

Press Release

Inter-American Court of Human Rights

I/A Court H.R._PR-106/2021 English

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I/A Court H.R. Protecting Rights

CHILE IS RESPONSIBLE FOR FAILURE TO COMPLY WITH DUE DILIGENCE JUDGMENTS RECOGNIZING PAYMENT OF SPECIAL ALLOWANCE TO 846 TEACHERS

San José, Costa Rica, December 21, 2021. In the Judgment of the Case of the *Teachers of Chañaral and other municipalities v. Chile*, notified today, the Inter-American Court of Human Rights declared the State of Chile internationally responsible for the violations of various rights to the detriment of 846 teachers from the Municipalities of Chañaral, Chanco, Pelluhue, Parral, Vallenar and Cauquenes.

Consequently, the Court concluded that the State is responsible for the violation of the rights to judicial guarantees, judicial protection and property of teachers, as well as the enhanced duty to guarantee due diligence in access to justice for the elderly.

Consult the official summary of the Judgment [here](#) and the complete text of the Judgment [here](#).

The case originates in the context of the military dictatorship in Chile, when the administration of public education was transferred from the central level to the country's municipalities. This municipalization implied that teaching staff were subject to the Labor Code and would be governed by the norms applicable to the private sector.

Under Article 40 of Decree Law No. 3,551, a special non-taxable allowance was created for teaching personnel dependent on the Ministry of Public Education, starting on January 1, 1981. Teachers who were transferred from the Central State to the Municipalities, did not receive this allocation, giving rise to the so-called *historical debt*. However, the situation was unfair, since some teachers continued to receive this allowance after being transferred to the Municipalities, thanks to agreements with the Municipalities themselves or the recognition that these sums were part of their remuneration.

From 1990, teachers were able to file lawsuits for the payment of this allowance. In the framework of thirteen proceedings filed against the Municipalities of Chañaral, Chanco, Pelluhue, Parral, Vallenar and Cauquenes, final judgments were issued recognizing the payment of the special allowance to the 846 teachers who were victims in this case.

In particular, the Court considered that the processes of execution of the final judgments, in favor of the 846 teachers, that sentenced the Municipalities to pay a special allowance, were irregular and ineffective. Similarly, taking into account that the victims are all over 60 years of age and that a fifth of them died waiting for more than 25 years for the execution of these judgments, the Court considered that the State ignored its enhanced duty to guarantee due diligence in access to justice for the elderly and expedite the processes in which this vulnerable population participates.

Due to these violations, the Court ordered that the State of Chile makes various measures of reparation, among them, that it must directly pay the victims of the case, or their heirs, the sums still owed in three annual periods, with the first period beginning within one year of notification of the Judgment.

The composition of the Court for this Judgment was as follows: Judge Elizabeth Odio Benito (President); Judge Patricio Pazmiño Freire (Vice President); Judge Eduardo Ferrer Mac-Gregor Poisot; Judge Humberto Antonio Sierra Porto; Judge Eugenio Raúl Zaffaroni; and Judge Ricardo Pérez Manrique.

Judge Eduardo Vio Grossi, a Chilean national, did not participate in the hearing or deliberation of this judgment, in accordance with Article 19 of the Inter-American Court's Rules of Procedure.

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