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Pinochet case: Home Secretary's statement a mockery of justice

"Jack Straw's announcement that he might stop Augusto Pinochet's extradition makes a mockery of justice," Amnesty International said today. "The announcement is based on a medical opinion and report not made available to all relevant parties, while at the same time seeking representations from them".

Seeking representations from the parties without providing them with the medical report and opinion denies natural justice. The process is not transparent or fair. The medical opinion was evaluated in secret by the Home Secretary, a political official, rather than by a court, without any opportunity for the prosecution to observe the medical examination, challenge it or obtain a second independent medical opinion.

"In order for the states requesting the extradition to make a submission or consider any other action, access to the medical report and opinion is essential," the organization said.

As a general rule, medical records are private. However, when an individual medical condition is made an issue in a legal proceeding, as it has been in this case, the person involved would waive his or her right to privacy -- at least to the extent of the other parties to the proceeding.

Amnesty International is calling for the following step to be taken immediately:

"Since the states requesting his extradition were not given the opportunity to observe the medical examination, see the reports or cross-examine the doctors, then they should be afforded the opportunity, subject to judicial supervision, to nominate their own medical expert to conduct a medical examination or to have a new medical examination at which their own medical experts could be present as observers."

To offer the prosecution -- and other parties -- an opportunity to make representations without having access to the evidence presented raises doubts about the whole process.

Amnesty International believes that Augusto Pinochet has the same rights as any other person to all legal mechanisms available - including making a legal case that he is unfit to face extradition. No individual who is determined by a court to be unfit to participate in an extradition proceeding should have to do so.

Background

Anyone facing extradition should be permitted to request and obtain an independent medical examination to determine whether he or she is able to participate in the extradition proceedings. However, while these proceedings are before the courts such an examination should be subject to judicial supervision in a transparent process in which the prosecution should be permitted to have a medical observer, should be able to examine the medical reports and the doctors who conducted the medical examination and, if appropriate, to call its own medical experts to examine the person facing extradition.

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For more information please call Amnesty International's press office in London, UK, on +44 171 413 5566, after hours +(44) (0) 378 472 116 visit our website at <http://www.amnesty.org>