



ELDH European Association of Lawyers
for Democracy and World Human Rights



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EUROPESE DEMOKRATISCHE ADVOKATEN
EUROPEAN DEMOCRATIC LAWYERS

URGENT

To the President and all the
Judges of the Audiencia Nacional
SECCION SEGUNDA SALA DE LO PENAL
A.N.

Rollo de Apelación 212/2015 y
210/2015

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C/Goya, 14
28001 Madrid
SPANIEN

Date : July 2nd, 2015
Concerning : Detaining Basque lawyers

URGENT COMPLAINT AND OPEN LETTER

(A list of the international authorities and organisations who received copies of this urgent complaint and open letter is attached)

Dear President, Your Excellencies,

May we ask you for attention to the following:

The European federation of lawyer organisations AED (European Democratic Lawyers), the European Association of Lawyers for Democracy and Human Rights (ELDH) and the International Foundation for the Day of the Endangered Lawyer cooperate on the investigation of the recent cases of persecuted Basque lawyers.

On the 7th of May 2015, an international delegation of lawyers from Italy, Holland and Germany (accompanied by Spanish lawyers), who were chosen by the detained lawyers Arantza Zulueta and Jon Enparantza, brought (as announced and requested in advance with copies of lawyers' passports and with a support letter of the Madrilenian Bar Association), tried to visit their detained clients. Their entrance in the prison was impolitely refused in the waiting halls of the two prisons.

Our lawyers' delegation did not receive any valid or relevant legal argument, nor did we get any official written decision, why the investigating Judge Mr. Eloy Velasco refused the visit.

Not only were the members of the delegation very shocked about this demonstration of sheer power of one judge - Mr. Eloy Velasco - but the organising European lawyers federations were dismayed as well. We understand that this Investigating Judge has not only decided on the arrests of Mr. Enparantza and Ms. Zulueta, but also on all investigations in the criminal cases and extensions of their pre-trial detention.

This Judge of the Audiencia Nacional also ordered to arrest twelve lawyers in January 2015 and to raid and investigate their offices and their clients' files; the same judge also ordered the end of the pre-trial detention of these twelve lawyers, but under very severe conditions.

It needs to be said that the same judge Mr. Eloy Velasco who denies the release of Ms. Arantza Zulueta overturned the decision of another Judge: the decision to keep Ms. Zulueta in a prison in Madrid province. Mr. Velasco ordered the transfer of the defendant to Puerto III prison, 1.000 km distance from her family and defence lawyer and 650 km from the Court. At this moment, she is completely isolated in an isolation cell.

The above mentioned facts directly raise the following questions:

If this Judge has been given absolute power in all different stages of these different criminal cases - all against Basque lawyers - isn't this enormous power in full violation of the principles of the independency of Courts of law and in violation of the reasonability of decisions and their necessary proportionality?

The refusal of the visits of our delegation of lawyers in the two prisons near Madrid was less surprising, because again, the same Investigating Judge is behind that decision.

On the other hand, this last decision is - in our view - a new, clear and direct violation of the rights of the detained lawyers and the rights of the visiting lawyers.

In other European countries, lawyers have not been refused in the past in this way to visit their detained clients/colleagues in comparable circumstances, when they were in the same way escorted by local lawyers.

To this complaint and open letter we attach:

- 1) The joint letter of our organisations d.d. 2014, about the same trial,
- 2) The press declaration/letter to the Spanish Minister of Justice of January 15th, 2015, about the massive arrests.

Our organisations are very much concerned about the fact that the rights of the defence have been severely violated by using sheer power - in combination with some special articles of law, probably created to hinder official visits of lawyers in politically sensitive cases.

We have also learned from this frustrating visit in Spain that our colleagues - in the meantime - are treated in an inhuman way:

- a) For many months they are subjected to special isolation regimes, which are not used for normal detained persons,
- b) All arrested lawyers, including the three lawyers, arrested in 2014 and the twelve lawyers, arrested in 2015, have been held in incommunicado detention. This is a violation of the international human rights treaties and in full contradiction to the reports and advices of the United Nations and many other official human rights reports, handed over to Spain in the last ten to fifteen years.
- c) We also protest against the extremely long periods of pre-trial detention (in isolation) under which our clients/colleagues are suffering.

We urge you to investigate these complaints as soon as possible and to keep our organisations fully informed.

We urge you to replace the Investigating Judge by a chamber of independent and impartial judges.

Yours sincerely,



Mr. Thomas Schmidt
Mr. Hans Gaasbeek

acting on behalf of the ELDH/AED and the Foundation for the Day of the Endangered Lawyer