

Press Release 63/2024 English

CHILE IS RESPONSIBLE FOR THE VIOLATION OF THE RIGHTS TO JUDICIAL GUARANTEES, JUDICIAL PROTECTION AND PERSONAL INTEGRITY FOR THE APPLICATION OF THE "HALF STATUTE OF LIMITATIONS" TO CRIMINAL SENTENCES RELATED TO CRIMES AGAINST HUMANITY

San José, Costa Rica, September 26, 2024. - In the judgment notified today in the *Case of Vega González et al. v. Chile*, the Inter-American Court of Human Rights declared the international responsibility of the State of Chile for the violation of the rights to judicial guarantees and judicial protection to the detriment of 49 victims and the right to personal integrity of 99 next of kin, among other violations.

The official summary and the full text of the judgment can be accessed [here](#).

This case relates to a series of judicial decisions handed down from 2007 to 2010, in which the Second Chamber of the Supreme Court of Justice, acting as a criminal court of appeals, applied the half statute of limitations as part of a review of the sentences of individuals who had been convicted for the facts of forced disappearances and extrajudicial killings that occurred during the military dictatorship in Chile. As a result of these appeal decisions, the sentences imposed on those responsible were significantly reduced. Chile partially acknowledged its international responsibility in the instant case and accepted the incompatibility of this figure with its conventional obligations.

The half statute of limitations is contemplated in Article 103 of the Criminal Code of Chile. It entails a reduction of the prison sentence imposed on a person responsible for a crime in the cases in which that individual is involved, or it is ordered by the Court after half or more than half of the time assigned for prescription of the criminal action or the sentence has elapsed. The Court considers that this is contrary to the obligations of the State to investigate and punish crimes against humanity and grave human rights violations, given that: (i) it generates a reduction in the punishment assigned which may cause the sentence to become ridiculous, so that in certain cases the sentence imposed ends up being lower than the minimum established for certain crimes; (ii) it contravenes the principle of effective justice administration and punishment of grave human rights violations and the victims' right to access to justice, thus generating impunity, and (iii) it affects the proportionality that must be present when determining punishments in cases of grave human rights violations. The Court determined that, in this specific case, the standard was applied and it enabled a substantive reduction of the sentences imposed on those responsible for the facts of the forced disappearance of 44 victims and the extrajudicial execution of 5 victims. Thus, it acted as a factor for impunity, which is incompatible with the State's obligations to investigate and punish crimes against humanity.

The Court also determined that there was a violation of the right to judicial guarantees of 98 next of kin of the persons disappeared and killed, given that they were not allowed to participate in all stages of the proceedings, specifically not letting them intervene in the appeal process before the Second Chamber of the Supreme Court of Justice, instance that applied the half statute of limitations.

Moreover, the Court concluded that the State violated the right to personal integrity of 99 next of kin of the persons disappeared and killed due to the uncertainty, suffering and anguish caused by the infringing behaviors of the State examined in the judgment.

Based on these violations, the Court ordered several reparation measures: (i) review and/or annul the decreases in the sentences derived from the unconventional application of the half statute of limitations; (ii) adapt the domestic body of law so that the figure of half statute of limitations is not applicable, under any circumstance, to crimes against humanity and grave human rights violations, and until this amendment is done the control of conventionality must be applied; (iii) provide psychological, psychiatric or psychosocial treatment to the victims that request it, or pay an established amount in a subsidiary manner; (iv) publish and disseminate this judgment and the official summary thereof; (v) hold an act of public acknowledgment of international responsibility, and (vi) pay the amounts set forth in the judgment for compensation of pecuniary and non-pecuniary damages, and reimbursement of legal costs and expenses.

Judge Nancy Hernández López disclosed her dissenting opinion regarding one operative paragraph, and Judge Humberto A. Sierra Porto disclosed his dissenting opinion regarding three operative paragraphs and partially dissenting opinion regarding two operative paragraphs. Judges Rodrigo Mudrovitsch and Eduardo Ferrer Mac-Gregor Poisot disclosed their joint concurring opinion, and Judge Ricardo C. Pérez Manrique disclosed his concurring opinion.

The Court's composition for the issuing of this judgment was as follows: Judge Nancy Hernández López, President (Costa Rica); Judge Rodrigo Mudrovitsch, Vice-President (Brazil); Judge Humberto Antonio Sierra Porto (Colombia); Judge Eduardo Ferrer Mac-Gregor Poisot (Mexico); Judge Ricardo C. Pérez Manrique (Uruguay) and Judge Verónica Gómez (Argentina). Judge Patricia Pérez Goldberg, of Chilean nationality, did not participate in the processing of this case or deliberation and signing of this judgment, in conformity with Articles 19(1) and 19(2) of the Rules of Procedure of the Court. The Court's Registrar, Pablo Saavedra Alessandri, of Chilean nationality, did not participate in the processing of this case or deliberation and signing of this judgment.

This press release was drafted by the Registrar's Office of the Inter-American Court of Human Rights; it is solely responsible for this document.

For more information on the Inter-American Court of Human Rights, please visit www.corteidh.or.cr or write to the Registrar, Pablo Saavedra Alessandri, at corteidh@corteidh.or.cr. To contact the press office please write to Danniell Pinilla, Director of Communications and Press, at prensa@corteidh.or.cr.

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