

THE TRIAL OF THE PINOCHET DICTATORSHIP

14 former officials of the dictatorship will be tried in Paris for the disappearance of 4 Franco-Chilean victims

8-17 December 2010, Paris Criminal Court

PRESS KIT

Article 1: All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood. Article 2: Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty. Article 3: Everyone has the right to life, liberty and security



Memorial to those who disappeared or were executed under the Pinochet dictatorship. General Cemetery, Santiago, Chile.

A trial without precedent

A review of twelve years of proceedings in France

On 16 October 1998 General Augusto Pinochet was arrested in London at the request of the Spanish judicial authorities.

In the days that followed, the families of nine French citizens who had disappeared or were executed in Chile or in Argentina (but for acts that could be attributed to the Chilean authorities), between 11 September 1973 (the date of the coup d'Etat) and 9 February 1977, filed complaints in France to obtain the truth and justice that they have not obtained in Chile.

Isabelle Ropert filed the first complaint on behalf of her brother, Enrique Ropert, who was arrested on 11 September 1973 in front of the Moneda Presidential Palace and then found dead on 20 October 1973 at the Santiago morgue.

The complaints filed with civil parties constitution by the families of Alfonso Chanfreau, Jean-Yves Claudet, Georges Klein and Etienne Pesle are the only ones to be recognised as admissible by the French courts. The courts have in fact retained the continuing nature of the crime of enforced disappearance, since the victims' bodies have never been found. In French law this crime is qualified as arrest and illegal confinement, aggravated by torture and barbarous acts.



Coup d'Etat of 11 September 1973,
Bombing of the Moneda Presidential Palace.

FIDH and its member organisation in France, the French League for Human Rights (*Ligue française des droits de l'Homme et du citoyen* - LDH), joined the lawsuit as civil parties as early as July 1999. CODEPU (the Corporation for the defense and promotion of people's rights), FIDH member organisation in Chile, the association of Chilean former political prisoners in France and the association France Latin America also registered as civil parties alongside the victims' families.

The investigation opened by Judge Le Loire on 30 October 1998 was closed by Judge Sophie Clément, who issued an order for indictment before the criminal court (*Cour d'assises*) on 21 February 2007.

France issued international arrest warrants against the 19 persons involved in these acts of torture and disappearances, including Augusto Pinochet, who was identified as the most senior official responsible for these crimes. The trial, initially scheduled for May 2008, was postponed on a first occasion.

It will finally be held before the Paris *Cour d'assises* – the highest French criminal court – from **8 to 17 December 2010** against some of the alleged perpetrators of the crimes of torture and enforced disappearance committed against Franco-Chilean citizens during the first years of the military dictatorship in Chile.



Paris Courthouse (*Palais de justice*).

The trial of the system of repression set up in Chile by General Pinochet

From the first day of the coup d'Etat, on 11 September 1973, General Augusto Pinochet set up a true system of repression that targeted all political opponents.

→ From the months of September and October 1973, the government of the military junta pursued and eliminated the activists in Salvador Allende's Unidad Popular coalition of centre left and left-wing parties, in MIR ("Movimiento de Izquierda Revolucionaria" or Revolutionary Left-wing Movement) and the supporters of reforms undertaken by President Allende, such as the land reform.

→ In 1974, General Pinochet created the National Intelligence Directorate (DINA), a real political police force, and confided its running to Manuel Contreras. Placed under the direct orders of General Pinochet, DINA was behind the majority of enforced disappearances, murders and the torture of a great number of political opponents. DINA participated in the creation and administration of several secret detention and torture camps, among which were the "Villa Grimaldi" and "Colonia Dignidad".

→ "Operation Condor" was set up in parallel. Assassination campaigns and anti-guerrilla operations were carried out jointly by the Chile secret services (especially by DINA) and those of Chile's neighbouring countries (Argentina, Bolivia, Brazil, Paraguay and Uruguay) against political dissidents. Based on a so-called "national security doctrine", the operation extended as far as countries in America and Europe (France, Italy, Portugal, Spain).

A historic trial

This trial is of historic value in several respects

Beyond recognition of the individual responsibility of the accused, the trial will be the opportunity to establish and punish **the system of repression** set up and operated by the Pinochet dictatorship that reigned in Chile from 1973 to 1990.

Although there are existing proceedings in Chile, none of these has concerned the victims of different crimes jointly, to permit a complete picture to be drawn up of the way the dictatorship operated. Furthermore, proceedings relate here to significant events at the start of the dictatorship that are characteristic of the way it functioned and make its modus operandum perfectly clear:

- the bombing of the Moneda Presidential Palace and the arrest of the advisers of Salvador Allende;
- the systematic repression of opponents (amongst whom were activists of the Revolutionary left wing movement MIR) and persons linked to the former government (such as those involved with the great land reform embarked on by Allende);
- the extremely hierarchical operation of DINA, the junta's political police force (under the direct orders of Augusto Pinochet and Manuel Contreras);
- Operation Condor, which aimed at eliminating opponents of the region's dictatorial regimes;
- the crimes systematically committed under the Pinochet dictatorship in torture centres such as London 38, Villa Grimaldi, or "Colonia Dignidad" (the latter was created and directed by Paul Schaeffer, a former Nazi war criminal).

These proceedings identify **Augusto Pinochet**, at the head of the regime, as principally responsible for these crimes.

«Amongst other things, the hearings will enable several historic witnesses to be heard. Despite the death of Augusto Pinochet, this trial is nevertheless the posthumous trial of the dictator, and also of the whole system of repression that was set up», said Mr. William Bourdon and Ms Sophie Thonon, the lawyers for the families, and Mr. Claude Katz and Mr. Benjamin Sarfati, legal representatives of the associations.

These proceedings also focus on the **criminal liability of civilians**, especially of company directors who played an important role in carrying out these crimes, which the Chilean courts have not done.

This trial will see a **number of witnesses** who will travel from Chile to appear beside the families who are plaintiffs. There will be:

- Witnesses to the facts, such as the arrest, abduction, detention and torture of the four victims;
- Personalities who will also give evidence of the context of these acts and the situation in Chile, such as the Chilean lawyer and former United Nations Rapporteur, Roberto Garretón; Martin Almada, who discovered the Operation Condor archives; the American journalist John Dinges, a specialist on Operation Condor and the French magistrate Louis Joinet.

Through this trial, France should render justice to the victims' families, **justice that has not been rendered in Chile.**

Jurisdiction of the **French courts**

Basis and application of the extra-territorial jurisdiction of French courts

The Franco-Chilean nationality of the victims constitutes grounds for the jurisdiction of the French judge in this case.

– **Personal jurisdiction in the French courts:** personal jurisdiction is based on the nationality of the perpetrator (active) or of the victim (passive) of the offence.

The French legal system has already issued verdicts on the basis of passive personal jurisdiction: Alfredo Astiz, known as the “Angel of Death” at the Argentinian Naval Mechanics School of, was sentenced *in absentia* to life imprisonment in March 1990 for the abduction and murder of two French nuns during the dictatorship. After escaping from Argentinian justice thanks to the so-called “Final Point” amnesty law, passed in December 1986, the trial of Alfredo Astiz opened in Buenos Aires on 11 December 2009 for crimes committed under the dictatorship.

The courts may also have jurisdiction when neither the victims nor the perpetrators of crimes are French, and the crimes have been committed abroad, on the basis of universal jurisdiction

– **Universal jurisdiction:** Born out of the conviction that certain crimes are so serious that they affect the inter-

national community as a whole, universal jurisdiction enables State’s courts to examine a crime although neither the perpetrator nor the victim are citizens of the State and the crime has not been committed on the State’s territory. A provision of certain international instruments (including the United Nations 1984 Convention against Torture, the 1949 Geneva Conventions, the United Nations Convention against enforced disappearances), universal jurisdiction is provided for in France for the crime of torture when the suspect is located in France and, under more restrictive conditions, for the crime of genocide, crimes against humanity and war crimes.

To date, two sentences have been handed down in France on the basis of universal jurisdiction:

- **1 July 2005:** Ely Ould Dah, a Mauritanian lieutenant, was sentenced *in absentia* to ten years in prison for acts of torture committed in Mauritania in 1990 and 1991;
- **24 September 2010:** Khaled Ben Saïd, former Tunisian Vice-Consul in Strasbourg, was sentenced to twelve years in prison for having given instructions for acts of torture while he was police superintendent in Jendouba, in 1996.

These proceedings are all the more important since they compensate for the failings of the Chilean judicial system.



Mural painting
in the streets of Chile.

The failings of the Chilean justice system

Based on the work of the National Commission for Truth and Reconciliation (known as the Rettig Commission), the National Reparation and Reconciliation Corporation (set up in 1990 and 1992 respectively and relating only to violations of the right to life), and the National Commission on Political Prison and Torture (set up in 2003, known as the Valech Commission), the Chilean State officially recognises 3,197 victims of disappearances or executions and 28,461 victims of torture.

The limited mandate of these bodies and the impossibility for many victims to appeal to them due to the feeling of insecurity, especially at the beginning of the 1990s, and their restrictive mandates, have consequently left hundreds of victims unidentified as such.

In February 2010, the so-called Rettig and Valech Commissions were reinstated for a very brief period to enable new victims to make themselves known during a six month period and so benefit from certain reparation measures.

The intention of these Truth Commissions was not to establish individual responsibility, nor to render justice.

The trial in France originated with the detention of Augusto Pinochet in London, which also permitted proceedings to be started again in Chile. It had been possible to file only a few complaints at the end of the dictatorship in 1990, and these had been discontinued through almost automatic application of the amnesty law. At the time of Augusto Pinochet's return to Santiago following his detention in London, the dictatorship's victims had filed 60 complaints against Pinochet. Two months later there were nearly 100 and, when he died on 10 December 2006, never having been tried, there were more than 400, especially for enforced disappearance, torture, sequestration of children and aggravated homicide.

None of the proceedings in Chile concerns those accused of acts committed against the four Franco-Chilean victims.



Demonstrations against torture during the Chilean dictatorship.

Justice in Chile for past human rights violations

As of today in Chile, 171 persons have been sentenced for crimes against humanity committed during the dictatorship, but only 53 are imprisoned or under house arrest.

Over 330 proceedings are under way and of the 768 persons who are the subject of proceedings, only 56 are civilians.

In 2001, special first instance judges were appointed to investigate these complaints, which have continuously increased since 1998. Some of these judges have done considerable work that has permitted the truth about the crimes committed to be revealed, which some of them have qualified as crimes against humanity on the basis of international treaty and customary law. The Supreme Court no longer applies the amnesty law, even though it is still in force.

Nevertheless, this justice is excessively concise. The low sentences, in recent years applying the rule of "partial statute of limitations", are absolutely disproportionate to the seriousness of the crimes. Taking into consideration the length of time since the acts took place and the current behaviour of the perpetrators of the crimes being tried, in very many cases this rule results in those found guilty walking away free as soon as the verdict is rendered.

In addition justice is very slow: 65% of the ongoing proceedings (often after the proceedings have lasted more than ten years) are still at the stage of the preliminary investigation.

Very few of the civilian leaders under the dictatorship are concerned by the efforts towards justice.

The Chilean legal system never could try Pinochet. The legal system is confronted with echoes of the structure of impunity created by Pinochet and his followers in preparation for the transition.



The Franco-Chilean **victims** who are at the heart of the trial



Etienne Pesle

In charge of land reform at the Institute for the Development of Agriculture and Fishing (INDAP) in Temuco

Born in France on 9 January 1927, Etienne Pesle, at the time a priest, left for Chile in 1953 to work with the destitute. In 1966, he left the priesthood and married Aydée Mendez Caceres, with whom he had two children, Robert and Anne-Marie.

Etienne Pesle was in charge of land reform at INDAP whose goal, in line with the policy defined by President Allende, was to redistribute lands to the poor peasants and especially to the Mapuche peasants in the Temuco region.

On 12 September 1973, Etienne Pesle was first arrested for 24 hours. On 19 September 1973, he was again arrested at his workplace by soldiers wearing the FACH (Chilean Air Force) uniform, including Emilio SANDOVAL POO, a FACH reserve officer. The group was commanded by Miguel MANRIQUEZ, a civilian pilot and landowner against whom Etienne Pesle had led expropriation operations that benefited the Mapuche Indians.

He disappeared from that day and his fate remains unknown. There is consistent evidence that he was taken to Maquehue, the air force base south of Temuco, where torture was systematically used and also applied by civilians. Some persons report that he was killed and that his body was thrown into the sea from the private airplane of Miguel MANRIQUEZ.



Jean-Yves Claudet

A member of MIR, in charge of international relations

Jean-Yves Claudet was born on 30 January 1939 in Maipu. He married Arhel Danus in February 1962, with whom he had two sons, Etienne and Roger.

Jean-Yves Claudet worked as an engineer and was a member of the Revolutionary left-wing Movement (*Movimiento Izquierda Revolucionaria - MIR*). Arrested on two occasions in 1973, he remained in detention for one year. On his release he was immediately transferred to the French Embassy and put on a flight to France.

From France, Jean-Yves Claudet helped to set up a MIR cell in Argentina. He went to Buenos Aires on 30 October 1975, with microfilms in his possession. He was arrested at the Hotel Liberty on 1 November 1975 by agents of the Argentinian secret police (SIE), in the framework of Operation Condor. A DINA (Chilean National Intelligence Directorate) representative in Buenos Aires, in a memo addressed to his superiors, subsequently informed them that Jean-Yves Claudet “*Ya no existe*” – no longer exists.



Alfonso Chanfreau

A member of MIR, and a Santiago city official

Alfonso Chanfreau was born on 22 December 1950 in Santiago. He married Erika Hennings with whom he had a daughter, Natalia.

A member of the Revolutionary Left-wing Movement (*Movimiento Izquierda Revolucionaria* - MIR), he became a Santiago city official following the coup d'Etat on 11 September 1973.

On 30 July 1974, Alfonso Chanfreau was arrested at his home by the National Intelligence Directorate (*Dirección de Inteligencia Nacional* - DINA). Gerardo GODOY GARCIA and Osvaldo ROMO MENA took part in this operation. His wife was arrested the next morning "so that her husband would talk".

Imprisoned for 15 days at the London 38 torture centre in the middle of Santiago, the couple were brutally tortured, by Osvaldo ROMO, Miguel KRASNOFF MARTCHENKO and Marcelo MOREN BRITO in particular.

Erika was transferred to other detention centres and then expelled to France with their daughter Natalia. Alfonso Chanfreau was, for his part, transferred on 13 August 1974 to the "Villa Grimaldi" where his legs were crushed with a vehicle, before being taken back to the London 38 centre.

He disappeared afterwards and some witnesses indicate that he was taken to the "Colonia Dignidad", a place created by Paul SCHAEFFER, a former Nazi criminal, where prisoners were illegally confined and tortured and the agents of DINA were trained.



Georges Klein

Advisor to President Allende

Born in France on 29 December 1945, Georges Klein moved to Chile in 1953. In 1971, he married Alice Vera Fausto; they had one daughter, Vanessa.

He worked as a psychiatrist and was active in the socialist party, then in the communist party (1967). He then became an advisor to President Allende.

Georges Klein was by the side of President Salvador Allende when the Moneda Palace was bombed. Like other defenders of the Palace, he was taken prisoner on the same day and driven by bus, with around forty other persons, to the Tacna Regiment (a land army artillery regiment). The regiment was commanded by Lieutenant Colonel Luis RAMIREZ PINEDA who, together with General Javier PALACIOS, reported to General Herman Brady ROCHE, commander-in-chief of the Santiago garrison.

When they arrived, the 40 prisoners were taken to the stables and ordered to lie on their stomachs with their legs spread and their hands behind their neck until the following day. According to several witnesses, the prisoners were subjected to ill treatment during their transfer and at the Tacna regiment: beaten violently, forced to remain immobile in the cold, deprived of food and water, threatened with death...

On 13 September, Georges Klein was taken away from the Tacna Regiment with 20 other persons in a dumper lorry and disappeared. Evidence collected during the investigation relates that he might have been taken to the Peldehue grounds, where he was killed by machine gun fire on the orders of Major Rafael AHUMADA VALDERRAMA.

The **accused**



- **Juan Manuel CONTRERAS SEPÚLVEDA**,
former head of DINA and former General
of the Chilean Land Army
- **Hermán Julio BRADY ROCHE**
former Commander-in-Chief of the Santiago
garrison
- **Pedro Octavio ESPINOZA BRAVO**
former Colonel of the Land Army, Director of
Operations and Chief of the DINA Metropolitan
Intervention Brigade (BIM)
- **José Osvaldo RIVEIRO**
former Lieutenant-Colonel of the Land Army
- **Marcelo Luís MOREN BRITO**
former Commander of the Land Army assigned
to DINA
- **Miguel KRASNOFF MARTCHENKO**
former Captain of the Land Army assigned
to DINA
- **Rafael Francisco AHUMADA VALDERRAMA**
former Officer of the TACNA Regiment
- **Gerardo Ernesto GODOY GARCÍA**
former Sub-Lieutenant of the Land Army,
assigned to DINA
- **Basclay Humberto ZAPATA REYES**
former non-commissioned officer of the Land
Army assigned to DINA
- **Enrique Lautaro ARRANCIABIA CLAVEL**
former DINA representative in Argentina
- **Raúl Eduardo ITURRIAGA NEUMANN**
former DINA foreign affairs official
- **Luís Joachim RAMÍREZ PINEDA**
former Commander of the TACNA camp
- **José Octavio ZARA HOLGER**
former Land Army officer posted to DINA
- **Emilio SANDOVAL POO**
former Air Force military reservist, currently
company director in Temuco

The accused, resident in Chile, will probably not be present, but they may be represented by a lawyer in application of the *in absentia* procedure.

Augusto PINOCHET was also prosecuted for his direct personal criminal responsibility in the disappearance and torture of the four victims, as Commander-in-Chief of the Chilean Land Army and head of the military junta: an international arrest warrant had also been issued against him. Proceedings ended with his death on 10 December 2006, only a few weeks before the order for indictment issued by the French investigative judge Sophie Clément.

Four other suspects targeted in this case also died before the opening of the trial: Javier Secundo Emilio PALACIOS RUHMANN (former General of the Chilean Land Army, responsible for leading the attack on the Moneda Presidential Palace), Osvaldo ROMO MENA (former Land Army Commander assigned to DINA), Andres Rigoberto PACHECO CARDENAS (former Air Force Colonel and Commander of the base at MAQUEHUE) and Paul SCHAEFFER SCHNEIDER (former head of “Colonia Dignidad” and former Nazi).

FIDH, LDH and CODEPU mobilisation

The actions undertaken by the national and international NGOs in support of the victims have been crucial in mobilising international public opinion concerning the serious crimes committed in Chile and the need to fight against impunity.



FIDH

Since October 1973, Michel Blum, a lawyer and FIDH Secretary General, carried out a mission to Chile, at the end of which he also met General Pinochet. He then reported his findings and recommendations directly to the UN Secretary General.

In order to denounce the grave human rights violations and support the victims of these violations, FIDH then carried out regular missions to Chile. In 1986, FIDH carried out a solidarity mission at the request of Chilean NGOs and journalists. In 1989, FIDH investigated the establishment of a process of transition. At the end of a mission carried out in 1999, while Augusto Pinochet was being held in London and the possibility of his return to Chile was discussed, FIDH concluded that the Chilean justice system did not have the capacity to try the former dictator.

In 2005, 2008 and 2009, FIDH carried out investigations into administration of justice in Chile and carried out an evaluation of the proceedings opened for human rights violations committed during the dictatorship. At international level, FIDH has also directly participated in drafting the International Convention for the Protection of All Persons from Enforced Disappearance, which will come into force on 23 December 2010.



LDH

There has been considerable mobilisation by LDH to denounce the crimes committed in Chile and to persuade the community of States to take action. LDH has welcomed many Chilean refugees to France and supported them in their re-establishment and in the process of obtaining the status of political refugee.



CODEPU

Founded in 1980 during the military dictatorship, CODEPU (the Corporation for the defense and promotion of people's rights) was created to denounce and to oppose crimes against humanity: torture; disappearances; summary executions; to obtain the release of political prisoners and the return of exiles; to refuse impunity for those responsible for violations and to fight for a dignified life, calling for the return to democracy.

At the beginning of the period of transition to democracy in March 1990, CODEPU, demanding that truth and justice should be the basis for reconstructing democracy, accompanied individuals and social communities in the recovery of their rights. CODEPU continues to call for modification of the political constitution inherited from Pinochet's military regime, in order to guarantee the effective respect of human rights throughout society.

CODEPU is deeply involved with the national and international fight against impunity. CODEPU was the main plaintiff in the proceedings against Pinochet. CODEPU is involved in the filing of complaints before Chilean courts, in dozens of proceedings for enforced disappearance and extrajudicial killings. CODEPU was also the first NGO to represent torture victims and to obtain the sentencing of torturers in Chile on the basis of international law.

Practical information

about the trial

→ The civil parties and their lawyers:

- Mr. William Bourdon represents the families of Alphonso Chanfreau, Georges Klein and Etienne Pesle
- Ms Sophie Thonon represents the family of Jean-Yves Claudet, the association of former Chilean political prisoners in France, and the France Latin America association
- Mr. Claude Katz represents FIDH and LDH; Ms Clémence Bectarte also represents FIDH
- Mr. Benjamin Sarfati represents CODEPU

→ Trial dates and location

The trial will take place at the Paris Cour d’assises, Palais de Justice, 4 boulevard du Palace, Ile de la Cité, 75001 Paris, from **8 to 17 December 2010**.

→ Public events organised in connection with the trial

- **Press conference** by the civil parties’ lawyers William Bourdon, Sophie Thonon, Claude Katz and Benjamin Sarfati, on **6 December 2010 at 11am**, at the foreign press centre (*Centre d’accueil de la Presse Etrangère - CAPE*), Grand Palais Cours la Reine – Perron Alexandre III, 75008 Paris.
- **Film / Debate:** documentary by Nicolas Joxe “Desaparecidos-Disparus”, portraits of the 4 Franco-Chilean victims, on **10 December 2010** (International Human Rights Day) at **7pm** at CAPE. Some of the trial protagonists will speak during the debate.
- **Information meeting on 17 December 2010** at the Paris 3rd *arrondissement* Town Hall (Mairie du III^e arrondissement de Paris) 2 rue Eugène Spuller, 75003 Paris.

→ For further information

Facebook page *JusticiaenFrancia*
www.fidh.org

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FIDH represents **164** human rights organisations on **5** continents



of person. Article 4: No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms. Article 5: No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Article 6: Everyone has the right to recognition everywhere as a person before the law. Article 7: All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination. Article 8: Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law. Article 9: No one shall be subjected to arbitrary arrest,

ABOUT FIDH

- FIDH takes action for the protection of victims of human rights violations, for the prevention of violations and to bring perpetrators to justice.
- A broad mandate
FIDH works for the respect of all the rights set out in the Universal Declaration of Human Rights: civil and political rights, as well as economic, social and cultural rights.
- A universal movement
FIDH was established in 1922, and today unites 164 member organisations in more than 100 countries around the world. FIDH coordinates and supports their activities and provides them with a voice at the international level.
- An independent organisation
Like its member organisations, FIDH is not linked to any party or religion and is independent of all governments.