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**PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS, CIVIL,
POLITICAL ECONOMIC, SOCIAL AND CULTURAL RIGHTS,
INCLUDING THE RIGHT TO DEVELOPMENT**

**Written statement* submitted by the International league for the Rights and
Liberation of Peoples (LIDLIP), a non-governmental organization in special
consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[30 August 2007]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

Freedom of expression, linguistic discrimination and struggle against terrorism in the Basque Country

Introduction

The International League for the Rights and Liberation of Peoples (LIDLIP) because of its mandate is concerned about situations in the world where collective rights, such as cultural rights linked to freedom of expression and association, are violated. Its duty is to bring to the knowledge of the international community and in particular to the Human Rights Council of the United Nations cases such as the closure of a Basque newspaper in the Basque Country, in Spain.

LIDLIP is extremely preoccupied by the present judicial situation of the *Euskaldunon Egunkari*, a newspaper in the Basque language, closed down by the Spanish justice in 2003 in the name of anti-terrorism struggle. In fact, since 2001, taking advantage of the climate after September 11, the Spanish Government has adopted a series of legal measures in order to put an end by way of repression to political violence of the armed organization *Euskadi Ta Askatasuna (ETA)*. Consequently, the Spanish Government and its Prosecutor launched a criminalization campaign of the political-ideological tendency which stands for self-determination of the Basque Country. Many political and cultural organizations were rendered illegal in the name of the struggle against ETA, with accusations without proof and serious grounds in the majority of cases.[†] This is the case of *Euskaldunon Egunkaria* for which the whole of its Board of Directors is soon to go on trial, almost five years after its closure by the Spanish justice. The case is all the more preoccupying as the members of the Board of the newspaper are accused to belong to or collaborate with an armed group are personalities socially recognized within the Basque society.

History of the first newspaper in “eusquera”: *Euskaldunon Egunkaria*

Euskaldunon Egunkaria (thereafter *Egunkaria*) was the only newspaper published in “eusquera”[‡], a language considered as one of the oldest of Europe. Since the 80s, the Basques had already a radio (*Euskadi Irratia*) and a TV station (*Euskal Telebista 1*) in “eusquera”, installed by the Basque government. But there was no newspaper in “eusquera” until 6 December 1990, date of inception of *Egunkaria*.[§] *Egunkaria* is born out of the necessity to allot the Basque society a newspaper which, besides informing the Basques in “eusquera”, would contribute to the linguistic standardization of this language. Thousands of Basques contributed financially to create something which had until then been only a dream.

[†] These exclusions of public space which concern both media *Egin*, *Egunkaria* and political and cultural associations (*Ekin*, *Haika*, *Gestoras pro-aministía*, *Segi*, *Udalbiltza*) reached a peak in the prohibition of the political party *Batasuna* in 2003. For more details, see also document E/CN.3/Sub.2/2005/NGO/19

[‡] Basque language.

[§] Except the courageous experience of the paper *EGUNA*, published during 6 months during the Spanish civil war, from January to June 1937.

Since its inception in 1990 until the closure ordered by the *Audiencia Nacional* ** in 2003, *Egunkaria* had never been subject of a judicial action and even less of a condemnation. It was a newspaper for all Basques interested to read every morning a paper edited entirely in Basque. Distributed in the whole Basque territory (Spain and France), it was a daily in which all political, union, economic and social interests of the country were voiced. Nevertheless, on 20 February 2003, the judge of the *Audiencia Nacional* decided to close the daily arguing presumed links with ETA.

A case without legal grounds

The main accusations supported by the Spanish Civil Guard and endorsed by the judge in charge of the case are based on two fundamental elements:

1. Financing of the newspaper by ETA and
2. Control by ETA of the newspaper, via appointing Board members of its trust.

1. *Financing of ETA.* After six years of inquiry (two years before and four after the closure), neither the magistrate nor the Spanish Civil Guard, author of the accusation, could demonstrate that ETA had financed the daily *Egunkaria*. More so, in the judicial order of 600 pages, the judge «forgot» the question of financing and thus omits to mention one of the principal reasons invoked to justify the closure of the newspaper.

2. *Control by ETA.* The judge accused the directors of the newspaper to be members and collaborators of ETA. Though, after seven years of inquiry, neither the judge nor the Spanish Civil Guard could demonstrate that the appointment of the directors was made by ETA and that the persons chosen were persons trusted by ETA. The prosecutor was only able to show a document found with one of the members of ETA during a police operation in which the organization expresses its interest for the nominations of the directors of the Board. Thus, the document, as rightly stated by the prosecutor of the case in the report †† requesting the provisional closure of the case, does not show that ETA controlled the newspaper or had direct or indirect influence in its operation and even less that it appointed the directors.

Indignation of the Basque society

The closure of *Egunkaria*, despite its “provisional” nature, became de facto “final” when after one year, the judge ordered the liquidation of the assets and liabilities of the publisher. Thus, the judge did not wait for the verdict of a tribunal affirming the culpability of the directors of the newspaper. One year after the closure and much before the holding of the trial (which at the date of this writing, September 2007 has still not been held), the judge liquidated definitely the publishing firm, rendering the recuperation of the newspaper impossible.

** Special Division of the Supreme Court, in Madrid, in charge of criminal, social and administrative litigation.

†† Ordinary indictment No. 44/04 of the Central Court of First Instance No. 6, Court Record No. 21/05, First Section, Criminal Division, Spanish National Court.

The Basque society reacted immediately in an impressive and surprising manner launching a campaign of protest against the closure of *Egunkaria* and created channels of solidarity with the accused. Two days after the closure, the streets of Donostia (San Sebastian) lived under the slogan “Egunkaria aurrera” (Egunkaria ahead), the biggest popular demonstration which ever took place in that city. The closure of the unique newspaper in “euskera” had been interpreted by the political, social, unionist and cultural majority as a direct attack on the Basque society. The anger of the citizens rose even more when the medias published the accusations of pertaining to or collaborating with ETA, called for by the judge against the detainees. In fact, given the popularity and the social prestige of the accused, nobody in the Basque Country believed such accusations. The mobilizations lasted for months during which popular initiatives arose in protest against the closure of the newspaper and the detention of some of the directors.

Today (September 2007), seven accused persons are still awaiting the date of the trial although the Prosecutor ordered the provisional classification of the case and not the holding of the trial. To date, the accused are in “provisional” liberty on bail, and after having suffered five days of interrogation in *incomunicado* detention; one of them spent 18 months and two others 8 months in detention called “provisional”, i.e. detention pending trial.

International interest

Many international human rights organizations protested against the closure of the newspaper: Pen Club, Amnesty International, Reporters Without Borders-International, etc. International media (*TIME Magazine*, *The Guardian*, *The Independent*, *Le Monde*, *The Washington Post*, RAI, BBC, etc.) echoed with their publicization of the case and sent reporters to interview the detainees on bail. Even today, four years after the closure of the newspaper, journalists of the international media continue to go to the Basque Country, in order to report on the closure of the newspaper and the situation of freedom of the press in the Basque Country.

Besides the closure of *Egunkaria* and the arrest of its directors, the issue of torture committed by the Spanish Civil Guard on five of the ten detainees during the closure operation was too much for a great number of citizens and prompted numerous European medias to deal with the issue of the closure of the newspaper. Journalists could not believe that in 2003, in the 21st century, in a European country, journalists and directors of a newspaper were tortured. Thus, denunciations of torture made such an echo that the United Nations Special Rapporteur^{‡‡} on torture, after meeting with some of the tortured directors, released a very severe report on the practice of torture of the Basque detainees.

^{‡‡} For more details, see the report of the UN Special Rapporteur on torture, introduced at the 60th session of the Commission on Human Rights in February 2004 (E/CN.4/2004/56/Add.2).

Recommendations:

The International League for the Rights and Liberation of Peoples (LIDLIP) draws the attention of the Human Rights Council to this matter and requests its intervention with the Spanish Government in order to guarantee the right to a fair trial for the directors of *Egunkaria*.

Furthermore, the International League for the Rights and Liberation of Peoples (LIDLIP) urges M. Ambeyi Ligabo, the UN Special Rapporteur on freedom of expression, to pay a visit to Spain, to assess, understand and report to the Human Rights Council about the mechanisms of criminalization of the Basque independentist movement which serve as a Trojan horse to curtail the freedom of expression of a large sector of the Basque society and to violate linguistic rights.
