

By Raphael Minder and Marlise Simons

From [The New York Times](#) | Original Article

MADRID — [Spain](#)’s Supreme Court on Thursday convicted the crusading human rights judge [Baltasar Garzón](#) of illegally ordering wiretapping in a corruption case and suspended him from the courts for 11 years.

His lawyer told EFE, the Spanish news agency, that Mr. Garzón, 56, felt an understandable “desolation and pain” in being barred from the judiciary, to which he had dedicated his life.

The ruling came in one of three cases against Mr. Garzón, the country’s most prominent but also contentious judicial personalities, who has made aggressive use of the doctrine of universal jurisdiction for grave human rights crimes. He gained abrupt fame in 1998 when Chile’s former dictator Gen. Augusto Pinochet was arrested in a London hospital on a warrant issued by Mr. Garzón. Though General Pinochet, then 82, was judged too ill to be tried, the episode was a major step in the emergence of cross-border justice.

Mr. Garzón’s spirit of activism has also antagonized some Spanish authorities, and critics who consider him self-aggrandizing. He dug deeply into corruption cases and ordered an inquiry into atrocities committed during the Spanish Civil War and the ensuing dictatorship of Gen. Francisco Franco, despite a 1977 general amnesty for crimes perpetrated during the war. That 2008 investigation, closed after just a month, prompted the second case against Mr. Garzón, as fringe far-right groups argued that he had overstepped his authority. Conviction could result in a 20-year suspension.

The Spanish prosecutor’s office has actively opposed both trials, saying there were no grounds

for a criminal case. During the trial, it called for the charges to be dismissed because they had no basis in law.

Philippe Sands, who teaches international law at University College in London, expressed concern over the process.

“This is very troubling; targeting an independent judge or prosecutor through the criminal justice system anywhere raises very serious concerns,” he said. “To sanction a possible breach of ethics or misconduct is up to the professional organizations. To bring down the criminal justice system on an investigative judge for an alleged fault is to use a sledgehammer to crack a nut. It’s almost unique in Europe.”

His defenders, including international lawyers, judges, academics and human rights groups, have called the cases — including an investigation into whether he had an improper financial relationship with Santander Bank — politically motivated. On Thursday, many denounced the ruling.

Reed Brody, counsel for Human Rights Watch who has been monitoring the trials, said the “accumulation of the cases against Judge Garzón” suggested “reprisal for his past actions against vested interests.”

“Unfortunately,” he added, “it certainly looks like his enemies now got what they wanted.”

Following Thursday’s ruling, Alberto Ruiz-Gallardón, Spain’s justice minister, said that it was not for the government to make a “political assessment” of the ruling, except to say that it demonstrated “the normal functioning of our institutions.” Esperanza Aguirre, head of Madrid’s center-right regional government, said the ruling showed that, in this case, “the goal, however worthy, doesn’t justify the means.”

The 7-0 ruling came in a 2008 corruption case in which Mr. Garzón ordered wiretaps to monitor conversations between lawyers and their clients. The judge argued that such taps were needed to ensure that the main defendants would not be able to transfer money garnered from their

corrupt business dealings while held in jail under investigation. In a case brought by the defendants who had been monitored, the Supreme Court ruled that such an order not only contravened defense rights but also “damaged the right to confidentiality.”

The ruling prohibited him from “obtaining during the duration of the sentence any employment or duty with judicial or governing functions within the judiciary.”

There is no avenue to appeal, but Mr. Garzón could challenge the validity of the judicial process before Spain’s Constitutional Court or the European Court of Human Rights in Strasbourg, France, according to his lawyer Francisco Baena Bocanegra. The Strasbourg court could find that the Spanish court violated his rights and ask for a remedy.

He has a pending case in Strasbourg filed last March regarding the case involving the Franco era, arguing that he was within bounds to order an investigation because such crimes cannot be pardoned by an amnesty.

Mr. Garzón’s lawyer in Strasbourg, Helen Duffy, said she had not yet discussed with him whether to challenge the Thursday ruling, but that the situation was nearly unheard of. “It’s so exceptional for a judge to be prosecuted in Europe that there are almost no precedents,” she said. “And his prosecution has already drawn a lot of criticism.”

Lawyers sympathetic to Mr. Garzón said that even if his career in Spain ended, he could expect to be offered work as a lawyer or teacher elsewhere. Having been off the bench since his 2010 indictment, Mr. Garzón already accepted work as a consultant to the International Criminal Court in The Hague.

However, posts on any international court or tribunal usually require political backing from the home government.