



ELDH European Association of Lawyers
for Democracy and World Human Rights



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EUROPESE DEMOKRATISCHE ADVOKATEN
EUROPEAN DEMOCRATIC LAWYERS

London, Düsseldorf, Farcennes

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Declaration / Press release / Letter to the Spanish minister of justice.

EUROPEAN LAWYERS EXPRESS THEIR UTMOST CONCERN ABOUT THE ARREST OF 12 BASQUE LAWYERS IN SPAIN.

The European Lawyers Associations ELDH and EDL are extremely concerned about the information that on 12th January 2015, at 07h00 in the morning in the Basque Country/Spain and in Madrid 16 people, among them 12 lawyers, were arrested for alleged terrorist crimes. The 12 lawyers arrested are: - Arantxa Aparicio, , Ainhoa Baglietto, Ane Ituiño, Amaia Izko, Eukene Jauregi, Jaione Karrera, Aiert Larrarte, Kepa Manzisidor, Onintza Ostolaza, Alfonso Zenon, Atxarte Salvador, Haizea Ziluaga. After their arrest, their professional premises have been searched. The 4 lawyers who were arrested in Madrid are defence lawyers in a political mass trial which was to start the following day. Strikingly enough all lawyers have been released two days later.

All of the arrested lawyers have in common that they work as defence lawyers for Basque prisoner, some of them also lawyers. Almost every day they work in Madrid at the Audiencia National. Some of them are lawyers who have recently won at Strasburg the case against Spain concerning the Parot Doctrine. Therefore, they may not have many friends among the Spanish government and the prosecutors. But there was no necessity to arrest them at home in front of their families and small children or in some cases in their hotel in Madrid. It would have been no problem to summon them and question them in Madrid if there were any grounds for suspecting criminal activity by them.

Unfortunately this is not the first time that Basque lawyers have been arrested, prosecuted and imprisoned in Spain. On several occasions ELDH and EDL-AED have denounced this practice as a violation of the right to a fair trial and other human rights. Already in the past there was strong evidence that in violation of the "Basic Principles on the Role of Lawyers" these lawyers were identified with their clients or their clients' causes.

By arresting these lawyers the Spanish state not only prevented them from exercising their professional duties but also denied their clients the right to be represented by a lawyer of their choice. Both acts were a violation of human rights, under the European Convention of Human Rights Art. 6, Para 2, c and the UN Basic Principles on the Role of Lawyers, 1. "All persons are entitled to call upon the assistance of a lawyer of their choice", 18. "Lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions."

Spain is one of the countries where lawyers are threatened because of the fact that some police officers, some media and even juridical authorities suggest that lawyers have to be persecuted in the same way as their clients. This is not only against the law and a threat to the Rule of Law, but it also creates the high risk that even lawyers falsely suspected of supporting ETA, as well as alleged non-lawyer supporters, are prevented from having a fair trial.

Therefore the organisations signing below ask that you pay close attention to these abovementioned violations of the rights of the defence – as guaranteed in many international and European Treaties (International Covenant on Civil and Political Rights, European

Convention for the Protection of Human Rights and Fundamental Freedoms, Charter of Fundamental Rights of the European Union) ratified by Spain -, which are also a grave violation of the UN Principles on the Role of Lawyers, as adopted in Havana. AED and ELDH want to express their concern about the fact that these persecutions of lawyers which have continued for many years have a structural and systemic character. They demand

1. The full implementation of all International and all European law ratified by Spain concerning the right to a fair trial, i.e. Art. 14 International Covenant on Civil and Political Rights, Art. 6 European Convention on Human Rights.
2. The full implementation of the Basic Principles on the Role of Lawyers i.e. Art. 7, 8, 16, 18
 - That lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions.
 - The Spanish State shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.
3. Full implementation of the conclusions in the reports of the European Committee for the Prevention of Torture and the UN Special Rapporteurs concerning Spain.
4. To stop the disproportionate use of pre-trial detention and pre-trial detention without a full consideration of whether detention is proportionate.
5. An independent commission to investigate the violation of the rights of lawyers in Spain, in particular of those who have been or are still are ,or will be kept in detention.
6. The release of all lawyers whose detention is found to be unjustified by this commission and compensation for human rights violations which they have suffered.

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