

AMNESTY INTERNATIONAL PUBLIC STATEMENT

8 January 2008
AI Index: EUR 41 /001/2008
News Service No: 006/08

Spain: Amnesty International calls for a thorough independent and impartial investigation to determine whether human rights were violated during the arrest of Igor Portu

London - Following the arrest of Igor Portu, an alleged ETA member, in Mondragón (Guipuzcoa) by the Civil Guard on 5 January last and his subsequent admission to the Accident and Emergency Department of Donostia Hospital with serious injuries, according to a medical report issued by the hospital, Amnesty International (AI) welcomes the opening of preliminary proceedings by the First Examining Magistrates' Court of San Sebastian (Juzgado de Instrucción nº 1 de San Sebastian) to determine whether the events that took place constitute a criminal offence. The organization is asking for assurances that a prompt, thorough, impartial and independent investigation, as required by international law standards, be carried out to clarify whether ill-treatment or torture occurred in this case.

The organization believes that statements made by the Interior Minister, Alfredo Pérez Rubalcaba, reiterating the Civil Guard's version of the detainee's arrest and treatment and asserting that the Civil Guard officers involved used the "force permitted by law" (*"lafiterza reglamentaria"*), without having carried out any kind of thorough internal investigation into the events and while a judicial investigation is under way, are inappropriate. They do not help to establish the truth and may contribute to intensifying the existing climate of impunity surrounding many acts of torture and ill-treatment perpetrated by law enforcement officials. "The most reasonable action to take is to conduct a prompt and impartial investigation. There is an obligation under international law to investigate all alleged human rights abuses and violations and it is therefore the duty of judges, prosecutors and the internal offices of the State security forces to seek out any relevant evidence and corroborate or refute such allegations," said Nicola Duckworth from Amnesty International.

The obligation to investigate allegations of torture and ill-treatment

Amnesty International will write to the Interior Minister to remind him yet again of the Spanish State's obligation to prevent, investigate and punish torture and other forms of ill-treatment, as well as of the need for the Spanish Government to reform the system for investigating complaints involving serious human rights violations. Such investigations must be conducted by suitably-qualified personnel who are impartial and independent of both the alleged perpetrators and the body they report to. Any actual or perceived absence of impartiality can also amount to a violation of articles 12 and 13 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, under which States Parties are obliged to carry out prompt and impartial investigations into any complaints of torture and ill treatment.

Amnesty International also wishes to remind [the Spanish authorities] that, for its part, the Public Prosecutor's Office (*Fiscalia*) should open criminal proceedings whenever there is evidence of torture or ill-treatment, even if no complaint has been lodged.

The judicial authorities should also ensure that objective and impartial investigations are carried out, that complainants are effectively protected against possible intimidation or reprisals and that victims are duly compensated.

Lastly, the police authorities should institute internal proceedings against any officials suspected [of such behaviour], alert the appropriate authorities of any criminal conduct, and impose appropriate disciplinary measures whenever an official is found guilty of torture, ill treatment or excessive use of force.

Amnesty International recognizes that the reputation of the vast majority of law enforcement officials who carry out their duties in a professional manner is unfairly tarnished by the actions of those who are responsible for ill-treatment and torture. It also recognizes that many officials sometimes encounter dangerous situations on a daily basis and on occasion show enormous bravery and generosity when performing their duties. The authorities should give them their full support in such situations and at the same time send out a clear message that other forms of behaviour, such as the use of torture and ill-treatment, will not be tolerated.

Background information

According to Amnesty International's report entitled "*Spain: Adding insult to injury: The effective impunity of police officers in cases of torture and other ill-treatment*", which was published last November, the failure of successive Spanish Governments to take steps to deal with this issue is exacerbating the climate of impunity, thereby fostering new cases of torture and cruel, inhuman or degrading treatment. Amnesty International does not believe that torture is carried out systematically in Spain but it is concerned at the frequency of torture complaints which cannot in all cases be attributed to a strategy on the part of detainees to undermine the moral credibility of the authorities. Investigations carried out by Amnesty International show that cases of ill-treatment and torture in Spain are not isolated incidents but examples of structural failings that affect all aspects of the prevention, investigation and punishment of torture and other forms of ill-treatment. Amnesty International has therefore recommended, among other things, the creation of an independent and impartial investigation mechanism and the introduction of close-circuit video cameras in all areas of police stations.

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