

French court frees ex-MI5 whistle-blower

British extradition request refused

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A French court has refused a request by the British government for the extradition of former MI5 agent David Shayler. The unexpected ruling was announced on Wednesday, releasing Shayler from his three-month custody.

The government sought Shayler's extradition after he made a series of embarrassing revelations regarding the activities of the British secret service. These included allegations that the international security service MI6 had bungled an assassination attempt against Libyan leader Colonel Muammar Gaddafi, leading to the killing of innocent civilians.

Shayler's extradition had appeared a formality. French police arrested him in August at Scotland Yard's request. Shayler appeared in the same court for a 90-minute hearing last month. The public prosecutor supported the extradition request, despite French penal law deeming the disclosure of defence secrets a 'political act', and thereby immune from extradition conventions between the two countries. At that hearing, the French government claimed that the concept of 'political crime' had virtually ceased to exist between EU countries. The EU had become one 'judicial space', it argued, in which extradition should be 'automatic'.

The French court rejected this argument. Its six-page ruling, not yet published in full, states that a 1996 accord diluting the importance of 'political acts' is not yet in force. Its decision was based on the earlier 1957 agreement between France and the UK. In effect, the French court has ruled that the British government's action against Shayler is politically motivated.

Welcoming the decision, John Wadham, Shayler's British lawyer and director of the civil rights group Liberty, said, 'We are delighted with the decision. It was unexpected because we did not expect the court to take such a robust decision. Clearly the French court

recognised that this was a politically motivated attempt by the government to silence one of its critics.' He called for a halt to further attempts to prosecute Shayler, stating, 'I am sure the British government does not want to be seen to be prosecuting someone for political reasons.'

The British authorities are considering appealing to the French Supreme Court against the ruling and have signalled their intention to pursue Shayler's arrest. The former MI5 agent has negotiated a publishing deal with a British Sunday newspaper. He is thought to possess highly classified documents containing further details of Britain's security operations, including covert operations in Northern Ireland. The government had been involved in secret negotiations with Shayler for several months in an attempt to prevent further disclosures. Shayler's lawyers argued that these discussions were proof that his offence was political and not criminal.

The French court decision is acutely embarrassing for the Blair government. In the first instance it confirms their attempts to conceal the abuses of the outgoing Conservative government. Secondly, it has thrown a spotlight on Labour's support for the draconian Official Secrets Act. Blair and other leading ministers voted against the act whilst in opposition, decrying it as an attack on civil liberties. The act imposes an absolute duty of life-long secrecy on all civil servants, with no public interest defence. It has been found to be incompatible with European law.

Amongst those who have fallen foul of this legislation are:

- Clive Ponting, a Ministry of Defence employee, accused of leaking an internal memo on the sinking of the *Belgrano* during the Falklands conflict. This proved that the Argentinean cruiser was outside the 'exclusion

zone' imposed by Britain at the time it was attacked, killing 360 people.

- Cathy Massiter, a former MI5 officer who told a TV programme that the agency had been illegally bugging telephone lines.

- Peter Wright, the former MI5 officer whose book 'Spycatcher' detailed black-bag operations against the Labour government of Harold Wilson in the 1960s and 1970s.

- Sarah Tisdall, a Foreign Office clerk who leaked details of American nuclear capabilities on British soil.

In every case, the Labour Opposition at the time defended these 'whistle-blowers'.

As well as seeking Shayler's extradition under the provisions of the Official Secrets Act, the Labour government has also sought to extradite former MI6 officer Richard Tomlinson. He was sentenced to one year in prison in 1997 for passing secrets to an Australian publisher. He was arrested along with Shayler earlier this year in Paris, but was released due to lack of evidence. Nevertheless, the government obtained a court injunction preventing him from committing any further breach of the act.

See Also:

Former British MI5 agent alleges plot to assassinate Gaddafi

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