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CHILE IS INTERNATIONALLY RESPONSIBLE FOR THE VIOLATION OF SEVERAL RIGHTS IN THE CONTEXT OF THE CRIMINAL PROCEEDINGS AGAINST MEMBERS OF THE MAPUCHE PEOPLE WHO HELD ACTS OF PACIFIC PROTEST

San José, Costa Rica, November 21, 2024. - In the judgment in the *Case of Huilcamán Paillama et al. v. Chile*, notified today, the Inter-American Court of Human Rights declared that Chile is internationally responsible for the human rights violations committed in the criminal proceedings against 135 members of the Mapuche indigenous peoples, in the context of the actions taken by the Council of All Lands organization from 1989-1992 to demand their rights.

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

In the judgment the Court accepted and valued the partial acknowledgment of responsibility made by the Republic of Chile.

Among other violations, the Inter-American Court determined that the actions of the visiting magistrate (a judicial authority appointed by the Supreme Court of Chile to hear the criminal proceedings), who filed the accusation and handed down the judgment of first instance, were guided by a discriminatory bias, prejudice and the preconceived notion that the Council of All Lands organization was illegitimate and illegal. Moreover, several judicial guarantees were disregarded during the proceedings and in the judgment, namely: a) the prohibition of all media coverage (dissemination of information) regarding the criminal proceedings; b) a translator or interpreter was not provided for the accused individuals, who did not speak Spanish, the language in which the case was conducted; c) the judgment omitted ruling on the legal status of six individuals who had been accused; d) two individuals not included in the accusation were convicted; e) the legal classification of illicit association was applied, and at the time of the facts its regulation did not define clearly or accurately the behavior that was at fault; f) by convicting a person of the crime of theft, a legal norm was applied that presumes authorship of the crime to being in possession of the object attributed as stolen, and g) the conviction included an incomplete and subjective assessment of the evidence, which lacked rational grounds to demonstrate the judicial conviction of the responsibility of the accused individuals.

The Court also established that the criminal proceedings criminalized the acts of peaceful social protest performed by the victims who sought to demand solutions to the permanent claims related to the agrarian problem that affects the Mapuche people.

Consequently, the Court declared that Chile violated the following rights: a) to the detriment of the 135 victims included in Appendix I to the judgment: the right to be heard by an impartial tribunal, to judicial decisions with adequate legal grounds, presumption of innocence, the public nature of the proceedings, freedom of thought and expression, right of assembly, freedom of association, right to equal protection and non-discrimination, right to self-determination of indigenous and tribal peoples; b) to the detriment of Nelson Rolando Catripán Aucapán, Ceferino Oscar Huenchunir Nahuelpi, Werneher Alfonso Curín Llanquinoao, Víctor Manuel Reimán Cheuque, Orosman Ernesto Cayupán Huenchunir and Lorenzo del Carmen Reimán Muñoz, the right to be heard within a reasonable term, the legal certainty that must result from the proceedings, and judicial protection; c) to the detriment of Juan Bautista García Catrimán and Juan Humberto Traipe Llancaipán, the right to a hearing with due



guarantees, prior notification in detail to the accused of the charges against him, adequate time and means for the preparation of his defense, and judicial protection; d) to the detriment of Juana Santander Quilán, the right to be assisted by a translator or an interpreter if she does not understand or does not speak the language of the tribunal or court, and judicial protection; e) to the detriment of Aucan Huilcamán Paillama, Ernesto Gerónimo Huenchulaf Cayuqueo, Erwin Llancao Huenchual and María Luisa Ladino Alian, the principle of freedom from ex post facto laws, and f) to the detriment of Hugo Genaro Catrino Reimán, the right to presumption of innocence and the principle of freedom from ex post facto laws. Therefore, the State violated Articles 8(1), 8(2), 8(2)(a), 8(2)(b), 8(2)(c), 8(5), 9, 13(1), 13(2), 15, 16(1), 16(2), 24, 25(1) and 26 of the American Convention on Human Rights (hereinafter "the Convention"), in relation to the obligation to respect and guarantee rights enshrined in Article 1(1) thereof. Moreover, the State violated Articles 8(2) and 9 of the Convention due to the application of the legal classification of illicit association and a legal norm that presumes the authorship of the accused, in relation to the obligation to adopt domestic legal effects, as established in Article 2 thereof.

Based on these violations, the Court ordered several reparation measures, including: (i) to adopt the mechanisms necessary to annul the conviction, if the victims or their next of kin so request it; the State must also eliminate public records of criminal, police or any other records to date related to the criminal proceedings that are the subject of this international process; (ii) adapt Article 454 of the Criminal Code, for which the regulation presumes as the author of the crime (theft or robbery) whoever has the corresponding good in their possession, in order to eliminate the legal presumption; and (iii) continue implementing training plans to eradicate the discriminatory use of criminal law based on the ethnic origin of persons; trainings must be permanent and addressed to employees of the judicial branch, public prosecutor's office and solicitor general.

Judge Nancy Hernández López and Judge Humberto Antonio Sierra Porto disclosed their partially dissenting opinions. Judges Rodrigo Mudrovitsch and Eduardo Ferrer Mac-Gregor Poisot disclosed their joint concurring opinion and partially dissenting 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.

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.



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