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Chile: Promoting fulfilment of international obligations is part of the State's duties

The Decree-Law on Amnesty must be urgently repealed in order to avoid its application in cases of human rights violations, Virginia Shoppée, Amnesty International's researcher on Chile, said today in response to arguments in favour of applying the Decree-Law made by the lawyer representing the State Defence Council (Consejo de Defensa del Estado) before the Second Chamber of the Supreme Court of Justice (Segunda Sala de la Corte Suprema de Justicia).

Amnesty International has repeatedly emphasised that the 1978 Decree-Law on Amnesty is incompatible with international human rights law and the Chilean state's obligations. These obligations have been reaffirmed on numerous occasions by UN bodies and by the Inter-American Commission on Human Rights of the Organisation of American States.

"According to international law, Chile cannot cite its own domestic law -- be it legislation, judicial rulings or the constitution itself -- to avoid fulfilling the obligation to investigate, bring to justice and punish those responsible for the serious human rights violations, such as extrajudicial executions, 'disappearances' and torture, that were committed during the military regime of Augusto Pinochet," said Ms. Shoppée.

"The systematic and widespread nature of the crimes committed during the military government makes them crimes against humanity. As such they are imprescriptible and the state has a duty to investigate those responsible and bring them to justice."

In May 2004, the United Nations Committee against Torture indicated that the Decree-Law on Amnesty was preventing the full enjoyment of fundamental rights. The Committee noted that this decree-law, "establishes the impunity of those responsible for the torture, 'disappearances' and other serious human rights violations committed during the military dictatorship."

"It is vital that the executive, legislative and judicial branches of the Chilean government take the state's obligations seriously and join forces to put an end to the impunity of past violations and to ensure that the impunity of those who perpetrated human rights violations during the military government, which are crimes against humanity, is not fostered at the expense of the Chilean state's international obligations," concluded Ms. Shoppée.

General Information

The State Defence Council (CDE) is an independent public service accountable to the President of the Republic. Its main objective is the legal defence of the state's interests.

The pleading of the State Defence Council's lawyer was made on 29 September 2004, in the penultimate hearing of the Criminal Chamber of the Supreme Court (Sala Penal

de la Corte Suprema) before passing judgement on the application of amnesty for soldiers, members of the National Intelligence Department (Dirección Nacional de Inteligencia - DINA), who were sentenced for the 1975 kidnapping and "disappearance" of the Revolutionary Left Movement (Movimiento de Izquierda Revolucionaria - MIR) activist, Miguel Angel Sandoval Rodríguez.

The lawyer for the victim's family has called for the permanent nature of the crime of kidnapping to be recognised, whilst the CDE's pleading requests application of the amnesty law in all trials for human rights violations, once sentence has been passed.

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