

# Press Release

Inter-American Court of Human Rights

I/A Court H.R.\_PR-118/2020 English

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## I/A Court H.R.

Protecting Rights

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### **CHILE IS INTERNATIONALLY RESPONSIBLE FOR RESTRICTING JUDGE'S FREEDOM OF THOUGHT AND EXPRESSION**

*San Jose, November 6, 2020.*- Today the Inter-American Court of Human Rights released its Judgment on the Case of Urrutia Laubreaux v. Chile, holding the State of Chile internationally answerable for violating the right to freedom of thought and expression (article 13), the right to a fair trial (article 8.1, 8.2.b and 8.2.c), and freedom from ex post facto laws (article 9), under the obligation to respect and guarantee these rights (article 1.1) and the duty to adopt domestic legal effects (article 2), in injury of Judge Daniel David Urrutia Laubreaux.

The official summary of the Judgment can be found [here](#), and the complete text of the Judgment is available [here](#) (Only in Spanish).

In 2004, the Chilean Supreme Court authorized Mr. Urrutia Laubreaux, then a guarantee judge in Coquimbo, to attend a certification program on human rights and processes of democratization. On November 30, 2004, Judge Urrutia informed the Supreme Court that he had passed the certificate program. He also submitted his final paper, in which he proposed that the judicial branch adopt certain measures of redress for its institutional responsibility for human rights violations that had occurred during the Chilean military regime. The Supreme Court forwarded the paper to the appropriate disciplinary body to sanction Mr. Urrutia Laubreaux and subsequently returned his scholarly paper to him, informing him of the Supreme Court's opinion that it contained "views that the Court deems unsuitable and unacceptable." On March 31, 2005, the La Serena Appellate Court decided to sanction Mr. Urrutia Laubreaux with the disciplinary action "written reprimand." Following appeal, the Supreme Court upheld the ruling under challenge and downgraded the sanction to a "private admonition." On May 29, 2018, in compliance with recommendations given in the Report on the Merits, the Chilean Supreme Court set aside the sanction against the victim.

The Court held in the Judgment that it was not consistent with the American Convention to sanction views expressed in an academic treatise on a general subject not involving a specific case, as in Judge Urrutia's paper. The Court also stated that, despite the 2018 motion by the Supreme Court to overrule the sanction against the Judge, the disciplinary action had remained on Mr. Urrutia Laubreaux's personnel file for over 13 years, undermining his career in the judiciary.

The Court found that: i) at no time prior to the application of the sanction was Mr. Urrutia Laubreaux informed of the disciplinary proceedings undertaken against him or the regulations he was alleged to have broken, nor was he given a clear, specific explanation about the application of these regulations, all of which constituted a violation of the guarantee to have prior, detailed information on the process being taken against him; and that ii) the La Serena Appellate Court provided Mr. Urrutia Laubreaux no opportunity to exercise his right of defense, either in writing or orally, which was an additional breach of the Judge's right to defense.

In addition, because several Supreme Court justices had taken part in the appeal process on the decision for sanctions, the court's impartiality was compromised in its finding on the appeal lodged by Mr. Urrutia Laubreaux.

The Court held in its Judgment that the rules used to discipline Judge Urrutia Laubreaux provided discretionary powers incompatible with the need for rules to be predictable, and this violated the principle of freedom from ex post facto laws contained in article 9 of the Convention. The Court also warned that rules such as these violated both the principle of freedom from ex post facto laws, and judicial independence.

The Court ordered several measures of reparation.

Judge Patricio Pazmiño Freire and Judge Eugenio Raúl Zaffaroni informed the Court of their individual concurring opinions.

The Judges sitting on the Court for this judgment were: Judge Elizabeth Odio Benito, President (Costa Rica); Judge Patricio Pazmiño Freire, Vice president (Ecuador); Judge Eduardo Ferrer Mac-Gregor (Mexico); Judge Humberto Antonio Sierra Porto (Colombia); Judge Eugenio Raúl Zaffaroni (Argentina) and Judge Ricardo Pérez Manrique (Uruguay). Judge Eduardo Vio Grossi, who is Chilean by nationality, did not take part in the discussion or deliberations of the judgment, in accordance with the provisions of Article 19 of the Rules of Procedure of the Court.

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