

Pinochet appeals against arrest order in Chile

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A Chilean judge placed former dictator General Augusto Pinochet under house arrest for the second time on January 29, ordering him to stand trial on homicide and kidnapping charges. Pinochet refused to acknowledge the arrest order, declining to sign the relevant document. Nevertheless, the court has confirmed the order and his lawyers filed an appeal the next day.

Pinochet is still living in luxury under military protection on his vast coastal estate 128 kilometres south-west of Santiago, together with his family and many relatives. While he cannot leave the estate, he can freely receive guests and has been visited by leading military figures.

The Court of Appeal is expected to review Juan Guzman Tapia's order next month, with the appeal process likely to go all the way to the Supreme Court, taking months. Pinochet's lawyers will argue that their client is too frail to stand trial, either calling for a reinterpretation of recent court-ordered medical tests or for another set of tests. They will also claim that the crimes were committed by Pinochet's commanding officers without his authority.

Pinochet, 85, is accused of masterminding 57 homicides and 18 kidnappings by the "Caravan of Death"—a military squad that he created to summarily execute labour leaders and supporters of the reformist government of Salvador Allende, who was deposed in Pinochet's 1973 military coup.

Judge Guzman issued the arrest warrant after medical tests concluded that Pinochet suffered from "moderate dementia" associated with old age but was neither insane nor demented—the grounds for escaping prosecution under Chilean law.

Just two days before Guzman released his decision, Pinochet was whisked off to military hospital in an army helicopter, allegedly in danger of suffering a stroke after a minor brain hemorrhage. Pinochet was then flown back to his country estate, all the while shielded from the media.

Guzman said the medical tests had diminished but not extinguished the chance of Pinochet being sentenced. He ruled out halting Pinochet's trial "for now"—suggesting that the proceedings could still be halted if Pinochet's condition deteriorated.

Pinochet underwent examinations on January 10-13 after

appeal courts overturned Guzman's initial December 1 arrest order. The Supreme Court ruled that the judge had not formally interrogated Pinochet before charging him and directed Guzman to carry out medical tests first. The judge interrogated Pinochet on January 23 when, against the instructions of his lawyers, the general answered Guzman's questions.

Several hundred people gathered outside a Santiago court and cheered as the arrest order was restored. Prosecution lawyer, Hugo Gutierrez called the decision historic. "Finally we are putting an end to the military dictatorship. It is an embarrassment that the Chilean civilian transition has coexisted alongside a criminal for all these years. This resolution fills us with happiness and it is good for Chile".

Overseas human rights organisations hailed the decision as proof that international authorities could prod local judicial systems to prosecute former dictators and others accused of atrocities. "It's a historic development that shows how international justice can pressure local authorities who had abdicated their obligations in the area of human rights," Jose Miguel Vivanco, executive director of Human Rights Watch's Americas division, said in Washington.

It is unclear, though, how the appellate judges will rule. Ricardo Israel, head of the University of Chile's Political Science Institute, said the Supreme Court might eventually rule that Pinochet is unfit to face trial because of poor health.

Part of the uncertainty arises from a November court decision to include physical as well as mental tests to determine whether Pinochet should stand trial. A strict interpretation of the test results, which showed that Pinochet suffers from a physical condition arising from previous strokes, could end the proceedings.

The military establishment is continuing to place pressure on the courts and the Socialist Party-led coalition government of President Ricardo Lagos to secure Pinochet's release. The commander-in-chief of the Chilean army, General Ricardo Izurieta told reporters: "I am deeply worried about General Pinochet's health and I have not the slightest doubt that the entire army is as well."

Incriminating document

During his interrogation, Guzman showed Pinochet a letter

dated 31 October 1973, sent to him by General Joaquin Lagos, at the time commander of the Antofagasta garrison in northern Chile. The document contained a list of 53 executions authorised by General Sergio Arellano Stark, leader of Pinochet's roaming death squad.

Pinochet acknowledged his own handwriting scrawled over the report, but attempted to blame his subordinates for the murders. "I am no criminal," he told Guzman, according to the official transcript. "Moreover those in charge of the prosecution of detained prisoners were the commanders of the respective garrisons".

Lagos' letter, however, proves that Pinochet knew of the deaths. Far from reprimanding the Caravan of Death members, Pinochet promoted them to higher posts.

Asked why the bodies were not returned to the families, Pinochet answered: "Many times the bodies of the dead persons were retrieved by their own families. In cases, like when it concerned terrorists who were without identification, it was difficult to identify them. No-one knew where the bodies were left because no-one claimed them."

Yet the 75 Caravan of Death victims had handed themselves into the military authorities in the days after the coup. They had either been sentenced to prison for eight weeks to 12 years or were awaiting trial when they were executed.

General Lagos, who resigned from the army eight months after General Arellano's trip north, first testified on the death squad in 1986 during an investigation into the disappearance of three of the people killed.

He only recently brought to light the letter he had sent to Pinochet. Unbeknown to Pinochet, Lagos had kept a copy of the document after Pinochet had forced him to sign a revised report making no mention of Pinochet, Arellano or the death squad.

General Lagos gave television and newspaper interviews last week, describing the torture and murder of the victims and incriminating Pinochet. "I kept [the letter] for 27 years, because in the last interview I had with him [Pinochet] he did something that I had not anticipated. He ordered me to... not mention him nor Arellano and that I produce a list, which I had to sign. As a result, I was made responsible for all the crimes that were committed under my jurisdiction.

"When Pinochet ordered me to erase Arellano as responsible for the 53 executions... I realised that there existed a real connivance between Arellano and Pinochet. At my expense, Pinochet attempted to clear his image".

Lagos' earlier testimony was one argument used to strip Pinochet of his senatorial immunity last August. Supreme Court judges voted 14 against 6 to direct Guzman to continue compiling depositions from surviving witnesses, the victims' families and the officers who participated in the

executions and illegal burials.

Lagos, now considered the most important witness against Pinochet, has been given around-the-clock police protection, joining Guzman and others who have received death threats from Pinochet supporters.

The military and the government have been unable to stop the proceedings against Pinochet, despite working relentlessly to protect him and put an end to all criminal cases against the armed forces.

After President Lagos agreed to convene the military-dominated National Security Council to discuss the charges laid against Pinochet, Guzman accused "members of the government" of "coercion". President Lagos denied the accusation, declaring that he upheld the independence of the courts. Nevertheless, he has met repeatedly with the military chiefs to quell their concerns and guarantee an eventual political accord that will shut down the criminal cases.

This was the purpose of a recent report handed to the government by the military, purporting to reveal the whereabouts of the remains of some 200 disappeared prisoners. The aim of the report, which arose from a government-sponsored human rights commission, is to overcome a legal loophole in the amnesty protecting Pinochet and the military from punishment for murders committed in the early years of the dictatorship.

Guzman and other judges have ruled that unless the bodies of the disappeared are accounted for, they are still "kidnapped"—an ongoing crime that has continued beyond the years covered by the amnesty. In order to evade prosecution, the military's document claimed that the bodies were thrown into rivers, lakes and the ocean, or dumped in unidentified mass graves. Nearly all the Caravan of Death victims were among them, laying the basis for Pinochet to argue that he can no longer be tried for kidnapping and is therefore covered by the amnesty.



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