



**For immediate release**

**14 November 2005**

**Closure of Basque newspaper ‘Egunkaria’:  
ARTICLE 19 calls on court to follow international human rights  
standards**

ARTICLE 19, the Global Campaign for Free Expression, is concerned at the news that Basque-language newspaper *Euskaldunon Egunkaria* remains unable to resume publication following its closure by the Spanish authorities in 2003, due to alleged links with the banned terrorist group ETA.

*Euskaldunon Egunkaria*, established in 1990 as the first and only Basque-language daily newspaper, reportedly with a readership of 15,000 and widely respected throughout the Basque community, was raided by the authorities on 20 February 2003. On this occasion, documents and computers were seized, and the newspaper’s assets frozen. In addition, ten individuals who were or had been members of staff, including the newspaper’s managing director Iñaki Uria and former editor Pello Zubiria, were arrested in dawn raids and held incommunicado for up to five days.<sup>1</sup> In December 2004, Iñaki Uria, Joan Mari Torrealdei, Txema Auzmendi, Xabier Alegria, Pello Zubiria, Xabier Oleaga and Martxelo Otamendi were for forming an ‘illegal association’ at the time of *Euskaldunon Egunkaria*’s establishment, and for “membership of, or collaboration with, ETA”. Five of the detainees allege that they were subjected to torture while in police custody. The newspaper was also effectively forced into liquidation as its assets were sold off by Court-appointed administrators, meaning that, regardless the outcome of the case, *Euskaldunon Egunkaria* has ceased to exist.

Defence lawyers acting for the newspaper and for the seven indicted individuals allege that these claims are groundless, and that the evidence presented by the prosecution is circumstantial and inconclusive, and have appealed against the indictment. Their appeal will be heard by the Spanish National Criminal Court on 18 November 2005.

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<sup>1</sup> This is permissible under Spanish law.

ARTICLE 19 has serious doubts as to whether this action by the Spanish authorities is in conformity with internationally recognised principles relating to freedom of expression and national security.

One of the fundamental principles set out in the ‘Johannesburg Principles’,<sup>2</sup> which strike a balance between the right to freedom of expression and national security and have been endorsed by the UN Special Rapporteur on Freedom of Opinion and Expression<sup>3</sup> and recommended to States for their consideration by the UN Commission on Human Rights,<sup>4</sup> is that restrictions on freedom of expression in the name of national security may be imposed only where the speech was intended to incite imminent violence and there is a direct and immediate connection between the expression and the likelihood or occurrence of such violence. Principle 6 provides:

[E]xpression may be punished as a threat to national security only if a government can demonstrate that:

- (a) the expression is intended to incite imminent violence;
- (b) it is likely to incite such violence; and
- (c) there is a direct and immediate connection between the expression and the likelihood or occurrence of such violence.

A similar standard has been embraced by the European Court of Human Rights. In *Karataş v. Turkey*, the applicant had been convicted by the Turkish authorities for publishing poetry that allegedly glorified violence. The Court held that ‘condoning and glorifying terrorism’ as such is a legitimate exercise of the right to freedom of expression; only when glorification constitutes a clear call for violence can it be legitimately proscribed.<sup>5</sup>

According to information available to ARTICLE 19, little evidence has been presented to prove the charges brought by the Prosecution, namely that the newspaper was established in 1990 to facilitate “the support and dissemination of the terrorist ideology and the values and interests” of ETA. More importantly, the definition of this offence fails to satisfy the requirements of the above-mentioned principle, that restrictions on freedom of expression are closely related to the prevention of actual harm to national security, instead of penalising a particular ideology or point of view, however repugnant it may seem.

ARTICLE 19 reminds the Spanish government and judiciary of Spain’s responsibility under international law to defend and promote the right of freedom of expression, resulting from its ratification of the International Covenant on Civil and Political Rights and the European Convention on Human Rights.

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<sup>2</sup> *Johannesburg Principles on National Security, Freedom of Expression and Access to Information*, adopted October 1995.

<sup>3</sup> See, for example, UN Doc E/CN.4/1996/39, 22 March 1996, para. 154.

<sup>4</sup> See UN Doc. E/CN.4/1996/53, 19 April 1996. The Johannesburg Principles have also been referred to by superior courts of record around the world. See, for example, *Athukoral v. AG*, 5 May 1997, SD Nos. 1-15/97 (Supreme Court of Sri Lanka) and *Secretary of State for the Home Department v. Rehman* [2001] UKHL 47 (United Kingdom House of Lords).

<sup>5</sup> 8 July 1999, Application No. 23168/94, paras. 52-54.

ARTICLE 19 therefore calls on the Spanish government to provide satisfactory justification for the extreme measures it has taken in respect of *Euskaldunon Egunkaria*. Should it fail to justify the closure in compliance with international standards, the case against the seven individuals indicted should be dismissed, and *Euskaldunon Egunkaria* be allowed to resume publication. Should the indictment be upheld, ARTICLE 19 urges the Spanish authorities to ensure a free and fair trial. Finally, the authorities should fully investigate all allegations of torture made against the police and, if confirmed, bring the responsible to justice.

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