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SPAIN

Comments by Amnesty International on the government's Fourth Periodic Report to the Human Rights Committee

Amnesty International has prepared a brief commentary on the Spanish Government's Fourth Periodic Report¹ for the information of the Human Rights Committee. The Committee is scheduled to consider the reports of Spain and other states parties in accordance with Article 40 of the International Covenant on Civil and Political Rights (ICCPR) at its 56th session in March and April 1996 in New York.

Spain notes in the introduction to its report that, after the predominantly legislative phase that took place in the earlier years of democracy, the Fourth Periodic Report will focus "on the practice and decisions of the courts and other state bodies".² In addition, it promised examples of practice in the area of protection of fundamental rights and freedoms.³

In this paper Amnesty International concentrates on issues of concern under its mandate regarding failures to provide such protection and violations of fundamental rights and freedoms. In the last two years the organization has published some 25 external documents on Spain on such diverse concerns under its mandate as the imprisonment of prisoners of conscience, allegations of torture and ill-treatment in political and common cases, deaths in custody, pardons and effective impunity for security force personnel convicted of torture and ill-treatment, the death penalty and murders, arbitrary killings, kidnappings and hostage-taking by non-governmental entities. The full list of available titles is published as Appendix one.

In this paper Amnesty International comments on relevant issues in the order of their appearance in the ICCPR:

- Article 6 - Right to life;
- Articles 7 and 10 - Treatment of prisoners and other detainees;
- Article 9 - Liberty and security of the person;
- Article 18 - Freedom of thought, conscience and religion.

¹UN Doc. CCPR/C/95/Add.1.

²UN Doc. CCPR/C/95/Add.1, para.1.

³*Ibid.*

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Article 6 of the ICCPR - Right to life

On 28 November 1995 Spain became totally abolitionist when a bill signed by the King, removing the death penalty from the Military Penal Code, was published in the official gazette (*Boletín Oficial del Estado*).

The death penalty was used up until 1932 when it was abolished for common criminal offences during the reform of the Penal Code under the Second Republic. The government led by General Franco in 1938 reintroduced it for murder and certain other common crimes. The last executions took place in September 1975 when five men convicted of murdering law enforcement officers were shot by firing squad. The new Constitution of 1978 abolished the death penalty for peacetime offences, but retained it in the Military Penal Code in Time of War.

Articles 7 and 10 of the ICCPR - Treatment of prisoners and other detainees

Although Spain has prohibited torture and ill-treatment and has increased the penalties for such crimes, torture and ill-treatment continue to be a matter of concern to Amnesty International. Spain has ratified all the major international instruments prohibiting torture and cruel or inhuman or degrading treatment or punishment. Its use is expressly forbidden under the Constitution and is punishable under the Penal Code. Declarations by both the government and judicial authorities emphasize the gravity of the crime of torture and ill-treatment and proclaim the seriousness with which it is considered by the courts. The new Penal Code, to be introduced on 24 May 1996, has broadened the scope of the laws punishing such acts and has increased the penalties.

The articles relevant to torture and other crimes against moral integrity (*integridad moral*) in the new Penal Code are numbered from 173 to 177. Amnesty International generally welcomes the content of the new laws. However, the increased scope of the prohibitions and extended penalties are likely to be insufficient on their own to end or significantly reduce torture or ill-treatment.

As the Human Rights Committee has stated, however: "The Committee notes that it is not sufficient for the implementation of article 7 to prohibit such treatment or punishment or to make it a crime. States parties should inform the Committee of the legislative, administrative, judicial and other measures they take to prevent and punish acts of torture and cruel, inhuman and degrading treatment in any territory under their jurisdiction".⁴

For many years the scale and frequency of pardons offered to law enforcement officers convicted of serious crimes of torture has been of concern to Amnesty International (see Appendix two for examples). The United Nations (UN) Special Rapporteur on torture⁵ and other organizations have also raised the issue. In addition it should be noted that the sentences passed on officers found guilty of torture or ill-

⁴General Comment 20, para. 8.

⁵In 1995 the UN Special Rapporteur on torture raised 17 individual cases of reports of torture or ill-treatment with the government, UN Doc. E/CN.4/1996/35, para. 159. In 1994 the UN Special Rapporteur on torture raised 21 such cases, UN Doc. E/CN.4/1995/34, paras. 640 - 667.

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treatment are usually nominal and do not entail a period of imprisonment.⁶ Indeed in many cases it is difficult to trace with certainty whether sentences of penalties such as disqualification or dismissal have been enforced. The *Asociación contra la tortura* (ACT - Association against Torture) in Spain, after examining judicial action on torture allegations in its report published in October 1994, summarized this as "the continuation of the policy of reward and pardon" which effectively provided impunity for convicted officers.

Other factors should also be taken into account when assessing the potential effectiveness of the laws on torture and ill-treatment in the new Penal Code. First, numerous complaints have been made over the years regarding the practice of officers hooding or artificially obstructing the sight of detainees to prevent recognition. These complaints are very difficult to verify but there are an increasing number of allegations where persons who claim to have been ill-treated are unable to identify the aggressors because of such practices (see Catalan nationalist case below). The regular wearing of masks by officers in confrontation situations in public is also growing. In the Basque country this is common practice with the *Ertzaintza* (Basque Autonomous Police) - see Alejandro Urrosolo case below - but also elsewhere. In July 1995 the judge in the Madrid Court of Investigation N° 22 dismissed charges against two National Police officers. Two demonstrators had been beaten by officers wearing helmets, visors and balaclavas and without identification on their uniforms. The court regretted that the use of this equipment provided the officers with complete impunity and prevented identification of the alleged assailants in any subsequent judicial investigation.

Equally, reports have been received of officers covering their faces on official premises. For example, the detainees in the Colmenar Viejo case (see below) were unable to recognize a masked officer who appeared during their interrogation.

Second, there is the problem presented by inadequate standards of medical reporting on the physical and mental state of detainees. The Council of Europe's Committee for the Prevention of Torture (CPT)⁷ made an *ad hoc* visit to Spain in June 1994 to examine a group of detainees from the Basque country who had been arrested between 2 and 7 June in connection with an investigation into activities relating to the armed Basque group, *Euskadi Ta Askatasuna* (ETA - Basque Homeland and Liberty). Their report, recently published with the Spanish Government's consent, demonstrates very clearly the inconsistent findings of doctors in hospitals in San Sebastian, forensic doctors in Madrid attached to the court and doctors in Madrid I prison (see below).

In March 1993 Amnesty International published a summary of its concerns about alleged torture and ill-treatment. In its report the organization stated:

"Amnesty International has received allegations over many years of the use of torture and ill-treatment against people in custody. Most allegations related to cases where unwarranted and deliberate physical violence, sometimes amounting to torture, has been used by law enforcement officers in the period after

⁶Prison sentences of less than one year and one day are customarily not enforced.

⁷A body of experts elected by the states parties to the European Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to supervise its implementation and to strengthen the safeguards against torture afforded by the Convention and other international standards by visiting the countries which have ratified the Convention.

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arrest. These allegations concern all agencies of law enforcement comprising the Civil Guard, the National Police, the Municipal Police and the Autonomous Police. The allegations have been made by people arrested on suspicion of ordinary criminal offences as well as those suspected of membership in or collaboration with armed gangs or terrorist groups.

The most common forms of ill-treatment alleged are kicks, punches and beating with batons or other implements, such as telephone directories. Detainees are frequently hooded for long periods. Other allegations have also been received of mock executions, electric shocks, partial-asphyxiation with plastic bags and sexual abuse. In many cases these allegations are supported by medical and other forensic evidence. The complaints made to the courts are the subject of judicial investigation but these inquiries have frequently been extremely slow and often inconclusive. In the few successful prosecutions, the sentences have been nominal with convicted officers frequently continuing to work within their original law enforcement agencies.”⁸

The situation has not changed in the three intervening years. Indeed there are grounds to believe that even the introduction of the new Penal Code will make little difference.

Other organizations have also documented the continued use of torture and ill-treatment. Every year the Parliamentary Commissioner (Ombudsman) presents a paper detailing the complaints investigated. In December 1995 the ACT published a 230-page report on torture in Spain in 1994. In March 1996, the Spanish Government, after a long delay, finally agreed to the publication of the CPT's reports on the periodic visits of inspection in April 1991 and April 1994 and on an *ad hoc* visit in June 1994⁹ and the Spanish Government's response.¹⁰ The Committee remarked, regarding its periodic visits, that the use of torture or severe ill-treatment was not commonplace but noted the continuation of denunciations of torture and ill-treatment especially in cases under the “anti-terrorist” legislation. It concluded that it would be premature to say that the phenomenon of torture and ill-treatment had been eradicated. It expressed concern over the continued use in the last five years of less severe methods of ill-treatment, such as “punches, kicks, blows and verbal insults”. Its report on the *ad hoc* visit gave details of its findings which were compatible in some cases with ill-treatment alleged.

In examining allegations of torture and ill-treatment it is important to distinguish between detainees held in political and “non political” cases. Article 17 of the Constitution established a maximum time limit of 72 hours under which a person may be held without being freed or brought before a judicial authority (see below, Article 9 - Liberty and security of the person). However, in political cases, usually persons detained on suspicion of membership or collaboration with armed gangs or terrorist groups, the law allows the detainee to be held for 72 hours, which may be prolonged by 48 hours by judicial order, before the detainee is brought before the court. The detainees are usually held incommunicado with permission of the court and denied any contact with their family or other persons. Legal assistance to detainees held

⁸*Spain: Torture and ill-treatment: Summary of Amnesty International's concerns* (AI Index: EUR 41/01/93).

⁹*Reports to the Spanish Government on the visits to Spain carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 1 to 12 April 1991, 10 to 22 April 1994 and 10 to 14 June 1994 - 5 March 1996* (CPT/Inf (96) 9).

¹⁰*Responses of the Spanish Government to the reports of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visits to Spain from 10 to 22 April 1994 and 10 to 14 June 1994 - 5 March 1996* (CPT/Inf (96) 10).

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incomunicado is severely restricted (see below) and the detainees are not allowed to choose their counsel who will be appointed *de oficio*.¹¹ Amnesty International believes that the widespread use of extended incomunicado detention under this special legislation facilitates the use of torture and ill-treatment. Certainly, the majority of cases of severe ill-treatment reported relate to persons held incomunicado.

Indeed, because of these risks of torture and ill-treatment, international standards require prompt access to a judge and to the outside world. Principles 15 and 18 of the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment provide that, even in “exceptional circumstances”, “communication of the detained or imprisoned person with the outside world, and in particular his family or counsel, shall not be denied for more than a matter of days”. Principle 7 of the UN Basic Principles on the Role of Lawyers requires that all detainees “shall have prompt access to a lawyer, and in any case not later than forty-eight hours from the time of arrest or detention”. The UN Special Rapporteur on torture has urged that incomunicado detention be made illegal as a safeguard against torture and ill-treatment¹² and the Human Rights Committee has said that among the “effective means of preventing cases of torture and ill-treatment...Provisions should also be made against incomunicado detention”.¹³

In April 1995 two officers of the National Police (*Cuerpo Nacional de Policía*) in Bilbao were sentenced respectively to two months and one day's arrest and one year's suspension from duty and one month and one day's arrest and eight months' suspension from duty. The officers were charged with a crime of torture under Article 204(bis) of the Penal Code. In particular, the last paragraph of this article, which provides for equal penalties for any authority or official who, in default of his/her duty, allows other people to commit such acts. They were found guilty of not having prevented the use of torture, specifically electric shocks, on **Iker Eguskizaga**. He had been arrested in November 1983 and held incomunicado in the main police station (*Jefatura Superior de Policía*) in Bilbao for eight days.¹⁴ After 11 years, the court decided that, although the officers actually responsible for the torture could not be identified, the medical evidence was sufficient proof it had occurred and that, therefore, the two officers, who were respectively the examining officer (*instructor*) and the secretary who recorded Iker Eguskizaga's statement, must have been aware of the events. In considering the sentences of the two officers, the court detailed the undue and unjustifiable delays of the authorities in handling the investigation which it condemned in the strongest terms. It, therefore, considered that these delays should be considered as constituting extenuating circumstances for the two accused. It also described the report of the court forensic doctor as “a clear example of what a medical opinion should not be”.

In April 1994 the Provincial Court in Bilbao sentenced two Civil Guards, one to two months' imprisonment and seven year's “*inhabilitación*”¹⁵ and the other to one month and one day's imprisonment and six year's “*inhabilitación*”, for torturing **María Dolores Barrenetxea** and **Miren Jasone Sánchez Pérez** in November 1984. They were extensively beaten all over the body but especially on the head, feet

11A court-appointed lawyer.

12UN Doc. E/CN.4/1995/34, para. 926(d).

13General Comment 20, para. 11, UN Doc. HRI/GEN 1.

14The legislation was subsequently amended, cutting the maximum period a suspect might be held to five days.

15Generally translated as “disqualification” from employment in the public administration and from receiving aid from public funds (for example, housing, study-grants).

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and pubis. They were hooded to the point of asphyxia, obliged to perform exercises and stripped naked on various occasions. María Dolores Barrenetxea had to receive medical treatment during the period of detention. The two officers acted as instructor and secretary in the investigation into their possible links with ETA.

One of the convicted officers in that trial was also indicted on charges of torture and ill-treatment in the “*comando Bizkaia*” trial. In December 1995 the National Court (*Audiencia Nacional*) in Madrid sentenced 11 people, accused of membership of or collaboration with the ETA *Comando Bizkaia*, to 135 years’ imprisonment. Some 50 people had been arrested between January and mid-May 1992 and nearly all the detainees who had been held incommunicado detention made detailed allegations, often supported by medical evidence, of torture and ill-treatment, including hoodings, beatings, asphyxiation and sexual humiliation (see Appendix three for details). In its written judgment of 27 December 1995 the court explained that it had ruled inadmissible a large part of the declarations obtained by the police while the accused were in custody because of the numerous detailed statements from the accused and other witnesses alleging torture. The court expressly recognized the possible use of such treatment and pointed out that the allegations of torture are currently under judicial examination.

However, there was no thorough judicial inquiry into the allegations of ill-treatment made following the arrests by the Civil Guard between 2 and 7 June 1994 of 24 persons in the Basque country and Navarre (see above under CPT report). All had been arrested in connection with possible ETA activity near the town of Usurbil. Eight of those arrested were examined during an *ad hoc* visit by a doctor accompanying a CPT delegation. All eight had complained of varying degrees of ill-treatment in San Sebastian and Madrid.

The recently published CPT report gave detailed information regarding the nature of the alleged physical ill-treatment in the cases of eight persons examined during their *ad hoc* visit. All alleged that they had received blows during detention particularly to the head but also to other parts of the body, such as the testicles, back, abdomen and arms. Seven of the eight described attempted asphyxiation with a plastic bag and four alleged that they had been subjected to electric shock treatment. The judicial complaints made to the court were rejected on the basis that the medical reports prepared by forensic doctors attached to the court did not show the sufficient necessary elements to warrant pursuing judicial inquiries into the allegations.

The CPT criticized the facilities available to the court forensic doctor in Madrid in its June 1994 *ad hoc* visit. It went on to give details of its observations of injuries to certain of the persons examined by the CPT delegation doctor and which were considered as being compatible with their allegations of ill-treatment. One person was found by the delegation’s doctor to have marks “fully compatible” with having received electric shocks to the temple. The CPT report also pointed out that subsequent medical examinations in the Madrid I prison in the case of two of the detainees had revealed injuries that had not been observed at all by the forensic doctor. In another case the injuries were more serious than had been previously recorded. Finally, in a fourth case, identifiable as **María Encarnación Martínez Fernández** from Usurbil, the detainee had to be hospitalized. After three days incommunicado detention she had been released without charge. The medical examination carried out after her release revealed extensive bruising to the left ribs, arms, legs and left thigh. There was serious concern following a blood analysis showing a dangerous level of creatine phosphokinase (CPK). The report stated that in the circumstances the likely explanation for this was muscular contusion by ill-treatment. This view, they believed, was

shared by the hospital and was brought to the attention of the judicial authorities.

Nearly 40 alleged **Catalan nationalists** were arrested between 28 June and 20 July 1992. This was just before the opening of the Barcelona Olympic Games. They were held incommunicado under the "anti-terrorist" legislation and eventually transferred to Madrid. Eighteen of the detainees subsequently presented judicial petitions alleging torture and ill-treatment after arrest by Civil Guards and requested that judicial investigations of their complaints be opened. During three years these petitions and accompanying papers were passed by prosecutors in Catalonia to the prosecutor in Madrid who, in turn, passed them to the Court of Instruction N° 22 for investigation. All the petitions were filed by this court without a full investigation being carried out. In June 1995 the National Court sentenced the petitioners for assorted crimes related to the terrorist activities of illegal armed bands. In its sentence, the court recognized it was not competent to investigate the issues of alleged torture and ill-treatment which had arisen during the trial and, therefore, specifically requested that the competent court be sent the necessary papers for action. Amnesty International understands that this part of the sentence has not been executed. Indeed, it is informed that the competent court of instruction has at no time heard direct declarations of evidence from either the petitioners who alleged torture and ill-treatment, the medical personnel who examined them in 1992 or the officers of the Civil Guard who arrested them and investigated the case against the petitioners. It is also reported that some, but not all (possibly two out of 18) of the petitioners may have had self-inflicted injuries and that the detainees alleged they were unable to recognize their assailants because they were systematically blindfolded during interrogation.

All the cases cited above involved the application of the special procedures of incommunicado detention of the "anti-terrorist" legislation. However, in the period of the Spanish Government's report to the Human Rights Committee, there have been numerous examples of random and arbitrary acts of illegal violence, sometimes accompanied by verbal or racial abuse, in "non-political" cases.

In February 1996 14 Civil Guards from the **Colmenar Viejo barracks**, near Madrid, were charged with multiple acts of torture, causing illegal injuries, ill-treatment and threats. The reported victims were three young men arrested the day after a violent confrontation in a bar in October 1994 in which various Civil Guards were injured. Internal administrative inquiries have already established that at least four of the officers assaulted the men while in custody but this was reportedly not notified to the judicial authorities by the senior officer conducting the investigation. The detainees alleged that they were handcuffed and naked for a large part of the time they were held in detention. The subsequent judicial complaint brought on their behalf by ACT describes the systematic use of punches, slaps, kicks to the head and body and is supported by medical evidence of injuries consistent with the allegations. In addition to these acts, the charges also describe how, during the two days in which the three men were detained, they were systematically intimidated by a masked man believed to be a Civil Guard officer, known as "*doctor Tricornio*", wearing a cloak, black shorts, boxing gloves and a tricorn Civil Guard's hat.

In February 1995, **Manuel Eurico Carvalho**, a Portuguese citizen of Mozambique origin but legally resident in Spain for 17 years, brought an action against two police officers (*Cuerpo Nacional de Policía*) alleging illegal injuries, illegal arrest and insults. Manuel Carvalho stated that on 8 November 1994 two officers, whom he identified by their numbers, stopped him in the streets of Madrid when he was returning home with some bread. In the course of being searched he was pushed, kicked and had his head

repeatedly banged hard against a wall. He stated that the officers made racial insults. He was taken to the police station and from there to the Emergency Services to receive medical treatment for injuries predominantly to his head, eyes, jaw and legs. The next day the court released him without bail. His complaint was supported by detailed medical reports of the injuries incurred, including reports of the treatment he received in hospital.

Allegations have also been received concerning alleged assaults by officers attached to the police forces of the Autonomous regions of Spain, such as the Basque regional police, *Ertzaintza*. On 21 June 1995 **Alejandro Urrosolo Sistiaga** was with three friends in a car near the Tolosa cemetery. This was where the funeral was due to take place of two ETA members who had been kidnapped in France, tortured and murdered in Spain in 1983 allegedly by Spanish police officers and mercenaries belonging to the "death squads", the so-called *Grupos Antiterroristas de Liberación* (GAL - Anti-terrorist Liberation Groups). Their corpses were recently identified in a morgue in southern Spain and their cases are currently under judicial investigation. The judicial complaint brought by Alejandro Urrosolo stated that an *Ertzaintza* officer wearing a regulation mask, preventing identification, approached their car and ordered them to leave. When Alejandro Urrosolo requested that they speak to him in Basque he alleged the officer pushed his truncheon through a side window and began to beat him. He claimed that he received several blows, especially to his elbow, for which he later had to receive surgical treatment. Alejandro Urrosolo claimed that when another officer ordered them to leave in Basque they immediately complied.

In August 1995 a judicial investigation opened into the complaint of ill-treatment by National Police officers of **Guillermo Guzmán** in Vitoria. He is registered as disabled with a history of heart trouble and he had lost a third of his kidney function. He stated in his complaint that he had gone to the police station to report the theft of his money and documents by a gang of youths. When he was leaving the station he remonstrated with two uniformed officers as to the state of security and patrolling in public places. An argument ensued after which he claimed that the officers assaulted him with truncheons. He stated that he was repeatedly kicked to the ground. The officers left him injured on the ground outside the station and a group of young passers-by took him to the nearby hospital. Multiple injuries were diagnosed to his head and body and blood was detected in his urine.

Amnesty International would argue that the pattern of nominal sentences for law enforcement officers convicted of torture or ill-treatment, the availability of pardons, lax enforcing of sentences, discrepancies in standards of forensic medical reporting and the perpetuation of incommunicado detention are all contributory factors in the failure to eradicate torture and ill-treatment. However, finally, one must examine the Spanish Government's report to the Human Rights Committee regarding the effectiveness of the remedies offered by Spanish law, in the event of complaints, in the light of the Committee's General Comment 20, paragraph 14: "Complaints must be investigated promptly and impartially by competent authorities so as to make the remedy effective". Amnesty International has cited examples above where this failure is clear. This failure is manifest in two further cases, one political, the other "non political".

Enrique Erreguerena was detained in September 1982 in connection with inquiries into ETA operations. He was held for 10 days incommunicado in Pamplona and Madrid under the "anti-terrorist" legislation. When he was presented to the National Court on 8 October 1982 to make a statement the judge ordered him to be taken immediately to hospital because of his physical and mental state. He later complained that he had been beaten, plunged in a bath until near drowning and given electric shocks to his penis. In 1986 the then Director of State Security, Julián San Cristobal, refused to provide information requested by

the magistrate investigating Enrique Erreguerena's complaint. He had been officially asked for details of intelligence officers who were believed to be involved in the arrest.¹⁶ Six police officers were charged in 1993 with torturing Enrique Erreguerena, but no hearing has taken place. The trial has been postponed five times on different grounds, including one of the accused being on holiday. The case is now due to be heard, over 13 years later, in May 1996.

Gines Abenza Turpín was arrested by police officers in January 1991 in Aranjuez railway station near Madrid. He complained that he was taken off a train, thrown to the ground and, once handcuffed, taken into an underground passage leading to where the police vehicle was parked. According to his statement one of the officers then violently assaulted him in front of identifiable witnesses. He claimed that he was beaten so badly that he had to receive medical treatment. He made a full statement and deposited a judicial complaint against the officer. The magistrate charged with investigating the case has attempted to file the complaint in order to stop the investigation on four separate occasions. On appeal the Provincial Court in Madrid has ordered him to investigate the complaint every time. The investigation is still not finished over five years later.

Article 9 of the ICCPR - Liberty and security of the person

Amnesty International is concerned that the laws permitting extended incommunicado detention facilitate torture and ill-treatment. This observation has been confirmed by the number and consistency of complaints in such cases which have been studied by Amnesty International and other organizations. All the experts in the UN Committee against Torture, in their 1993 examination, raised the issue of the operation of the "anti-terrorist" legislation and expressed concern over incommunicado detention and the suspension of procedural rights, such as the initial denial of free selection of legal counsel. The Co-Rapporteur concluded that the Spanish Government had problems applying the UN Convention against Torture strictly.

The Spanish Government's report's description of the current laws with regard to the liberty and security of the person fails to explain fully aspects of current practice which Amnesty International believes facilitate torture and ill-treatment. There are three areas of legislation allowing extended incommunicado detention in its present form which should be examined by the Human Rights Committee.

First, paragraph 53 in Spain's report deals with the special procedures that can be used in cases of "...organized crime and terrorism" ("*...crimen organizada y terroristas*").

Sub-section a) provides for the possibility of the extension of detention by a further 48 hours, beyond the 72 hours stated in Article 520 of the Criminal Procedure Act. The request for extension and the authorization by the judge must both be "substantiated".

Sub-section b) provides for the possibility of incommunicado detention for such persons. This, likewise, must be requested and granted or denied through "substantiated" communications.

Amnesty International is concerned that the requirements of this procedure are routinely not observed. A

¹⁶Julián San Cristobal is currently in prison in connection with the inquiry into alleged government involvement in GAL and the "dirty war".

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random study of requests for extensions of detention and incommunicado detention shows that they contain the barest details of dates of arrest, names, addresses and civil status. The only motive for justifying incommunicado detention in the request is usually a reference to an individual's suspected links with ETA without further elaboration or evidence. Extension of the detention period for the person held incommunicado is not "motivated" beyond the use of a phrase, such as, it "...being considered necessary for the total clarification of the criminal acts in which the detainees/'incommunicados' could be implicated".¹⁷

It is difficult to see how any judge could reach a reasoned judgment in a substantial decision on the basis of such information. However, regardless of the provisions of the law, the requests are, to Amnesty International's knowledge, invariably granted using a formulaic reason, such as "taking account of the fact that the request has been made within the legal time limit and that the reasons and necessity of such measures is for the most complete examination of the facts, it is, therefore considered justified...".¹⁸

This means that the concession of prolonged incommunicado detention is effectively automatic and indicates a failure of judicial control. In consequence, the value of court approval, as a safeguard, is much reduced.

Second, the government's report states that in cases under these laws the lawyer will be appointed *de oficio*. The lawyer may not meet privately with the client on completion of the proceeding in which the lawyer has participated. It omits to mention two equally important points: the lawyer may also not meet the client before he or she makes his/her statement and the lawyer is obliged to remain silent during the taking of the statement. These limitations on legal assistance at this crucial early stage in the proceedings are prejudicial to detainees and violate detainees' rights guaranteed under Article 14(3)(c) to have adequate time and facilities for the preparation of their defence and to communicate with counsel in confidence¹⁹ and under Article 14(3)(d) to legal assistance.

Third, reference is made to the judge's power to personally, or by delegation, assess the detainee's situation (paragraph 53(b)) or in paragraph 64 to apply for *habeas corpus* on behalf of detainees under Organic Law 6/1984 of 24 May 1984. The government's report does not indicate how frequently judges of any kind, let alone the magistrates of the National Court in Madrid, avail themselves of this power.

It should also be noted that, to the best of Amnesty International's knowledge, the judges did not personally assess the condition of the detainees before they appeared in court in any of the cases cited in this paper. Furthermore, it is evident that according to Article 2 of the Organic Law it would be difficult for an application for *habeas corpus* to be effective within the space of time available. This is especially

¹⁷"...por considerarlo necesario para el total esclarecimiento de los hechos delictivos en que pudieran hallarse implicados los detenidos/incomunicados".

¹⁸"Habida cuenta que la prolongación de detención ha sido propuesto dentro del plazo legal y las razones y necesidad de tal medida para las mas completa investigación de los hechos, se estima justificada...".

¹⁹The Human Rights Committee has made clear that Article 14(3)(c) guarantees the right of "counsel to communicate with the accused in conditions giving full request for the confidentiality of their communications", General Comment 13, para. 9, UN Doc. HRI/GEN/1. The rights to communicate with one's counsel in full confidence is guaranteed in other international instruments. Rule 93 of the UN Standard Minimum Rules for the Treatment of Prisoners, Principle 18 (3 - 4) of the UN Body of Principles on the Protection of All Persons under Any Form of Detention or Imprisonment and Principle 8 of the UN Basic Principles on the Role of Lawyers.

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true in cases where a person is arrested in the provinces and held incommunicado. At some period the prisoner will be transferred to Madrid to appear eventually before the competent National Court. Any *habeas corpus* application would, according to Article 2, have to be heard by the court in Madrid if the person is held under the "anti-terrorist" legislation. Their legal representatives, in most cases, are likely to be elsewhere and as the person will be held incommunicado their whereabouts will not be known and they will not have had access to them. The difficulties of making such an application successfully are evident and correspondingly its value as a safeguard is reduced.

Article 18 of the ICCPR - Right to freedom of thought, conscience and religion²⁰

In recent years Amnesty International's main concern relating to the right to freedom of thought, conscience and religion guaranteed under Article 18 of the ICCPR has concerned the cases of conscripts imprisoned as a result of their refusal to complete their military service on grounds of conscience developed after joining the armed forces. Charges of refusal to perform military service and/or desertion from the armed forces have been brought against them. Between 1986 and 1996 over a dozen cases have been brought to Amnesty International's attention.

Under Article 1.3 of Law 48/1984 "regulating Conscientious Objection and Alternative Civilian Service" the right to conscientious objection in Spain may only be exercised until the moment of incorporation into the armed forces ("*El derecho a la objeción de conciencia podrá ejercerse hasta el momento en que se produzca la incorporación en filas...*"). Any application for conscientious objector status submitted after joining the armed forces is, therefore, normally automatically rejected, whatever the grounds of objection. However, Amnesty International believes that conscientious objectors to military service are exercising their fundamental right to freedom of conscience and that they should, therefore, have the right to claim conscientious objector status at any time, both up to and after entering the armed forces. Amnesty International considers that conscientious objectors who are denied this right and imprisoned as a consequence are prisoners of conscience. Two such objectors are currently imprisoned.

Amnesty International first adopted **Manuel Blázquez Solís** and **José Antonio Escalada** as prisoners of conscience during a period of three months' pre-trial detention in 1991. In December 1995 they were rearrested by order of a military tribunal which in June 1994 had sentenced them to 17 months' imprisonment for desertion from the armed forces. At the time of their arrest in December both Manuel Blázquez and José Antonio Escalada were awaiting the outcome of appeals lodged with the Constitutional Court. They were still awaiting the ruling at the time of writing.

They were charged with desertion after leaving the navy in which they were serving as conscripts at the outbreak of the Gulf conflict in January 1991. They were based in the port of Cartagena and left their posts after learning that their ships had been ordered to relieve the Spanish vessels already in the Gulf zone. They stated that participation in the Gulf conflict was incompatible with their conscientiously-held beliefs and applied unsuccessfully for conscientious objector status on moral and philosophical grounds.

In its appeals for their release and for the introduction of legislation allowing the right to claim conscientious objector status during military service, Amnesty International has pointed out that international standards relating to conscientious objection to military service also support the right to conscientious objection status during military service.

Specifically, Amnesty International has drawn attention to Resolution 1993/84 on Conscientious Objection to Military Service, adopted by the UN Commission on Human Rights in March 1993 which

²⁰In its General Comment 22 on Article 18, the Human Rights Committee stated that a right of conscientious objection can be derived from Article 18 and that, when this right is recognized by law or practice, there should be no differentiation between conscientious objectors on the basis of the nature of their beliefs, and that there should be no discrimination against conscientious objectors because they have failed to perform military service.

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affirms, in operative paragraph 2, "that persons performing compulsory military service should not be excluded from the right to have conscientious objections to military service". This was reaffirmed by Resolution 1995/83 adopted by the Commission in March 1995.

Recommendation N°R (87) 8 adopted by the Committee of Ministers of the Council of Europe on 9 April 1987 in section B, para.8 states: "The law may also provide for the possibility of applying for and obtaining conscientious objector status in cases where the requisite conditions for conscientious objection appear during military service or periods of military training after initial service".

Amnesty International has also pointed out that the Council of Europe's Explanatory Report to the Recommendation states, with reference to Section B, para. 8: "To prescribe an absolute time-limit in the rules to which applications are subject could be considered as contrary to the very purpose of the Recommendation. If refusal to perform military service is acknowledged as being based on a conflict of conscience, it follows that this conflict might occur at any moment in a person's life. Indeed there is nothing to prevent this type of conflict arising during military service".

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APPENDIX ONE

LIST OF EXTERNAL DOCUMENTS ON SPAIN PUBLISHED BY AMNESTY INTERNATIONAL FROM JANUARY 1994 TO MARCH 1996

- *Amnesty International Concerns in Europe: May - October 1993* (AI Index: EUR 01/01/94) - January 1994. Spain: "Allegations of torture and ill-treatment: cases and trials".
- External paper - *Spain: The alleged ill-treatment and suicide of José Luis Iglesias Amaro in Picassent II prison, Valencia* (AI Index: EUR 41/01/94) - 17 May 1994.
- *Amnesty International Concerns in Europe: November 1993 - April 1994* (AI Index: EUR 01/02/94) - June 1994. Spain: "Allegations of torture and ill-treatment: cases and trials; Basque industrialist hostage released by armed Basque group".
- External paper - *Spain: Forthcoming trial of conscientious objectors to military service - José Antonio Escalada Fernández and Manuel Blázquez Solís - on charges of desertion from the armed forces* (AI Index: EUR 41/03/94) - June 1994.
- *Amnesty International Newsletter* (includes photograph) - "Spain: Prisoner hangs himself after beatings" (AI Index: NWS 21/07/94) - July 1994.
- *Amnesty International Report 1994* (AI Index: POL 10/02/94) - July 1994. Chapter on Spain.
- News service item - *Spain: Amnesty International is concerned about murder of Basque politician* (AI Index: EUR 41/WU 01/95) - 24 January 1995.
- *Amnesty International Concerns in Europe: May - December 1994* (AI Index: EUR 01/01/95) - February 1995. Spain: "Allegations of torture and ill-treatment: cases and trials; Conscientious objection to military service".
- *Death Penalty News* (News in Brief) - "Spain: Senate votes for total abolition of the death penalty" (AI Index: ACT 53/01/95) - March 1995.
- *Amnesty International Newsletter* (News in Brief) - fatal shooting by ETA of Popular Party spokesperson, Gregorio Ordóñez (AI Index: NWS 21/04/95) - April 1995
- News service item - *Spain: Death penalty likely to be abolished* (AI Index: EUR 41/01/95) - 24 April 1995.
- News service item - *Spain: Spanish law enforcement officers convicted of ill-treating two tourists from Denmark* (AI Index: EUR 41/02/95) - 24 May 1995.
- News service item - *Spain: Amnesty International asks for immediate release of Aldaya Etxebarua* (AI Index: EUR 41/03/95) - 26 May 1995.

- Death Penalty News* - "Spain: Congressional vote" (AI Index: ACT 53/02/95) - June 1995.
- Amnesty International Report 1995* (AI Index: POL 10/01/95) - July 1995. Chapter on Spain.
- Amnesty International Concerns in Europe: January - June 1995* (AI Index: EUR 01/02/95) - September 1995. Spain: "Law enforcement officers sentenced for ill-treating tourists in Ibiza; New pardons for officers convicted of torture and ill-treatment; Conscientious objection to military service". See also "Ratifications".
- Amnesty International Newsletter* (includes photograph) - "Spain: Police officers found guilty of causing injuries to two tourists" (AI Index: NWS 21/10/95) - October 1995.
- News service item - *Spain: Amnesty International welcomes abolition of the death penalty* (AI Index: EUR 41/04/95) - 15 November 1995.
- Death Penalty News* - "Spain becomes wholly abolitionist" (AI Index: ACT 53/04/95) - December 1995.
- External paper - *Spain: Amnesty International calls for the release of prisoner of conscience, Manuel Blázquez Solís, a conscientious objector to military service* (AI Index: EUR 41/05/95) - 11 December 1995.
- External paper - *Spain: Alleged ill-treatment of Guillermo Guzmán by National Police officers in Vitoria* (AI Index: EUR 41/06/95) - December 1995.
- External paper - *Spain: Adoption of prisoners of conscience Manuel Blázquez Solís and José Antonio Escalada - conscientious objectors to compulsory military service* (AI Index: EUR 41/01/96) - January 1996.
- News service item - *Spain: Amnesty International calls on ETA to release José Antonio Ortega Lara* (AI Index: EUR 41/03/96) - 1 February 1996.
- News service item - *Spain: Amnesty International condemns murder of former President of the Constitutional Court* (AI Index: EUR 41/06/96) - 14 February 1996.
- Amnesty International Concerns in Europe: July - December 1995* (AI Index: EUR 01/01/96) - March 1996. Spain: "Conscientious objection to military service; Allegations of torture and ill-treatment; Abolition of the death penalty for all offences".

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APPENDIX TWO

EXTRACT TAKEN FROM *AMNESTY INTERNATIONAL CONCERNS IN EUROPE: MAY - OCTOBER 1992* (AI INDEX: EUR 01/04/92)

Five Civil Guards sentenced in torture trial in San Sebastian

In October five Civil Guards stood trial in the Second Section of the Provincial Court of Guipúzcoa charged with torturing a prisoner in July and August 1983. Joaquín Olano Balda, a 25-year-old mechanic from Lasarte, was arrested by the Civil Guards at dawn on 29 July and held in extended incommunicado detention under the anti-terrorist law in the station of El Antiguo in San Sebastian. The court doctor ordered his transfer to hospital after two days of interrogation. On 11 August he was transferred to Martutene Prison (see Amnesty International Report 1984).

Joaquín Olano had been arrested on suspicion of having connections with ETA but was tried and acquitted.

The five Civil Guards were found guilty on three counts of torture of Joaquín Olano committed in the station of El Antiguo, during a search for a supposed arms cache the day after his arrest, and during his transfer from hospital to prison on 11 August. The court found that torture had continued even after a court official and the court doctor had examined him on 30 July. They had been sent to the station by the duty judge following a report from a person living near El Antiguo of horrifying screams, pleas for mercy and the sound of music played loudly in an attempt to drown the noise. During the different sessions of torture the court found that Joaquín Olano was punched, kicked, hit with a telephone directory, hooded, partially asphyxiated with a plastic bag, submerged in water and given electric shocks.

The five Civil Guards were sentenced in October to prison terms of between two and seven months each and varying terms of disqualification of up to seven years from holding public office. This sentence is being appealed.

Two of the officers had already been convicted on charges of torturing a prisoner in another trial in 1986. José Domínguez Tuda was sentenced to five months' imprisonment and six years disqualification and Manuel Macías Ramos was sentenced to two months' imprisonment and one year's disqualification. However, they did not serve any period in prison, continued to work with the Civil Guard and were pardoned (indultado) on 8 February 1991. The other three officers convicted of torture had already been found guilty on charges of robbery.

Other officers convicted of torture and ill-treatment have recommitted the offence. One officer, still under investigation in 1992 in connection with the torture of eight youths in Zornotza (see Amnesty International Report 1992), has two previous convictions for torturing prisoners. In most instances the prison terms are not served because a sentence of less than one year and one day is usually non-custodial and the entire sentence, including the other penalties, is frequently annulled in a pardon. There are several recent examples of senior officers who, despite conviction for ill-treatment or torture, or related charges, continued to hold important posts within the security forces.

Rafael Masa González, a comandante in the Civil Guard, was sentenced in 1991 to a disqualification of six years and one month for an offence of falsifying documents in connection with the torture of Tomás Linaza (see Amnesty International Report 1991). Since then he has been promoted to Lieutenant Colonel, served as a Counsellor in the Spanish Embassy to Bolivia and is currently working in the office of the Secretary of State for Security in the Ministry of the Interior. The commanding officer of the Civil Guard justified his holding a post in the force by arguing that, as his conviction has been appealed to the

Supreme Court, any measure to enforce the sentence before it is confirmed would be an abuse of the legal right to the presumption of innocence.

It was recently reported that a colleague of Colonel Masa, in the same office, José Perez Navarrete, a Captain of the Civil Guard, was sentenced in July 1987 by the Provincial Court of Guipúzcoa to four months' imprisonment and four years' disqualification for involvement in the torture of Juana Goikoetxea in 1982. Another defendant in the same trial, José Antonio Hernandez del Barco, was given the same sentence. He was recently appointed as an assistant to the head of the Intelligence Service of the Civil Guard (SIGC). The Supreme Court confirmed both sentences in March 1992 but to date neither officer has served any part of his sentence or suffered any sanction. In September the press reported that the government had requested the opinion of the judicial authorities in Guipúzcoa on applying a pardon to both these officers. The prosecutor's office was not opposed to a pardon but the court was opposed to it. The President of the Provincial Court stated that, "There is a confirmed sentence of disqualification from any public employment of four years and what must be done is to serve it" ("Hay una sentencia firme de inhabilitación de cualquier cargo publico por cuatro anos y lo que hay que hacer es cumplirla"). Civil Guard sources have been reported as justifying the employment of these officers since they were sentenced by saying that the sentence should be interpreted as disqualifying them from "acting as agents of the authority but not from internal bureaucratic work" ("les inhabilita para ejercer como agentes de la autoridad, pero no para labores internas burocráticas").

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APPENDIX THREE

EXTRACT TAKEN FROM AMNESTY INTERNATIONAL CONCERNS IN EUROPE: NOVEMBER 1991 - APRIL 1992 (AI INDEX: EUR 01/03/92)

Allegations of torture and ill-treatment following detention of suspected members and collaborators of ETA "Bizkaia" Commando

In an operation beginning on 29 January the Civil Guards carried out numerous arrests in the Basque province of Vizcaya. The persons arrested were suspected of belonging to or collaborating with the "Bizkaia" commando of the armed Basque group, Euskadi Ta Askatasuna (ETA). This unit of ETA is believed to have been responsible for numerous murders of members of the security forces, bombings and robberies. Two of the persons arrested were suspected of having taken part in the murder of a police officer earlier that month.

The operation lasted from the morning of 29 January to the beginning of April and during that period it is estimated that 43 persons were arrested in connection with the operation and over 30 of them were committed to prison by the court, awaiting judicial investigation. The other persons arrested were freed without charge.

Reports have been received claiming that nearly all the persons arrested in the operation, particularly those arrested in the first week, were tortured or ill-treated while in detention. The majority of reports alleged that torture or ill-treatment took place in the Civil Guard barracks of La Salve in Bilbao and the Civil Guard General Headquarters in Madrid where the detainees were transferred in order to appear before the National Court. All of the detainees were held incommunicado for varying periods of time of up to five days under the anti-terrorist legislation.

Kepa Urrea Guridi was arrested on the morning of 29 January in Basauri. It was alleged that the Civil Guard took him into the country (al monte) for approximately one hour before taking him to their barracks at La Salve. Approximately eight hours after he arrived there he was transferred under escort to the Civil Hospital in Basurto. The doctor in La Salve advised this transfer after having reportedly diagnosed a strong alteration in the rhythm of his heartbeat. A preliminary medical examination noted that he was apparently in a state of shock. An examination recorded numerous injuries to his face and body including his left eye, hands and wrists, buttocks and both legs, with corresponding damage to the muscular tissue. All these injuries were diagnosed as having been caused within the previous 24 hours. A cervical collar or neck brace was fitted pending further examination of his spine. A Civil Guard detail was present in the hospital at all times. At 8.30pm on 30 January the hospital records showed that he was heard to cry out for help. A nurse went to his room where she found two armed officers of the Civil Guard and that the patient had blood in his mouth.

A further medical examination was carried out on 31 January which recorded other injuries to the face, shoulder and stomach as well as two lesions on the neck which Kepa Urrea claimed had been caused by two karate blows from Civil Guards officers before he was admitted to hospital.

In a statement to the court doctor on 31 January he claimed that all these injuries were inflicted after his arrest and before his transfer to hospital. He alleged that he was hit by officers numerous times with their fists, feet and truncheons both on the mountain and in the police station. He claimed he was stripped completely naked and hooded with a plastic bag to cause near-asphyxia and, on one occasion, he had undergone a simulated execution when a pistol was placed in his mouth.

A further report was prepared on 2 February by a judicial commission consisting of a court doctor, a judge and the secretary of the hospital. The court doctor, who wrote the report, stated that there were basically

three different types of injuries to Kepa Urrea. The first set were cuts and scratches of different shapes and size. Because of the large number of them and their distribution he presumed they had been caused by sharp points such as could be found on brambles or thorn bushes. The second set were contusions which were caused by direct blows from flat-surfaced objects. The third set, which were a combination of the two, had been caused by indirect or glancing blows from flat-surfaced objects to areas with underlying bone.

Kepa Urrea was too ill to be moved from hospital to appear in the National Court in Madrid on 2 February with a group of 15 of the 19 persons first arrested. Among them was Juan Ramon Rojo who was accused with Kepa Urrea of having murdered a police officer on 14 January. Juan Ramon Rojo, who claimed to have been tortured, appeared in court wearing a cervical collar or neck brace. Many of the others, such as Aitor Olabarria, had, according to witnesses, visible marks in the form of serious bruising to their faces. Nearly all the persons arrested alleged that they had been hooded and beaten. Many of the women complained that they had been forced to undress and had been sexually humiliated by officers who searched them and made obscene remarks and threats. One of the women, Itsaso Sevillano, was seven months pregnant. Further details were given in other cases. For example, Ana Isabel Iriate claimed she was forced to open her legs and was sexually assaulted with objects, while Lagundu Sánchez, released without charges or appearing in court, stated in a newspaper that she had been forced to dance naked in front of officers. Encarni Blanco, who was held for four days before appearing in court, stated that she suffered a vaginal haemorrhage while naked under interrogation. Her husband, Josu Eguzkitza, who appeared in court with her, appeared severely disorientated and claimed that he had been beaten and drugged.

Judicial investigations have been opened into the allegations.

**EXTRACT TAKEN FROM AMNESTY INTERNATIONAL CONCERNS IN EUROPE:
MAY - OCTOBER 1992 (AI INDEX: EUR 01/04/92)**

Alleged ill-treatment of Kepa Urrea Guridi and the "Bizkaia" commando (update to information given in AI Index: EUR 01/03/92)

Thirty-two people are currently in detention in connection with the judicial inquiry into the "Bizkaia" commando of the Basque armed group, Euskadi Ta Askatasuna (ETA). They were among approximately 50 people who were arrested in a major Civil Guard and police operation, which ran from January 1992 to the middle of May, in the Basque province of Vizcaya. Those arrested were suspected of belonging to or collaborating with the "Bizkaia" commando which is suspected of carrying out numerous murders of members of the security forces, bombings and robberies.

They were held under the special procedures of the anti-terrorist legislation which allows extended incommunicado detention of up to five days in police or Civil Guard stations by judicial order and specifies that, during this period, the detainee's lawyer should be appointed by the court. All the people currently detained were placed in preventive detention by the National Court in Madrid. It was reported that they all made formal complaints to the court of torture or ill-treatment while they were held incommunicado by the Civil Guards. The allegations made by the detainees included allegations of hooding, blindfolding and forced exercises in nearly all the cases. Some detainees complained that they were beaten, kicked, hit and stamped on. In two cases detainees alleged that they had received electric

shocks. The principal charge made by many of the women arrested was that they were forced to strip and were subjected to persistent sexual insults and humiliation.

The courts had opened some judicial inquiries by the end of October into the large number of complaints that were made but inquiries were only really well-established in the case of Kepa Urrea under Judge of Instruction N° 8 in Bilbao.

Kepa Urrea Guridi was arrested on the morning of 29 January 1992. He alleged that the Civil Guards took him into the country and removed most of his lower clothing and his shoes and beat him. He was then taken to the Civil Guard barracks at La Salve.

Approximately eight hours later he was transferred under escort to the civil hospital in Basurto. Initial official reports from the government of Vizcaya stated that this was because he showed a strong alteration in the rhythm of his heartbeat. The reported testimony to the inquiry of the doctor, who ordered his transfer from the cells to hospital, is that he had been called to the cells to attend to a prisoner who was complaining of pain in his cervical column and shoulders. This is believed to be Juan Ramon Rojo who had been arrested with Kepa Urrea. Juan Ramon Rojo later appeared in court wearing a cervical collar. However, before the doctor could treat Juan Ramon Rojo he was called to another cell where Kepa Urrea was held. According to the doctor's statement, he saw a man lying unconscious on the floor breathing very rapidly, with marks on his face, eyes, wrists and with recent bleeding at the back of his throat (pharynx), in his nose and mouth. He noted that he was suffering from a tachycardia, with a heartbeat of 150 per minute, and diagnosed a strong alteration of the rhythm of the heart. He recommended his urgent transfer to hospital.

The inquiry also took statements regarding the reports that on the night of 30 January 1992, when Kepa Urrea was in hospital under guard, a cry for help was heard from his room. The two Civil Guards on the door confirmed this and also stated that some time previously they had allowed two other Civil Guard officers in plainclothes to enter the room. When a nurse opened the door to the room, these two plainclothes officers left. She reportedly found Kepa Urrea with blood in his mouth. Kepa Urrea claimed that these officers had hit him and menaced him while they were in the room. A second forensic examination carried out while he was in hospital revealed the existence of further injuries to the eyes, neck and abdomen which had not been noted in the first examination.

The Judge of Instruction N° 8 of Bilbao, in charge of conducting the inquiry, has taken statements from approximately forty Civil Guards officers. At the end of October nine officers had been inculpated (inculpada) in the inquiry in connection with the ill-treatment of Kepa Urrea. The inquiry was still open and no formal charges had yet been formulated.

On 5 June, Amnesty International wrote to the Attorney General drawing the attention of the authorities to the requirement of international and national law to conduct a full, prompt and impartial investigation in all cases where there are reasonable grounds to believe that an act of torture or ill-treatment has been committed. It referred the Attorney General to the specific observations of the Ombudsman in his 1991 Annual Report to the effect that complaints of ill-treatment were not always investigated with sufficient diligence and that the responsible judicial authorities do not proceed rapidly with cases of ill-treatment, leading to delays and eventual filing of complaints.

In its letter Amnesty International cited the allegations made in the cases of 16 people arrested on suspicion of involvement in the Bizkaia commando which were illustrative of the general overall allegations and requested information as to the location of the court and judges who were handling the inquiries into the large number of complaints reported in connection with this operation.

The Attorney General had not replied to the letter by the end of October.

Spain: Comments by AI on the government's 4th Periodic Report (CCPR/C/95/Add.1)

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