

AMNESTY INTERNATIONAL

PUBLIC STATEMENT

AI Index: EUR 41/002/2011
10 January 2011

Spain: Civil Guards convicted of torture

Amnesty International reiterates its call on Spain to abolish incommunicado detention without delay and to ensure prompt, impartial and effective investigations into all allegations of torture or other ill-treatment.

On 30 December 2010, the Criminal Court of Guipúzcoa convicted four members of the Civil Guard of torturing Igor Portu and Mattin Sarasola, while they were in police custody under an incommunicado detention order on the morning of 6 January 2008. The Court sentenced the four Civil Guards to between two and four and a half years' imprisonment for torturing, insulting and threatening to kill Igor Portu and Mattin Sarasola, and to pay them a compensation of 24,000 Euros. The 11 other Civil Guards on trial were acquitted.

Igor Portu and Mattin Sarasola had alleged ill-treatment by Civil Guards following their arrest in Mondragón (Guipúzcoa) on suspicion of belonging to the armed group Euskadi Ta Askatasuna (ETA). Subsequently, Igor Portu had been treated in San Sebastian hospital with two broken ribs and a punctured lung. He claimed that in the morning of 6 January, Civil Guards had plunged his head in a river several times and made him drink the water. Mattin Sarasola said they had pointed a gun at his head and beat him all over his body. Igor Portu and Mattin Sarasola claimed they were also ill-treated during their detention in the police station of Intxaurreondo later that day and their subsequent transfer to their homes for a house-search and then to San Sebastian Hospital and Madrid respectively. However, the Court rejected those allegations for lack of proof.

In its December 2010 verdict, the Court noted that the two men had been convicted of belonging to the armed group ETA and committing serious acts of terrorism. However, the Court stressed that this does not make their statements unreliable.

Amnesty International is concerned that the system of incommunicado detention, within which Igor Portu and Mattin Sarasola were tortured, continues to be applied. Under Spanish law, a detainee can be held incommunicado for up to five days in all cases and for up to 13 days if suspected of terrorism-related offences. During that time, detainees cannot appoint their own lawyer or consult their duty lawyer in private, they do not have access to a doctor of their own choice and cannot let their family know of their whereabouts.

Amnesty International and international human rights bodies have repeatedly called on Spain to abolish incommunicado detention which, according to the UN Committee against Torture in 2002, "regardless of the legal safeguards for its application, facilitates the commission of torture and ill-treatment". In its concluding observations of 19 November 2009, the Committee stated that Spain's incommunicado detention regime for cases involving terrorism or armed groups weakened necessary legal safeguards against acts of torture or ill-treatment.¹

However, in May 2010 the Spanish government rejected recommendations from the Universal Periodic Review of the UN Human Rights Council to abolish incommunicado detention.

¹ Committee Against Torture concluding observations on Spain CAT/C/ESP/CO/5, paragraph 12.

Amnesty International publications:

Follow-up information to the Concluding observations of the Committee against Torture, 1 November 2010 (AI-Index: EUR 41/003/2010)

Spain: Out of the shadows - Time to end incommunicado detention, 14 September 2009 (EUR 41/001/2009)

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