



**Marcelo Zelaieta 75.
AA3 eraikikna, 28. bulegoa
31014 Iruñea**

Telefonoa: 948 146 172

Faxa: 948 123 743

Posta elek.: behatokia@behatokia.org

M
o
n
o
g
r
a
p
h
i
c

r
e
p
o
r
t

3

**Shut down of Euskaldunon
Egunkaria newspaper**
*Report on Violations of
Freedom Speech*



**HIZKUNTZ
ESKUBIDEEN
BEHATOKIA**

If you want to use the statistics, conclusions or any other information of this report, please mention the source:

Hizkuntz Eskubideen Behatokia/Observatory of Linguistic Rights, “Shut down of Euskaldunon Egunkaria newspaper (Report on Violations of Freedom Speech)”, unpublished monographic report. Iruñea / Pamplona, 2003.

Title: Shut down of Euskaldunon Egunkaria newspaper (Report on Violations of Freedom Speech).

Type: Third monographic report.

Author: Hizkuntz Eskubideen Behatokia / Observatory of Linguistic Rights.

LG: NA – 1858/2003

© HIZKUNTZ ESKUBIDEEN BEHATOKIA
75 Marcelo Zelaieta avenue Building AA3, office 28.
31014 Iruñea / Pamplona (Navarre)
Basque Country
June 2003

Table of contents

0. Introduction

1. *Euskaldunon Egunkaria*, the only newspaper published entirely in Basque

2. The Spanish Government shuts down *Euskaldunon Egunkaria*
 - 2.1 The shutting down
 - 2.2 Profile of the arrested people
 - 2.3 An exceptional measure

3. The answer of the Basque society

4. Condemns and international supports

0. Introduction

The aim of this report is to expose and denounce the grave violation of the freedom of speech in the current situation affecting the shut down of *Euskaldunon Egunkaria* newspaper in the Basque Country.

The Council of Social Organizations in Favour of Basque, *Kontseilua*, is formed by 49 social groups -that have more than 240,000 members altogether- and its main aim is to reach the full development of Basque. (www.kontseilua.org)

The Observatory of Linguistic Rights, *Behatokia*, is a foundation created by the Council of Social Organizations in Favour of Basque, *Kontseilua*. *Behatokia* looks out for the linguistic rights of the people of the Basque Country, and it strives to defend those rights both in the public and the private sector (www.behatokia.org).

1. *Euskaldunon Egunkaria*, the only newspaper published entirely in Basque

Euskaldunon Egunkaria (The Basque-Speakers' newspaper) was created on December 6, 1990. Today it is the only newspaper published in Basque and is sold throughout the Basque Country, both in Iparralde and in Hegoalde (in the Southern as well as in the Northern Basque Country on each side of the Franco-Spanish border). It comes out six days a week from Tuesday to Sunday. It has an on-line version in Basque and includes a section in English.

Euskaldunon Egunkaria has developed considerably since it began when it had only 32 pages. Today it produces 60 pages in the daily edition, and if you take into account all the different products, it publishes 76 pages every day on average. *Euskaldunon Egunkaria* is a standard newspaper and offers its readers sections similar to other newspapers: Opinion, Basque Country Politics, Basque Country Society, Economy, Sports, Features, Services, Culture, Events and TV.

The Basque people created *Euskaldunon Egunkaria* with their ideas, work and money. It was created to fill a very important gap: the lack of a newspaper in the Basque language providing Basque people with all kinds of news every morning. The paper has been fulfilling this task for the past 13 years without missing a single day.

2. The Spanish Government shuts down the only newspaper published entirely in Basque

2.1. The shutting down

On Thursday the 20th of February, the Spanish Civil Guard shut down both the newspaper *Euskaldunon Egunkaria* and its digital version, on the orders of Juan del Olmo, Judge of the Spanish Special Criminal Court.

Euskaldunon Egunkaria, which translates as “The Basque-Speakers’ Newspaper”, is the only daily current affairs publication written entirely in Basque and available to Basque-Speakers in both the French and Spanish states.

Around 300 officers of the Spanish Civil Guard carried out an early-morning raid on *Egunkaria*’s head office in Andoain (Gipuzkoa) and its local press offices in Bilbao, Iruñea/Pamplona and Gasteiz/Vitoria. A considerable amount of documentation, information, computers, computer software, journalists’ personal notebooks, etc. was confiscated from these offices, which were then sealed off and closed. The newspaper and its digital version were shut down.

Ten people, all current or former directors, were arrested and transferred to Madrid and were being held in complete isolation.

Asides *Euskaldunon Egunkaria*, the Spanish Civil Guard carried out searches and confiscated a considerable amount of material from the head offices of the *Ikastola Federation* (Basque middle schools) and of the Magazines *Jakin* and *Argia*, also published in Basque. Similar search operations were also carried out at the head office of the *Euskalgintza Elkarlanean* Foundation, dedicated to the diffusion of the Basque language and culture.

Two internet servers were among the material confiscated from *Egunkaria's* head offices and other neighbouring companies and associations by the Spanish Civil Guard. These servers are vital to the operations of numerous non-governmental organizations whose activities revolve around the Basque culture, as well as to various companies and trade unions. All their web sites have therefore been inoperable for the last six days, and some of them continue to be so. Among the affected web sites are those of the Observatory of Linguistic Rights, the Council of Social Organizations in Favour of Basque, the Basque Summer University etc. Moreover, 25,000 e-mail addresses on the euskalerrria.org domain offered entirely in Basque, free of charge by the *Plazagunea* company have been left temporarily out of use.

2.2. Profile of the arrested people

The people arrested are known and recognised for their dedication to the promotion of the Basque language and culture:

Iñaki Uria, Member of the Board of Directors of *Euskaldunon Egunkaria*. He previously worked for *Argia* Magazine.

Martxelo Otamendi, (FREE ON BAIL AFTER PAYING 30.000 euro) Director of *Euskaldunon Egunkaria*. He has worked in many other fields, including *Euskal Irrati-Telebista*, the Basque Public Radio and Television Network.

Juan Mari Torrealdai, (FREE ON BAIL AFTER PAYING 12.000 euro) President of the Board of Directors of *Euskaldunon Egunkaria* and Director of *Jakin* magazine. He is also the author of several books, including “*El libro negro de euskara*” (The Black Book of Euskara), a compilation of testimonies of the repression of the Basque language throughout history.

Pello Zubiria, (FREE ON BAIL AFTER PAYING 12.000 euro) The first Director of *Euskaldunon Egunkaria*. Previously the Director of *Argia* magazine, he is currently Deputy Director. He has been on a sick for the last few months, because of a serious disease affecting his back (ankylosing spondylitis). Two days after his arrest, Zubiria had to be sent to a hospital in Madrid. According to Police sources, he tried to commit suicide while on Police premises. His wife has had serious difficulties in visiting him. Zubiria cannot remember what happened to him during the first days in solitary.

Luis Goia, (FREE ON BAIL AFTER PAYING 12.000 euro) Member of *Egunkaria Sortzen*, the creative platform of the shut down newspaper. He is currently the Director of *Adur Software Productions*.

Fermin Lazkano, (FREE ON BAIL AFTER PAYING 12.000 euro) He was Manager of *Euskaldunon Egunkaria*. He is now Manager of the *Plazagunea* company whose internet servers have been confiscated.

Inma Gomila, (FREE ON BAIL AFTER PAYING 18.000 euro) She was Manager of *Euskaldunon Egunkaria*. She currently works in the private sector.

Xabier Alegria, Member of the *Udalbiltza*, assembly of elected municipal representatives of the whole of the Basque Country. He used to work in *AEK*, a Basque language teacher's organization and coordinator of Basque language education for adults.

Xabier Oleaga, He was the Director of *Euskaldunon Egunkaria*. He is now in charge of External Communications of the Federation of *Ikastolas* (Basque middle schools.)

Txema Auzmendi, (FREE ON BAIL AFTER PAYING 12.000 euro) He is a Jesuit, a member of *Egunkaria Sortzen* and Deputy Director of *Radio Popular* of Donostia/San Sebastian.

The ten people were held by the Guardia Civil for five days in an undetermined location under anti-terrorist legislation. "Anti-terrorist legislation" was applied which means that for those five days they do not have the right to a lawyer of their choice, nor can they contact family, nor can they receive medical attention from a doctor of their choice.

After the five days nine of those arrested are taken in front of the Audiencia Nacional (a special Court sitting in Madrid) to make statements to the judge. Once again statements are made without the presence of a lawyer of their choosing. One of those arrested, the priest Txema Auzmendi, refused to make a statement in such circumstances. Another eight detainees make statements to judge Juan del Olmo. They denied any relation with ETA and some of them stated that they had been subjected to mistreatment and constant threats by the police.

Some arrested people have admitted publicly that they have suffered from torture.

Martxelo Otamendi: *"I was forced to do physical exercises until I was breathless and exhausted. I was insulted and threatened all the time. They even put a plastic bag on my head twice to try and suffocate me. They told me that interrogations were like a train: I had the chance to get off the train at the first stop in order to suffer less; they told me that in the end everyone speaks. I was not beaten up constantly..."*

Txema Auzmendi: *They don't allow you to raise your head, to look at their faces or eyes. The iron door was banging incessantly. There was a lot of tension, especially when they took you out of the cell not knowing what for. We could not sleep and once you were half asleep, they started banging the doors again. In my case, torture has not been phsysical, but phsysiological.*

Juan Mari Torrealdai: *They covered my head and I was trembling with fear. I was standig up, with my hands against the wall and both legs open. The started questioning me. And along with the questions, they started beating me up: on the head, on the back and after they took of my jumper and shirt... They used a ruler or something like that to beat me between my legs and on my testicles. I don't exactly know if that was during the first interrogationn or in another one, because I was six times in the same ituation. They also put a piece of plastic in my ears, then in my arms, making noises and asking me if I knew what it was*

Xabier Alegria. *I was utterly terrified and as I did not answer their questions they forced me to do physical exercise, and beat me in my genitalia. Afterwards they ordered me to sit down in a chair. They tied me to it, hands and arms fastened with broad plastic tape. They held plastic bags in their hands, and made noise with them near my ear. They threatened me with using "the bag" (placing plastic bags over the head of a detainee, in order to suffocate him), and finally did it. I underwent two sessions. Y suffocated horribly. It broke me down.*

After those declarations Spanish Home Affairs Ministry charged Basque journalists for making false accusations of torture and insulting the Guardia Civil (Spanish paramilitary police). According to the Secretary the people that speak about torture "have collaborated with the terrorist organization ETA" and follow the orders from that. Egunkaria's editor replied immediately to Secretary's announcement stating that being sued will not change his mind.

2.3. An exceptional measure

It is a matter of serious debate that a judge of the Spanish Special Criminal Court should have taken such a measure to shut down a newspaper based on the supposed criminal activity of its management but with no concrete evidence to back it up. Especially given the fact that according to the Spanish Constitution, an investigating judge should not have taken the decision to shut down a newspaper as a preventative measure prior to trial.

More than 300 Lawyers from the Lawyers Society of Bizkaia have made an statement about the serious responsibility that Juan Del Olmo judge will have to face if he doesn't make up for the preventive closure of the Basque Language newspaper (EGUNKARIA) and if he doesn't take into account the Constitution and the Penal Code.

As far as the Observatory of Linguistic Rights is concerned, the shutting down of this newspaper is an extremely serious matter as it violates the rights of the whole Basque-Speaking community given the fact that *Euskaldunon Egunkaria* is the only newspaper written entirely in Basque.

The 10 March, Spanish Judge Juan del Olmo, from the Audiencia Nacional Court, decided on 10 of March to extend the provisional closure of Egunkaria. According to Del Olmo, the Egunkaria newspaper (and the related companies Egunkaria SA and Egunkaria Sortzen SL) will not be opened for at least another six months. In addition, their accounts will be blocked for the same period of time. Furthermore the three people sent to prison have still not been released.

The Spanish Judge should have held a hearing ten days ago but he took the mentioned decisions without holding the hearing and now that the hearing has taken place Del Olmo confirms all the measures taken the previous days aimed to kill the newspaper, without any change.

According to Del Olmo Judge, "Egunkaria newspaper has been created and supported by ETA which controls the management of the newspaper and so his director and executives may be considered as belonging to a terrorist organization". Some of the documentary evidence he provides are such as public and official information taken in shareholder's meeting in 1993.

Here there are some international pacts or covenants that Spanish Judge has violated

International Covenant on Civil and Political Rights (adopted on December, 1966 and entry into force March 1976)

ARTICLE 19:

1. *Everyone shall have the right to hold opinions without interference.*
2. *Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.*

-
3. *The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:*
 - (a) *For respect of the rights or reputations of others;*
 - (b) *For the protection of national security or of public order (ordre public), or of public health or morals.*

European Convention for the Protection of Human Rights and Fundamental Freedoms (Rome, November, 1950)

ARTICLE 10

1. *Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.*
2. *The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.*

Declaration on the Freedom of Expression and Information (Council of Europe, April, 1982)

3. The answer of the Basque society

There was an immediate public response to the shut down of *Egunkaria*. Since Thursday, there have been a great number of public statements against the closure and gestures of support for *Egunkaria* from a variety of sources: non-governmental organizations both from the Basque Country and elsewhere, trade unions, political parties, representatives of the Basque Autonomous Government, local corporations, etc. There have also been repeated daily gatherings and demonstrations in every corner of the Basque territory, the biggest by far being the demonstration in Donostia/San Sebastián on Saturday the 22nd.

On March 13th Basque society responded massively to the call for a day of solidarity with the newspaper "Egunkaria" - shut by Spanish Judge Juan del Olmo on February 20th last.

That is how the workers of the newspaper and Kontseilua, the Council of Social Organisations dealing with Euskara (the Basque language) evaluated the days events, after which they encouraged institutions and citizens' bodies to act in a unified manner in order to achieve the objective that there be " a new daily newspaper in the Basque language in newsagents as soon as possible".

Thousands upon thousands of citizens backed the hour's work stoppage, called by the trade unions that represent the majority of workers in Euskal Herria.

Between 11.30 and 12.30 people gathered outside companies, businesses and schools, as well as in the streets and squares of the principal Basque localities in support of "Egunkaria", and to denounce the attacks against the freedom of speech and Basque culture.

That evening, in the La Casilla pavillion, Bilbao, 6,000 people took part in a meeting organised by the trade unions.

Nowadays there are very different ways to denounce the shutting down of Egunkaria. For instance, some net users have created a new web (www.aurrera.net) that is aimed to give information about this fact, and about the ongoing attacks against the language and culture of the Basques to all the world.



Press Conference held by the Council of Social Organizations in Favour of Basque on February the 21st to carry out an evaluation of the shut down and arrests, and to announce the demonstration on Saturday the 22nd.



The demonstration on Saturday the 22nd in Donostia/San Sebastián.

4. Condemn and international supports

International Federation of journalists (IFJ)

21 February 2003

<http://www.ifj.org/publications/press/pr/030221spain.html>

Press Freedom is the Victim as Police Close Basque Language Daily

The closure of the Basque language newspaper Egunkaria because of alleged links to the separatist terror group ETA is a blow to press freedom in the Basque country of Spain said the International Federation of Journalists today.

The newspaper - the only Spanish daily in the Basque language - has vigorously denied tipping off the terrorist group about police movements which the Interior Ministry says are why 300 Civil Guard police arrested 10 people and closed the newspaper's offices in Andoain.

"When the only Basque language paper is closed like this it casts a shadow over press freedom within the Basque language community," said Aidan White, General Secretary of the IFJ, the world's largest journalists' group. "Journalists on all sides of the community are concerned about the implications for free journalism." A witness said the headquarters of the Basque language newspaper in Bilbao were sealed off with police tape. Witnesses at the newspaper office in Andoain said police were taking computers and other confiscated equipment out of the building. The closure is the latest action in a three-day police sweep in the region, which has led to multiple arrests across the northern Basque country. ETA, which has supporters in the area, is responsible for the deaths of more than 800 people in a bombing and shooting campaign since 1968 to back its demands for an independent Basque state.

The group's main media supporter, the newspaper Egin, was closed down in 1998 but a number of other sympathetic and pro-separatist publications have sprung up in its place. "Egunkaria is seen by many as more independent than other journals which are sympathetic to Basque radicals," said Aidan White, "at the same time there are concerns that this is an all-out assault on the Basque language, one of Europe's oldest."

The IFJ represents more than 500,000 journalists in more than 100 countries

Reporters Without Borders

20 February 2003

http://www.rsf.fr/article.php3?id_article=4998

Explanation demanded for closure of Basque newspaper

Reporters Without Borders protested against the closure today of the Basque-language daily Euskaldunon Egunkaria and the arrest of 10 of its journalists and contributors on suspicion of "belonging to or working with the ETA terrorist organisation."

"The necessary and legitimate fight against terrorism must respect the principle of press freedom, which is at the core of any democracy," said Reporters Without Borders secretary-general Robert Ménard in a letter to Spanish justice minister José-Maria Michavila.

"It is hardly the moment to close a newspaper when the courts have not yet ruled on the charges against its arrested journalists. We ask you to explain your decision, which seems hasty in the absence of clear evidence to back up what they are accused of."

A national judge ordered the arrest of the paper's senior staff, including publisher Martxelo Otamendi, and members of its board in Lezo, Bilbao, Andoain, Vitoria and Pamplona. Some branch offices were raided and material seized and those in Andoain, Pamplona and Bilbao were placed under seals.

The Basque separatist daily Egin and the radio station Egin-Irratia were temporarily closed in July 1998 on the orders of Judge Baltasar Garzon as part of a crackdown on ETA funding sources.

Amnesty International

25 February 2003

<http://www.amnesty.org>

Closure of Basque newspaper must be investigated promptly

Amnesty International today called on the Spanish authorities to act promptly to clarify and substantiate the grounds on which a Basque-language newspaper was shut down, and a number of persons arrested.

On 20 February a National Court judge ordered the precautionary closure of the Basque newspaper *Euskaldunon Egunkaria* - the only newspaper written entirely in the Basque language - and the arrest of 10 persons associated with the newspaper. These included the Jesuit priest, Padre Txema Auzmendi, S.J, and one of the directors, Peio Zubiria, who yesterday reportedly attempted suicide. All were arrested, held incommunicado under the anti-terrorist legislation and taken to the National Court in Madrid.

The judge justified the closure and arrests in a decision in which he stated that the company which published *Egunkaria* was created, financed and directed by the Basque armed group *Euskadi Ta Askatasuna* (ETA). The newspaper, which was founded in 1990, allegedly contributed to a Basque-language information structure which facilitated the dissemination of "terrorist" ideology. As yet, the concrete basis for the decision has not been made clear.

The Basque Government, which has reportedly subsidised *Egunkaria* for a number of years, requested urgent clarification of the basis for the closure and arrests. In a separate statement, the Company of Jesus expressed concern about the arrest of Padre Auzmendi, "publicly recognized for his clear opposition to violence" and defence of the "marginalized" and vulnerable.

The precautionary closure of *Egunkaria* follows the unrelated case of the closure of the Basque newspaper *Egin* by a National Court judge in 1998. *Egin* was suspected of printing coded messages to ETA and of being an instrument of "terrorism". The closure order was lifted a year later but a trial hearing has still not taken place.

Amnesty International, which only 10 days ago, again expressed its unreserved condemnation of the human rights abuses committed by ETA, recognizes the responsibility of the judiciary to take any

appropriate measures essential to the protection of life and integrity.

"However, an action as serious as the closure of a newspaper, and the arrest of those involved in its production - has clearly injurious consequences for the fundamental right to freedom of expression", Amnesty International warned. "It is, therefore, imperative that any judicial investigation is prompt and thorough".

International PEN

7 March 2003

(WiPC/IFEX) - The WiPC of International PEN is seriously concerned about the continued detention of six Basque writers and journalists under anti-terrorism legislation, with reports that they have been ill-treated adding to the organisation's fears. The arrests of ten writers and journalists (four of whom were subsequently freed on bail) and the forced closure of the Basque daily "Euskaldunon Egunkaria" on 20 February 2003, has been widely condemned both within Spain and internationally. International PEN joins calls for clarification of the reasons for the closure of the newspaper and the detentions, as well as a full and impartial investigation into allegations that the detainees have been subject to torture

MIDAS (Minority Dailies Association)

27 March 2003

Toni Ebner, President, and Gunther Rautz, General Secretary, have meet with European parliamentaries to let them know the injustice created by shutting down the only newspaper in Basque language.