

ACTION INL-00

INFO	LOG-00	EEB-00	VCI-00	AID-00	A-00	ACQ-00	CA-00
	CCO-00	CG-00	CIAE-00	COME-00	CTME-00	DEAE-00	DINT-00
	DODE-00	DOEE-00	DOTE-00	WHA-00	DS-00	AVC-00	EUR-00
	FAAE-00	FBIE-00	UTED-00	H-00	TEDE-00	INR-00	INSE-00
	IO-00	L-00	MOFM-00	MOF-00	M-00	VCIE-00	NRC-00
	NSAE-00	ISN-00	NSCE-00	OCS-00	OIC-00	OMB-00	PA-00
	PM-00	PRS-00	P-00	SCT-00	ISNE-00	DOHS-00	SP-00
	SSO-00	SS-00	TRSE-00	T-00	USSS-00	IIP-00	PMB-00
	DSCC-00	DRL-00	G-00	SAS-00	FA-00	SWCI-00	SANA-00

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R 031648Z OCT 11
FM AMEMBASSY SAN SALVADOR
TO SECSTATE WASHDC 2722
INFO AMEMBASSY SAN SALVADOR

RELEASED IN PART B7(B),B7(C),B6

UNCLAS SAN SALVADOR 000219

SENSITIVE
SENSITIVE

DECONTROLLED

E.O. 13526: N/A
TAGS: PREL, PGOV, KCRM, KJUS, ES
SUBJECT: Spanish Court Sparks Amnesty Debate

1. (SBU) Summary. A request by a Spanish judge for the extradition of 20 former Salvadoran military officials for their alleged involvement in the 1989 killing of six Jesuit priests, the resulting International Police agency (Interpol) "red notices" requesting their arrest, [redacted]

[redacted] sparked an emotional debate in El Salvador on one of the worst atrocities of the civil war and the application of the Amnesty Law that helped end it. While the controversy largely had abated following a late August Supreme Court decision avoiding action based on legal technicalities, the September 20 issuance of a second Interpol red notice is likely to revive the issue. [redacted]

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B7(B)
B7(C)

End

Summary

Public Debate Centers on Amnesty Law

2. (U) On May 30, Spanish judge Eloy Valasco Nunez requested the extradition of 20 Salvadoran civil-war era military officials, accusing them of planning and carrying out the 1989 killings of six Jesuit priests (including five Spaniards), their Salvadoran

REVIEW AUTHORITY: Adolph Eisner, Senior Reviewer

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housekeeper and her daughter. On July 26, Interpol issued a "red notice," which requests that the wanted person "be detained with a view to extradition," for 10 of the defendants. These actions sparked extensive and sometimes painful public debate in El Salvador, much of it centered on the 1993 General Amnesty for the Consolidation of Peace law, which was passed one year after the signing of the Peace Accords that ended the 12-year civil war. The Amnesty Law provided broad and unconditional amnesty to all who in any form participated in political crimes, which were defined as "any crime with political purposes or committed as a consequence of the civil war."

3. (U) While some criticize the Amnesty Law for allowing those who committed atrocities on both sides to escape justice, the law is acknowledged by most Salvadorans as a critical factor in healing the wounds of a bitter war and allowing the country to build a lasting peace. Many political leaders and commentators fear acting on the Spanish extradition request in apparent contradiction of the Salvadoran Amnesty Law could launch a "witch hunt" that could re-open old wounds and undermine 20 years of reconciliation. Moreover, many current and former government leaders on both the left and the right were active in the conflict, and a reinterpretation of the Amnesty Law could make them vulnerable to investigation and prosecution.

4. (U) Although there have been calls from some quarters - most notably Human Rights Ombudsman Oscar Luna and the University of Central America (UCA), where the killings took place -- to bring those responsible for the Jesuit murders to justice through the Spanish case, most commentators come down on the side of respecting the Amnesty Law while acknowledging the heinousness of the killings. Factions on the center and right of the political spectrum have strongly defended the inviolability of the Amnesty Law. Even the FMLN - elements of which in the past called for overturning the Amnesty Law -- has been careful to stress the importance of legal process and has alluded to potentially serious repercussions if the accused are extradited to Spain in apparent contradiction of the Amnesty Law. FMLN party head Medardo Gonzalez said August 9 the case was in the hands of the Salvadoran Supreme Court, which should set aside the special interests of political parties or others in making a decision. The FMLN would not "provoke political instability" by weighing in on the Spanish request for extradition, according to Gonzalez.

5. (U) Once the Court issued its August 24 decision avoiding action on possible extradition on legal technicalities, many commentators and political leaders made statements respecting the Court's decision. President Mauricio Funes -- who while the Court was deliberating had noted the matter was in the hands of the judiciary, not the executive branch -- made a statement August 25

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urging that the Court's opinion be "respected and heeded." The influential Archbishop of San Salvador, Jose Luis Escobar Alas, spoke for many Salvadorans the same day when he said "the amnesty law... with all its defects and limitations may be the best path to reconciliation."

6. (SBU) Public discussion of the Jesuits case diminished following the Court's decision. [REDACTED]

[REDACTED] The September 20 red notice naming five additional former military officials for their alleged complicity in the 1989 murders has renewed interest in the Jesuits case, though it has not attracted the same level of attention as the initial Interpol requests. To date, the five have not been detained or turned themselves in to military or civilian officials, and the Supreme Court says it is evaluating the latest red notice.

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Background: Court Avoids Controversy

7. (U) Shortly after the first Interpol red notice was issued July 26, nine of the suspects still residing in El Salvador turned themselves in to military officials voluntarily, but technically were not under arrest. Several filed habeas corpus petitions to halt further action toward an arrest, but the Salvadoran Supreme Court ruled in mid-August the habeas corpus petitions had no standing based on procedural issues, including the Court's view that their arrest technically had not been ordered.

8. (SBU) On August 24, the Court ruled that neither the Interpol red notice nor the request from the Spanish judge constituted a formal extradition request, and that therefore the issue was closed. The decision avoided the potentially controversial topics of extradition and the applicability of the Amnesty Law. In defending their decision, members of the Court emphasized that the Interpol red notice merely required that the suspects be located, not arrested; that only they had the authority to act on extraditions; and that proper government-to-government channels must be followed in requesting extraditions. In the early morning hours following the Court's ruling, the former military officials left the military compound where they had been staying and returned to their normal lives.

Comment

9. (SBU) The Spanish judge's extradition request hit an emotional nerve in El Salvador as it forced debate over two of the most sensitive episodes of the Civil War: the murders of Jesuits priests at the height of the war and the general amnesty that helped end it. By focusing on legal technicalities, the Salvadoran

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Supreme Court avoided addressing the potentially divisive issue of extradition for crimes committed during the war and the validity of the Amnesty Law. The new red notice will again require the Court to address sensitive issues. In general, public opinion supports the continued application of the Amnesty Law.

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APONTE

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