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Chile: Dangerous and illegal Supreme Court decision on cases involving human rights violations

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A resolution issued by the Chilean Supreme Court may facilitate impunity for perpetrators of human rights violations, as it imposes a strict time limit on judicial investigations into forced disappearances and other serious crimes against humanity, said today Virginia Shoppee, Amnesty International researcher on Chile.

The Supreme Court resolution is clearly contrary to national and international standards, affects the search for justice in Chile and will oblige victims to resort to the Inter-American human rights protection system.

By imposing a maximum period for investigations, the Supreme Court is involving itself in legal cases being dealt with by other judges, which is strictly contrary to the Chilean Constitution.

Moreover, the resolution is an affront against the basic principle of judicial "independence". It ignores a series of international human rights standards, including the standard that establishes the basic principles of the independence of the judiciary by indicating that judges must decide "matters before them (...) without any improper influences, pressures, threats or interferences (...) from any quarter or for any reason."

This resolution prejudices the judicial process in many cases involving crimes against humanity, for example, disappearances. Article 17.1 of the Declaration on the Protection of all Persons from Enforced Disappearance, adopted by the United Nations General Assembly, on 18 December 1992, states that: "Acts constituting enforced disappearance shall be considered a continuing offence as long as the perpetrators continue to conceal the fate and the whereabouts of persons who have disappeared and these facts remain unclarified."

"The enforced disappearance of people is a continuing offence. The fundamental reason for delays in legal cases is the clear lack of cooperation of the alleged perpetrators. The Supreme Court's decision turns the crime of enforced disappearance into a crime that could remain unpunished," said Ms Shoppee.

"If this resolution prevails, the Chilean Supreme Court will be responsible for a serious setback to

the progress made in the fight against impunity in this country in recent years, such as the withdrawal of Pinochet's parliamentary privileges and the investigations into Operation Condor", concluded Ms Shoppee.

General information

The resolution was issued by the Chilean Supreme Court of Justice on 25 January 2005.

The resolution states that judges will have a maximum of six months to conclude investigations into cases of human rights violations committed during the military regime headed by Augusto Pinochet, including the disappearance of more than 1000 people and the systematic torture of more than 25,000.

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