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Mexican Court Denies Appeal from French Citizen Accused of Kidnapping; Judicial Rulings Affect Two Other High-profile Cases

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Diplomatic tensions erupted between Mexico and France after a Mexican federal court of appeals ruled to uphold a 60-year sentence against French citizen Florence Cassez on charges that she openly participated in three kidnappings in 2005. Cassez's attorney had tried to convince the Séptimo Tribunal Colegiado en Materia Penal del Primer Circuito to throw out the case because of irregularities that occurred during the arrest. But the court said the irregularities were not sufficient to override the circumstances that led to Cassez's arrest. The court's decision angered the French government, which threatened to cancel a year-long festival featuring Mexico. It also threatened to bring up the matter at a meeting of the Group of 20 (G-20) nations in Paris in late February.

The Cassez case is one of three recent controversial legal decisions affecting high-profile cases. In early February, a federal district judge ordered the suspension of an arrest order against fugitive miners-union leader Napoleón Gómez Urrutia. The embattled former leader of the Sindicato Nacional de Trabajadores Mineros, Metalúrgicos y Similares de la República Mexicana (SNTMMSRM) fled to Vancouver, Canada, rather than face money-laundering charges ([SourceMex, March 1, 2006](#)) and ([Aug. 16, 2006](#)). Gómez Urrutia's supporters said the decision paves the way for his return to Mexico, but an attorney for the plaintiffs who accused the union leader of stealing about US\$55 million says the charges of fraud and embezzlement have not been dropped.

In a third high-profile case, a US federal judge denied a motion to block the extradition of Zhenli Ye Gon, a Mexican of Chinese descent who is accused of drug trafficking and money laundering in Mexico. Ye Gon fled to the US just before Mexican authorities raided his mansion in Mexico City, where they found the equivalent of US\$205 million ([SourceMex, July 25, 2007](#)). Ye Gon filed a motion to block extradition, claiming that he would not receive a fair trial in Mexico. But, in early February, John M. Facciola, a magistrate judge for the District of Columbia, denied Ye Gon's motion, saying that Mexican authorities had complied with all the requirements for the extradition to proceed.

France warns of diplomatic consequences

The Cassez case filled the Mexican headlines for several days in February, as French officials issued threats against the Mexican government and the courts and said the decision would cause great harm to bilateral relations. "This is a deplorable decision, and the conditions under which it was reached are not acceptable," said French Foreign Relations Secretary Michele Alliot-Marie. "This ruling no doubt is going to have a negative bearing on our bilateral relations."

The Secretaría de Relaciones Exteriores (SRE) responded with a statement expressing "deep regret" at Alliot-Marie's suggestion that bilateral relations between the two nations would be harmed. The SRE said the French foreign minister's comments ignored the fact that Mexico subscribes to the concept of separation of powers and that the judicial branch enjoys "absolute independence."

"Florence Cassez made use of all the means of defense that Mexican law makes available to anyone facing charges in Mexico," said the SRE.

Alliot-Marie insisted that the Mexican courts ignored several arguments that would normally result in the reversal of a verdict. Cassez's lawyer Agustín Acosta had pushed to have the charges against his client thrown out on the grounds that the case had become prejudiced because of official misconduct. On the day after she was detained near a ranch outside Mexico City, police re-enacted the arrest in front of the cameras in a staged media event.

The appeals court rejected Acosta's argument on the premise that the videos taken the day after the arrest had actually not been introduced as formal evidence during the trial.

Cassez, who was detained in 2005 but not sentenced until 2009, had maintained her innocence from the very beginning, arguing that she was only a resident at the ranch where the arrest took place and did not know that several people being held there were kidnap victims. At the time, she was dating Israel Vallarta, the leader of a kidnapping organization known as Los Zodiacos.

Despite her protestations, testimony from the kidnap victims helped convict her. At least two victims identified her as an active participant in the abductions.

Shortly after Cassez was sentenced to 60 years in prison in 2009, speculation surfaced that President Felipe Calderón was considering commuting her sentence to comply with a 1983 convention signed between Mexico and the European Union (EU) dealing with the repatriation of prisoners. In the end, Calderón decided not to repatriate Cassez despite a direct appeal from French President Nicolas Sarkozy. But if Calderón had made this decision, he would contradict a ruling from the Mexican high court (Suprema Corte de Justicia de la Nación, SCJN) stating that the Mexican Constitution supersedes international treaties ([SourceMex, April 1, 2009](#)).

French government continues to seek repatriation

Sarkozy said the French government will appeal to Mexico to allow Cassez to be brought back home on humanitarian terms so that she can serve the rest of her sentence in a French jail. "I am willing to negotiate with Mexican authorities on the guarantees that we are willing to give in exchange for the transference of Florence [to French soil]," Sarkozy told reporters.

France's Ambassador to Mexico Daniel Parfait met with Foreign Relations Secretary Patricia Espinosa to express his country's displeasure with the manner in which the Cassez case had proceeded. French authorities also summoned Carlos de Icaza, Mexico's ambassador to Paris, to discuss the situation.

The SRE went out of its way to try to defuse tensions with France. "For us, bilateral relations are a priority, and we don't believe that they can be sidetracked by a side issue," said deputy foreign relations secretary Lourdes Aranda. She acknowledged that the SRE is monitoring France's reactions very close.

Still, there were some conflicts between Parfait and two prominent anti-crime advocates in Mexico, Isabel Miranda de Wallace and Alejandro Martí, whose children were kidnapped and murdered in unrelated cases. Miranda de Wallace, who formed the anti-kidnapping organization Alto al Secuestro, suggested that Parfait had been putting pressure on the Mexican courts to release Cassez.

This prompted an angry reply from the French Embassy, which denied that anyone from the embassy had any contact with the Mexican courts. "We reject any suggestions that the French government had any meetings with Mexico's judicial authorities," said an embassy statement quoting Parfait.

The French Embassy threatened to take legal action against Miranda de Wallace. "This diplomatic representation reserves the right to file a defamation suit against her," said the embassy.

But Miranda de Wallace and Martí insisted that no one linked with kidnapping should be allowed a free pass. "It's infuriating that someone who hurt Mexican society, like Florence Cassez Crepin, is trying to make herself a victim," the two activists said in a statement signed by several anti-crime groups. "The real victims were those who were kidnapped by Cassez's band."

As part of the proposed retaliatory actions against Mexico, Cassez's relatives called for France to cancel a year-long series of cultural and artistic events in Paris entitled 2011 Année du Mexique (Year of Mexico). "We cannot celebrate Mexico as long as my daughter is imprisoned in that country," said Charlotte Cassez.

But Florence Cassez urged the French government not to cancel the series of celebrations. "I am concerned that this could lead to a diplomatic crisis between France and Mexico," she said in an interview with the French daily newspaper. "I do not support cancelling the Année du Mexique.

Rather than cancel the event, Sarkozy offered to use the celebrations to honor Cassez. This idea prompted protests from the Mexican Embassy. "If, unilaterally and without consulting us, the government changes the conditions of the event to honor a person who has been judged and condemned for serious crimes, we would find it impossible to continue our participation in this program," said de Icaza.

Judge rules in money-laundering case against miners-union leader

On Feb. 2, a federal judge (Juez Noveno de Distrito de Procesos Penales Federales) threw out an order for the arrest of Gómez Urrutia and four other union leaders on charges of money laundering.

The ownership of funds that Gómez Urrutia and other leaders are alleged to have misused was key to the court's decision. The judge ruled that the money was part of a special fund belonging to the SNTMMSRM and not to union members Elías Morales Hernández, Martín Perales, and Miguel Castilleja.

This is the seventh of eight arrest orders against Gómez Urrutia that have been discarded by the courts. The SNTMMSRM said the eighth arrest order, which deals with violations of Mexican banking laws, is under review by another federal court (Cuarto Tribunal Colegiado en Materia Penal del Primer Circuito).

Gómez Urrutia's lawyers said the decision is another step in the process that will bring the union leader home. "We have won seven of the cases, which had resulted in arrest orders that were clearly unconstitutional," said attorney Marco del Toro. He said the charges against the union leader were the result of a conspiracy from anti-labor mining companies such as Grupo México.

But Gómez Urrutia continues to have detractors among mining workers, and his critics say that the court's decision does not necessarily mean that the money-laundering charges have been invalidated. Rather, the decision by the court merely directs the government to present further proof

that Gómez Urrutia had committed the crime of money laundering. "The SNTMMSRM is trying to sway public opinion by suggesting that Gómez Urrutia has been fully exonerated of money-laundering charges," said Agustín Acosta Azcón, an attorney for a group of miners seeking the return of US\$55 million that the SNTMMSRM leader is alleged to have embezzled.

The war of words between the dissidents and the SNTMMSRM reflects a much wider power struggle within the miners union. On Feb. 7, Carlos Pavón, who heads the dissident union Sindicato Minero Metalúrgico Napoleón Gómez Sada, demanded a full audit of Gómez Urrutia's expenditures for the past 10 years. Ironically, the dissident group is named after Gómez Urrutia's father, who for decades served as leader of the SNTMMSRM.

Pavón noted that his union has grown to 6,000 members, many coming from the ranks of the SNTMMSRM. For example, in an election in December 2010 to determine which union would get a collective-bargaining contract, workers at a mine near Fresnillo, Zacatecas state, voted 670-37 to go with the organization led by Pavón.

To compensate for the loss of members, the SNTMMSRM is trying to organize among companies whose employees are not represented by unions, such as Honda de México. Workers at the automobile company are trying to form their own union, which they would call Sindicato de Trabajadores Unidos de Honda de México (STUHM).

US court paves the way for extradition of Ye Gon

The fate of Ye Gon was decided in the US courts rather than by the Mexican judicial system. The decision by Judge Facciola to deny a motion to block the request for Ye Gon's extradition greatly increases the probability that the pharmacist will soon be returned to Mexican soil.

Ye Gon's lawyers had filed the motion to block the extradition on the premise that their client would not receive a fair trial in Mexico. But Facciola denied the motion, saying there was probable cause to believe that Ye Gon committed each of the crimes that prompted the extradition request by the Mexican government.

Immediately after the verdict, Ye Gon's lawyers went to work on an appeal. In an interview with Milenio.com, attorney Rogelio de la Garza said the main objective of the appeal was to prevent an immediate extradition of Ye Gon. Without such an appeal, nothing would prevent the US State Department from handing over their client immediately to Mexican authorities.

Another member of Ye Gon's legal team, attorney Greg Smith, suggested that he would seek a petition for a writ of habeas corpus for his client in several venues, beginning with the District Court.

The Mexican government had originally requested Ye Gon's extradition in 2008, but the US declined to hand him over at that time while it processed charges against the pharmacist of importing methamphetamines into the US. US prosecutors dropped the charges in 2009 after a witness refused to testify ([SourceMex, July 1, 2009](#)). This paved the way for Mexico to file a new motion for extradition.

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