

THE CLOSING OF THE NEWSPAPER EGIN

The newspaper EGIN, the “fourth front” of the terrorist organisation ETA

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Summary:

The closure of the newspaper EGIN was the outcome of the judicial investigation 18/98 conducted against the financial structure of ETA. It was initiated ten years ago by judge Baltasar Garzón and revealed the complexity of the internal structure of ETA, not limited to a clandestine military force ordering and executing terrorist attacks and murders, but which also comprised other areas specialised in political and financial activities, international relations, youth activities, prisoner support, amnesty campaigns, sport activities, civil disobedience, and business and journalistic activities. The Spanish High Court judgement of 19th December 2007 proves that the newspaper EGIN was an instrument of ETA's media front and that the newspaper's publishing company was part of the terrorist organisation's financial structure.

Judicial Investigation 18/98 and the Judgement issued by the Spanish High Court (*Audiencia Nacional*) on 19th December 2007.

The decision issued by the Third Section of the Criminal Division of the Spanish High Court (*Audiencia Nacional*) on 19th December 2007, whereby 47 offenders were sentenced to 521 years of prison for affiliation or collaboration with an armed group, and whereby the organisations KAS, EKIN and XAKI were declared illegal due to their relationship with ETA, originated in judicial investigation 18/98, conducted by judge Baltasar Garzón.

The 1,184-page decision of the Spanish High Court is based on a 600-volume judicial investigation initiated in 1998 and a 14-month-long oral procedure. The closing of the newspaper EGIN and the criminal sentence imposed on its former executives have been presented as an attack against the freedom of expression, as an attempt to criminalize ideas. As on previous occasions, Basque nationalists have tried to undermine the action of the justice, arguing that the decision was based on political interests. According to the spokespersons of the so-called *abertzale* (radical nationalists) organisations, the High Court judgement brought to light the “true state of emergency” imposed on the Basque Country by Spanish Prime Minister Rodríguez Zapatero. The head of the Basque Department for Justice, Joseba Azkarraga, speaking on behalf of the Basque Government, denounced that the High Court decision creates “a crime of opinion”, “imprisons ideas” and “harms democracy”. The total rejection of the decision is directly linked to the importance of the subject matter decided upon, which is just as critical for the criminal prosecution of the members of the terrorist network of ETA, who apparently operate within the law and do neither bear nor use weapons, as was the revolutionary change of strategy in the investigation of the Mafia adopted by judge Falcone in Italy. A careful reading of this complex but thoroughly grounded judgement will soon prove that it has no relation with the freedom of expression and that, far from criminalizing ideas, this decision convicts certain persons for specific offences, such as cooperating with or belonging to a terrorist organisation.

Judicial investigation 18/98, initiated ten years ago by judge Baltasar Garzón, revealed the complexity of the internal structure of ETA, which was not limited to a clandestine military force ordering and executing terrorist attacks and murders, but which also comprised other areas specialised in political and financial activities, international relations, youth activities, prisoner support, amnesty campaigns, sport activities, civil disobedience, and business and journalistic activities.

The closure of the newspaper EGIN, whose publishing company was controlled by ETA, was the outcome of an important judicial operation conducted against the financial structure of ETA. In the framework of this investigation, the newspaper

“Egin” and the radio station “Egin” were searched and shut-down, accused of belonging to the financial network of ETA and of being merely an “instrument” to help the terrorist organisation carry out its activities.

Although the judicial investigation was related to two newspapers, Egin and Egunkaria¹, this judgement only contains a decision with regard to the first one. Through his investigation, judge Garzón lifted the veil on the organisation of ETA's several fronts or structures. The Spanish High Court, having admitted the many pieces of evidence submitted in the proceedings, finally concluded that KAS (and later its successor EKIN) was connected with ETA. The judgement has therefore taken a giant step towards illegalizing, through a criminal proceeding, all of ETA's structures, which have been operating for years, under a cloak of legality, as allegedly independent associations.

The theory and strategy of “splitting”: ETA's various fronts

The Spanish High Court has revealed the strategy of ETA, that is, the so-called “theory of splitting”, according to which certain political and cultural structures were developed as separate organisations, fictitiously independent from the so called “armed front”. The name ETA was used exclusively for the latter, while the rest of organisations seemed to stay within the law. This was how several political, social and cultural organisations (as the former political party HASI) were created around ETA. After 1975, all these organisations were gathered into a provisional coordination platform named KAS, an organisation formally independent but closely controlled by ETA. KAS thus grouped both ETA and the rest of organisations, although all of them remained under ETA's control. As thoroughly described in the High Court judgement, ETA exercised its control over KAS through the double affiliation of its members, among other means. This meant that members of ETA directly participated in KAS as delegates in all those

¹ The newspaper Egunkaria was shut down on 20th February 2003 by order of Investigating Court no. 6 of the Spanish High Court. 10 people, with current and past responsibilities within its managing team, were arrested on charges of “affiliation and cooperation with an armed group”. These arrests marked the end of the investigations conducted by the Information Service of the Guardia Civil regarding the instrumentalisation of the newspaper Euskaldunon Egunkaria by the terrorist organisation ETA through the company Egunkaria S.A. On 10th March 2003, Central Investigating Court no. 6 issued two extensive court orders, 41 and 45 pages-long respectively, deciding on the precautionary closure of the companies involved in the publishing of the newspaper. These decisions ordered that the companies Egunkaria Sortzen S.L. and Egunkaria S.A. be precautionary closed and their business immediately ceased, also prohibiting further publishing of the newspaper Euskaldunon Egunkaria. The order also adopted other measures related to or deriving from the above: the assets and properties of said companies were deposited with the Court and their accounts were blocked. The judicial investigation is not yet concluded and it is therefore necessary to wait until a judgement is issued before making a legal assessment of the case.

areas which ETA wished to control. As to the subject-matter of this article, this was the strategy used in connection with certain media, such as the newspaper EGIN. In 1995, KAS went underground and the political and military strategy of the couple ETA-KAS was established in three different lines of action or fronts: a) in the political area, KAS was ordered to promote social and institutional destabilization through mass organisations and the appointment of specially trusted persons for the main offices within Herri Batasuna, as well as to control the communication media referred to herein; b) in the economic area, KAS was entrusted with the design of a financing project intended to support the members of the terrorist organisation ETA. Said financial plan was based on the use of “legal” companies, such as the publishing company of the newspaper EGIN; c) in the so-called “military” area, KAS was ordered to carry out “low intensity” terrorist attacks, which were to complement ETA’s activities in order to create a coercive atmosphere, and to supply information on potential targets for ETA. In this third area, the newspaper EGIN also played an important role.

The significance of the High Court decision of 19th December 2007 lies in the fact that it brings this intricate structure to light. A substantial amount of evidence, including the key economic instruments used by ETA, proves that the newspaper EGIN and its publishing company undoubtedly belonged to ETA’s financial organisation (cf. pages 108 et seq.).

With regard to EGIN, one of the most significant proven facts is related to the media front of ETA-KAS, which was comprised of the companies Orain S.A., Ardatza S.A., Hernani Imprimategia S.A., Publicidad Lema 2000, S.L. and Erigane S.L. (cf. pages 145 et seq.). After examining the many documents seized from ETA, the Court concluded that “the Orain group, which at the time was comprised of Orain S.A. and Ardatza, was one of the instruments controlled by the terrorist organisation ETA in their financial structure, as reflected in the 1992 Udaletxe project. The group also served as a complementary means to ETA’s armed struggle, through the use, by the terrorist organisation, of its communication media (Egin and Egin Irratia)” (cf. page 149). The High Court judgement discloses the various restructurings undergone by the group of companies controlled by ETA and created in order to finance its terrorist activities (cf. pages 150 et seq.). It also unveils the accounting irregularities and social security frauds of said companies, including a process of decapitalization to avoid a seizure of their assets.

Through KAS, ETA maintained an absolute control over Orain S.A., the publishing company of the newspaper EGIN. “The companies of the Orain Group and the newspaper EGIN ended up being totally dependent on ETA, to the point that members of ETA’s political structure came to be aware of matters which not even the members of Orain’s Board of Directors were fully aware of”. Financial aspects were mixed with other structures of the MLNV (Basque National Liberation

Movement), such as AEK (which coordinated adult literacy programmes), the so-called *herriko tabernas* (“Taverns” where radical nationalists meet. Spanish justice has still not been able to demonstrate that they are part of the financial framework of Batasuna), etc. This is proven by the existence of multiple economic flows between these structures. The Spanish High Court decision clearly shows, based on abundant and sound evidence, that the newspaper EGIN was completely subject to the guidelines of the terrorist organisation.

EGIN, instrument of ETA media’s front. The functions that EGIN performed

The newspaper EGIN was the mouthpiece of Herri Batasuna, defender of ETA’s ideas. In this respect, “taking advantage of the fact that all the members of the Board of Directors of Orain S.A., the publishing company of the newspaper EGIN, were also members of KAS, ETA took control over the newspaper and its publishing group, to the extent that they became the fourth front of struggle, that is, the media or information front, an ideal complement to the other fronts, all of which were subject to the resolutions of ETA’s Executive Committee (cf. pages 178 and 180).

For this reason, before going into court receivership in 1998, the media group Orain-EGIN performed three different functions. In the first place, the group was in charge of maintaining internal cohesion and of directing the activities of the MLNV, “magnifying and justifying all of ETA’s actions”; in the second place, the group served as “an instrument of coercion and intimidation, at the service of the other fronts of ETA, which was directed against those sectors of the population which were contrary to the ideology imposed by ETA”; the third function of EGIN was also of outmost importance: “It consisted in conveying to the public the idea that the exercise of violence was a natural phenomenon in the framework of the existing conflict”. As ETA itself underlines in its pamphlets, the aim was to disseminate a “pedagogy of violence” to the broadest extent possible, as can be seen from the documents seized from ETA and submitted as evidence in the proceedings. On the other hand, the examination of the so called Information Services of ETA, helping with the commission of terrorist attacks, confirms that the Information Service of EGIN played an important role in this regard (cf. page 198 et seq.). One of the basic functions of the newspaper was to intimidate citizens and to point out targets to ETA.

After 1991, the organisation considered that EGIN’s contribution to ETA’s project could be increased and, therefore, the EGIN project was restructured into a new front actively complementing the other three fronts (the armed front, the mass front and the institutional front). The informative front must “by all means support and encourage the other fronts”. For that purpose, ETA incorporated the publishing

company ORAIN and the newspaper published by said company into the KAS-controlled business structure. ETA decided to directly control the newspaper's ideological bias "to ensure that it was advantageous to achieve its intended objectives". Thus, a direct communication was established between ETA and the Board of Directors of Orain, S.A., which was "fully known and accepted" by all members of the Board, although the person responsible for said communication was X. Alegría. The High Court judgement sufficiently evidences that "after 1992, EGIN was completely subject to ETA's global strategy, both regarding its functions and its organisation, while operating under the cover of a plural and independent newspaper". Let it suffice to say that ETA did not only monitor the appointment of officers to Orain's Board of Directors, but did also "decide on the appointment of the management team of the newspaper EGIN". There is abundant evidence of all communications held between ETA and EGIN, in particular the documents seized from Dorronsoro, a member of the terrorist organisation (cf. pages 182-190).

This instrumentalization got to the point that terrorists such as Alonso Abad, a member of the editorial staff of the newspaper, "took advantage of the principle of inviolability of newspaper headquarters to conceal, mixed with information of a professional nature, other information on the potential targets of his terrorist activities." (cf. page 190).

However, regarding individual criminal liability, even though the submission of EGIN to ETA has been sufficiently proven, not all persons working as directors, managers, editors or collaborators of EGIN may be accused of collaborating with ETA. It is necessary to evidence that said persons were subject to ETA's rule, by cooperating or being affiliated with this terrorist organisation.

In this respect, point 49 of the Points of Law on which the High Court decision is based (cf. page 743 et seq.) evidences the fact that the chief editor and deputy editor of EGIN were appointed directly by ETA. On the 21st, 22nd and 23rd February 1992, J.M. Salutregui and Teresa Toda Iglesia held a meeting with the head of ETA's political structure in a hotel in Bidart, in order for the latter to consent to their appointments as chief editor and deputy editor of EGIN, for which purpose they were accompanied by R. Uranga, Managing Director of Orain S.A. According to the allegations of the accused, the meeting was merely for professional purposes, that is, to interview the terrorist, but the alleged interview was never published. The presence of the Managing Director of the publishing company at this interview was never explained nor justified. The fact is that the meeting was held, and 40 days later their appointments took place.

Many documents and meetings, the existence of which has been sufficiently proven, evidence the unquestionable link existing between EGIN and ETA. As an example, the document named "Info sur Garicoitz 92/02", sent by the accused

Javier Alegría to ETA's leadership in February 2002, about the “need to have a modem, with the appropriate security keys, in order to send and receive messages which were only to be known by the newspaper's chief editor, also enclosing a computer programme to compact the files in order to reduce the size of the documents sent and to prevent the police [whose members he calls *txakurrada*: dogs] from understanding their content”.

The High Court's reasoning concludes by stating that “EGIN was the name of the newspaper which tried to demonise certain people by reason of their profession or their lack of ideological affinity with the methods and objectives of ETA and its related organisations, thus making them the target of the terrorist actions entrusted to ETA's armed front, or of other violent and coercive activities carried out by the organisation's mass front”. The chief editor and deputy editor of EGIN did not only cooperate with ETA, but were also members of the organisation. “In order to verify the truthfulness of our statements, it is only necessary to be able to read”, the judges of the Spanish High Court write in their decision. A careful reading of the High Court decision, more than 1000 pages long, will remove all reasonable doubt about such affiliation. In this context, any attempt to invoke the freedom of speech to justify the behaviour of a group of individuals whose mission was to identify and point out the persons which ETA was to kill, and to later justify the crime, is not only repulsive, but also indefensible from a strictly legal point of view.

Conclusions

It has been said that, in the light of this decision and according to the Spanish High Court, “everything is ETA”. The Court, however, claims exactly the opposite. “Not everything is ETA, of course not. Nobody would believe such an outrageous statement. But the facts which are the object of the accusation do not say that. What they say is that the 52 people who have eventually been sentenced (...) either belong to the terrorist organisation ETA or have cooperated therewith”. None of the accused was accused on grounds of “coincidentally pursuing the same objectives as the terrorist organisation ETA”.

Throughout the proceedings, which were conducted with all guarantees available in a country where the Rule of Law prevails –which also explains the extremely long duration of the proceedings-, the accused tried to prove that KAS, its companies and its communication media did not have any relation whatsoever with ETA. However, the abundant evidence examined in the proceedings proves exactly the opposite.

Today, as always, in order to be regarded as a member or a collaborator of ETA in Spain, it is necessary to have a direct relationship with this terrorist organisation,

in accordance with the doctrine established by Spanish Constitutional Court decision 199/87. Regarding the persons accused in connection with the newspaper EGIN, this relationship has been more than sufficiently evidenced. Some have criticized the judgement (probably without reading it), arguing that it is based on an offender-focused criminal law, but nothing is further from the truth. The persons accused are not punished for what they are, but for what they have done. The direct relationship between ETA's leadership and the persons in charge of other fronts, such as the media front, has been sufficiently evidenced. The judgement does not endanger the freedom of speech, because that is not what is at stake. It is rather a late victory of the Rule of Law, achieved through hard and tedious work. As already warned by Felipe González, the first socialist prime minister of Spanish democracy "a newspaper such as "Egin" would be intolerable and untenable in any democratic country, due to the violation of the rules of the game entailed by the fact that it operates at the service of ETA".

The judgement of 19th December 2007 proves that EGIN was an instrument of ETA's media front and that the newspaper's publishing company was part of the terrorist organisation's financial structure. The fact that both the company and the newspaper were subject to ETA's directions and that they were used by ETA to achieve its purposes has been abundantly evidenced. Arguing that the closing of EGIN is an illegitimate restriction on the freedom of expression is an outrageous attempt at forging the judgement and reality itself. Paraphrasing the European Court of Human Rights, any impartial jurist will easily conclude that it was a "necessary and proportionate measure in a democratic society".