

**REPORT ON THE LIST OF ISSUES PREPARED BY
THE HUMAN RIGHTS COMMITTEE PRIOR TO
THE SUBMISSION OF THE SEVENTH PERIODIC
REPORT**

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The Basque Observatory of Human Rights – GEBehatokia is a human rights advocacy



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association founded in February 2001. Its activities focus on monitoring, studying, and reporting cases of human rights violations caused by state violence; advising and supporting victims of state violence in their search for truth and justice; advocating in judicial proceedings; and disseminating and providing training on initiatives developed and the results achieved, as well as implementing professional training and education programs in the field of human rights.

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1. Introduction and Objectives of Analysis of This Report

Specific information on the implementation of articles 1 to 27 of the Covenant, including information related to the Committee's previous recommendations.

As we will explain at the end of this report in its conclusions section, Spain has failed to fulfil its human rights obligations, especially with regard to the crime of torture and its prosecution, and the right to the truth. It insists on withholding relevant information of public interest in the investigation of crimes related to violence perpetrated by the State or its officials or related elements. It relies on elements such as the pre-constitutional Amnesty Law for more recent human rights violations and the statute of limitations for the crime of torture for more recent ones.

The reality of the victims of rights violations by the State is gradually coming to light, but government agencies continue to take no steps to clarify thousands of cases and fail to take any initiatives to establish accountability.

2. Articles 6 and 7: Prohibition of torture and other cruel, inhuman, or degrading treatment and the fight against impunity:

2.1 Initial background on the recognition and reparation of torture victims: expert report recognizing 5,379 tortured individuals.

In the field of torture victims' rights and in the context of the Basque conflict, there are **notable changes (and even progress)** that deserve mention. Since 2015, there have been no new cases of torture, confirming that it was a practice closely linked to anti-terrorist measures and policies. Indeed, the ETA organization's announcement that it was abandoning violent activity 12 years ago also led to the gradual disappearance of the practice of incommunicado detention and, with it, of torture itself in police operations under the anti-terrorist law.

On the other hand, people who were previously subjected to torture, based on self-incriminating testimony or testimony incriminating third parties, remain in prison with severe sentences that must be fully served. Thus, despite the existence of reports gathering evidence and acknowledging the reality of the reported abuse, the sentences of these individuals are not reviewed, so dozens of people continue to serve prison sentences based on evidence obtained because of acts of torture.

For years, victims of torture have suffered a lack of official recognition and institutional treatment that is second-class compared to other victims who have suffered similar human rights violations at the hands of non-state actors. However, **important progress** has been made in this area. Specifically, reports prepared at the request of the Basque Government have analysed testimonies of torture and ill-treatment in the Basque Country between 1960 and 2014. Using a scientific method, also endorsed by the Istanbul Protocol, the full extent of this practice is coming to light.

Thus, reports from the **Basque Institute of Criminology now confirm that 4,311¹ people in the Basque Autonomous Community and another 1,068 in the Chartered Community of Navarre have been subjected to torture.** This report is still being updated, as people who have suffered torture have continued to send their testimonies for inclusion in the report. Considering a small population like the Basque Country, the percentage of people who have suffered torture is alarming.

Social organizations that have worked to report torture for years report higher figures. Hundreds of victims have been unable or unwilling to participate in the pre-report study so far, due to death, distrust of the institution conducting it, or, in many cases, because they are reluctant to relive a traumatic episode in their lives, thus seeking to avoid retraumatization and revictimization. When referring to incommunicado detention, we cannot forget those who suffered torture without even being taken to a police station (at roadblocks, injuries sustained during demonstrations, incidents of police brutality, etc.), victims of ill-treatment in prison, as well as those who suffered extrajudicial execution or enforced disappearance by police or paramilitary forces.

While the reports are valuable in **providing official recognition** to these victims and providing them with truth, avoiding the need to assert the mere existence of torture, this truth is not consistent with, nor has it prompted, official investigation and institutional reparation. The publication of these reports, obtained after in-depth research, has not generated the slightest reaction from the Spanish government or, above all, from its judicial system. No prosecutor or magistrate has ever decided to react *ex officio* to this overwhelming number of cases, review the documentation collected in these studies, and adopt the necessary measures to identify and punish the perpetrators of torture and any other responsible parties. Furthermore, it is worth emphasizing that, given that the State is the main perpetrator of these crimes, its lack of action in the face of this reality, confirmed by scientific reports, is highly striking.

However, it should also be noted that these laws of the Basque and Navarrese Autonomous Communities do not have a counterpart at the state level that grants recognition to victims of acts perpetrated primarily by agents linked to their state structures.

- Inaction of the central government even in response to international requests

However, years later, these thousands of people have not been institutionally protected in their rights to truth, recognition, justice, and guarantees of non-repetition. These victims face an entire system that provides impunity and protection to perpetrators, resulting in a lack of attribution or accountability. This impunity has its corollary in the pardons granted to public officials directly linked to the practice of torture, as well as their promotion, advancement, and rewards in their professional careers.

¹ The work of collecting data on victims of torture has been carried out in two phases: first, for the provinces of Gipuzkoa, Bizkaia, and Alava, and second, for Navarre:

Research into torture and ill-treatment in the Basque Country between 1960 and 2014 (Annex I)

https://www.ehu.eus/es/-/n_20171218-estudio-tortura

Report on Navarre (**Anexo II**): <https://www.navarra.es/es/-/nota-prensa/el-instituto-vasco-de-criminologia-presenta-a-la-consejera-ollo-el-informe-sobre-la-tortura-desde-1979-hasta-la-actualidad>

The lack of response to this report has already been grounds for a United Nations request. Thus, in its Concluding Observations on Spain's seventh periodic report, prepared by the United Nations **Committee Against Torture**² at its 2026th and 2028th sessions, held on July 20 and 21,

2023, paragraphs 13 and 14 specifically referred to this alarming report, expressly requesting Spain, among other issues related to the cases of torture referred to in this document, to adopt "*the necessary measures to guarantee the effective investigation of the alleged acts of torture and ill-treatment referred to in the numerous documented testimonies provided to the authorities of the Basque Country and Navarre, and to inform the Committee of the results of said investigations.*" To date, these investigations have not been carried out.

- Inaction by the central government even in the face of rulings by the National Court recognizing ill-treatment of a detainee held incommunicado: recent case: Iratxe Sorzabal ruling

On May 8, 2025, the National Court of Madrid issued judgment 13/2025 in the criminal proceedings against Basque citizen Iratxe Sorzabal Diaz. Sorzabal was arrested on March 30, 2001, in Hernani, a town in the Basque Country.

It should be noted that photographs of Iratxe Sorzabal³ after her solitary confinement clearly showed the marks of electrodes or electric shocks, a method of torture that the detainee reported, among other torments, when she was finally able to communicate with her lawyer.

Sorzabal has reported the abuse, electrodes, death threats, and sexual assaults to the courts on every occasion. However, no official action was ever taken, and her complaint of torture was dismissed.

This trial is the third against her held in this court, the National High Court, and in all three, the evidence has been consistent, and her complaint about the torture she suffered has remained present. In one of these trials, she was sentenced to more than twenty years in prison, yet in the most recent trial, the sentence of which we are highlighting now, Sorzabal was acquitted, given that her testimony, as the sentence itself states, was obtained under torture and that, as stated, "*there is, therefore, evidence beyond any doubt that, during her detention, Iratxe Sorzabal was subjected to the application of electrodes by the officers who were guarding her,*" among other details.

The forcefulness of the accusations, and the fact that the same court that previously ignored them, has considered the allegations of abuse suffered during the period of incommunicado detention, is surprising.

However, no action has been taken; Iratxe Sorzabal remains in prison, and, far from any kind of statement or measure taken ex officio to clarify the facts or determine responsibility, no order has been issued for a prompt and impartial investigation, for the possible perpetrators to be

² Concluding observations on the seventh periodic report of Spain. CAT/C/ESP/CO/7:
https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2FC%2FESP%2FCO%2F7&Lang=en

³ Photographs available to the Committee if they consider it necessary but published in various media:
<https://www.naiz.eus/eu/info/noticia/20250131/el-tc-rechaza-el-recurso-de-sorzabal-a-la-condena-de-24-anos-que-ignoro-su-denuncia-de-torturas>

found, and for the victim to be guaranteed full reparation. Quite the contrary, the Prosecutor's Office has filed an appeal against Iratxe Sorzabal's acquittal.

2.2.- Legislative developments: Laws recently enacted by the Basque Government and the Government of Navarre.

Basque and Navarrese institutions are attempting to offer administrative reparation to these victims. Indeed, **Basque Law 12/2016**, of July 28, on the recognition and reparation of victims of human rights violations in the context of politically motivated violence in the Autonomous Community of the Basque Country between 1978 and 1999, and **Navarrese Law 16/2019**, of March 26, on the Recognition and Reparation of Victims of Politically Motivated Acts Instigated by Far-Right Groups or Public Officials, are beginning to evaluate the testimonies of those tortured in both territories with a view to granting them administrative recognition.

While we applaud the path taken, we must make two criticisms of these laws. First, they establish the status of victims for the individuals assessed, but this has no effect on initiating a criminal judicial process. In other words, they establish victims, but not perpetrators. They recognize those who have been tortured, but do not prosecute torturers. This obstacle was expressly imposed by the Constitutional Court that examined both laws, establishing as a limit that they would have no criminal implications. Second, these laws recognize those who have been tortured, but do not establish any reparation measures, unless the torture resulted in disability or serious physical consequences. Thus, they do not offer any therapeutic reparation measures, medical treatment for physical ailments, psychological-psychotherapeutic rehabilitation for psychological, psychosomatic, and psychosocial disorders, nor do they provide social assistance (help with access to a job, housing, studies, etc.), nor do they have compensation provisions, which do apply to other victims of similar harm.

Finally, while we note that the solitary confinement regime has not been applied, it remains in effect and there are no plans to abolish it. In this regard, we must assert that no progress has been made, and that it remains in effect, thus violating the principle of the guarantee of non-repetition.

2.3.- Absolute lack of response from the Central Government in Madrid. Lack of investigation into torture crimes. Lack of access to justice for torture victims.

Indeed, the jurisprudence of the Court of Human Rights already establishes a systematic investigative failure in cases of torture under incommunicado detention for anti-terrorism purposes and, as a result, a failure to clarify the facts and determine responsibilities. There are now 11 cases in which the European Court has condemned Spain for failing to investigate allegations of torture, which can be considered a systematic pattern. Seven of these cases point to Fernando Grande-Marlaska, then investigating judge of the National Court and current Minister of the Interior of the Spanish Government. This fact would confirm that the highest judicial and governmental levels are violating obligations regarding the investigation and prosecution of serious human rights violations, obligations contained in international treaties ratified by Spain. This is consistent with the lack of action taken in response to successive decisions and recommendations from various United Nations bodies (**Universal Periodic Reviews, reports from Special Rapporteurs following visits, as well**

as **individual complaints endorsed by the Committee against Torture, the Human Rights Committee, etc.)** requesting investigations into allegations of torture.

The lack of judicial investigation contrasts sharply with the estimate by Basque government authorities, **which already places the number of documented cases of torture at 5,379**. The inaction of the judiciary or the prosecutor's office to address such an estimate is impossible to understand. Whether to challenge it as fraudulent, or to validate it and reopen the cases, what cannot be assumed is that no one takes the hint.

2.4.- The double victimization of torture victims. A defense of state terrorism.

In addition to the lack of investigation, a narrative of legitimization and glorification of extremely serious human rights violations attributable to the State has recently been prevalent. We can see that some political and institutional leaders with significant responsibilities in state terrorism, including torture, are making statements that not only praise or legitimize these acts, but also humiliate or insult their victims, creating a double victimization. They have also demonstrated knowledge of the facts, if not proximity to the perpetrators

Among these cases, we could refer to statements by the Minister of the Interior between November 1993 and May 1994, Antoni Asunción, who revealed that his predecessor, José Luis Corcuera, who held the position between 1988 and 1993, was responsible for sending at least one letter bomb that killed 22-year-old postman José Antonio Cardosa González in a doorway in Errenteria on September 20, 1989. Along the same lines, on November 6, 2022, **former Minister of the Interior José Barrionuevo between 1982 and 1988, boasted of having given orders to kidnap Larretxea Goñi, a refugee in Basque territory under French administration, and that when they discovered that this police group "made the mistake" about the person, they kidnapped the French citizen Segundo Marey and assumed the task of releasing him so as not to "cause more disorder."** On December 4, the Minister of the Interior and Justice from 1993 to 1996, Juan Alberto Belloch, made statements in which he claimed he was aware of the human rights violations committed by General Rodríguez Galindo, the head of the counterterrorism effort in the Basque Country. In his words, "as an anti-terrorist fighter, Galindo was the best," but torturing Basque detainees "was the only thing he did wrong." Indeed, in one of the very few cases where the justice system was able to clarify his responsibilities, Galindo would later be sentenced to 75 years in prison for the kidnapping, torture, and murder of two young refugees. These statements constitute a pattern of legitimizing his actions, establishing a narrative that the extremely serious violation of human rights by the State and its complete lack of investigation and impunity were justified.

On the other hand, one of the most painful events for the victims of torture has been the **promotion of Arturo Espejo Valero to the rank of Lieutenant General of the Civil Guard and to head of the Support Command of the Civil Guard Leadership. Espejo was involved in the case of the torture and death of Mikel Zabalza Garate**, officially recognized by Basque Law 12/2016 as a victim of a violation of the right to life due to torture inflicted while he was detained at the Intxaurre Civil Guard barracks, thus revealing the implausibility of the official version maintained by the Central Government. This is also recognized by Navarre Law 16/2019.

When questioned in Congress and the Senate, both Interior Minister Grande-Marlaska and Prime Minister Pedro Sánchez took refuge in the lack of investigation and criminal determination of the responsibilities of the now Lieutenant General Espejo. Indeed, this refusal to clarify these cases lies precisely at the root of the impunity and subsequent promotions, decorations, and rewards granted to perpetrators of state violence. This, as we know, humiliates, insults, and revictimizes

their victims, effectively denying their rights to recognition and reparation. While the Spanish government approved the recommendations regarding combating impunity and prosecuting those guilty of committing torture, these remain unaddressed issues in the Spanish State, and they remain unimplemented.

3.- Human rights violations of the past (paragraph 21 CCPR/C/ESP/CO/6 and paragraph 13 CCPR/C/ESP/QPR/7).

In addition to judicial indifference, a double burden of impunity is operating over these cases: cases occurring between 1960 and 1977 are reportedly subject to the Amnesty Law, which prevents their investigation and legislation.

In this regard, some progress has been made: in the area of HISTORICAL MEMORY, we have the Basque Law (Law 9/2023, of September 28, on the Historical and Democratic Memory of the Basque Country) and Navarre (Regional Law 33/2013, of November 26, on the recognition and moral reparation of the Navarrese citizens murdered and victims of repression following the 1936 military coup, and Regional Law 29/2018, of December 26, on Sites of Historical Memory in Navarre), although the regional powers are limited.

At the state level, we have Law 20/2022, of October 19, on Democratic Memory, which raised expectations especially in confronting the Amnesty Law of 1977. In its article 2.3 it establishes a channel: *“All laws of the Spanish State, including Law 46/1977, of October 15, on Amnesty, shall be interpreted and applied in accordance with conventional and customary international law and, in particular, with international humanitarian law, according to which war crimes, crimes against humanity, genocide and torture are considered imprescriptible and non-amnestiable.”* However, this provision, without further regulatory development and a channel for its implementation, has produced no practical effect: neither collaboration with the Argentine justice system nor the opening of cases in the domestic jurisdiction. The complaints filed through the path opened by this law have met with fierce opposition from ordinary judges first, and from successive levels in the appeals that have already begun to be filed. Of the 120 complaints filed at the state level, 115 have been dismissed, and of the five admitted, two were filed by the *GEBehatokia*. We can therefore speak of a judicial denialist bunker, which prioritizes a pre-constitutional law such as the Amnesty Law over a democratic law. The difficulty in moving the complaints forward, in ensuring their success and not being archived almost immediately, highlights the extent to which the victims of this period remain unprotected.

Victims of the Franco regime who suffered extremely serious rights violations in the late 1940s and 1950s are particularly unprotected: they were not covered by decrees of recognition and compensation for direct victims of the war and the immediate postwar period; they were not covered by decrees after 1960 (Decree 107/2012 and Law 12/2016 on victims of the State). It is necessary to provide equal coverage to victims of the State, regardless of the historical moment or specific political situation in which they suffered the events.

Notwithstanding the above, and as stated in the report we are now presenting, the courts do not apply the obligations set forth in the aforementioned Law, and they also ignore the international recommendations made numerous times over the years by United Nations human rights protection bodies, including several **Special Rapporteurs**.

Furthermore, beyond the 1977 time limit, and with regard to crimes not subject to the amnesty law, **statutes of limitations are closing avenues for investigation and judicial reparation for victims of torture in recent times**. These victims, in the aforementioned numerical dimension, are defenseless today due to governmental and judicial negligence. This circumstance violates Spain's international commitments to the protection of rights, as these crimes have not been punished with adequate penalties that take into account their seriousness, nor have the competent authorities conducted a prompt and impartial investigation.

Victims of state violence have seen progress in recognition thanks to new legislative steps. However, their rights are not fully protected, as they lack access to justice and their perpetrators have enjoyed absolute impunity. These victims lack any mechanism for judicial investigation of unsolved cases.

The initiatives are left to the families themselves or to the Egiari Zor Foundation, the association that brings them together. All of this creates an unacceptable aggravating factor for the victims of the State, placing them facing severe discrimination. Thus, there is a prevailing asymmetry in the treatment of victims, depending on the agent responsible for their violation. Depending on the nature of their violence, this agent has been treated either with the utmost penal rigor or with the leniency and impunity that the system has allowed.

4.- Administrative recognition of the existence of victims but without perpetrators

Since the implementation of Decree 107/2012 "On the declaration and reparation of victims of unjust suffering as a result of the violation of their human rights, which occurred between 1960 and 1978 in the context of politically motivated violence in the Autonomous Community of the Basque Country" and subsequently of **Law 12/2016** on the Recognition and reparation of victims of human rights violations in the context of politically motivated violence between 1978 and 1999, more than 350 serious human rights violations have been officially recognized in the Autonomous Community of the Basque Country. Serious human rights violations caused by the Police, the Ertzaintza (Basque Police), the Civil Guard, the far right, the Triple A (Triple A) or the Spanish Basque Battalion. Murders, torture, serious injuries and other human rights violations. In this same document we spoke about the legislative advances made at the regional level, since it is the first This law aims to provide legal protection to the numerous victims of human rights violations caused by violence perpetrated and/or sponsored by the Spanish State in the context of politically motivated violence within the framework of the armed conflict in the Basque Country, following decades of institutional neglect and neglect. Decades during which these victims have also, in many cases, suffered the denial of their victimization and the devastating effect of the construction of official versions justifying police action, considering the deaths as natural or blaming the deceased for their own deaths. These official versions were constructed with the aim of concealing this violence perpetrated by the state, human rights violations that were thus hidden under a cloak of impunity for those responsible. The justice system has not acted proportionally between the various violent agents during the decades of violent conflict, nor has it done so between victims of different

backgrounds. In the Autonomous Community of Navarre, Law 16/2019 (similar) was implemented shortly afterward, and numerous recognitions have already been given.

It is undoubtedly essential to open the dark vault of *official versions* and based on the investigations opened and resolutions issued through the aforementioned Law 12/2016 and

Law 16/2019, we can say that we had and still have compelling reasons for this claim. Thus, numerous resolutions on specific cases officially recognize that certain deaths were in fact extrajudicial or arbitrary executions, that others were caused by torture against the victims, etc. So far, more than 350 cases have been investigated and declared human rights violations, but many more are awaiting further analysis.

However, most of the victims of these crimes have never been able to exercise their right to know the truth: either because the investigation was not carried out or was not carried out efficiently, or simply because the official versions used to justify actions contrary to human rights were inconclusive in determining whether a crime existed. The right to know the truth in the case of victims of the State collides with a legal framework that prevents them from knowing the full truth about the crimes they or their families suffered, such as the Official Secrets Act

International human rights law, as well as the International Right to Know the Truth, makes no distinction based on the origin of the violence suffered or the status of the individuals who suffered it. The right to the truth entails full and complete knowledge of the acts that occurred, the individuals who participated in them, and the specific circumstances, particularly the violations perpetrated and their motivation.

The possibility that the state may keep secret key documentation in clarifying the responsibility of state agents in violence against citizens only serves to continue the impunity for these acts, which was already protected in 1968 and continues in this same manner, ignoring the international demands that have been made to the Spanish government to clarify these activities in support of the right to justice and the truth for the victims and society as a whole. **Regarding crimes not subject to the amnesty law, statutes of limitations are closing avenues for investigation and judicial redress for victims of torture in recent times.**

5.- Conclusions

As explained at the beginning of this report, we now have reports that represent a firm step in the recognition of torture and the people who suffered it. It is confirmed that, in a context of political violence, **5,379** people have been subjected to torture, according to a first approximation. However, even though we are talking about a technical report prepared by experts certifying these facts, the Spanish government, unprecedentedly, has not reacted in any way, has not assumed responsibility, nor has it taken any measures in this regard. All these thousands of victims have not been institutionally protected in their rights to truth, recognition, justice, and guarantees of non-repetition. The system grants the perpetrators impunity due to the inaction and lack of investigation by judges and prosecutors, in addition to granting the perpetrators of torture promotions, advancement, and rewards.

Not only that, but people also who were incriminated under torture still remain in prison with severe sentences served entirely based on these self-incriminating testimonies, and under a

prison system riddled with exceptions. There is already jurisprudence from the ECHR on this matter, condemning Spain for the lack of guarantees in the criminal process. We believe it is necessary for the Spanish government to take a clear position on this matter, not only recognizing the victims, but also reviewing all procedures based on self-incriminating testimonies obtained

under torture. Its commitment to truth and justice for these victims, and the prosecution of those responsible for and perpetrators of this torture, is also necessary.

On the other hand, the legislative advances made by the Basque Autonomous Community and the Autonomous Community of Navarre should be only a first step, and the central government must also take initiatives in this regard.

However, there are two clear obstacles to the search for truth and justice for victims of state violations of rights. On the one hand, the Amnesty Law continues to act as an insurmountable barrier to this endeavor, with the judiciary completely reluctant to even consider cases from that period. On the other hand, the statute of limitations cited by Spanish courts for the crime of torture makes their path to truth impossible. The Committee against Torture stated in its concluding observations on Spain's seventh periodic report that the State party "must ensure that the crime of torture is imprescriptible, in order to exclude any possibility of impunity in relation to the investigation of acts of torture and the prosecution and punishment of those responsible." This demand must be definitively adopted by the Spanish government so that it can fulfill its obligations and commitments.

6.- Recommendations/Issues raised by *GEBehatokia* – Basque Observatory of Human Rights, time to take steps.

The following questions are submitted for consideration in the next exam:

- 1. In compliance with its international obligations, the Spanish government must conduct the relevant investigations required by the Committee against Torture into the report containing 5,379 cases of torture and submit the results of these investigations to the Committee.**
- 2. Following the regional legislative initiatives that have resulted in Law 16/2019 and Law 12/2016, the State, as the main perpetrator, must also take legislative initiatives to recognize victims of state violence.**
- 3. Repeal Article 509 of the Spanish Criminal Procedure Law, which allows for incomunicado detention. This type of detention, in addition to having been criticized on numerous occasions by human rights organizations and agencies, has been shown to be closely linked to torture and ill-treatment of detainees. This would comply with the principle of non-repetition.**
- 4. In compliance with the obligations established by Law 20/2022 on Democratic Memory, investigate cases of extrajudicial executions, enforced disappearances, and torture, which constitute crimes against humanity. This includes, in particular, all cases of reported torture prior to 1978.**
- 5. The sentences of the dozens of people who continue to serve prison sentences based on evidence obtained as a result of acts of torture must be reviewed.**
- 6. The glorification of state terrorism must be prevented. The impunity enjoyed by perpetrators must end, and the public legitimization of human rights violations committed by the state must cease.**
- 7. Urge that the non-applicability of statutory limitations on the crime of torture be expressly recognized as an international obligation and commitment, so that its compliance by states is unavoidable.**