

INTERNAL (for AI members only)

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To: All Chile Coordination Groups
All Amnesty groups with Chilean prisoners

From: Research Department (Pat Stocker)

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**FOR
INFORMATION
ONLY**

Executive Decree 187 (Decreto Supremo 187)
of 28 January 1976

On 28 January 1976, the Chilean government introduced a new law which was supposed to protect prisoners from torture. According to Executive Decree 187 (Decreto Supremo 187) arrests under the state of siege provisions cannot be made without a warrant signed by the head of a state security agency and the family of the detainee must be informed of the place of detention and the responsible authority within 48 hours. Furthermore, the prisoner must be medically examined at the time of arrest and release. The Minister of Justice and the President of the Supreme court, or their representatives, are empowered to visit recognized detention centers at any time to supervise that the provisions of the law are carried out.

By virtue of these powers the President of the Supreme Court, José Maria Eyzaguirre visited the Tres Alamos and Cuatro Alamos detention camps on 5 March 1976 and talked with many of the prisoners held there. After the visit, Señor Eyzaguirre told journalists that he had met with full collaboration from the camp officials and talked with many of the prisoners. He said, however, that the report about the conclusions of the interviews was confidential.

On the same day, 5 March 1976, the Minister of Justice Miguel Schweitzer, visited Cuatro Alamos, where he examined the building and had 13 prisoner selected at random medically examined. The Minister later declared that he planned to continue with impromptu visits in order to secure the fulfillment of the new provisions and to deal with complaints which prisoners wished to submit.

While Amnesty International recognises the several ambiguities of this new decree and while we have not received any evidence that any aspect of Decree Law 1009 (of 1 May 1975 - see Chile 1975 for details of this law) has been respected by the authorities in Chile, we nevertheless believe that a very important precedent has been set by the visit of the President of the Supreme Court and the Minister of Justice to detention centers in Santiago. It is still too early to judge reliably whether warrants of arrest are, in fact, being issued in accordance with the new decree or, whether the insistence of medical checks for prisoners is any more than a mere formality. The spirit in which this decree has been made will only be revealed in some months time. Shortly after the introduction of Executive Decree 187, a young woman Jennifer Llewelyn Jones, was arrested by the DINA (National Directorate of Intelligence) and treated correctly according to the provisions of the new Decree. She was not tortured, and 5 days after arrest was being held in Tres Alamos detention camp. However, with reference to more recent arrests, it would appear that people are still being arrested and their families are not being notified or informed about their place of detention.

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There are two more criticisms that can be levelled against this new executive decree. Firstly, it does not explicitly refer to the activities of the DINA who are empowered by Decree Law 521 of 14 June 1974, to arrest people as they saw fit and who are responsible to the President of the Republic alone. In no place does Executive Decree 187 refer to Decree Law 521 nor attempt to amend any article of Decree Law 521 either explicitly or implicitly. Moreover, Article 6 of the decree specifies that the President of the Republic will specify by decree law the places of detention in which prisoners will benefit from medical checks and, by extension, the places which may be visited by the President of the Supreme Court and the Minister of Justice. The places of detention that have been recognized include only one prison where prisoners are held incommunicado, Cuatro Alamos. Other recognized detention places include public prisons, penitentiaries and Ritoque camp but not for example the well-known interrogation center of Villa Grimaldi in Santiago.

The Geneva based International Commission of Jurists (ICJ) has expressed strong reservations from a legal point of view about the actual effectiveness of the new regulations in protecting prisoners from torture. The ICJ points out that the provision made under Decree Law 1009 of 1 May 1975, for notifying the family of an arrest within 48 hours has simply been ignored by the security forces in Chile. The ICJ further states that the new law provides no protection in itself against torture. There is nothing in it to suggest that the security authorities would not continue to hold suspects incommunicado for long periods and make them available for medical check-ups only after any traces of torture have disappeared. Furthermore, testimonies of former prisoners have proved that victims are simply too afraid of retaliation to make complaints about treatment received.

The ICJ urged that suspects should be examined every 48 hours while in custody by a doctor of his/her choice or of the choice of the family. Such a provision, says the ICJ would be the only realistic means to ensure that the medical examiner would not be acting entirely at the service of the detaining authorities.

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