

# CHILE

## I) RELEVANT LEGAL EVENTS

**MEMBER OF THE ORGANIZATION OF AMERICAN STATES SINCE: MAY 5, 1953**

**RATIFIED AMERICAN CONVENTION: AUGUST 10, 1990**

Declaration made at time of signature and reservations made at time of ratification (from <http://www.cidh.org/basicos/english/Basic4.Amer.Conv.Ratif.htm>)

### Declaration made at the time of signature

The Delegation of Chile signs this Convention, subject to its subsequent parliamentary approval and ratification, in accordance with the constitutional rules in force. Such parliamentary approval was later granted and the instrument of ratification was deposited with the General Secretariat of the OAS.

### Reservations made at the time of ratification

a) The Government of Chile declares that it recognizes, for an indefinite period of time and on the condition of reciprocity, the competence of the Inter-American Commission on Human Rights to receive and examine communications in which a State Party alleges that another State Party has committed a violation of the human rights established in the American Convention on Human Rights, as provided for in Article 45 of the Convention.

b) The Government of Chile declares that it recognizes as binding, *ipso facto*, the jurisdiction of the Court on all matters relating to the interpretation or application of the Convention in accordance with its Article 62.

In making these declarations, the Government of Chile places on record that this recognition of the competence and jurisdiction of the Commission applies to events subsequent to the date of deposit of this instrument of ratification or, in any case, to events which began subsequent to March 11, 1990. Moreover, in acknowledging the competence and jurisdiction of the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights, the Government of Chile declares that, when these bodies apply the provisions of Article 21.2 of the Convention, they may not make statements concerning the reasons of public utility or social interest taken into account in depriving a person of his property.

**ACCEPTED JURISDICTION OF THE IA COMMISSION FOR “INTERSTATE COMMUNICATIONS” (ART. 45):**  
AUGUST 21, 1990

**ACCEPTED JURISDICTION OF IACHR (ART. 62):** AUGUST 21, 1990

## II) DECISIONS, JUDGMENTS AND ORDERS

### A) CASES

#### I) Case of “The Last Temptation of Christ” (Olmedo Bustos et al.) v. Chile

*This case concerns the Court of Appeals of Santiago's January 20, 1997 judgment, and that judgment's confirmation by the Supreme Court of Chile on June 20, 1997, annulling the Cinematographic Classification Council of Chile's decision to screen the film, "The Last Temptation of Christ." On November 17, 1999, the Chamber of Deputies adopted a draft constitutional reform intended to eliminate cinematographic censorship, but up until February 5, 2001, the date on which the Inter-American Court of Human Rights's judgment was delivered, the steps for the adoption of the draft constitutional reform had not been completed. The victims and their representatives submitted the case to the Court to seek a judgment declaring that the State's censorship violated the American Convention on Human Rights and to justify the expenses incurred while processing the different domestic and international procedures.*

**Key Words:** *Civil and Political Rights; Economic, Social, and Cultural Rights; Freedom of Expression; Freedom of Information*

Merits, Reparations and Costs

Judgment of February 5, 2001. Series C No. 73

Monitoring Compliance with Judgment

- 1) Order of the Inter-American Court of Human Rights of November 28, 2002
- 2) Order of the Inter-American Court of Human Rights of November 28, 2003

**II) Case of Palamara Iribarne v. Chile**

*In March 1993, Mr. Humberto Antonio Palamara Iribarne was prohibited from publishing a book called Ethics and Intelligence Services, which addressed issues related to military intelligence and the need to bring it in line with ethical standards. Mr. Palamara Iribarne was prosecuted for two counts of disobedience and contempt of authority and correspondingly convicted. The Court found that the State violated the victim's rights to property, personal liberty, and freedom of thought and expression, while failing to judicially protect and observe judicial guarantees under the American Convention on Human Rights.*

**Key Words:** *Freedom of Expression; Housing, Land, and Property Rights; Judicial Protection (Right to)*

Merits, Reparations and Costs

Judgment of November 22, 2005. Series C No. 135

Monitoring Compliance with Judgment

- 1) Order of the Inter-American Court of Human Rights of November 30, 2007
- 2) Order of the President of the Inter-American Court of Human Rights of November 15, 2008 (Available only in Spanish)
- 3) Order of the Inter-American Court of Human Rights of September 21, 2009
- 4) Order of the Inter-American Court of Human Rights of July 1, 2011
- 5) Order of the Inter-American Court of Human Rights of September 1, 2016 (Available only in Spanish)

### III) Case of Claude Reyes et al. v. Chile

*Between May and August 1998, the State refused to provide Marcel Claude Reyes, Sebastián Cox Urrejola, and Arturo Longton Guerrero with the information they requested from the Foreign Investment Committee on the forestry company Trillium and the Río Condor Project, a deforestation project that could be prejudicial to the environment and to the sustainable development of Chile. The Commission stated that the refusal occurred without the State providing any valid justification under Chilean law and, supposedly, the victims had not been granted an effective judicial remedy to contest a violation of the right of access to information; in addition, they were not ensured the rights of access to information and to judicial protection, and there were no mechanisms guaranteeing the right of access to public information. The Court found that the State violated the American Convention on Human Rights.*

**Key Words:** *Access to Legal Procedures; Criminal Justice; Judicial Protection (Right to); Amnesty, Pardon, and Commutation of Sentence (Right to Seek)*

#### Merits, Reparations and Costs

Judgment of September 19, 2006. Series C No. 151

#### Monitoring Compliance with Judgment

- 1) Order of the Inter-American Court of Human Rights of May 2, 2008
- 2) Order of the President of the Inter-American Court of Human Rights of June 10, 2008 (Available only in Spanish)
- 3) Order of the Inter-American Court of Human Rights of November 24, 2008

### IV) Case of Almonacid Arellano et al. v. Chile

*This case concerns the extrajudicial execution of Mr. Almonacid Arellano, an elementary school teacher, union leader, and activist in the Chilean Communist Party. Augusto Pinochet's newly installed military regime perceived Mr. Almonacid Arellano as a threat and arrested him at his home in Rancagua on September 16, 1973. As Mr. Almonacid Arellano walked to the police truck, his captors shot him and he died in a hospital the next day. The First Criminal Court of Rancagua initiated an investigation into the case, but the case was ultimately dismissed on September 4, 1974. When Mr. Almonacid Arellano's family requested to have the case reopened in 1992, the courts rejected it because Decree No. 2.191 of 1978 granted amnesty to the perpetrators of those crimes occurring between September 11, 1973 and March 10, 1978. The Court found the State violated the victim's rights to a fair trial and to judicial protection under the American Convention on Human Rights.*

**Key Words:** *Extrajudicial Killing; Judicial Protection (Right to); Crimes Against Humanity*

#### Preliminary Objections, Merits, Reparations and Costs

Judgment of September 26, 2006. Series C No. 154

#### Monitoring Compliance with Judgment

- 1) Order of the Inter-American Court of Human Rights of November 18, 2010

## V) Case of Atala Riffo and Daughters v. Chile

*This case concerns the discriminatory treatment and arbitrary interference in the private and family life of Ms. Karen Atala Riffo. Ms. Atala Riffo is a Chilean judge and a lesbian mother of three daughters. She separated from her husband in 2001, and originally reached a settlement with her ex-husband that she would retain custody of the children. When she came out as a lesbian in 2005, however, the ex-husband sued for custody, where the case was eventually heard by the Supreme Court of Chile. That court awarded the husband custody, saying that Ms. Atala Riffo's relationship put the development of her children at risk. The Inter-American Court found that the State violated the American Convention on Human Rights. It was the first case the Court took regarding LGBT rights.*

**Key Words:** *Discrimination; Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) Issues; Economic, Social, and Cultural Rights; Family; Freedom of Expression; Minors/Children; Privacy; Women's Rights*

### Merits, Reparations and Costs

Judgment of February 24, 2012. Series C No. 239

### Monitoring Compliance with Judgment

- 1) Order of the Inter-American Court of Human Rights of November 26, 2013
- 2) Order of the Inter-American Court of Human Rights of February 10, 2017 (Available only in Spanish)

## VI) Case of García Lucero et al. v. Chile

*This case concerns the State's failure to investigate and to make reparation for the various acts of torture suffered by Leopoldo Guillermo García Lucero. Shortly after the military coup by Pinochet on September 11, 1973, Mr. García Lucero was arrested and spent more than a year in concentration camps. While in detention, he was repeatedly tortured and consequently suffered the the loss of most of his teeth, the disfigurement of his face, and damage to his spine. Mr. García Lucero is now permanently disabled. In 1975, Pinochet's regime forcibly expelled Mr. García Lucero to the United Kingdom, forcing him and his wife and three daughters to leave behind all of their relatives, friends, and possessions. His case was submitted to the Court to provide him with a remedy and adequate reparation for these events. The Court found that the State violated the American Convention on Human Rights and the American Convention to Prevent and Punish Torture.*

**Key Words:** *Access to Legal Procedures; Arbitrary Arrest and Detention; Criminal Justice; Expulsion, Deportation, and Forcible Return; Discrimination; Civil and Political Rights; Political Organizations; Prison and Detention Conditions; Freedom from Torture and other Cruel, Inhumane and Degrading Treatment*

### Preliminary Objection, Merits and Reparations

Judgment of August 28, 2013. Series C No. 267

### Monitoring Compliance with Judgment

- 1) Order of the Inter-American Court of Human Rights of April 17, 2015 (Available only in Spanish)

## **VII) Case of Norín Catrimán et al. (Leaders, Members, and Activists of the Indigenous Mapuche People) v. Chile**

*In the early 2000's, members of the various communities within the indigenous Mapuche group were involved in demonstrations over the encroachment of their ancestral lands, and the use and enjoyment of the natural resources on those lands. Most of the demonstrations were peaceful. However, a few resulted in violence and property destruction. Eight people, including some prominent Mapuche leaders, were charged with crimes under Chile's Terrorist Act. By charging under the Terrorist Act, the State could arbitrarily prolong detentions, and prohibit the victims from engaging in any political activities or holding public office for a period of fifteen years. This crippled the Mapuche who were left leaderless. Additionally, the victims in this case were denied access to a fair trial.. The Court found the State violated several articles of the American Convention on Human Rights.*

**Key Words:** *Access to Legal Procedures; Arbitrary Arrest and Detention; Assembly (Freedom of); Censorship; Criminal Justice; Discrimination; Due Process Rights; Economic, Social, and Cultural Rights; Housing, Land, and Property Rights; Indigenous Peoples' Rights; Participation in Government (Right to); Political Organizations; Property*

### Merits, Reparations and Costs

Judgment of May 29, 2014. Series C No. 279 (Available only in Spanish)

### Monitoring Compliance with Judgment

- 1) Order of the Inter-American Court of Human Rights of January 26, 2015 (Available only in Spanish)

## **VIII) Case of Omar Humberto Maldonado Vargas et al. v. Chile**

*From 1973 to 1990, Chile was ruled by a military regime, led by General Augusto Pinochet, that systematically employed torture, summary executions, arbitrary detention, and forced disappearances as a means of repressing alleged dissidents. This case centers around twelve victims, who were in the State Air Force prior to the military dictatorship, and had been convicted of various crimes in connection with alleged disloyalty to the new regime. The victims spent varying lengths of time in prison, where they were all continuously severely tortured. After serving their prison sentences, eleven of the twelve victims were exiled from the State. The victims petitioned the State in 2001 and 2013 to investigate and punish those responsible for torturing them, and to annul their own convictions. The Court found that the State violated the American Convention on Human Rights and the Inter-American Convention to Prevent and Punish Torture.*

**Key Words:** *Access to Legal Procedures; Amnesty, Pardon, and Commutation of Sentence (Right to Seek); Arbitrary Arrest and Detention; Due Process Rights; Expulsion, Deportation, and Forcible Return; Judicial Protection (Right to); Prison and Detention Conditions; Freedom from Torture and other Cruel, Inhumane and Degrading Treatment*

### Merits, Reparations and Costs

Judgment of September 2, 2015. Series C No. 300 (Available only in Spanish)

### Monitoring Compliance with Judgment

- 1) Order of the Inter-American Court of Human Rights of August 30, 2017 (Available only in Spanish)

**B) Provisional Measures (Art 63.2)**

[None]