

# Press Release

Inter-American Court of Human Rights

I/A Court H.R.\_PR-21/2022 English

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## I/A Court H.R. Protecting Rights

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### **CHILE IS RESPONSIBLE FOR THE DISCRIMINATORY TREATMENT OF A WOMAN REMOVED FROM HER POSITION AS A TEACHER OF RELIGION IN A PUBLIC SCHOOL, DUE TO HER SEXUAL ORIENTATION**

*San José, Costa Rica, April 20, 2022.* In the Judgment of the *Case of Pavez Pavez v. Chile*, notified today, the Inter-American Court of Human Rights declared the State of Chile responsible for the violation of the rights to equality and non-discrimination, personal freedom, privacy and work, recognized in the American Convention on Human Rights, to the detriment of Sandra Pavez Pavez, for the discriminatory treatment she suffered on being removed from her position as a Catholic religious education teacher in a public school, after her certificate of suitability was revoked by the vicar for education of the Diocese of San Bernardo, due to her sexual orientation.

You may read the official summary of the Judgment [here](#) and access the full text of the Judgment [here](#).

Sandra Pavez Pavez had been teaching Catholic religion since 1985, at the "Cardenal Antonio Samoré" Municipal High School, a public educational institution. On July 23, 2007, the vicar for education informed her of the withdrawal of her certificate of suitability, which is required to teach Catholic religion classes in accordance with the provisions of Decree 924 of the Ministry of Education of 1983. The revocation of the aforementioned certificate was based on Sandra Pavez Pavez's sexual orientation. Since then, she has been prevented from teaching Catholic religion classes in any educational institution. Sandra Pavez Pavez filed an appeal for protection against the Vicariate's decision, which was rejected by the San Miguel Court of Appeals. That decision was confirmed by the Supreme Court of the Republic of Chile.

The Inter-American Court recognized that the Chilean religious authorities have broad autonomy when it comes to granting a certificate of suitability to teach religion classes. However, it indicated that, as it is a subject that is part of the educational curriculum for girls and boys, those powers that derive directly from the right to religious freedom must conform to other rights and obligations in force in terms of equality and non-discrimination. Thus, the Court warned that the aforementioned Decree 924 unconditionally delegates the power to grant certificates of suitability to people teaching religious education in public institutions, without there being a clear path to challenge this type of decision. For this reason, the decision on whether religious authorities grant the certificate of suitability or not, must be subject to subsequent control by state authorities or to appropriate and effective remedies before the jurisdictional authorities to protect and safeguard the rights of individuals against discriminatory or arbitrary acts contrary to the American Convention on Human Rights.

The Court found that the violations of Sandra Pavez Pavez's rights to personal liberty and privacy were the product of the distinct treatment she received due to her sexual orientation. The Court considered that the decision by the school authorities to remove Ms. Pavez from her position and assign duties other than those of a Catholic religion teacher as a consequence of the Vicariate's revocation of the certificate of suitability, violated the principle of equality and non-

discrimination. At no time were the effects that this measure would have on Sandra Pavez Pavez's personal life or on her teaching career taken into account. The Court determined that, through the reassignment of duties, the right to work was compromised to the extent that her teaching career was undermined, constituting a form of workplace disadvantage.

The Court concluded that the victim lacked adequate and effective remedies to challenge the effects of the decision to revoke her certificate of suitability. It also maintained that the domestic judicial authorities did not carry out an adequate control of conventionality over the school's actions removing Sandra Pavez Pavez from her position as a Catholic religious education teacher. For these reasons, the rights to judicial guarantees and judicial protection were violated.

Due to these violations, the Court ordered the State to undertake various measures of reparation.

Judge Humberto Antonio Sierra Porto informed the Court of his concurring individual opinion.

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The Court's composition for the issuance of this Judgment was as follows: Judge Elizabeth Odio Benito, President (Costa Rica), Judge Patricio Pazmiño Freire, Vice President (Ecuador), Judge Humberto Antonio Sierra Porto (Colombia), Judge Eduardo Ferrer Mac-Gregor (Mexico), Judge Eugenio Raúl Zaffaroni (Argentina), and Judge Ricardo C. Pérez Manrique (Uruguay).

Judge Eduardo Vio Grossi (Chile) did not participate in the hearing or deliberation of this Judgment due to his Chilean nationality, in accordance with Article 19 of the Court's Rules of Procedure.

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