

# Press Release

Inter-American Court of Human Rights

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## **CHILE IS RESPONSIBLE FOR NOT GRANTING JUDICIAL ACCESS TO CIVIL REPARATIONS TO THE RELATIVES OF VICTIMS OF CRIMES AGAINST HUMANITY**

*San Jose, Costa Rica, December 21, 2018.* - In the judgment published today in the case of *Órdenes Guerra et al. v. Chile*, the Inter-American Court of Human Rights, taking into consideration the broad acknowledgment of responsibility of the State, declared the international responsibility of Chile for the violation of the right to access to justice, as a consequence of the decisions of judicial authorities to reject civil claims for compensation for moral damages lodged by seven groups of people between 1997 and 2001, in relation to the kidnapping or detention and disappearing or execution of their family members by State agents in 1973 and 1974. Such judicial actions were rejected between 1999 and 2003, on the basis of the application of the statute of limitation period established in the Civil Code<sup>1</sup>. The official summary of the judgment can be found [here](#) and the entire text of the judgment [here](#) (in Spanish).

In the framework of the proceedings before the Court, the State noted that the relatives of the victims of the present case were “part of the list of victims of human rights violations acknowledged by the Chilean State in the Report of the National Truth and Reconciliation Commission (Retting Commission) of February 8, 1991”; that the victims had not received economic reparations through judicial mechanisms, yet the majority had received “several administrative benefits and other allowances in application of legal instruments in force as part of the State’s policy of reparations once democracy was established”. The State acknowledged “its international full responsibility for the violation of the rights to judicial guarantees and judicial protection” to the detriment of the victims, for not determining their rights to obtain a remedy in the civil context, in addition to not doing the necessary for redeeming violations of human rights, recognized as crimes against humanity by the own State through the Truth Commissions. It admitted that “the implementation of civil prescription to the judicial actions lodged by the victims prevented the granting of a fair reparation” and noted that the judicial practice has been corrected over the past years with the change of the jurisprudence criteria in the matter, mainly by the Supreme Court of Justice of Chile, in conformity with international human rights.

The court considered that the recognition of the State constituted accepting the claims about the violation of the rights to judicial guarantees and judicial protection, to the detriment of the victims, and appreciated the act done by the State, pointing out that it “constitutes a valuable contribution to the development of this process and to the validity of the principles that inspire the Convention.”

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<sup>1</sup> This case was submitted before the Court by the Inter-American Commission on Human Rights on May 17, 2017.

In view of these violations, the Court ordered as measures of reparation, for the State to pay the amounts fixed in the judgment through the concept of compensatory damages and reimbursement of expenses; and to publish the judgment.

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The Court's composition for the judgment included the following: Judge Eduardo Ferrer MacGregor Poisot (President); Judge Humberto Antonio Sierra Porto (Colombia); Judge Elizabeth Odio Benito (Costa Rica); Judge Eugenio Raúl Zaffaroni (Argentina); and Judge L. Patricio Pazmiño Freire (Ecuador). Judge Eduardo Vio Grossi, of Chilean nationality, did not participate in the deliberation and adoption of this judgment, in accordance with Article 19.1 of the Rules of the Court.

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