

YEARBOOK OF INTERNATIONAL HUMANITARIAN LAW — VOLUME 16, 2013
CORRESPONDENTS' REPORTS

SPAIN¹

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Cases — Genocide in Tibet

- National Court. Central Investigating Court No. 2. Order of 11 June 2013
- National Court. Central Investigating Court No. 2. Order of 3 April 2013
- National Court. Criminal Chamber. Fourth Section. Order of 9 October 2013.
Proceedings 2/2008. Appeal No. 246/2013. Central Investigating Court No. 2
- National Court. Criminal Chamber. Fourth Section. Order of 18 November 2013.
Proceedings 63/2008. Appeal No. 270/2013. Central Investigating Court No. 2

Since January 2006, the Judge presiding over the Central Examining Magistrates' Court No. 2, Ismael Moreno, has had a case open against former Chinese president, Jiang Zemin, another six Communist leaders in Tibet and the Chinese government for the genocide allegedly committed in Tibet since 1950.²

On 30 March 2011, the Judge of the National Court, Ismael Moreno, agreed to extend the lawsuit and characterise the facts as alleged war crimes.³

¹ Information and commentaries by Antoni Pigrau, Professor of Public International Law at *Rovira i Virgili University*, Tarragona, Spain.

² See 9 *YIHL* (2006) p. 565.

³ See 14 *YIHL* (2011)

<http://www.asser.nl/default.aspx?site_id=28&level1=14489&level2=14524&level3=15347&textid=4037>.

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On 3 April 2013, the Judge refused the application to issue arrest warrants for the defendants on the grounds that there was insufficient evidence of their involvement in the alleged events. The plaintiffs appealed.

Meanwhile, the plaintiffs had applied to add the former President of the People's Republic of China, Hu Jintao as a defendant. He stepped down from the position of President on 15 March 2013, and arguably therefore lost his immunity on that date. However, on 11 June 2013, Judge Eloy Velasco, supported by the prosecutor, rejected the extension of the action against the former Chinese president until 15 March, on the grounds that there was no evidence connecting Hu Jintao with the alleged crimes, and that in any case it would fall under the jurisdiction of the courts of China. The plaintiffs filed an appeal, which was heard on 29 July 2013, alleging a breach of judicial protection and insisting that before taking the office of President, between 1988 and 1992 Hu Jintao was the secretary of the Committee of the Chinese Communist Party in the Autonomous Region of Tibet, which established the necessary nexus to the alleged crimes.

In its Order of 9 October 2013, the Fourth Section of the Criminal Chamber of the Spanish High Court found in favour of the plaintiffs, and charged the former Chinese President Hu Jintao with genocide.

The Judges took into account the campaign of repression against the region of Tibet that has taken place since 1988, which included measures 'imposing martial law, carrying out forced displacements, mass sterilization campaigns, torture of dissidents and mandatory transfers of Chinese populations to dominate and gradually eliminate the indigenous population of the Tibetan nation.'

According to the appellants:

Hu Jintao held the post of Committee Secretary of the Chinese Communist Party in the Tibet Autonomous region during the various campaigns of repression in Tibet that took place between 1988 and 1992, which necessarily implied if not a direct involvement in the persecution of the Tibetan people and nation, the organic jurisdiction and capacity to conduct a series of actions and campaigns aimed at persecuting the Tibetan population.

Hu Jintao was in fact the highest authority in the region during this period, in both the Party and the government.

The three Judges of the Appeals Chamber rejected the Prosecutor's two arguments. First, they held that there was a Spanish connection because one of the victims and plaintiffs held Spanish nationality (Thubten Wangchen, the Director of the Casa del Tibet Foundation in Barcelona). Second, and against the argument concerning the primary jurisdiction of the Chinese courts, the Chamber found that 'while acknowledging that the jurisdiction of this court is residual, there is no record of the Chinese authorities having begun any investigation into the events that were the subject of the initial action.'

The Chamber therefore upheld the appeal, revoked the order of Central Examining Magistrate's Court No. 2, and added Hu Jintao as a defendant.

Moreover, by an Order of 18 November 2013, the same Chamber issued a ruling on the appeal filed against the order which rejected the issue of arrest warrants for the defendants.⁴ In the Chamber's opinion, evidence from witnesses, specialist experts and documentary evidence examined by the Examining Magistrate to date

⁴ These defendants are Jiang Zemin, former President of China and Secretary of the Communist Party of China; Li Peng, the former Premier of China; Qiao Shi, the Head of Chinese security and the head of the People's Armed Police; Chen Kuiyam, Party Secretary in Tibet between 1992 and 2001; and Pelyun Peng, former Minister of Family Planning.

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rationality and prima facie point to the existence of evidence of participation by the individuals mentioned in the events covered by the action, given the political or military responsibility of each of them during the long period covered by the events under investigation.

It therefore considered it necessary to issue international arrest warrants, accept the appeal and overturn the contested Order.

Since the beginning of this process, the Chinese government has expressed its outright opposition to Spain's exercise of universal jurisdiction in this matter, as it considers it to be an interference in its internal affairs. Indeed, this position, together with the same stance by Israel and the United States, was one of the causes of Organic Law 1/2009, which restricts the scope of universal jurisdiction in Spain.⁵ This opposition has been revived with the decisions of the Spanish High Court and the subsequent decision by Judge Eloy Velasco on 18 November 2013 to issue letters rogatory to the Chinese authorities in order to notify them of the action against Hu Jintao and for them to take a statement from him. Despite the formal separation of powers in Spain, China's protests have led the government to announce a new proposal for the reform of universal jurisdiction in Spain, which will take place in 2014, and could lead to the *de facto* disappearance of a means of criminal prosecution.

Cases — Oswaldo Payá Case in Cuba

- National Court. Central Investigating Court No. 6. Preliminary Proceedings 92/2013. Order of 23 September 2013

This case is related to the death of Oswaldo Payá Sardiñas, the activist and leader of the political opposition to the Cuban government and winner of the European Parliament's Andrei Sakharov Prize for Human Rights in 2002, in a traffic accident.

The accident, in which the dissident Harold Cepero was also killed, occurred on 22 July 2012. On 12 October 2012, the Spaniard Ángel Carromero, leader of the *Nuevas Generaciones* youth organization of the Spanish People's Party (PP) of Madrid, was found guilty of manslaughter for the two deaths for driving the car involved in the accident. The Spanish politician had been repeatedly fined for traffic violations in Spain, and his Spanish driving license had been withdrawn. The widow and daughter of Oswaldo Payá filed an action in Spain for crimes against humanity, consisting of two counts of murder, claiming that the accident had been caused by a vehicle belonging to the Cuban government.

The Spanish Prosecutor's Report recommended dismissal of the action because the version of events given by the plaintiff differed radically from the version declared in the judgment of the People's Provincial Court of Granma, Cuba, which sentenced Carromero to four years in prison for manslaughter 'after the guilty party acknowledged losing control of the vehicle as a result of not paying due attention to traffic signals.' It also mentioned the fact that the offender had been serving his sentence in Spain since 29 December 2012 (although he has been serving his sentence under house arrest since February 2013, and has regained his job as a consultant for Madrid City Council), which is an explicit acknowledgement of the sentence imposed in Cuba. The Prosecutor also believed it would be impossible to fit the events within the definition of crimes against humanity as contained in the Spanish Penal Code. Finally, taking into account the principle of subsidiarity of universal jurisdiction, and the fact that the case had already been tried in Cuba, the Prosecutor believed that initiating

⁵ See 12 *YIHL* (2009) pp. 628–632.

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criminal proceedings would be 'contrary to the general principles governing international criminal law.'

Based on these arguments, the Judge decided to dismiss the action due to a lack of jurisdiction and based his decision on two grounds: (1) the allegations did not constitute grounds for the exercise of universal jurisdiction by virtue of Article 23.4 of *Organic Law of the Judiciary of 1985*, since the alleged events did not fall within the penal category of crimes against humanity; and (2) it would be legally inconsistent with the recognition of the sentence and the transfer of the convicted party to Spain for the execution of his sentence, in accordance with the 1998 *Bilateral Treaty on the Execution of Criminal Sanctions* in force between Spain and Cuba.

Cases — The Carmelo Soria Case

This case concerned the kidnapping, torture and murder of Carmelo Soria Espinoza, a Spanish citizen, by agents of the Department of National Intelligence (DINA), the secret police of Augusto Pinochet's dictatorship, on 14 July 1976. At the time of the alleged offences, the victim was working in Chile as a diplomat for the United Nations at the ECLAC (Economic Commission for Latin America).

At the request of the victim's relatives, the magistrate Pablo Ruz prosecuted seven agents of the DINA for the crimes of genocide and murder, and issued international arrest warrants for their imprisonment.⁶ The Examining Magistrate asked the Chilean Supreme Court for information on the legal situation of the former head of the dissolved organization DINA, General (r) Manuel Contreras Sepulveda, and five former agents.

At the same time as this request, the Minister of the Supreme Court of Chile, Lamberto Cisternas, acting as the examining magistrate in the case of the murder of Soria Espinoza, decided to reopen proceedings on 21 January 2013. The case had been finally dismissed in 1996 under the amnesty regulations, and specifically Decree Law 2.191 of 1978.⁷

Meanwhile, on 15 February 2013, the Spanish government approved the Chilean government's application for the extradition of six former officers of DINA who are accused of genocide, murder and illegal detention as alleged perpetrators of the 1976 murder of the Spanish diplomat Carmelo Soria. The accused are Guillermo Humberto Salinas Torres, José Remigio Ríos San Martín, René Patricio Quiholt Palma, Jaime Enrique Lepe Orellana, Pablo Fernando Belmar Labbé and Manuel Contreras Sepulveda, who was also the leader of the organization.

In June 2013, the Chilean Prosecutor's Office reopened the investigation and has said that it is not in favour of granting the extradition on the basis of the on-going investigation in the Soria case as well as because several of the individuals sought have already been convicted of human rights violations in Chile and cannot be handed over until they have served the sentences imposed (e.g. the former director of the DINA has been sentenced to 150 years' imprisonment for acts considered crimes against humanity).

Cases — Investigation in Argentina into the Crimes of the Francoist Dictatorship in Spain

On 14 April 2010, an action was filed in the courts of Argentina in support of opening an investigation into the crimes committed during the Francoist dictatorship in Spain between

⁶ See 15 *YIHL* (2012) <<http://www.asser.nl/upload/documents/20130621T013656-Spain%20YIHL%2015%202012.pdf>>.

⁷ *Official Gazette* (19 April 1978).

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1936 and 1977, which would identify those responsible and lead to their prosecution. The action was filed in the Federal Court for Criminal and Correctional Cases No. 1, Buenos Aires, Argentina, presided by Judge Maria Servini de Cubría. Action 4591/2010 has been titled 'N.N. for genocide and/or crimes against humanity committed in Spain by the Franco dictatorship between 17 July, 1936, when the civilian-military coup began, and 15 June, 1977, when the first democratic elections were held.' Other actions were subsequently added, including the one concerning the murders of then-President of the Government of Catalonia and 47 other Republican elected officials.

In its ruling of 5 May 2010, the Court dismissed the action as it considered a criminal prosecution by the Argentine Prosecutor essential to initiate the proceedings and this had not occurred. In fact, the Prosecutor had opposed the admission of the action. However, on 3 September 2010, on appeal, the Second National Chamber of the Federal Criminal and Correctional Court of Appeals issued a ruling in which it considered the presence of the plaintiffs in the process to be sufficient. The Court also claimed the right to effective judicial protection, and overruled the Judge's decision to dismiss the case.

When asked by the Argentinian Judge whether Spain was investigating the events, the Spanish State Prosecutor responded with two main arguments, which are contained in a report dated 22 March 2012. As regards the investigation of the repression by the dictatorship between 1936 and 1977, the Office of the Prosecutor disagreed with the opening of an overall investigation, although it also stated that the investigations carried out at the time, both adopting an overall approach and in relation to particular cases, concluded that the individuals allegedly involved had died, which would have ended their criminal liability. Furthermore, the Office of the Prosecutor stated that the events relating to individual victims that led to the opening of the case in Argentina had not been subject to any action in the Spanish courts with jurisdiction. It should be noted that even if the actions were brought before a Court with jurisdiction, the cases would nevertheless be dismissed in Spain on the basis of the *Amnesty Act of 1977*.

In 2012, an application for extradition was received from Argentina, which covered four people namely Juan Antonio González Pacheco, Jesús Muñecas Aguilar, Celso Galván Abascal and José Ignacio Jiralte González. The Central Examining Magistrate's Court No. 5 of the Spanish High Court dismissed the claim regarding the latter two individuals due to their deaths. On 29 November 2013, the Council of Ministers agreed to continue the process of extradition in respect of the other two Spaniards sought by that country's judicial authorities for the crime of torture which they are alleged to have committed during the final years of the Franco regime. Juan Antonio González Pacheco is sought for the crime of torture, which he allegedly committed against thirteen detainees between 1971 and 1975. The lawsuit against Muñecas Aguilar is also based on crime of torture, and in particular, the acts he allegedly committed against Andoni Arrizabalaga during the time he was under arrest in the Civil Guard barracks at Zarautz in the Basque Country.

Treaty Action — Financing of Terrorism

- Spanish Objection to the Reservation by Namibia to the *International Convention for the Suppression of the Financing of Terrorism*, 2178 UNTS 197 (entered into force 10 April 2002)

On 18 October 2013, the Council of Ministers approved an agreement stating Spain's objection to the reservation made by Namibia to the *International Convention for the*

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Suppression of the Financing of Terrorism, which has been in force for Spain since 9 May 2002. The objection was notified to the depositary of the Treaty on the same day.

On 18 October 2012, upon ratification of the Treaty, Namibia formulated the following reservation:

That a struggle waged by people in accordance with the principles of international law for their liberation or self-determination, including armed struggle against colonialism, occupation, aggression and domination by foreign forces, shall not be considered as terrorist acts.

In response, the Spanish government made the following objection:

With regard to the reservation made by Namibia upon ratification:

The Kingdom of Spain has examined the reservation made by the Republic of Namibia at the time of expression of consent to the International Convention for the Suppression of the Financing of Terrorism (New York, 9 December 1999).

The Kingdom of Spain considers the aforesaid reservation to be contrary to the object and purpose of the Convention, and also contrary to article 6 thereof, whereby States parties undertake to adopt such measures as may be necessary, including, where appropriate, domestic legislation, to ensure that criminal acts within the scope of the Convention are under no circumstances justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature.

The Kingdom of Spain recalls that, under the customary-law provision enshrined in article 19 (c) of the 1969 Vienna Convention on the Law of Treaties, reservations that are incompatible with the object and purpose of an international treaty are not permitted.

The Kingdom of Spain therefore objects to the reservation formulated by Namibia. This objection shall not preclude the entry into force of the Convention between the Kingdom of Spain and Namibia.

Treaty Action — Arms Trade

☛ Spanish Signature of the *Arms Trade Treaty*, 2178 UNTS 197 (Not yet in force)

On 31 May 2013, the Spanish government authorized the signing and provisional application of the *Arms Trade Treaty*, which was subsequently signed at the United Nations headquarters in New York on 3 June 2013.

The text of the Treaty is the result of negotiations that have taken place over the last six years, and which concluded at the Final UN Conference on the Arms Trade, which took place from 18 – 28 March, and was adopted at the General Assembly on 2 April 2013 by means of a resolution co-sponsored by more than ninety countries, including Spain.

The government's justification for the agreement includes the following:

Article 6 of the Treaty refers to the prohibition of exports of weapons, parts and components and ammunition, under certain circumstances, even when there is a United Nations embargo and these weapons may be liable to be used for committing acts of genocide, crimes against humanity, serious breaches of the Geneva Conventions and war crimes.

Furthermore, Article 7, concerning exportation and assessment of exports, defines the objective assessments that must be made prior to the authorization of exports, which could facilitate the violation of international humanitarian law and international human rights law, acts of terrorism, and organized crime.

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Spain will provisionally apply the provisions of both articles while the Treaty has yet to enter into force, as its content is covered by the Law on foreign trade in defence and dual use material of 28 December, 2007, and several European Union decisions.

Subsequently, on 5 December 2013, the Council of Ministers agreed to refer the Treaty to the Spanish parliament in order to obtain the requisite prior approval for ratification. The agreement states that the Spanish system for the control of arms exports already complies with the provisions of the Treaty, and as such no amendments will be necessary to the Spanish legislation regulating this area, which is based primarily on the *Law on Foreign Trade in Defence and Dual Use Material of 28 December 2007*, and its implementing regulation.

Treaty Action — Terrorism

- Spanish Signature of the *Protocol amending the European Convention on the Suppression of Terrorism* of 2 April 2013, CETS No. 190 (Not yet in force)

On 8 November 2013, the Spanish government adopted an Agreement to refer the necessary authorization for the ratification of the Protocol amending the *European Convention on the Suppression of Terrorism of 15 May 2003* to the Spanish Parliament for approval. Spain signed the Protocol on 9 October 2003.

The Protocol aims to improve the *European Convention on the Suppression of Terrorism*. The text expands the list of crimes in respect of which the requested State may not refuse to extradite by alleging that the action is political. This prohibition extends to attempts, complicity and conspiracy to commit crimes. The Protocol also attempts to simplify extradition and international cooperation in criminal justice.

Cases — Extradition to Kazakhstan

- Case of Alexandr Pavlov

On 25 January 2013, the Council of Ministers decided to continue the extradition proceedings for the Russian / Kazakh dual citizen, Alexandr Pavlov to Kazakhstan, for inchoate terrorist offences and fraud. Among other crimes, he is accused of providing funding and recruiting those responsible for committing an attack in a public park in the city of Alma Ata (Kazakhstan) on 24 March 2012.

In an order of 19 April, the Second Section of the Criminal Division of the Spanish High Court denied the application due to insufficient documentation, as the translations provided by the Kazakh authorities were unintelligible for the purposes of proper legal classification. Following the receipt of new documentation, in which the Kazakh authorities remedied the formal shortcomings noted by the High Court, on 17 May 2013, the government agreed to continue the extradition proceedings.

Cases — Extradition to Argentina

- Cases of Beatriz María Arenaza and Daniel Alejandro Ullúa

On 15 February 2013, the Council of Ministers agreed to continue the proceedings for extradition to Argentina of Beatriz María Arenaza and Daniel Alejandro Ullúa. They are accused of the crime of unlawful association due to their membership of the extreme right-wing organization *Concentración Nacional Universitaria (CNU)* during the years of the dictatorship in Argentina. This organization operated between 1975 and 1976 at the

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university of Mar del Plata (Argentina), and was responsible for carrying out various criminal acts against opponents of the regime, including murder, kidnapping, robbery with violence, falsifications of vehicle license plates and public documents, as well as coercion and intimidation. In their application, the Argentine authorities argued that the relevant actions could be described as crimes against humanity, and therefore were not subject to prescription. Consequently, they have applied for an international arrest warrant.

Both individuals are currently in Madrid, having been released on bail by the Spanish High Court.

☛ González Pacheco and Jesús Muñecas Aguilar

As noted above,⁸ on 29 November 2013, the Council of Ministers agreed to continue the process of extradition for González Pacheco and Jesús Muñecas Aguilar.

Cases — Extradition to Turkey

☛ Case of Veysi Elhaman

On 22 February 2013, the Council of Ministers decided to continue the extradition proceedings requested by Turkish authorities in respect of the Turkish national Veysi Elhaman, a member of Hezbollah, for offenses of unlawful association as a result of his membership of a terrorist organization, and assault. Elhaman, who was arrested in Melilla last January, is suspected of having ordered another person to attack a member of the Turkish National Assembly.

Cases — Extradition to Serbia

☛ Case of Vladimir Milisavljevic

On March 15 2013, the Council of Ministers approved the extradition of Vladimir Milisavljevic to Serbia for the completion of the sentence imposed on him for the assassination of the Serbian Prime Minister Zoran Djindjic in 2003.

Milisavljevic has also been convicted of four murders, causing serious injury to another person, actively participating in the murder of eight others, participating in five kidnappings, the bombing of a business, and launching two explosive devices against the headquarters of the Serbian Democratic Party, in events which took place in Belgrade between early 2000 and early 2003.

The defendant was arrested in Valencia on 10 February 2012, along with Sinisa Petric and Luka Bojovic, who are both members of the 'Zemun Clan,' the origins of which date back to the Serbian paramilitary group known as 'Arkan's Tigers,' and which is thought to be responsible for the murder of the Serbian Prime Minister Zoran Djindjic.

At its meeting on 30 March 2012, the Council of Ministers agreed to continue judicial proceedings, and in its order of 20 December, 2012, the Third Criminal Section of the Spanish High Court agreed to the extradition. That order was declared binding on 31 January 2013, subject to dismissal of the appeal filed.

The person sought is currently remanded in custody due to these proceedings, and is subject to outstanding criminal proceedings in Spain for crimes of unlawful association,

⁸ See Comment on *Cases — Investigation in Argentina into the Crimes of the Francoist Dictatorship in Spain* in this *YIHL* Report.

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murder, extortion and storage of weapons. Although the Council of Ministers has authorized his extradition, he will not be returned until his outstanding prosecutions in Spain have been resolved.

☛ Case of Luka Bojovic

On 12 July 2013, the Council of Ministers decided to extradite the Serbian national Luka Bojovic to Serbian authorities for the crimes of murder, membership of a criminal organization, possession, trafficking and stockpiling of weapons and two counts of forgery of a public document, related to his membership of organized criminal groups.

Serbia also applied for an extension of the first application for extradition in order to execute the sentence issued by a court in Belgrade, which sentenced Luka Bojovic *in absentia* to eight months' imprisonment for committing the crime of falsification of personal identity documents.

Bojovic is considered the leader of the mafia group that was behind the assassination of Serbian Prime Minister and is accused of being a member of the group known as the Zemun Clan, which originated in the Serbian paramilitary group *Arkan's Tigers*.

Luka Bojovic has been remanded in custody by order of the Central Examining Magistrate's Court No. 4 of the Spanish High Court since his arrest in Valencia on 10 February 2012.

Cases — Extradition to the United States

☛ Case of Jesús Gonzalo Palazuelos Soto

On 28 June 2013, the Council of Ministers agreed to extradite the Mexican national Jesús Gonzalo Palazuelos Soto, who is sought for offences against public health and membership of a criminal organization, to the United States. Palazuelos, considered a member of the Sinaloa cartel, was arrested in Madrid and has been in prison since 9 August 2012. He is sought by US authorities for distribution of or possession with intent to distribute cocaine. He is accused of being the person responsible for overseeing the delivery of 346 kilograms of cocaine hidden in a merchant ship from Brazil, which reached the port of Algeciras (Cádiz) on 27 July 2012. The final destination of the cargo would have been various European countries and the US.

Cases — Extradition to Peru

☛ Cases of Víctor Hugo Perales Miranda and María Hilda Pérez Zamora

On 19 July 2013, the Council of Ministers authorized the continuation of proceedings for the extradition of the Peruvian citizens, Víctor Hugo Perales Miranda and María Hilda Pérez Zamora, to Peru for their alleged links with the terrorist group Shining Path.

Víctor Hugo Perales Miranda is sought by Peruvian authorities for the alleged offence of the membership of a terrorist organization due to being suspected of carrying out several acts of propaganda in support of the terrorist organization, Shining Path, between 1990 and 1994 at the National University of San Marcos in Lima (Peru).

María Hilda Pérez Zamora was arrested in Madrid on 9 May 2011 in response to the request for extradition. The following day, the Central Examining Magistrate's Court No. 1 of the Spanish High Court ordered her release on bail and she currently remains on bail. The Peruvian authorities are requesting her extradition for an offence against public order and

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terrorism, on suspicion of having participated as an active member of the terrorist group, Shunning Path, in various violent attacks in different towns in northern Peru between 24 December 1989 and 26 December 1992.

Cases — Extradition to Morocco

• Case of Mohammed El Bali

On 25 October 2013, the Council of Ministers approved the continuation of the extradition proceedings requested by Morocco for Moroccan citizen, Mohammed El Bali for alleged crimes of unlawful association, membership of a terrorist organization and terrorism. Moroccan authorities accuse El Bali, who has been remanded in custody in Melilla since 4 September 2013, of creating an organisation to prepare and commit terrorist attacks and robberies. On 29 November 2013, the Council of Ministers agreed to extradite Mohammed El Bali to Morocco.

Cases — Extradition to Chile

• Cases of Guillermo Humberto Salinas Torres, José Remigio Ríos San Martín, René Patricio Quiholt Palma, Jaime Enrique Lepe Orellana, Pablo Fernando Belmar Labbé and Manuel Contreras Sepúlveda

See Comment on *Cases — The Carmelo Soria Case* in this *YIHL* Report.

Cases — Extradition to Spain

Spanish authorities have applied for the extradition of various individuals to prosecute them in Spain. With respect to the applications for extradition from judicial bodies, the executive acts as an intermediary between States because, according to the Ruling by the Supreme Court of 31 May 2005, State administrations are not competent to handle active extradition requests.

Cases — Extradition from France

• Case of Ignacio Bilbao Beascoechea

On 25 October 2013, the Council of Ministers approved a request to France for the extradition of Ignacio Bilbao Beascoechea for alleged crimes of terrorist-related murder and two counts of terrorist-related attempted murder. The defendant is a member of the terrorist organization ETA, and in 1992 he was responsible for the reorganization of its leadership. He is currently serving a sentence in the penitentiary at Zuera (Zaragoza).

The request for the extradition of Bilbao Beascoechea for these crimes was made to the French authorities in September 1996, but at that time the Bordeaux Court of Appeal ruled against the application on the grounds that the alleged crimes would have been prescribed under French law.

At the request of Central Examining Magistrate's Court No. 1 of the Spanish High Court, the government has presented a new application based on the same events, based on the *Dublin Convention of 1996*, which states that 'extradition may not be refused on the ground that the prosecution or punishment is statute-barred under the law of the requested Member State.'

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Cases — Extradition from Venezuela

• Case of Asier Guridi Zalaña

On 31 October 2013, the Council of Ministers approved the continuation of two procedures for application to the Venezuelan authorities for the extradition of the ETA member Asier Guridi Zalaña, alias 'Gari', for alleged crimes of arson, destruction and damage, as well as possession of terrorist devices. The person sought is in Venezuela, where he was arrested with false documents on 20 September 2012.

The first application for extradition is from the Central Examining Magistrates' Court Number 1 for trial in Spain for the crimes of membership of a terrorist organization, five counts of terrorism, five similar counts and one count of possession of devices for the same purpose. The allegations underlying the request for extradition date back to 3 December 2004, when five attacks took place in Madrid, causing damage to property and individuals.

The second application comes from the Criminal Chamber of the Spanish High Court and requests extradition for the execution of a sentence that was imposed due to accused's responsibility for arson, destruction and damage as a result of various attacks committed between 1997 and 1991 against banks and businesses.

Government Policy — Amendment of the Law for the Total Prohibition on Anti-Personnel Mines and Similar Weapons

On 7 June 2013, the Council of Ministers received a report on the Draft Law amending Law 33/1998 of 5 October 1998 on the total prohibition of anti-personnel mines and similar weapons, and on 13 September 2013, the Council of Ministers approved the submission to parliament (Cortes Generales) of the Draft Law Amending Law 33/1998 of 5 October, on the total prohibition of anti-personnel mines and similar weapons.⁹

The aim of the reform is to include the new commitments made by Spain when adopting the *Convention on Cluster Munitions* (Dublin, 2008) and *Protocol V on Explosive Remnants of War of the Convention on Certain Conventional Weapons* (Geneva, 2003). The amendment affect virtually all of the 1998 Law, as it aims to update all its articles and include references to cluster munitions and explosive remnants of war. Spain destroyed the cluster munitions in the possession of the country's armed forces prior to the entry into force of the Convention, and as such this obligation has been fulfilled.

The Bill refers to Spain's financial support for humanitarian aid programmes and projects within the framework of international campaigns for the removal of explosive remnants of war and assistance for victims. The changes in the text also refer to the title of the Law, which will be entitled 'for a total ban on anti-personnel mines, cluster munitions and weapons of similar effect.' Other amendments include the definitions relating to cluster munitions, and the total prohibition of the use, stockpiling, production and transfer of this type of ammunition and the destruction of stockpiles. The retention of a minimum amount of cluster munitions is approved for the development of techniques for detection, clearance and destruction, and aid commitments from Spain to third countries affected by contamination by cluster munition and/or ERW debris are extended.

⁹ Congreso de los Diputados, *Boletín Oficial de las Cortes Generales* (20 September 2013) <www.congreso.es/public_oficiales/L10/CONG/BOCG/A/BOCG-10-A-61-1.PDF>.

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Government Policy — The Regulation of the Law for Protection of Victims of Terrorism is Adopted

On 6 September 2013, the Council of Ministers approved the Royal Decree amending Regulation of the Law for Comprehensive Recognition and Protection for Victims of Terrorism. It was officially published as 'Royal Decree 671/2013 of 6 September, approving the Regulation of Law 29/2011 of 22 September, for the Recognition and Comprehensive Protection of Victims of Terrorism'¹⁰.

According to the Spanish government, the main points are:

- It incorporates the main arguments the various victims' associations.
- Compensation for damage to property is increased, the quantitative limit of psychological aid is increased, and the regulation of educational and psycho-educational support is improved.
- For the first time, those receiving threats from terrorists will receive aid, and are entitled to do so retroactively as a result of threats received since 1 January 1960.
- As a 'one-stop shop', the Ministry of the Interior will be responsible for the administration of all the aid in order to facilitate application procedures for the victims.
- Victims will be given a deadline of one year to apply for the difference between the compensation initially received for attacks committed since 1 January 1960 and the amount established by law, to apply for compensation for those who have not received aid, and those who may be victims of terrorism in the future.

Government Policy — Resettlement of Syrian Refugees in Spain

On 13 December 2013, the Council of Ministers approved the Refugee Resettlement Programme in Spain, which had been foreseen in the Law regulating the right to asylum and subsidiary protection of 30 October 2009.

In March 2012, the Joint European Union Resettlement Programme was adopted, which includes the common framework for the implementation of national resettlement programmes by the Member States, with financial support from the European Union through the European Refugee Fund.

This programme is a response to the call by the United Nations High Commissioner for Refugees to the Member States of the European Union on the occasion of the meeting of Justice and Home Affairs Ministers in Vilnius (Lithuania), in July 2013, in which the High Commissioner called for the resettlement of two thousand refugees from the Syrian conflict, and especially those who are most vulnerable.

By approving the Refugee Resettlement Programme, Spain will provide shelter for one hundred refugees from the Syrian conflict who are now in neighbouring countries in the region. In addition to this figure, Spain had already agreed to accept 30 other refugees in the previous resettlement programme (2012).

After discussion at the Interministerial Commission for Asylum and Refuge, the refugees admitted to Spain under the terms of the Programme will have the legal status of either refugee or beneficiary of subsidiary protection (no return to their country of origin,

¹⁰ OSB No. 224 (18 September 2013).

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permanent residency and employment permit, and issuance of identity and travel documents). The economic cost of resettlement is estimated at about two million euros.

Government Policy — Extension of the Participation of Spanish Military Units Abroad

On 27 December 2013, the Council of Ministers approved an Agreement extending the participation of the Spanish Armed Forces in the following operations outside Spanish national territory until 31 December 2014, with the following maximum number of troops:

- EUFOR / ALTHEA (Bosnia-Herzegovina): 25.
- ATALANTA (Somali Basin): 395.
- Operation Ocean Shield (Somali Basin): 230.
- EUTM/Somalia (Uganda / Somalia): 38.
- ISAF (Afghanistan): 500 from the Armed Forces and 40 from the Civil Guard.
- UNIFIL (Lebanon): 720.
- EUTM Mali (Mali): 110.
- Operation A/M (Senegal): 50.
- Operation in Central African Republic: 60

In addition, the participation of naval units in the Standing Naval Forces of NATO and, where appropriate, in Operation 'Active Endeavour' is also authorized for 2014, under the same conditions as in previous years.

The government has also approved Spanish assignment to the following European Union Battlegroups:

- The European Union Battlegroup. Second Semester of 2014, based on the Spanish-Italian Amphibious Force led by Spain with participation by Italy, Portugal and Greece.
- The European Union Battlegroup. Second Semester of 2014, led by Belgium with participation by Spain, Germany, Holland, Luxembourg and the former Yugoslav Republic of Macedonia.

Finally, at the request of the Ministry of Foreign Affairs and Cooperation, the government extended the authorization of the deployment of up to fifty military observers/monitors, military liaison officers and military advisers until 31 December 2014. This approval was made in order to contribute to specific missions for humanitarian aid, peacekeeping and crisis management carried out by the international organizations to which Spain belongs.

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