

Spain's largest trial targets Basque separatist ETA

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On November 21, the largest trial in Spanish history began at Madrid's Casa de Campo. The repressive measures deployed over the last seven years to prepare this trial represent a fundamental assault on basic democratic political freedoms.

The state is prosecuting 56 people, including journalists, businessmen and political activists, accusing them of being the “stomach, the heart and the head of ETA”—the Basque separatist group (Basque Homeland and Freedom).

Earlier this year, Spain held the first mass trial of Al Qaeda suspects in Europe as part of an investigation into the 9/11 attacks. The trial was condemned by human rights observers who were alarmed by the state prosecutor's redefinition of terrorism to include political support for the programme of a terrorist organisation—effectively criminalising a range of political activities previously entirely legal. Fearing the same fate, a number of the defendants have denounced the latest trial as a politically motivated attempt to illegalise Basque separatism.

The trial is the culmination of seven years of unprecedented state repression directed against Basque separatist organisations that has overturned fundamental democratic freedoms established after the fall of the Franco dictatorship in 1978. Under threat is the presumption of innocence and the right to free speech and free association. During its investigations, the state has banned legal political and cultural organisations, closed newspapers and media outlets, disenfranchised hundreds of thousands of voters, and used so-called “preventative detentions.”

According to the Basque news agency Berria.com, “...the defendants who testified during the first two days said they were not going to answer the questions put to them by the Public Prosecutor or the AVT [the right-wing Association for the Victims of Terror]. The head judge silenced them when they tried to explain why. ‘She forbade us to give reasons,’ said Iñigo Elkoro, one of the indicted yesterday in a press briefing given in Bilbo (Bilbao) with a representative of each of the sections in the case.”

Both the right-wing and liberal media have attacked the

defendants' claim that they may not receive a fair trial, insinuating that anyone raising concerns over issues of democratic rights is a protector of ETA—more concerned with the rights of the terrorists than the victims of terrorism. This is designed to prevent any deeper examination of how the former Popular Party (PP) government and its Socialist Party (PSOE) successor have pushed through draconian legislation under the auspices of the “war on terror.”

A number of Basque organisations have made desperate appeals to the PSOE government to abandon the trial and the repressive strategy of the PP and open talks for a peaceful solution to the Basque question. As the court proceedings got under way, the PSOE responded to such appeals through state prosecutor Enrique Molina. He demanded sentences ranging from 10 to 51 years for each defendant.

State prosecutors accuse organisations including Koordinadora Arbetzale Sozialista (KAS), the newspaper *Egin* and the Joxemi Zumalabe Foundation of forming a support network without which ETA could not carry out its terrorist activities. Despite hundreds of witnesses and 2,000 pages of documents, defendants are confident that the main charge will be unsubstantiated. However, in previous trials of ETA and Al Qaeda suspects, this has not stopped judges from imposing sentences for other activities deemed illegal.

The present trial is the outcome of an investigation launched in 1998 by Judge Baltazar Garzon after the alleged discovery of an ETA financial plan. Under the direction of the then PP government, Garzon used police-state measures to close down and put under arrest any individual or organisation he deemed to be supportive of ETA's political programme.

During Garzon's investigation, he issued a series of edicts closing down media networks, political parties and Basque newspapers. His measures were supported by both the PP and the PSOE. He banned the Basque radio station *Egin Irratia* and the newspaper *Egin* in 1998, and had the latter's employees arrested—accusing them of being ETA members. On July 3, 2001, he was forced to drop this charge, replacing it with one of “collaboration.”

This measure was repeated on February 20, 2003, when Euskaldunon Egunkaria was closed by “preventative measures” brought in under the auspices of the war on terror. Its chief editor, Martxelo Otamendi, and his staff were charged on December 3, 2004, by lower court judge Juan Del Olmo with creating an “illegal association” and some journalists with “membership of a terrorist group.” Every six months, the banning order is renewed. They face up to 14 years in jail.

The March 9 edition of *Time* magazine reported, “First came the predawn trip, blindfolded in the back of a Spanish paramilitary van, from his home in Tolosa to a police cell in Madrid. It was there, claims Martxelo Otamendi—the last managing editor of the now banned Basque-language daily *Egunkaria*—that his ordeal began. While police interrogated him about his newspaper’s alleged links to the Basque separatist terror organisation ETA, he claims they had him stand naked in his cell for three days, with a chance to sit down only every five hours.”

Time continued, “Otamendi, 45, says the police humiliated him for his homosexuality.... On the third day he says, they gave him the notorious treatment known as la Bolsa—‘the bag’—a plastic sack pulled over the head to cause a panic they hoped would compel him to name his ETA contacts.”

According to an Amnesty International press release March 11, 2003, only weeks after Otamendi publicised his allegation of torture the PP government declared that, instead of investigating the accusation, they had lodged a complaint with the courts that Otamendi and three other newspaper directors were “collaborating with an armed band” to make torture claims in order to discredit state institutions. Amnesty criticised the threat “as encouraging a climate of impunity, in which fear of reprisals prevents the reporting of possible acts of torture.”

Lawyers for the accused have demanded that the case be brought to trial or the charges dropped. One of the newspaper’s lawyers told Reporters Without Borders, “Despite examining thousands of documents, questioning more than 20 people, searching their homes and workplaces and ordering telephone taps, the judge has found no evidence of a link between *Egunkaria* and ETA.... The charges are based solely on the judge’s assumption, which comes down to ‘suspicion plus suspicion equals proof.’ ”

These measures were followed on March 20, 2003, with the banning of Batasuna, accused of being the political wing of ETA. Batasuna became the first political party to be banned under the June 2002 Political Parties Law also introduced as part of the “war on terror.” Initiated by the PP and supported by the PSOE, the law gives the state the right to illegalise any political organisation it claims supports terrorism. Batasuna had existed legally for 24 years, and had

seven deputies in the Basque parliament and hundreds of local councillors. At a stroke, the order effectively disenfranchised 10 percent of the population of the region. Batasuna protests against the measures were declared illegal and violently attacked by the police.

On November 23, 2005, *El Pais*, the main media ally of the PSOE, argued in favour of the present trial and Garzon’s campaign. Replying to the Basque political party’s calls for the PSOE to resume negotiations on the Basque question, it retorted, “The argument is that the conviction of these people might have negative effects on moves toward the peace process in the Basque Country. But then it was also argued some time ago that outlawing Batasuna would strengthen the more intransigent sectors of the Basque separatist subculture and just the opposite occurred.”

The present trial started only a few months after the end of an earlier mass trial of ETA “suspects.” According to a report by *State Watch* on June 20, 2005, charges of terrorism against Basque youth organisations Jarrai, Haika and Segi were dropped. *State Watch* reported, “The court found that these associations were not part of ETA, and were not terrorist groups because they don’t have the declared aim of using weapons, although they were deemed to carry out an ‘auxiliary’ role for ETA and were made illegal.”

At this earlier trial, 24 defendants were found guilty and sentenced to prison terms. But none of the defendants served time in prison after sentencing due to the length of time spent in custody awaiting trial. According to *State Watch*, eight of the defendants were held in custody without trial for only a few weeks short of four years. Lawyers for the defendants stated, “This situation of having somebody prisoner for four years before being tried only happens, I think, in Guantánamo and Spain.”



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