

PUBLIC

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EXTRA 02/00

Impunity/Legal concern

14 January 2000

UNITED KINGDOM

Augusto PINOCHET, former President of Chile

On 11 January 2000 the UK Home Secretary, Jack Straw, announced that after considering the report on a 5 January medical examination of Augusto Pinochet, "he is minded, subject to any representations he may receive, to take the view that no purpose would be served by continuing the present extradition proceedings and that he should therefore decide not to extradite Senator Pinochet."

The Home Secretary has set a deadline of 18 January for representations from Spain and other interested parties including France, Switzerland and Belgium, states which have requested Augusto Pinochet's extradition.

This invitation for representations from interested parties, including Amnesty International, has been made without giving the parties the relevant medical evidence, making the whole process unfair.

Amnesty International believes that legal proceedings in the Augusto Pinochet case, as in any other legal case, should be fair and transparent. Since the detention of Augusto Pinochet in October 1998, Amnesty International has underlined the importance of allowing judicial proceedings to continue. Decisions relating to his medical fitness to stand trial should be made by a court of law before the Home Secretary takes his final decision on extradition. The medical report was evaluated in secret by the Home Secretary, a political official, rather than by a court of law.

#### **BACKGROUND INFORMATION**

Augusto Pinochet was arrested in London, UK, on 16 October 1998 after Spain issued a judicial request for his arrest on charges of crimes against humanity, relating to cases of torture, "disappearance" and killings while Chile was under military government (1973-1990).

The House of Lords ruling of 24 March 1999 confirmed that former general Augusto Pinochet did not have immunity from prosecution for acts of torture committed when he was head of state. The House of Lords held that Augusto Pinochet could be extradited for crimes of torture and conspiracy to torture alleged to have been committed after 8 December 1988. The ruling stated that "torture is an international crime over which international law and the parties to the UN Convention against Torture have given universal jurisdiction to all courts, wherever the torture occurs". Following a second Authority to Proceed issued by the UK Home Secretary, the case was heard by the Bow Street Magistrates' Court. On 8 October 1999 Magistrate Ronald Bartle ruled that the extradition of Augusto Pinochet to Spain could proceed. This decision was appealed before the High Court by Augusto Pinochet's lawyers. The recent announcement of UK Home Secretary Jack Straw that he is minded to halt the extradition would stop the appeal proceeding which is scheduled to be heard in the High Court in March.

In Chile, families of victims and non-governmental human rights organizations have expressed dismay at the position taken by the UK Home Secretary, publicly stating their concern that returning Augusto Pinochet to Chile would guarantee impunity for those who committed human rights violations during his government.

#### **RECOMMENDED ACTION: Please send telegrams/faxes in Spanish or your own language:**

- expressing concern that the UK Home Secretary's announcement that he "is minded" to stop the extradition of Augusto Pinochet to Spain is based on a medical report and opinion not made available to all relevant parties;
- expressing concern that the Home Secretary has invited representations from the parties without providing them with the medical report and opinion;
- expressing concern that the medical opinion was evaluated in secret by the Home Secretary, a political official, rather than by a court of law, without

any opportunity for the prosecution to observe the medical examination, challenge it or obtain a second independent medical opinion;  
 - stressing that judicial investigations in Spain were opened as a result of more than two decades of campaigning by relatives of victims of human rights violations, and the victims themselves, who could not get justice in Chile;  
 - underlining your concern for victims of human rights violations in Chile and their families, and the fact that despite over 20 years of campaigning for justice, many continue to suffer the agony of not knowing the fate of relatives who have "disappeared".

**In appeals to the Spanish government please also:**

- express your concern that the Spanish government has announced its intention to accept the decision of the UK Home Secretary, a political official, taken after an unfair and secret procedure, if he decides to stop the court-ordered extradition of Augusto Pinochet;  
 - urge the government to immediately forward to the appropriate UK judicial authorities any legal representations made by the Spanish judge investigating allegations of human rights violation committed in Chile under the government of General Augusto Pinochet, including any request for access to the medical report and for a new medical examination by an expert appointed by Spain.

**In appeals to Spanish, Belgian, French and Swiss governments**

- urge them to take all possible steps, including challenges in court, to ensure a fair and transparent process;  
 - urge them to urge the UK government to release the medical report to the judicial authorities of Spain, Belgium, France and Switzerland.

**APPEALS TO:**

**UK Authorities:**

Secretary of State for Home Affairs  
 The Rt Hon Jack Straw, MP

**Telegrams: Home Secretary, London, UK**

**Fax: +44 171 273 3965**

**Salutation: Dear Secretary of State**

Secretary of State for Foreign and Commonwealth Affairs  
 The Rt Hon Robin Cook, MP

**Telegrams: Foreign Secretary, London, UK**

**Fax: +44 171 270 3539**

**Salutation: Dear Foreign Secretary**

**Spanish Authorities:**

Minister of Justice:

Excma Sra Margarita Mariscal de Gante y Mirón

**Telegrams: Ministra Justicia, Madrid, Spain**

**Fax: +34 91 390 2268**

**Salutation: Sra Ministra**

Minister of Foreign Affairs:

Excmo Sr Abel Matutes Juan

**Telegrams: Ministro Asuntos Exteriores, Madrid, Spain**

**Fax: +34 91 883 0814**

**Salutation: Señor Ministro**

**Belgium**

Minister of Justice

Monsieur Marc Verwilghen

**Telegrams: Ministre Justice, Brussels, Belgium**

**Fax: + 32 2 538 07 67**

**Salutation: Monsieur le Ministre/Dear Minister**

Minister for Foreign Affairs

Monsieur Louis MICHEL

**Telegrams:** **Ministre Affaires étrangères, Brussels, Belgium**  
**Fax:** **+32 2 511 63 85**  
**Salutation:** **Monsieur le Ministre/Dear Minister**

**Switzerland**

Federal Councillor/Head of the Federal Department for Justice and Police  
 Ruth Metzler-Arnold

**Telegrams:** **Cheffe Département justice et police, Bern, Switzerland**  
**Fax:** **+ 41 31 32 27 832**  
**Salutation:** **Madame la Conseillère fédérale/Dear Federal Councillor**

Federal Councillor responsible for the Department of Foreign Affairs  
 Joseph Deiss

**Telegrams:** **Chef Département fédéral affaires étrangères, Bern, Switzerland**  
**Fax:** **+41 31 3223237**  
**Salutation:** **Monsieur le Conseiller fédéral/Dear Federal Councillor**

**France**

Minister of Justice  
 Madame Elisabeth GUIGOU

**Telegrams:** **Ministre Justice, Paris, France**  
**Fax:** **+331 447760 37**  
**Salutation:** **Madame la Ministre**

Minister for Foreign Affairs  
 Monsieur Hubert VEDRINE

**Telegrams:** **Ministre Affaires étrangères, Paris, France**  
**Fax:** **+331 43 17 52 03**  
**Salutation:** **Monsieur le Ministre**

**COPIES TO:**

The Prime Minister

The Rt Hon Tony Blair, MP

**Telegrams:** **Prime Minister, London, UK**  
**Fax:** **+44 171 925 0918 / 270 0196**  
**Salutation:** **Dear Prime Minister**

The government and political representatives of your own country, and diplomatic representatives of the UK and Spain accredited to your country.

**PLEASE SEND APPEALS IMMEDIATELY.** Check with the International Secretariat, or your section office, if sending appeals after 18 January 2000.