

RELEASED IN FULL

ACTION WHA-00

|      |         |         |         |         |         |         |         |
|------|---------|---------|---------|---------|---------|---------|---------|
| INFO | LOG-00  | EEB-00  | AF-00   | AID-00  | AMAD-00 | CIAE-00 | INL-00  |
|      | DNI-00  | DODE-00 | DOEE-00 | DS-00   | EAP-00  | EUR-00  | UTED-00 |
|      | VCI-00  | DIAS-00 | H-00    | TEDE-00 | INR-00  | IO-00   | LAB-01  |
|      | L-00    | ARMY-00 | MOFM-00 | MOF-00  | VCIE-00 | NSAE-00 | ISN-00  |
|      | NSCE-00 | OIC-00  | NIMA-00 | OPR-00  | PA-00   | GIWI-00 | PRS-00  |
|      | P-00    | ISNE-00 | SP-00   | SSO-00  | SS-00   | STR-00  | TRSE-00 |
|      | FMP-00  | SCRS-00 | DSCC-00 | PRM-00  | DRL-00  | G-00    | NFAT-00 |
|      | SAS-00  | FA-00   | SWCI-00 | PESU-00 | /001W   |         |         |

-----685191 242232Z /38

R 242229Z MAY 10  
 FM AMEMBASSY SAN SALVADOR  
 TO SECSTATE WASHDC 0804  
 INFO WHA CENTRAL AMERICAN COLLECTIVE  
 USMISSION USUN NEW YORK  
 AMEMBASSY MADRID  
 AMEMBASSY MEXICO

UNCLAS SAN SALVADOR 000201

SENSITIVE  
SIPDIS

DECONTROLLED

E.O. 12958: N/A  
 TAGS: PHUM, PGOV, PREL, KJUS, ES, SP  
 SUBJECT: Supreme Court Refuses Jesuit Case Request, Upholds Amnesty Law

1. (SBU) Summary: The Salvadoran Supreme Court affirmed El Salvador's Amnesty Law and rejected a request from a Spanish judge to hand over information regarding the 1989 murder of six Jesuit priests. The decision underlines El Salvador's antipathy for revisiting the quarrels originating from the civil conflict. End summary.
2. (U) In a decision affirming El Salvador's amnesty law, the Supreme Court May 20 rejected a request from a Spanish judge to hand over information regarding 14 soldiers accused of murdering six Jesuit priests, their housekeeper, and her 16-year-old daughter, in 1989. In rejecting the petition, the court upheld arguments that some of the soldiers have already been tried for the crimes, and that the statute of limitations as well as the Amnesty Law itself prohibited further prosecution. They also noted that the amnesty advances a fundamental national interest. Judge Ulices Guzman said that "It would be a contradiction for the Salvadoran government to cooperate with a foreign state to prosecute Salvadorans who have been exempted from liability," calling it an issue of national sovereignty. A task force will present a report

REVIEW AUTHORITY: Adolph Eisner, Senior Reviewer

3. (U) According to local press reports, the petition was filed by judge Eloy Velasco Nunez of the Spanish court Audiencia Nacional in October 2009, in response to a complaint filed in May 2009 by the Human Rights Association of Spain (APDHE) and the Center for Justice & Accountability (CJA), based in San Francisco, California. In August 2009, University of Central America rector Jose Maria Tojeira urged reopening these cases, and had pressed the government to annul the 1993 Amnesty Law. (Note: The University of Central America was the site of the Jesuits' murders. End note.) The GOES did not follow through with the suggestion, which in any event could only be carried out by the Legislative Assembly.

4. (SBU) Nine of 15 justices voted to reject the request, with five favoring the petition. Supreme Court President Jaime Belarmino abstained. Voting against were Rosa Maria Fortin, Miguel Trejo, Lolly Claros, Evelyn Nunez, Nestor Castaneda, Ulices Guzman, Rodolfo Gonzalez, Mario Valdivieso, and Mary Luz Regalado. One justice informed DOJ Attache that Belarmino abstained because, soon after joining the court as President, he had agreed to provide the information requested by the Spanish judge without consulting his colleagues.

5. (U) The accused are Generals Humberto Larios, Rene Emilio Ponce, Juan Rafael Bustillo, Juan Orlando Zepeda; Colonels Inocente Orlando Montano and Francisco Fuentes Helena; Lieutenants Carlos Camilo Hernandez Barahona, Jose Ricardo Espinoza Guerra and Gonzalo Guevara Cerritos; Sergeants Antonio Ramiro Avalos Vargas and Thomas Zarpate Castillo; Corporal Angel Perez Vasquez; and soldiers Oscar Mariano Amaya and Jose Alberto Sierra Ascencio.

6. (SBU) Comment: This is an important decision. Though noted in the press, it was not given prominence, and the absence of a heated public response coupled with a dearth of editorial comment indicate general, albeit tepid, support for preserving the Amnesty. Nevertheless, the fact that the Court, which is currently engaged in a bitter internal power struggle that has effectively left it deadlocked, was able to muster a sizeable majority to issue a judgment gives the decision added cachet. The decision reinforces the Amnesty Law as the bedrock of the peace accords that continue to sustain El Salvador's political system.

BLAU

NNNN