

ALBERTO NISMAN - UPDATE

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BACKGROUND

On January 18, 2015, Prosecutor Alberto Nisman (“**Nisman**”) died in his home from a gunshot wound, the day before he was scheduled to testify before the Argentinean Congress. The purpose of his testimony was to give evidence regarding an investigation into the 1994 bombing of the AMIA Jewish Community Centre in Buenos Aires. His testimony was intended to follow his formal accusation, just days before, against the President of Argentina Cristina Fernandez de Kirchner and Foreign Minister Hector Marcos Timerman, that the government had covered up part of the evidence relating to the bombing, shifting the blame from Iranian agents to others. Nisman believed that Iranian agents were behind the terror attack.

Following Nisman’s death, the government was quick to rule his death a suicide. However, as was previously reported, the police investigation into his death was replete with errors and was “fatally compromised”.¹

Subsequent to the official police investigation, Nisman’s former wife, Justice Sandra Arroyo Salgado, engaged the services of a private forensics team. This team discovered that there was no gunpowder residue on Nisman’s hands (a sign that would have been consistent with suicide), that the body may have been moved after death, and that the position of the weapon to the body was inconsistent with suicide. The forensic team’s findings indicated that it was more likely than not a homicide. Despite these obvious red flags, the Argentinean government continued to insist that Nisman’s death was a suicide.

The investigation into Nisman’s murder was then largely stagnant throughout most of 2015.

ELECTION OF NEW GOVERNMENT

On December 10, 2015, President Kirchner was replaced with President Mauricio Macri. Immediately after coming to power, Macri turned his mind to the Nisman matter.

In particular, on January 14, 2016, the Argentinian government relieved all secret agents, former officials, officials, and former intelligence officials with knowledge of Nisman of their oaths of secrecy. This measure, signed by the President, was requested by the head of the Federal Intelligence Agency, Gustavo Arribas.² It was presumably undertaken to allow those agents to testify in the future.

Further, on the next day, January 15, 2016, by way of a presidential decree published in Argentina’s *Official Gazette*, Macri ordered the Federal Intelligence Agency, the Minister of Foreign Affairs and Worship, the National Migration Office, and the Armed Forces, to declassify all information related to

¹ Dexter Filkins, “Death of a Prosecutor”, *The New Yorker* (20 July 2015), online:

<www.newyorker.com/magazine/2015/07/20/death-of-a-prosecutor>.

² Sabrina Martin, “Argentina’s President Declassifies Files on Dead Prosecutor Nisman”, *PanAm Post* (15 January 2016), online: <panampost.com/sabrina-martin/2016/01/15/argentinas-president-declassifies-files-on-dead-prosecutor-nisman> (“PanAm Article”) citing an article in Spanish from *La Nacion*, (14 January 2016), online: <www.lanacion.com.ar/1862185-relevan-de-la-obligacion-de-guardar-secreto-a-agentes-de-inteligencia-que-hayan-accedido-a-informacion-sobre-el-caso-nisman>.

Nisman dated between September 2012 and the present.³ The decree further mandated that all those government agencies are to submit relevant documentation within 30 days to Judge Fabiana Palmaghini, who is overseeing the investigation.

On January 17, 2016, Macri and his wife visited with Nisman's two daughters, Iara and Kala, on the one-year anniversary of Nisman's death.⁴ Macri assured Nisman's family that he would seek justice for the death of their father.⁵

INVESTIGATION - UPDATE

As noted above, Judge Fabiana Palmaghini is presently overseeing the investigation into Nisman's death.

On December 17, 2015, the prosecutor of the Nisman investigation, Viviana Fein, was pulled by Judge Palmaghini.⁶ Palmaghini decided to take over the investigation, which had become stagnant as a result of ongoing clashes between Prosecutor Fein and Nisman's daughters, partner, mother, and sister.

Palmaghini's removal of Fein is a step in the right direction for those hoping that the administration of justice will be carried out swiftly. In particular, Palmaghini has indicated her desire to reconsider old clues and evidence. For example, Palmaghini wants to question former Intelligence Secretariat Operations chief Antonio Stiuso a second time,⁷ and wants to re-examine information technology expert Diego Lagomarsino.⁸ It is expected that Lagomarsino will be questioned about his ties to the secret services of Argentina, even though it has already been purported that he has no links to any secret service agencies.⁹ Palmaghini also wants to question reporter Damian Pachter, who broke the news about Nisman's death and thereafter left the country, saying that he felt persecuted.¹⁰

Palmaghini appears to be re-energizing the efforts to answer the question of whether Nisman committed suicide or was murdered, and has taken additional steps which include ordering blueprints of Nisman's apartment, identifying the man who left newspapers outside Nisman's apartment the day his body was discovered, and has asked for a report as to whether Nisman took pills or if he was under any psychological treatment at the time of his death.¹¹

The case has not yet been referred to the federal court to answer the question of whether or not Nisman was in fact assassinated, however it is yet to be determined whether Palmaghini will take such a step.¹² This decision may change depending on what is contained in the declassified documentation that was ordered handed over to her by the recent Presidential Decree.

³ *Ibid.*

⁴ Former President Kirchner never received Nisman's relatives or expressed any public condolences to the Nisman family.

⁵ "Argentine President Receives Nisman's Daughters on Anniversary of His Death", *Jewish Telegraphic Agency* (17 January 2016), online: <www.jta.org/2016/01/17/news-opinion/world/argentine-president-receives-nisman-daughters-on-anniversary-of-his-death>.

⁶ Valentina Iricibar, "Fein Talks to the Press After Being Removed from Nisman Case", *The Bubble* (21 December 2015), online: <www.bubble.com/fein-removed-nisman-case/>.

⁷ Stiuso appeared before Fein on February 17, 2015, before fleeing the country

⁸ Lagomarsino reportedly lent Nisman the pistol that killed him.

⁹ Luciana Bertoia, "Judge Takes Over Nisman Investigation", *Buenos Aires Herald* (18 December 2015), online: <<http://www.buenosairesherald.com/article/205175/judge-takes-over-nisman-investigation>>.

¹⁰ *Ibid.*

¹¹ *Ibid.*

¹² *Ibid.*

At the time that those declassified documents are delivered and published, there will be additional information to report on this matter. In any event, it appears that the government has taken a positive step in its pursuit of justice with respect to the death of the late Alberto Nisman.

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