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Subject: El Salvador: Police Carry Out International Arrest Warrant for Jesuit Murders

1. (SBU) Key Points:

-- On February 5, El Salvador's National Civil Police (PNC) arrested four former soldiers named in the December 21, 2015 extradition request from Spanish Judge Eloy Vasco. The move comes after a January 4 "red notice" arrest warrant issued by Interpol called for the arrest of 17 military officers implicated in the 1989 murder of six Jesuit priests, their housekeeper, and her daughter.

-- On January 19, El Salvador's Supreme Court of Justice (CSJ) held that it was not "competent" to rule on whether or not the police are "compelled" to arrest the military officers. The decision left the government without political cover in a case in which activists from its own base urged the police to detain the officers.

-- During a January 26 interview, newly named PNC Director Howard Cotto maintained the position set out by his predecessor and current Minister of Justice and Security, Mauricio Ramírez Landaverde, that the PNC will comply with law, but that the CSJ needs to clarify first what they called "contradictory" rulings on issues of extradition and international arrest warrants.

-- However, on the night of February 5 the PNC complied with the arrest warrant, detaining four retired soldiers – a colonel, a lieutenant, a sergeant, and a corporal. The rest of the 17 remain at large.

-- Right-wing political parties vehemently protested the arrests, and are calling on the CSJ to deny the extradition. The FMLN has yet to put out a public statement related to these arrests, but the President met with opposition leaders on February 8 to calm the rising political tension. It remains to be seen whether the four arrested soldiers will be extradited to Spain.

(END Key Points)

Police Comply with the Red Alert and Arrest Officers Implicated in Jesuit Murders

Released in Full
By Marvin Russell, Senior Reviewer
U.S. DEPARTMENT OF STATE
04/13/2023

2. (SBU) In a series of nighttime raids on February 5, El Salvador's National Civil Police (PNC) apprehended retired officers Colonel Guillermo Alfredo Benavides, ex-director of the Military College, and Lieutenant José Antonio Ramiro Ávalos Vargas, and retired soldiers Sargent Tomás Zárpate de Castillo and Corporal Ángel Pérez Vásquez. These four former Salvadoran soldiers were named in the December 21, 2015 extradition request issued by Spanish Judge Eloy Vasco for the 1989 murder of six Jesuit priests, their housekeeper and her daughter at the University of Central America (UCA) rectory. The Police announced that they would continue the operation to find and arrest the remaining 13 former soldiers named in the arrest warrant. In a weekend address on February 6, President Sánchez Cerén called on the fugitives to surrender and underlined that the Supreme Court of Justice (CSJ), and not his government, had the final say on whether they would be extradited. PNC Director Howard Cotto claimed on February 9 that some of the former officers named in the extradition request may have been tipped off, and fled ahead of the police arrests. "We can assume that they had prior information...there was evidence that [the police arrest] procedure was imminent," he said.

3. (SBU) On February 6, the four former soldiers detained by the PNC were taken before the San Salvador First Justice of the Peace for the initial stages of the proceedings in connection with the extradition request. They are currently being held at the Transit Police Sub-Delegation facilities to await their hearing. The CSJ is expected to rule on Spain's extradition request soon. According to a CSJ contact, the Court has already received documents pertaining to the four arrests from the Spanish National Court, but Spain still has 60 days to formalize the extradition procedure. We understand that the Court is already considering a January 21 habeas corpus petition filed by the defense attorney representing 14 of the 17 former soldiers, Lisandro Quintanilla, meant to pre-emptively impede his clients' detention. Quintanilla presented the Court with a new petition for *habeas corpus* specific to the four defendants now in detention on February 11, seeking relief from "unlawful imprisonment."

Potential Roadblocks to Extradition, Calls for Justice

4. (SBU) Following the arrests, defense attorneys argued the extradition request and arrest warrants are arbitrary and would constitute double jeopardy based on two previous domestic prosecutions linked to the same defendants and the same set of facts. (Note: This refers primarily to the 1991-1992 trial in El Salvador of a large group of soldiers -- including the four currently under arrest -- for the Jesuit murders. End note.) On February 9, the Office of the Human Rights Ombudsman (PDDH) issued a statement asserting that the Spanish prosecution would not constitute double jeopardy if the "earlier trial was fraudulent." According to human rights advocates at the time, the trial was riddled with irregularities, suppressed evidence, and lack of cooperation by the military and government. Current UCA Rector Andreu Oliva endorsed the extraditions in an interview on February 8, adding that if there had been justice in El Salvador, then "the case in Spain would not exist." He also complained that only the "material authors" of the crime had been investigated, but that the more significant "intellectual authors" had yet to face trial.

5. (SBU) At the 1991-1992 trial, Tomás Zárpate Castillo, José Antonio Ramiro Ávalos Vargas, and Ángel Pérez Vásquez, all charged with murder and conspiracy to commit murder, were acquitted on all counts. Colonel Benavides was the Director of the Military College at the time of the murders, and was accused of giving the order to kill the priests. He was convicted of murder, instigation, and conspiracy to commit acts of terrorism, and sentenced to 30 years. Benavides was set free after the passage of El Salvador's Amnesty Law in 1993. In the Spanish trial, these same four defendants have been charged with crimes against humanity, murder, state terrorism and the cover up of crimes against humanity. The charges were filed by U.S.-based Center for Justice and Accountability (CJA) and Spanish-based Asociación Pro Derechos Humanos de España (APDHE). (Note: The Spanish criminal system allows for private complainants (including civil society) to initiate criminal proceedings as "popular prosecutors." End note.) The second case Quintanilla is referring to took place in 2000, when a trial against former President Alfredo Cristiani and six military officers was dismissed without prejudice on the grounds that the ten-year statute of limitations had passed.

Possible Options for the Supreme Court in Answering the Spanish Extradition Request

6. (SBU) It is not clear whether the CSJ will certify the extradition, but Embassy contacts note that the Court will likely proceed with caution, deliberation, and be very technical in their ruling. (Comment: The CSJ has historically been very strict in their interpretation of Salvadoran law, and in the protection of the rights of Salvadorans, making any extradition

request subject to very careful and precise deliberation by the Court. End comment.) Possible scenarios include:

- The Court may send the case to the Fourth Justice of the Peace, who is in charge of certifying whether all the formal documents and petitions related to the extradition request are in order. If this judge certifies the case, it will go back to the CSJ to be decided *en banc*. All 15 judges would then need to review the case, and by a majority decide whether to extradite or not.
- The Court may rule that the blanket Amnesty Law, passed on March 20, 1993, is the prevailing law of the land and deny extradition. (Note: In 2000, the Constitutional Chamber of the Supreme Court held that while the Amnesty Law is constitutional, judges have individual discretion in their rulings. Specifically, judges may rule that the Amnesty Law does not prevent prosecution so long as the case in question involves “crimes against humanity.” To date, no judge has done so. End note.)
- The CSJ may reject the extradition request based solely on the principle of double jeopardy.
- A likely scenario, according to an Embassy contact, is that five Supreme Court justices occupy themselves with denying the habeas petitions, which have “little legal merit,” thereby necessitating the elevation of alternate justices to hear the extradition *en banc*, as those justices hearing the habeas petition will then have a conflict under Salvadoran law and will no longer be able to participate in the extradition hearings. This would allow some justices to avoid participation in this highly contentious decision without having to publically recuse themselves, and simultaneously create even more uncertainty for Court observers, as the judicial records of the alternate justices are not as well known.
- In another, similar scenario according to a different Embassy contact, the Court may issue simultaneous rulings on the *habeas* petitions and an unconstitutionality complaint against the Amnesty Law, on their dockets since 2013, before issuing any decision on the extradition request.

Supreme Court Avoids the Issue, Police Finally Apply the Law and Execute Arrests

7. (SBU) Prior to this turn of events, El Salvador faced a political “hot potato” related to the interpretation of the Interpol red notices. On January 19, all 15 members of the Supreme Court of Justice (CSJ) responded *en banc* to a January 12 submission from the Ministry of Justice and Security asking the court to rule whether or not the police are compelled to arrest the soldiers named in the arrest warrant. By a majority of 10 votes, the CSJ denied jurisdiction, calling the issue an “internal policing” decision rather than a legal one. Judge González Hernandez said that the “Court will not tell the police what to do. The police director never asks us what to do in other cases of capture and extradition. We assume that the director and the police know the law.” This decision did not overturn a September 2015 decision by the Constitutional Chamber of the Court which ruled that an INTERPOL red notice was sufficient to make arrests, and that a 2011 decision by the Court *en banc* (that alerts were not equivalent to a domestic arrest warrant) had exceeded the scope of the Court’s powers.

8. (SBU) In response to the Court, on January 21 then-PNC Director Ramírez Landaverde called the 2011 and 2015 decisions contradictory, and repeated that without that clarity the police could not proceed in this case. More recently, on January 25 new PNC Director Howard Cotto reiterated this argument and said that the PNC will “undertake an evaluation and make a decision [as to whether to execute the arrest warrants] in compliance with the law.” Following the arrests, on February 6, Ramírez Landaverde, now Minister for Justice and Security, said that the police had acted “within its powers, its responsibilities, after exhausting different petitions made to the Judiciary.” He remarked that the CSJ’s decision to avoid the issue led to a “respective analysis” by the police on the matter and decision “to proceed with the arrests.”

Solid Political Opposition to the Extradition

9. (SBU) On February 8, former guerilla and leader of the leftist Faribundo Martí National Liberation Front (FMLN) party President Sánchez Cerén met at length with political party leaders in an attempt to decrease political tension, following a press release from the right-leaning opposition National Republican Alliance (ARENA), National Coalition (PCN), and Christian Democrat (PDC) parties stating that “the arrest reopened Salvadoran society wounds and violated the spirit of the Peace Accords.” After the meeting, ARENA president Jorge Velado expressed his satisfaction that the President was “in tune” with them regarding the Peace Accords and in their thinking that the country “should look ahead.” Eugenio Chicas, Secretary of Communication, said after the February 8 meeting that all the political parties agreed that the police

did not have any choice but to arrest the military officers. Members of ARENA see this case as a distraction from an array of problems buffeting the FMLN and the country in general, including rising crime, serious fiscal problems, a highly controversial pension reform, and a high-profile probity investigation into former President and FMLN party member Mauricio Funes. Party leaders are expected to resume meeting with President Sánchez Cerén on February 15.

10. (SBU) On February 9, a group of retired military officers also issued a press release calling on the CSJ to deny extradition on the grounds that they must "uphold the Peace Accords" and the Amnesty Law. They made note of the 1991-1992 Jesuit case trial and the earlier CSJ refusal to recognize the red notice as an extradition request. Many in the military and former military have strong ties to ARENA and the PCN, and have publically stated that this case unfairly targets the armed forces, since both sides committed crimes during the Civil War. In their view, singling out the military for criminal prosecution contravenes the "spirit" of the Peace Accords.

Comment

11. ~~(C)~~ While the events of the past week have shed light on the need for reconciliation in El Salvador for serious crimes during the Civil War, it is unclear whether this case will bring grief or relief. The country is already very politically polarized, and this case may make things worse. Ultimately, it is unclear whether the Supreme Court of Justice will certify the defendant's extradition to Spain given their earlier reluctance to weigh in on the matter. Justices and political parties alike are likely concerned with the heavy political implications of this case, and the political fall-out that could result from compliance with the arrest warrants and extradition request. The FMLN may be especially concerned that their war-time misdeeds may be revisited as well if they open the door to legitimately trying historic crimes. In short, this is something no one wants to touch.

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