

8-13-1999

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Chilean Gen. Augusto Pinochet Remains In London

by LADB Staff

Category/Department: Chile

Published: 1999-08-13

While former Chilean dictator Gen. Augusto Pinochet (1973-1990) remains in London awaiting extradition hearings, lawyers and diplomats continue efforts to return him to Chile and human rights advocates work to block those efforts. A British court has scheduled the hearings to begin Sept. 27. Despite the intense public and private efforts to avoid extradition, it appears increasingly likely that the process will go forward. Pinochet was arrested last October on a warrant issued by Spanish Judge Baltasar Garzon, who wants to try Pinochet for human rights abuses during his rule as military dictator (see NotiSur, 1998-10-23).

On July 23, Chilean Foreign Minister Juan Gabriel Valdes sent a letter to his Spanish counterpart Abel Matutes asking him to accept bilateral arbitration in the case. The Spanish government, led by President Jose Maria Aznar, said it would "study" the request. Spanish government sources say international arbitration would require agreement by the governments of Britain, Chile, and Spain. "Then there would probably have to be a withdrawal of the judicial request [for extradition]," the Spanish government official said. "It's hard to know what will happen because this is new."

Victims' families call for legal process to continue

Attorneys for victims of the dictatorship appealed to the Spanish government not to agree to the arbitration request. Carlos Slepoy, president of the Argentine Pro Human Rights Commission and attorney for plaintiffs in cases against the former Argentine and Chilean dictatorships, said "it would be absolutely illegal" to submit the case to arbitration. Slepoy told Inter Press Service (IPS) news agency the extradition proceedings are based on the 1984 International Convention Against Torture, ratified by Chile, Spain and Britain.

In a dispute among states to determine which has jurisdiction, the Convention establishes that it should be decided by the UN Anti-Torture Committee. But Chile has not asked Britain to hand over Pinochet to try him in Chile. Chilean courts are considering some 30 cases against the former dictator, but none of the judges involved has requested Pinochet's arrest. Nor has Pinochet been stripped of his immunity as a senator for life. And, if the London courts deny Pinochet's extradition to Spain, the Convention Against Torture establishes that Britain would have to try Pinochet there, said Slepoy.

Meanwhile, Geoffrey Bindman, a lawyer for Amnesty International (AI), asked the British government for assurances that Pinochet would be prosecuted by Britain if negotiations led Spain to drop its extradition request. Bindman said Britain's 1988 Criminal Justice Act incorporated the Convention, which says signatory states must prosecute anyone suspected of torture, wherever it took place.

AI said any attempt to resolve the Pinochet case outside the judicial process would be a mockery for the victims of the torture and their families. It said such a resolution would inevitably allow

the general to escape justice, given the present political situation and the Chilean judicial system. Rumors talk of backroom deals Spanish government sources have said Spain hopes Britain will somehow block Pinochet's extradition and give Spain a way out of an embarrassing political dilemma. The Chilean government maintains that sovereignty demands that Pinochet be returned to Chile.

On Aug. 1, the Spanish newspaper El Pais said the government was considering referring Chile's request for arbitration to its Council of State, a consultative body which issues nonbinding opinions on controversial issues, to determine whether parliament would have to approve a new law to move the case out of the Spanish judicial system and into some kind of arbitration.

At the same time, Chilean newspaper La Tercera reported that Spain and Britain had begun to look at contingency plans should Pinochet be extradited. La Tercera estimated that, given Pinochet's age and poor health, he would be taken to Spain on a British hospital plane under Scotland Yard custody. The British newspaper The Guardian said Aug. 3 that the Spanish and Chilean governments had been holding "secret conversations to free Pinochet," focusing on Spain dropping the petition for extradition.

Spain denied it planned to remove the case of from its court system. "The Spanish government's position is very clear," a foreign ministry spokesperson said. "We will scrupulously follow the law regarding the extradition process of the former Chilean president. There is no desire to take this extradition process out of the sphere of justice, to which it belongs exclusively."

General's health is debated

Meanwhile, the ex-dictator's health is a concern for his supporters, who say he suffers serious health problems. The general, however, has said he does not want to be freed on humanitarian grounds. The Chilean government says it will attempt to win Pinochet's release for health reasons whether the 83-year-old general likes it or not. "His opinion in this regard is irrelevant," said Defense Minister Edmundo Perez. "It is not for the patient to write the prescription."

Chile's Foreign Ministry said a report from a British and a Chilean doctor who examined Pinochet concluded he had "serious medical problems that could be life-threatening." The report said the stress of prolonged detention was hampering Pinochet's recovery from back surgery and worsening his diabetes. It noted that Pinochet also suffers from arthritis in his left knee and uses a pacemaker. The report concluded that he isn't "capable of enduring the stress that prolonged captivity or a long trial" could pose. But on Aug. 6, Scotland Yard dismissed reports that the general is seriously ill "as absolute rubbish."

By mid-August, the possibility that Pinochet would return to Chile without a court process seemed to be diminishing. Britain's Crown Prosecution Service (CPS) said if extradition is not granted, London has the legal obligation to investigate the charges, according to The Sunday Telegraph. "The obligation is to extradite or process," said a CPS source quoted in the article. "If Spain withdraws its petition for extradition, the Home Secretary will be obliged to refer the case to Scotland Yard to investigate."

A CPS spokesperson, speaking on condition of anonymity, noted that Amnesty International has filed a formal complaint with London police against Pinochet, and France and Switzerland have also sought his extradition. The same day, news reports said Pinochet was considering voluntarily turning himself over to Spanish authorities. "It's an idea that is being tossed around," Pinochet's son Marco Antonio Pinochet told CNN. "It is being discussed. It is not a decision that has been made."

Chilean Foreign Minister Valdes said in Washington that such a decision would be up to Pinochet's lawyers. But he reiterated the position of the Chilean government that rejects any legal process outside of Chile against the general. Pinochet's Spanish lawyers said such a move would be "absurd and suicidal." If Pinochet went to Spain now, said Fernando Escardo, "he would be tried on all the charges that were brought by Judge Garzon, while if he came later, even after losing the extradition hearing in London, he would only be tried for the crime of torture."

On Aug. 9, Chilean National Television reported that senior Chilean military officers were in Madrid looking for a place where Pinochet could live if he voluntarily went to Spain. The delegation, headed by Brig. Gen. Juan Carlos Salgado, went from Madrid to London to talk with Pinochet. News reports said that Pinochet's advanced age and poor health have convinced some advisors this would be the "least bad of realistic alternatives." [Sources: Notimex, 08/01/99, 08/02/99; The New York Times, 08/04/99; Reuters, 07/28/99, 08/01/99, 08/04/99, 08/06/99, 08/08/99; Inter Press Service, 08/02/99, 08/09/99; CNN, 08/04/99, 08/09/99; The Guardian (London), The Miami Herald, 08/09/99; Associated Press, 08/04/99, 08/08/99, 08/10/99; The Washington Post, 08/10/99; Spanish news service EFE, 07/27/99, 08/04/99, 08/08/99, 08/10/99, 08/11/99; Clarin (Argentina), 08/11/99; El Nuevo Herald (Miami), 08/13/99]

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