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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by Coordination des Associations et des Particuliers pour la Liberté de Conscience, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[26 May 2019]

* Issued as received, in the language(s) of submission only.



Misuse and abuse of the pre-trial detention and the FIES system in Spain & the Kokorevs Case

In 1996, Spain adopted a law introducing a special status and treatment for certain prisoners during their pre-trial detention and possible subsequent imprisonment.^[1] Known by the acronym FIES, which stands for “The Register of Prisoners requiring Special Surveillance” (*Ficheros de Internos de Especial Seguimiento*), the system originally pursued a legitimate objective.

Since then, however, the law has been misappropriated and is now being imposed on non-violent and non-dangerous persons resulting in unfair detention conditions and considerable extensions of pre-trial detention periods.

As explained in a 2016 report by the European Commission,

“The FIES registry was formally incorporated in the Prison Regulation through the adoption of the Royal Decree 419/2011... The Secretary General of Penitentiary Institutions (SGIP) is entitled to create special registries of inmates in order to guarantee the security and good order of the establishment, as well as the integrity of inmates...

...The specific categories are as follows:

FIES 1 (direct control) includes inmates that have been involved in dangerous perturbation of the prison regime;

FIES 2 (organised crime) includes inmates sentenced or suspected of criminal offences related to the affiliation to organised crime;

FIES 3 (armed terrorist organisations) includes inmates who still belong or have belonged to a terrorist organisation;

FIES 4 (security forces) concerns inmates who previously belonged to security forces of the State;

FIES 5 (special characteristics) refers to inmates classified in accordance with their specific criminological profile such as sex offenders, Islamic terrorists, war criminals, etc.”^[2]

Over the last fifteen years, the European Parliament^[3] and the Council of Europe^[4], in particular the Committee of Prevention of Torture (CPT), have expressed serious concerns and warnings about the FIES system.

Earlier this year, the Brussels-based NGO *Human Rights Without Frontiers* interviewed three Spanish citizens who were victims of the misappropriation of the FIES system. The unfair judicial treatment of their case and their detention conditions were worse than convicted people. All three were classified under the FIES - 5 status, even though they did not match the above listed characteristics.

Case Study: Discriminatory and harsher detention conditions of Vladimir Kokorev, Igor Kokorev and Yulia Maleeva

The Kokorev family were arrested in Panama in September 2015 on an international arrest warrant issued by Spain related to an alleged money laundering. The three agreed to their extradition, were released on bail in Panama and transferred to Spain, where they expected the case to be dismissed, or, at least, to be released on bail as in Panama after accepting extradition. They were first incarcerated in Madrid and then in Las Palmas where they spent about two years in detention.

Vladimir Kokorev was born in Moscow on 11 September 1954. He started his pre-trial detention at the age of 61 years and was then suffering from health concerns. Shortly after his 2 years, 2 months and 18 day-long detention (from 31 October 2015 until 18 January), he had to undergo a serious heart surgery.

Yulia Maleeva, his wife, was born on 23 June 1952 in Zhdanov (SSR Ukraine) and spent almost 700 days in prison (from 31 October 2015 until 27 September 2017).

Igor Kokorev, their son, is a lawyer who was born on 27 December 1982 in Moscow. He spent more than 700 days in prison (from 10 October 2015 until 18 October 2017).

The three faced many human rights violations, including that:

Even after their arrest the proceedings remained secret for 18 months; during this time, their counsel was denied access to their files and was not given basic information on the reasons for their arrest, including a description of the offence and of the evidence against them;

They were treated as a single entity, the “Kokorev family”, no distinction being made between the three individuals, suggesting the presumption of guilt by association;

Vladimir Kokorev, his wife and their son were not accused of using violence or inciting violence. However, they were all assigned to a FIES - 5 status;

Their attorneys were unsuccessful in getting their release on bail, their personal circumstances not being taken in consideration by the authorities, including the severe health deterioration of V. Kokorev, or the fact that I. Kokorev became a father whilst in prison and that his partner was diagnosed with acute depression as a result of his absence that was impairing her ability to take care of their child:

Even after substantial time had elapsed from their arrest and the Spanish authorities had become aware that no trial could be held within many years (certainly not within the maximum terms for pretrial imprisonment under Spanish law), the pretrial detention of the whole family continued.

In all probability they spent more time in pretrial detention than the prison term they could be convicted to after a trial.

Treated as convicts & Subjected to poor prison conditions

The Kokorevs were robbed of their presumption of innocence during their pre-trial detention, being treated in all respects as dangerous, convicted prisoners.

They were not released on bail, nor were alternative measures, such as home arrest, ever considered. For a period of six months I. Kokorev was kept in a different prison from his parents. Upon transfer to the same prison, he was detained in a separate module. They filed official requests to be housed together, but all attempts were refused.

The Kokorevs were denied basic information on the status of the court proceedings and on how long the secrecy and the imprisonment would last. They also suffered from the poor prison conditions in Las Palmas and from being subjected to the same living regime and social reinsertion programs as the convicted inmates, except in that which would benefit them.

In that regard, day leaves from the prison or a regime of ‘semi-liberty’, (i.e. only sleeping in prison) were granted to convicted criminals on certain conditions after they had served a part of their term. This right was denied to the Kokorevs, who had not been convicted and were still enjoying the presumption of innocence.

As explained during an interview, Vladimir Kokorev struggled in prison with his health (he suffers from high blood pressure, heart problems, and diabetes) and dignity. He related an episode that is particularly illustrative of the consequences of the FIES status:

After many months of struggling with the prison bureaucracy, he was given permission to be examined by a cardiologist in a hospital, but on that specified day, nobody came to take him to the hospital. At a random later date, V. Kokorev was escorted by half a dozen guards armed with automatic weapons and bulletproof vests to a different hospital to see another doctor. During the ride to the hospital, he was handcuffed in the back of a police riot van. While in the hospital, V. Kokorev remained handcuffed. The armed authorities refused to remove his handcuffs, even when it was requested by a nurse. The doctor was unable to perform a proper examination.

His right to receive visitors was not always respected. For nearly six months, he was denied the right to be visited by representatives of the Jewish community in Las Palmas.

Under FIES - 5 status, Yulia Maleeva and Igor Kokorev faced similar struggles. They remarked in their interviews with *Human Rights Without Frontiers* that they were not treated as innocent persons.

I. Kokorev was not allowed to be housed with his father. When he inquired about the reason why, they responded it was because they were under active investigation. However, many other inmates also under active investigation were housed together.

Y. Maleeva reported that she felt disoriented from being moved to a different cell every 5 to 9 weeks, a security measure prescribed under the FIES-5 status to which in her module only she was being subjected.

After more than 13 years of investigation by the Spanish authorities, on 1 August 2017, judge Ana Isabel de Vega Serrano extended the pre-trial detention of the Kokorevs for further 2 years.

The Audiencia Provincial de Las Palmas quashed the extension in respect of Y. Maleeva and I. Kokorev in September/October 2017, releasing them without bail, but they were confined to the island of Gran Canaria. V. Kokorev was not released until January 2018. The Audiencia Provincial acknowledged in identical terms for each of them that their prolonged detention could amount to punishment without trial, but failed to acknowledge their right to compensation under the terms of the European Convention on Human Rights.

In August 2018 the judge extended the investigation for another 18 months, citing that she is yet to “determine the facts and identify the persons responsible”. It is unlikely that a trial will be held within the next five years; almost 10 years after the arrest of the family and more than 20 years after the start of the investigation.

[1] <https://web.archive.org/web/20091213211233/http://www.reicaz.es/tofyserv/sop/texdtos/le/i21-96-regimen.pdf>

[2] <https://rm.coe.int/pdf/168076696b>

[3] http://www.europarl.europa.eu/doceo/document/E-8-2016-004686_EN.html ;
<http://www.europarl.europa.eu/sides/getDoc.do?type=WQ&reference=E-2006-0571&language=HU>

[4] <https://rm.coe.int/pdf/168076696b> ; <https://rm.coe.int/16806db842>