spaniards, when two Municipal Police officers approached and asked him for his papers. He replied that he had a residence permit, but was asked for his identity card or passport, which he said he did not have. The officers then called a patrol car, which contained two other Municipal Police officers. The first two officers placed him between them in the rear of the car and said they were taking him for identification to the station of the National Police (*Comisaría de la Policía Nacional López Mora*). However, instead of going to the station, they took a route that led up to Beade and from there to a hilly area near Vigo University campus at Marcosende.

Mamadou Kane said that when he asked where he was being taken, one of the officers retorted: "You shut up, we're the ones giving orders around here, you idiot!" ("¡Tú te calles, nosotros somos los que mandamos, gilipollas!"<sup>1</sup>). The two officers in the rear seat then began to beat him with their fists on both his left and right side, while he attempted to defend himself. In the meantime the other officers continued to shout insults at him, some being racial in nature, such as: "You black shit!" ("¡Negro de mierda!"). He claims they also said: "You lot, you're shits; the Spanish Government is totally to blame for letting you into the country. Go back to your own country and get on with your tribal killings" ("*Vosotros sois una mierda; el Gobierno español tiene toda la culpa por dejaros entrar en el país; marchaos para vuestro país y mataros entre vuestros tribus*").

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<sup>1</sup>This and subsequent quotations are derived from reports of the case published, in particular, in the local newspaper, *Faro de Vigo*.

Mamadou Kane said he had at one stage feared for his life ("*Creí que me iban a matar*"). However, after being held by the police officers for almost an hour he saw they were becoming nervous about what they had done, and decided he should make a complaint. The officers told him they would take him home, but he insisted on being taken to the police station. The officers eventually agreed, but said that if he made a complaint he would be expelled from Spain. They arrived at the station of the National Police at about 7.15pm. There his residence permit was noted to be in order. However, the Municipal Police officers asked that Mamadou Kane's name be entered in the register for (illegally) selling merchandise in the Paseo de Samil, refusing to identify himself and breach of the peace (*ejercer la venta ambulante en el Paseo de Samil, negativa a identificarse y alteración del orden público*). He was then released and returned home. Some hours later, after seeing a lawyer, Mamadou Kane lodged a judicial complaint. At the Xeral-Ciés hospital he was given a medical examination. According to a medical report, which is in the possession of Amnesty International, there was bruising on the back and head. Mamadou Kane states that since the incident he is in continual fear of something similar happening to him again, and suffers continual nervous headaches, feeling unable to go out unless he is in the company of friends.

The Municipal Police categorically denied that Mamadou Kane had been arrested at 5.30pm that day, and that officers had driven him outside the town to beat him up. According to a police statement, he had been arrested later, at about 6.45pm, after having been seen selling merchandise on an unauthorized part of the beach (Mamadou Kane denies that he was working at the time of his arrest). They stated that, because of his insulting behaviour, they called a patrol car. He was then taken straight to the police station, arriving there half an hour later, at 7.15pm.

An investigation was opened by the Ombudsman (*Defensor del Pueblo*), while representatives of the ruling government party in Vigo city council stated that an action for defamation (*querrela por calumnias*) would be taken against Mamadou Kane for making false accusations against the police, a move opposed by opposition parties.

In the days immediately following the incident, 14 eye-witnesses, three Senegalese and 11 Spanish, came forward to confirm that they had seen Mamadou Kane being arrested on the beach at 5.30pm. Most of these were reported to have been taking a Sunday walk around Samil and had decided to testify after reading about the incident in the press. Another four eye-witnesses confirmed that they had seen a black man and four police officers in a patrol car on a road near the university campus. Subsequently, the city councillor for law and order (*concejal de Seguridad*) stated that the complaint against Mamadou Kane would be suspended pending the gathering of further information.

The four police officers, who remained on active service, were subsequently charged with illegal detention, ill-treatment and making threats. The public prosecutor requested three years' imprisonment and eight years' disqualification from public service (*inhabilitación absoluta*) and a fine for inflicting bodily harm. The trial hearing was expected to begin before the Provincial Criminal Court of Pontevedra (*Audiencia Provincial de Pontevedra*) before the end of 1997, but to date no date appears to have been fixed. The court is competent to try alleged crimes which carry a sentence, on conviction, of three or more years' imprisonment.

Under Article 1c) of its Statute, Amnesty International opposes the "torture or other cruel, inhuman or degrading treatment or punishment of prisoners or other detained or restricted persons, whether or not the persons affected have used or advocated violence". The organization

is concerned that the allegations made by Mamadou Kane of illegal detention, ill-treatment and threatening behaviour, if proved correct, would constitute cruel, inhuman and degrading treatment. It urges that the judicial proceedings be prompt and thorough and that appropriate action be taken against the police officers, should they be found guilty.