

AMNESTY INTERNATIONAL PUBLIC STATEMENT

AI Index: EUR 41/001/2010
20 May 2010

Spain supports important recommendations by the UN but will not abolish incommunicado detention

Amnesty International today criticized the failure by Spain to accept some of the recommendations made by States in the UN Working Group on the Universal Periodic Review (UPR) which would bring national legislation and practice in line with international human rights standards. Spanish representatives at the Human Rights Council did, however, undertake to support a number of other important recommendations.

Amnesty International strongly condemns the refusal by Spain to review its regime of incommunicado detention, despite repeated calls by regional and international human rights bodies for its abolition, and the recommendation by some states during the UPR. Under this regime, individuals detained on suspicion of terrorism-related offences may be held incommunicado for up to 13 days (up to five days for other serious offences). During that time, detainees do not have the right to be assisted by a lawyer of their own choice, to consult in private with the duty lawyer appointed to them, nor do they have the right to have their family informed of their detention or where they are held, and foreign nationals cannot inform their embassy or consulate. Amnesty International regularly receives allegations of torture and other ill-treatment during incommunicado detention, most of which are not followed by prompt, effective and impartial investigations.

Spain also rejected the recommendation by some States to establish an independent police complaints mechanism to investigate all allegations of serious human rights violations by law enforcement officials. Amnesty International has repeatedly urged the government to ensure accountability by establishing such a mechanism.

Contrary to its obligation under international and European law to guarantee a fair trial for all persons, Spain also rejected a recommendation to reinforce due process safeguards for detainees imprisoned for acts allegedly related to terrorism or to the operation of armed groups.

Amnesty International notes that Spain will examine the recommendation to investigate, punish and redress crimes of enforced disappearance, regardless of the time of their occurrence, in the light of the continuous nature of the crime and in accordance with its international obligations. Amnesty International has called on Spain to investigate crimes committed during the Franco era, and to ensure that no amnesty law is applied to crimes against humanity under international law. Amnesty International urges Spain to endorse this recommendation before the session of the Human Rights Council in September 2010.

In the coming months, Spain will examine the recommendation to clarify and review the definition of torture in its Penal Code. Amnesty International calls on Spain to incorporate a definition of torture which complies fully with article 1 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, as recommended during the review, and to enforce an absolute prohibition of torture under any circumstances.

Amnesty International also urges Spain to accept the recommendation to ensure that detainees have access to legal assistance without delay and the possibility to communicate with a lawyer in private.

Amnesty International has documented several cases where the Spanish authorities forcibly returned individuals to countries where they may face a real risk of being subjected to torture or other ill-treatment, and has expressed concern that measures taken to impede the entry into Spain of undocumented persons violate the prohibition of *non-refoulement*. The organization calls upon Spain to support the recommendation to respect fully the principle of *non-refoulement* and ensure effective access to asylum procedures for all those seeking international protection.

Amnesty International welcomes Spain's support of recommendations to collect and publish official statistics on racially motivated crimes and incidents, and to develop a national plan of action against racism and xenophobia. These are in line with recommendations made earlier by the organization. We also welcome that Spain accepted to step up its efforts to thoroughly investigate all acts of racial violence and punish those responsible appropriately.

Spain also undertook to continue to adopt legislative and executive measures against gender-based violence and to continue efforts to guarantee the rights of women. Amnesty International is concerned, however, that Spain did not support recommendations to adopt a national plan to combat violence against women and girls. Amnesty International calls on the Spanish authorities to reconsider this position and to take measures to provide protection for victims of gender-based violence and ensure that they have access to justice and receive adequate reparation.

A large number of States have recommended that Spain protect the human rights of migrants. Amnesty International welcomes Spain's support for these recommendations and its commitment to take all measures necessary to ensure that actions related to unaccompanied migrants are in line with international standards. The organization looks forward to the prompt implementation of such measures, and urges Spain to ensure that the best interest of the child is respected in all cases.

Many States recommended that Spain sign and ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Amnesty International seizes this opportunity to urge the Spanish authorities to support this recommendation.

Amnesty International calls on Spain to support as many as possible of the recommendations made by other States during the review and to take steps to implement these at the national level without delay.

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