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Spain: Effective impunity of police officers in cases of torture and other ill-treatment CASES

Serious concerns regarding torture and other cruel, inhuman or degrading treatment (ill-treatment) committed by law enforcement officials in Spain, and the failure to end impunity of those responsible, has for many years been expressed by Amnesty International. Similar concerns have been made by other international and national non-governmental organisations together with a range of UN and Council of Europe human rights bodies.

Amnesty International considers that the effective impunity enjoyed by many police officers results from a number of factors ranging from obstacles to lodging a complaint to failure by the authorities to impose appropriate sanctions. Other factors include the lack of independent investigations or the failure to investigate thoroughly; incomplete or inaccurate medical reports; insufficient evidence; intimidation of complainants; lack of impartiality in the investigation and excessive delays in the procedure.

The cases below illustrate these factors and highlight the range of ill-treatment experienced, which in some cases has led to serious injury. In the majority of cases those accused of ill-treatment have not been subject to disciplinary measures. In many instances preliminary criminal investigations were closed at an early stage so officers were not brought to trial. The cases are based on official documents released to Amnesty International and on the stories of victims as told to the organization's delegates.

OBSTACLES TO LODGING A COMPLAINT

Lucian Padurau was arrested on 27 July 2006 by five autonomous regional police officers outside his house in Barcelona, in a case of mistaken identity. He told Amnesty International that he was beaten on the street and that his pregnant wife, who was with him at the time, was also physically assaulted. He was physically assaulted again while in the police car on the way to the police station, threatened with a gun and told "You'd be better off confessing to everything. If the judge lets you off we'll kill you." The next day Lucian Padurau was released from custody after the police realised he was not the man they had been seeking. A few days later, Lucian Padurau reported the ill-treatment to an investigating court. The court official required that Lucian Padurau give the name and identification number of each of the officers involved in order to file the complaint. The official recorded the complaint only after Lucian Padurau threatened to inform the media of what had occurred. Following judicial investigation, the case was pending trial in September 2007.

LACK OF INDEPENDENT INVESTIGATION

Sandra Guzmán witnessed a police officer from the autonomous regional police force partially strip search, hit and kick several men of North African origin in a park in La Casilla, Bilbao, on 25 December 2006. The officer's colleagues (approximately seven in total) did nothing to intervene. She told the police officers to arrest the men if they had committed a crime but to stop treating them in such a violent manner. On 27 December, Sandra Guzmán made a complaint regarding the incident at the autonomous Basque government's Department of the Interior and a few days later she registered a criminal complaint at Investigating Court 1 of Bilbao. In mid-January 2007, a police officer from the internal affairs unit visited her elderly parents' house in Bilbao in search of her and tried to convince her mother that Sandra Guzmán should withdraw the complaint. Sandra Guzmán was indignant at the lack of impartiality as she was going to be questioned by an officer of the same force as the agents she had reported and who, in addition, had recommended that she withdraw the complaint.

FAILURE TO INVESTIGATE

Jordi Vilaseca, a young man from Torà in Catalonia, was arrested on 1 April 2003 by autonomous regional police officers while driving home from work. In the police station, he was forced to remain standing in a cell, facing the wall without leaning against it, until he collapsed from exhaustion after 10 hours. Jordi Vilaseca was interrogated by a national police officer who pretended to strangle him with his own dreadlocks and told him that his girlfriend would be arrested and the police officers would rape her. While making his police statement, Jordi Vilaseca was reportedly not allowed to speak to the lawyer present. After three days in detention, he lost consciousness and was hospitalised. When he regained consciousness, he was unable to speak, walk or control his bowels. After being released, he made a complaint against the police for torture. In May 2005 the case was closed on the grounds of lack of evidence and because the prosecutor said there were contradictory versions of events from the complainant and the accused. Jordi Vilaseca's lawyer appealed, arguing that during the initial investigatory stage of proceedings contradictory testimonies were to be expected. The case was re-opened but closed again without new justification. Another appeal was lodged and rejected. Jordi Vilaseca has now lodged a case with the Constitutional Court, which was pending in October 2007.

Sergio L.D. was arrested by national police officers during a demonstration in Barcelona on 16 March 2002. He was beaten violently on his legs and head inside the police van and described being used 'like a battering ram' against the side of a police vehicle. He was further assaulted in the police station, which caused him to suffer muscle seizures and vomiting. A doctor reportedly advised that he be taken to hospital due to his head injuries but officers continued to interrogate him, whipping the soles of his feet with a whip and threatening him with a knife. After losing consciousness several times during the night he was taken to hospital the following day. His physical injuries required several months to heal and he is still receiving psychological counselling. The case against the police officers was originally discharged without further investigation but Sergio appealed to the Provincial Criminal Court of Barcelona which ordered the lower court to open an investigation into a possible crime of torture. The case was still in the initial investigatory stages in October 2007, almost four years after this ruling.

INSUFFICIENT EVIDENCE

Daniel Díaz Gallego, Manuel Matilla Parrilla, Israel Sánchez Jiménez, and Marcos V, participated in a demonstration on 1 December 2001 in the centre of Madrid protesting against a new law relating to higher education. Towards the end of the demonstration a number of violent incidents occurred, which resulted in assaults on police officers, as well as damage to public goods and private property. The four men were arrested on suspicion of involvement in these incidents. They claim that while in police custody they were subjected to serious ill-treatment by police. Upon release they presented criminal complaints against the police for ill-treatment. Daniel Díaz stated that towards the end of the demonstration he was grabbed by a national police officer, pushed to the ground where his head hit the curb, and handcuffed. He was pushed into a police car where a police officer forced his head between his legs, causing him significant pain and impeding his breathing. Upon arrival at Leganitos police station, Daniel Díaz was pushed against

a wall and the police officer kicked him from behind before searching him. He continued to be beaten and slapped while being told not to look at the officers present. Daniel Díaz and another detainee was later taken to a health clinic for a medical exam where the beating by the police continued. On 14 January 2002, Daniel Díaz presented this complaint of illegal detention, torture and ill-treatment, threats, degrading treatment and assault on physical integrity to Investigating Court 2 of Madrid, supported by medical reports. On 24 June 2003 the court acquitted both accused police officers on the grounds that it could not be proven that they were responsible for the ill-treatment, despite confirming the evidence of Daniel Díaz's physical injuries. Marcos V, Manuel Matilla and Israel Sánchez also presented complaints alleging ill-treatment very similar to that described by Daniel Díaz but they were all rejected on the grounds of lack of evidence. The three alleged victims of torture and other ill-treatment were all convicted on 27 October 2005 of assault on a public agent.

INTIMIDATION OF COMPLAINANTS

Daniel Guilló Cruz, his girlfriend Tamara Blanco Ovalles and another female friend were stopped by two plain-clothes national police officers just after midnight on 12 January 2007 in Ciudad de los Poetas, Madrid. The police officers told Daniel Guilló to hand over the marijuana cigarette he had in his hand and any other drugs he was carrying. One of the officers then began to beat him as the other pushed him against a car, holding him by the neck. Daniel Guilló and the two women with him believed the men assaulting him were muggers, as they had not identified themselves as police officers. The women used their mobile phones to call for police assistance. Uniformed police reinforcements arrived and joined the officers beating Daniel Guilló. It was only at this time that the victims became aware that the two men who had initially approached them were police officers. Daniel Guilló was handcuffed and told he was under arrest for assault on a public agent. He was then punched in the face several times by one of the plain clothes officers, and suffered a broken nose as a result. His two friends were arrested for assault on a public agent and threats. On the following day, Daniel Guilló was told he was being charged with attempted homicide.

LACK OF IMPARTIALITY, PROMPTNESS AND THOROUGHNESS IN INVESTIGATIONS

Juan Daniel Pintos Garrido, Alex Cisterna Amestica and Rodrigo Lanza Huidobro were arrested on 4 February 2006 after a local police officer was gravely injured in disputed circumstances outside a party in a house in Barcelona. All three men deny any involvement in the incident and have also claimed they were subjected to serious physical ill-treatment during arrest and while in police detention. As of September 2007 they continue to be held in remand detention awaiting trial on charges of assault on a public officer and attempted homicide. The three men all made complaints of ill-treatment against the police. Their families and lawyers claim that the investigating judge (who is investigating both the charges against Juan Pintos, Alex Cisterna and Rodrigo Lanza as well as their complaints of ill-treatment against the police) has made comments which demonstrate a biased attitude towards the proceedings in favour of the police officers involved. Although the complaints of ill-treatment were made by the complainants at the same time as the charges were brought against them concerning the injured police officer, at the same investigating court and under control of the same judge, the speed at which each case has been investigated differs greatly. The investigatory stage of the attempted homicide case was completed in June 2006 and the case was pending trial in September 2007. In contrast, nobody was called to make a witness statement on the allegations of ill-treatment until January 2007. The investigating judge provisionally discharged the three complaints of ill-treatment at the end of July. The complainants' have submitted an appeal. Their families have also informed Amnesty International that they question the impartiality of the judge and fear that the trial will be unfair.

Javier S was arrested by two national police officers in Plaza Universitat (Barcelona) on the evening of 3 June 2005 while sitting with a small group of friends who had just participated in a gay pride demonstration. The officers grabbed him, beat him and then handcuffed him before throwing him into a police car. He was not told why he had been arrested. Along with several others who had also been detained he was taken to the police station in Vía Augusta. Upon arrival at the police station the detainees - nine in total - were subjected to insults, including homophobic comments. They were refused permission to use the toilet, to have something to

drink or to see a doctor. Immediately after their release from police custody on 7 June 2005, Javier S and four others made formal complaints of ill-treatment at Investigating Court 22. Their complaints were rejected by the judge on 2 September who concluded that the police had acted with the minimal force necessary at the time of the arrest. The judge did not comment on the allegations of ill-treatment inside the police station. Javier S appealed to the Provincial Criminal Court of Barcelona, which on 7 December ordered the lower court to investigate the allegations. On 8 March 2006 the investigating judge closed the case again on the basis that the testimonies given by the police officers who had appeared in court (and who the complainants claimed were not the ones present in the police station during the incident) did not indicate any misconduct had occurred. The only recourse left to the complainants is to petition the Constitutional Court on the grounds of denial of due process, which is a lengthy and expensive procedure.

Public Document

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