

REPORT, FINDINGS AND PROPOSALS

October 2015

The International Contact Group (ICG) visited the Basque Country from 23 to 25 September.

The ICG used the opportunity to engage constructively with numerous Basque Institutions, Political Parties and social organisations working in the field of peace and human rights in the Euskal Herria; the Basque Autonomous Community and Navarre in Spain and Iparralde in France.

The ICG, having considered carefully and analyzed the information received concluded that the peace process is at critical stage in its advancement. In order to ensure its further progression the ICG is of the opinion that certain actions are necessary.

It is for that reason that the ICG had decided to take the unusual step of issuing a public report on its findings in relation to both progress made and difficulties blocking the achievement of total political normalization which requires multi-party engagement and consensus on dealing with the consequences of the violence of the past. The ICG also, respectfully and with humility, makes proposal on how the difficulties may be overcome.

In making these findings and proposals the ICG has also taken note of events and statements made since our visit and the present time.

1. Findings in relation to progress and achievements

It is understandable and laudable that leaders in the Basque Country (Spain and France) in both political and civil society are focusing on the difficulties that are blocking progress in the advancement of the peace process.

However let us not forget the realities of a decade ago and the incredible achievements made to date:

- ETA's violence has ended irreversibly. The commitment made by ETA in 2011 has been fulfilled. Besides ETA's statements and actions since 2011, political leadership in Madrid, Paris and Vitoria and those responsible for safety and security are all in agreement that ETA violence is and will remain a dark chapter of the past.
- There is today an unrestricted right to engage in non-violent political activity and for political parties representing all political persuasions, including the Abertzale Left, to participate in democratic institutions throughout the Basque Country, the Community of Navarra and in Madrid.
- There are no security threats to members of the Popular Party, the Socialist Party, members of the Security Forces, the Judiciary, or business people.
- There are no attempts at extortion for so-called revolutionary tax.
- The Basque Government is providing leadership with its work on shared proposals with other political parties committed to the objectives of coexistence and finding solutions to the major challenges of the peace process.
- Cross section victims of ETA violence and State violence are engaging one another and working together towards strengthening coexistence, as has happened with the document ERAIKIZ.
- Virtually all political parties in the Basque Country in France have been engaging with one another for more than 2 years to find common ground for an agreed Iparralde (French Basque Country) institutional framework.
- A high-level Conference for Peace in the Basque Country was held in Paris at the National Assembly in June 2015 attended by prominent French political leaders. It succeeded in main-streaming the consequences of the violence and in particular the issue of prisoners and the need for reconciliation. A committee was formed (COPIL) to follow up progress on action following the conference.
- The French government, at a ministerial level, is engaging with organizations supporting human rights of prisoners.

- The French government has stated publicly and unequivocally its willingness to review its policy regarding the dispersal of prisoners and to move prisoners closer to their homes.
- There is, for the first time in modern history, broad institutional support for work for coexistence and cooperation between the governments of the Basque Autonomous Community, the Community of Navarra and Iparralde (French Basque Country).
- The Abertzale Left continues to reflect, be self-critical and make public statements on violence as means to achieving political objectives; for example the recent statement issued by the leaders of Bildu, which includes Sortu: *"We have to tell our children that violence is always the worst way. Even when you think that there is no other way, violence is always the worst way"*.
- We consider that the recent proposal made by the Popular Party to reestablish the Basque Parliament's peace commission is an opportunity to work together despite the subsequent withdrawal of the statement. The Popular Party's proposal is a positive sign indicating that something is changing in Basque politics, creating new opportunities for dialogue and solutions.

2. Findings in relation to difficulties that are blocking advancement

- The Government of Spain's inflexible position not to engage on the consequence of violence as proposed in the Aiete Declaration.
- The Government of Spain's policy to persist with a counter-terrorism strategy notwithstanding political normalization and Government's acknowledgement that ETA violence has ended irreversibly.
- The non-participation of the Popular Party and the Socialist Party in initiatives to build coexistence.
- ETA's possession of weapons four years after having declared the end of armed activities.
- The continued application of special security legislation in the new political reality which is free from violence or threats of violence.
- The prison policy remains unchanged. The dispersal of prisoners to remote regions far from their families continues.
- The dialogue between the political parties in the Basque Country that are willing to cooperate in the peace process has deadlocked on the key issues: prisoners, disarmament and memory, and the parties have not engaged for more than two months.
- A lack of trust between parties that are engaging remains a problem.
- Besides a very recent initiative by the PP, neither the PSE nor the PP have shown any willingness to meet and dialogue with other political forces on post conflict issues that require resolution.
- The international community and in particular the European community seems not to acknowledge or appreciate the significance of the end the Basque violent conflict and has given inadequate support for the peace process.

3. The core of the difficulties and analysis

In our view, the central issues to the deadlock are:

1. The position maintained by the Government of Spain to implement a purely counter-terrorism strategy which includes a policy of no engagement with ETA notwithstanding ETA's irreversible cessation of the armed activity and willingness to decommission its entire arsenal of weapons;
2. The fact that ETA remains in possession of dangerous weapons and is therefore nominally still a terrorist organisation notwithstanding its irreversible cessation of its armed activity, willingness to decommission its entire arsenal of weapons and willingness to dismantle.

The challenge for those who are indeed committed to advancing the peace process is to find resolutions to these two core issues.

In our view it is simplistic to say that the solutions lie in the Government of Spain changing its counter-terrorism policy and strategy and in ETA decommissioning its arms.

We believe the solutions lie in determining what needs to be done and by whom in order for Madrid to change its policy and strategy and for ETA to complete its decommissioning process.

A critical question is whether what needs to be done in order to achieve these objectives can be achieved without engagement between the Government and ETA.

In our opinion the consequences of doing nothing in the hope that the Government of Spain and ETA may engage on an unknown future date would be imprudent. There is work to be done now and there are key parties who have the expertise and have over the past few years demonstrated the will to advance the peace process.

The onus is on these parties to bring about the circumstances and create a political environment that will make it impossible for the current or any future Spanish Government not to engage.

The ICG's belief is that the means to opening the door for dialogue with Madrid may be found in:

- Continuation and intensification of work being done by the Basque Government, political parties, civil society and social groups in the Basque Country with victims and between victims of ETA violence and State violence and the issue of legacy of decades of violence and;
- Re-engagement between the PNV and the SORTU with open minds and not with pre-determined positions for as long as they are the parties willing to engage on the issues relating to the consequences of the violence.

4. The ICG proposes:

- As a matter of priority the bilateral engagement between the PNV and Sortu should resume. According to our understanding the cessation in their engagement was caused by differences in their respective ethical assessments of the past. There is an expectation that the Abertsale Left and or individual prisoners make specific statements in which there is reflection on and criticism of past violence. The dispute is about the wording.

The purpose of the statement is twofold: besides the ethical assessment the other purpose is for prisoners to qualify for benefits and remissions.

It is our view that if the PNV and Sortu are able to reach agreement on this wording that could result in a major breakthrough for reconciliation, prisoners and subsequently decommissioning.

We propose therefore that if the parties are unable to find consensus on their own they involve third party mediation and if necessary independent legal experts on penal law to assist them with the wording.

Furthermore, based on former experience the ICG is able to share with the parties wording that has been successfully used to address similar needs in other jurisdictions.

- We call upon the French Government to begin the process of moving prisoners to prisons in the south of France closer to their families in the Basque Country.
- As mentioned, the issue of trust remains an issue. Success in negotiations depends on trust. Trust has to be earned and requires work on all sides. A change in attitude towards former adversaries is key to reconciliation and to building trust.
On reconciliation, Nelson Mandela said: reconciliation is a spiritual process which requires more than a legal framework. It has to happen in the hearts and minds of people.
We do not see sufficient reconciliation in the hearts and minds of those leading the peace process.
- We have already emphasized the role of the Basque civil and political society in taking the lead: The ICG encourages the Basque Government to continue working on proposals to promote coexistence and to explore the opportunity to collaborate on this issue with the Government of Navarra and major institutions of Iparralde.
- The multi-party forum in the French Basque Country should work with and encourage institutions in Iparralde to engage with and support peace initiatives undertaken by the Basque Government and the Government of Navarra.

- The political parties that are engaging in the French Basque Country should engage with their counter-parts in the Basque Autonomous Community and Navarre on how they managed to successfully set up and multi-party negotiating forum.
- We encourage all political parties in the Basque parliament to embrace the proposal made by the Popular Party and to present a joint initiative to reestablish the Peace Commission in the Basque Parliament.
- Mindful of the complications implicit in decommissioning arms without engagement of either the French or Spanish Governments, we calls upon ETA to continue showing leadership by being creative in its engagement with the International Decommissioning Commission and with other institutions or bodies willing to assist in the process of decommissioning and putting arms permanently beyond use.