

**REPORT No. 28/13<sup>1</sup>**  
PETITION 1345-05  
ADMISSIBILITY  
TEACHERS OF CHAÑARAL  
CHILE  
March 20, 2013

**I. SUMMARY**

1. This report concerns the admissibility of Petition No. 1345-05, which was opened by the Inter-American Commission on Human Rights (hereinafter "Inter-American Commission", "Commission" or "IACHR") after it received a petition lodged on October 23, 2005, by two law firms, Etcheberry/Rodríguez and Colombara Olmedo, on behalf of 84 teachers in the Municipality of Chañaral against the State of Chile (hereinafter the "State" or the "Chilean State").<sup>2</sup> Through communications of February 2007 and December 2008, the petitioners broadened their petition to include 80 teachers from the Municipality of Chanco, 32 from the Municipality of Pelluhue, 90 from the Municipality of Parral, 193 from the Municipality of Vallenar, and 373 from the Municipality of Cauquenes, making a total of 852 alleged victims.<sup>3</sup> The petitioners claim that the State has engaged its responsibility under the American Convention on Human Rights (hereinafter the "American Convention" or "the Convention"), specifically for violation of the rights to a fair trial, property, judicial protection, and progressive development enshrined in Articles 8, 21, 25, and 26, respectively, of said Convention, taken in conjunction with the obligations to ensure rights and adopt domestic legal provisions established in Articles 1(1) and 2 thereof.

2. The initial petition states that in a final judgment of July 20, 1994, the magistrate's court for labor matters had ordered the payment to the alleged victims of an outstanding debt that the Municipality of Chañaral owed them in social security benefits. The petitioners say that owing to the municipality's failure to comply with the judgment, they had sought various remedies for its enforcement, to no avail. They add that on May 18, 2005, Chañaral Magistrate's Court for Labor Matters had ordered the Municipality, through its mayor, to issue a mayoral decree for payment. That decree was reportedly never issued and as of the lodging of the petition the judgment had not been carried out.

3. As regards the municipalities of Chanco, Pelluhue, Parral, Vallenar, and Cauquenes, the petitioners say that, likewise, the teachers in those municipalities obtained final judgments in which the municipal authorities were ordered to pay them certain amounts owed to them for social security benefits. Despite the fact that payment agreements were reached, the petitioners claim that they were not fulfilled and that only in the cases of the municipalities of Chañaral and Vallenar were some payments made, for amounts less than those owed, which, they argue, can only be construed as partial payments toward the overall debt.

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<sup>1</sup> In keeping with Article 17(2)(a) of the Rules of Procedure of the IACHR, Commissioner Felipe González, a Chilean national, did not participate in the discussion or decision in the present case.

<sup>2</sup> The alleged victims were appropriately identified in the initial petition regarding the the Municipality of Chañaral.

<sup>3</sup> Appendix 1. List of alleged victims presented by the petitioners.

4. In the case of the teachers of Chañaral, the latter had not obtained a final decision ordering compliance and the State holds that available remedies under domestic law for repairing the alleged violations had not been exhausted, given that the alleged victims should have filed appeals or motions for reversal and, subsequently, motions for cassation and reconsideration of dismissal of appeal, to overturn the judicial decision that had accepted the pleadings on compliance successfully argued by the municipality. The State adds that apart from the remedies mentioned, the petitioners also had recourse to the appeal for protection [*recurso de protección*] recognized in the Constitution of Chile against acts or omissions that they regarded as violations of their basic rights.

5. With respect to the teachers from the other municipalities who have been named as alleged victims by the petitioners, the State argues that the claim is inadmissible, saying that it is nothing more than generalization.

6. In accordance with Articles 46 and 47 of the American Convention, as well as in Articles 30 and 36 of its Rules of Procedure, the Commission, having examined the positions of the parties, decided to declare the petition admissible in relation to the alleged violations of Articles 5 (right to humane treatment), 8(1) (right to a fair trial), 21 (right to property), and 25 (right to judicial protection) in conjunction with 1(1) (obligation to respect rights) and 2 (duty to adopt domestic legal provisions) of the American Convention, but not with respect to Article 26 of that instrument. The Commission also decided to notify the parties of this decision, to publish it, and to include it in its Annual Report to the General Assembly of the Organization of American States.

## **II. PROCESSING BY THE COMMISSION**

7. The petition was lodged by the petitioners with the Executive Secretariat of the Commission on November 23, 2005. The Commission began to process the petition on May 8, 2006, when it transmitted to the State the relevant parts of the petition and requested it to respond within a period of two months. In a communication of July 27, 2006, the State requested an extension and, by note 273 of August 9, 2006, submitted its observations, which were relayed to the petitioners on August 29.

8. The petitioners presented observations and additional information in communications dated August 8, 2006; February 20, 2007; December 22, 2008; and July 6, 2009, which were duly conveyed to the State. For its part, the State presented additional observations in communications dated April 26, 2007; and August 29, 2008, which were duly transmitted to the petitioners. In a communication of May 18, 2010, the Commission requested additional information from the petitioners regarding exhaustion of domestic remedies in the cases of the municipalities of Chanco, Pelluhue, Parral, Vallenar, and Cauquenes. That information was presented on January 21, 2011, and forwarded to the State for comment on March 22 of that year.

9. On March 10, 2008, in the framework of its 131st regular session, the Commission held a public hearing on this petition, which was attended by both the petitioners and the State. Furthermore, on October 26, 2011, in the course of its 143rd regular session, the Commission held a working meeting with the parties.

## **III. POSITIONS OF THE PARTIES**

### **A. The Petitioners**

10. According to the petition, under Statutory Decrees 1979 and 1980, on August 19, 1981, the State of Chile transferred all teachers employed at educational facilities that reported to the Ministry of Education to the municipal sector. The measure was a policy decision adopted by the military government of the day, founded on principles of decentralization and privatization. Thus, in the municipalization of the primary education system it was expressly envisaged that under the municipal regime teachers would have the same pay and benefits that they had been enjoying prior to then. The petitioners clarify that the provisions that governed the process were mandatory, not voluntary, for teachers and municipalities.

11. The petitioners say that payment of welfare benefits was unilaterally suspended by the municipalities. As a result, on March 28, 1994, the 80 teachers in Chañaral filed suit with the First Magistrate's Court for Labor Matters and, in a final judgment of July 20, 1994, it was ordered that they be paid the sums owing, the amount of which was to be determined in an incidental manner when the ruling was enforced.

12. They add that after incidental compliance with the judgment was requested, experts were appointed and, in August 1999, the Municipality of Chañaral and the victims signed a payment agreement. However, after the municipality failed to honor the agreement, the Chañaral teachers asked the court to void it, which the court did by its decision of October 19, 2003.

13. On May 18, 2005, Chañaral Magistrate's Court for Labor Matters issued a ruling in which it ordered the municipality, through the mayor, to issue a mayoral decree for settlement of the sums awarded in the final judgment of July 20, 1994, in recognition of social security benefits. The claims of the petitioners were based on the apparent refusal of the Municipality of Chañaral to carry out that ruling.

14. They add that on June 16, 2005, the Municipality of Chañaral requested the tribunal to exempt it from compliance with the judicial decision as that would give rise to a dire financial situation, leaving the municipal coffers utterly depleted and the municipality completely unable to perform its basic functions. The petitioners say that in a decision of June 20, 2005, the tribunal heeded the request presented, and that they had no available recourse by which to compel the Municipality of Chañaral to comply with the order to issue the mayoral decree and, therefore, pay the Chañaral teachers the sums that they were owed.

15. In their initial petition, the petitioners noted that, in response to with the Mayor of Chañaral's noncompliance and at the request of the teachers, the First Magistrate's Court for Labor Matters cautioned the mayor that failure to comply with the order would result in five days of arrest. A motion for preventive relief was brought against that compulsion measure and, as the motion was accepted, the caution was rendered ineffective. Thus, the petitioners say that as the proceedings evolved all the relevant and suitable remedies at each stage were invoked in an effort to get the State of Chile, through the Municipality of Chañaral, to comply with the orders of Chañaral Magistrate's Court for Labor Matters.

16. In their communications of February 2007 and December 2008, the petitioners clarified that the complaint was being lodged on behalf of teachers in the Municipality of Chañaral and "all those teachers in similar legal positions; that is, with enforceable final court judgments ordering payment of

their accrued welfare entitlements by the municipalities," of Chanco, Pelluhue, Parral, Vallenar and Cauquenes, who were individually named by the petitioners.

17. In addition, the petitioners noted that, as the State had mentioned, a record does indeed exist of the payments made to teachers in the municipalities of Chañaral and Vallenar in 2008. They added that after a wait of more than 15 years, the acceptance of agreements for amounts well below those promised apparently stemmed from frustration at finding a lack of internal resources that would allow them to obtain payment of the amounts ordered by the courts. They clarify that the amounts paid have the character of a partial payment, which, they claim, is demonstrated by the updates of the debts by the labor courts of those municipalities on November 24 and 28, 2008, in which they recognized that the amounts paid constituted a partial payment toward the total debt owed, with the result that the balances remain outstanding. They point out that the teachers at the other municipalities have received no payment of any sort.

18. Regarding the State's argument that the victims from the other municipalities lacked standing to sue, in their brief of March 22, 2007, the petitioners held that there is no question of a generalization as the alleged victims had been appropriately individually named, and all 12 lawsuits pursued against the municipalities, identified. Thus, they say that, like the teachers in Chañaral, the teachers in the municipalities of Chanco, Pelluhue, Parral, Vallenar and Cauquenes, sued the municipalities and the judicial authorities, both at first instance and at higher instances, ordered that they be paid the amounts owed to them in social security entitlements.<sup>4</sup> The petitioners say that the

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<sup>4</sup> The appendixes presented by the petitioners contain the final judgments in each judicial proceeding as well as the settlement amounts.

**"BENAVIDES ET AL. v. Municipality of Chañaral," Case 18.629 of Chañaral Magistrate's Court, for payment of entitlement under Article 490 of D.L. 3.551/1980.**

Cornejo Campos, Alexis J. (\*); Andreani Rossinelli, Gabriela R. (80 años); Lagos Carrasco, Cristina D. (77 years); Montenegro Montenegro, Angela D. (77 years); Benavides Montaña, Clarisa E. (76 years); Paralta Olivera, Angela B. (73 years); Vallejos Cortés, Hugo Segundo (73 years); Campos Bugüño, Violeta M. (72 years); Muñoz Gilberto, Bernardita (72 years); Robles Leiton, Gustavo Arnoldo (72 years); Rojas Castillo, Gladys (72 years); Valencia Cortés Rubén Enrique (72 years); Venegas Hernández, Mireya Olimpia (72 years); Flores Cortés, Raquel D. (71 years); Bugueño Chacana, Gumercindo (70 years); Hurtado Clunes, Ruperto H. (70 years); Alcota Goya, Juana Angela (69 years); Figueroa Torres, Orielle (69 years); Larrea Herrera, Laura J. (69 years); Torres Saint Lawrence, Marleine (69 years); Flores Cortés, Elizabet D (68 years); Osorio Astorga, Juan Antonio (68 years); Torres Montaña, Lucila (68 years); Valdivieso Moran, Ruth Carlota (68 years); Godoy Avilés, Luzmelia O. (66 years); Gutiérrez Castillo, Lindora D. (66 years); Kong Urbina, Isabel Margarita (66 years); Zepeda Viera, Alejandro del Carmen (66 years); Godoy Monardez, Elizabeth (65 years); Morales Mena, Sergio Hugo (\*); Valdivia Rivera, Baldomera D (65 years); Ángel Ardiles, Bernardo D. (64 years); Barros Rojas, Lucrecia D. (64 years); Carrasco Carrasco, Clara E. (64 years); Valenzuela González, Lucit Violeta (64 years); Ángel Cortés, Diosa De L. (63 years); Durán Vargas, Yorka Flavia (63 years); Egaña Romo, Hernán Gabriel (63 years); Loyola Funes, Sergio Manuel (63 years); Marin Guerra, Rosa Otilia (63 years); Rivera Hidalgo, Jesús Arturo (63 years); Sánchez Contreras, Carmenci J. (63 years); Tapia Páez, Elba Ernestina (63 years); Trujillo Arredondo, Maria Angélica (63 years); Godoy Avilés, Mitzi Daysi (62 years); López González, Antonio P. (62 years); Lorca Arredondo, Edda Adriana (62 years); Medina Benavides, Maria Cristina (62 years); Sánchez Contreras, Mavel Selic (62 years); Avendaño Peña, Enilde (61 years); Castillo Morales, Gabriel F. (61 years); Jiménez Acevedo, Ramón Gastón (61 years); Astorga Astorga, Ana Maria (60 years); Díaz Aguilar, Héctor David (60 years); Pizarro Alquinta, Luisa D. (60 years), Serazzi Ahumada, Nelda Luisa (60 years); Tolmo Sosa, Ernesto Carlos (60 years); Vega Cordovez, Delicia D. (60 years); Bugueño Chacana, Eliana A. (59 years); Quiroga Cortes, Graciela L. (59 years); Rivas Tapia, Lino Alberto (59 years); Tapia Escudero, Estela Marlene (59 years); Martínez Rodríguez, Hugo E. (58 years); Miles Segovia, Jaime Hernán (58 years); Muñoz Segura, Nelly Alejandrina (58 years); Plaza Henríquez, Carlos D. (58 years); Gaspar Alquinta, Grumilda G. (57 years); González Rodríguez, Clara D. (57 years); Ossandon Veliz, Griselda D.(57 years); Pasten Castillo, Verónica D. (57 years); Bugueño Elo, Priscila Palmira (56 years); Cofre Briceño, Ana Elizabeth (56 years); Arredondo Bugueño, Isabel D. (55 years); Cortes Cisterna, Aldecira V. (55 years); Molina Hurtado, Inés Wacolda (55 years); Palma Sias, Ana Maria (55 years); Recharte Carrasco, Griselda A. (55 years); Tejada Moreno, Silvia Teresa (55 years); Arancibia Ramírez, Isabel D. (54 years); Araya Cortés, Shenda Janeth (54 years). Additionally, the original petition include a reference to the following

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four victims: Aida del Carmen Alquinta, Dulcinea González Ortiz, Petronila Brígida Fajardo Alaníz and Irma de Lourdes Cisterna Bravo.

**“RAMÍREZ ET AL. v. Municipality of Vallenar,” Case 4.443 of Vallenar First Magistrate’s Court, for payment of entitlement under Article 40 of D.L. 3.551/1980.**

Valderrama Martínez, Norma E. (\*); Meléndez Cortés, Silvia Edith (\*); González Zepeda, Rosa Elena (\*); Silvia González, Elba del C. (\*); Zamora Rowe, Ana María Eugenia (\*); Rivera Barrera, César Hernán (\*); Cavada Mauske, Enrique G. (\*); Valenzuela Portilla, María Edilia (\*); González Rojas, Gladys Ruth (\*); Zuleta Aguilera, Noel Salomón (\*); Rojas Véliz, Nolvía Luisa (\*); Marín Escobar, Norma Antonia (\*), Páez Buigley, Maranda Yolanda (\*); Quezada Araya, Edmundo Máximo (\*); Sepúlveda Godoy, Carlos E. (\*); Morales, Morales, Héctor Miguel (\*); Pacheco, Pacheco, Cecilia del C. (\*); Pierotic Cortés, Mateo Segundo (\*); Concha Girón, Eduardo Hernando (\*); Monárdez Lillo, Felisa del C. (\*); Castillo Marín, Gregorio Víctor (\*); Álvarez Farias, Rosa Mafalda. (83 years); López Rojas, Ana Josefina (81 years); Vega Araya, Graciela del R. (\*); Adriazola Berger, Ina Sonia. (80 years); Sorich Olivares, Alexandrina A. (80 years); Tapia Castillo, Domitila del C. (80 years); Farias, José Porfirio. (79 years); Rivera Cortes, Carmen Eliana D. (78 years); Álvarez Davies, Adriana Violeta (78 years); Piñones Urbina, Miguel Segundo (77 years); Ramírez Ferrari, Norma Eliana (77 years); Arancibia Martínez, Juana M.(77 years); Herrera Rivera, Rolando del R.(77 years); Cruz Rivera, Smara del Carmen (77 years); Mamani Jofre, Orlando (76 years); Adaos Ramírez, Gladys María (76 years); Álvarez Flores, Sergio Ricardo (76 years); Páez Varas, Adela del Rosario (76 years); Sánchez Cortes, Iris del C.(76 years); Pineda Castillo, Indra Benita (76 years); Romero, Romero, Hernán W.(76 years); Catalán Vallejo, Filadelfo del C.(75 years); Carvajal Campillay, Felisa (75 years); Núñez Méndez, Amelia Olivia (75 years); Barrios Craig, María Teresita D. (75 years); Petzold Zanforlin; Adriana Alicia. (75 years); Zavala Cortes, Gladys del R.(75 years);Gutiérrez Rivera, Sergio Alberto (74 years); Phillips Reyes, María Angélica (74 years); Valdés Robles, Iris Eliana (74 years); La Torre Herrera, Enoe de L (74 years); Cubillos Cuello, Bahaman Antonio (74 years); Pizarro Bugueño, Elena Ester (73 years); Briceño Gutiérrez, Nila (73 years); Flores, Flores, Rosa Elizabex (73 years); Lima Marín, Jorge Oriel (73 years); Barrios Olivares, María Cristina (72 years); Segovia Martínez, Adriana G.(72 years); Laferte, Adriana del Rosario (72 years); Velaz Guaman, Claudina del C. (72 years); Fernández Espinoza, Ana María C. (72 years); Gajardo Olivares, Juana Rosa (71 years); Morales Morales, Aldo Vicente (71 years); Herrera Vargas, Alexis Orlando (71 years); Geraldo Ramírez, Elsa Blanca (71 years); Díaz Ortiz, Marcos Jorge (71 years); Meyer Flores, Rebeca M. (70 Years); Cortes Gajardo, Juan Gabriel (70 years); Borcoski Páez, Norma Cristina (69 years); Rivero, Nelly del Carmen (69 years); Ferreira Rojas, Silvia Bersave (68 years); Borcoski Páez, Nancy Margarita (68 years); Villegas Traslaviña, Alicia M. (68 years); Velas Guaman, Doris Francisca (68 years); Ávalos Díaz, Fresia del Carmen (68 years); Pizarro Veas, María del Carmen (68 years); Barrios Olivares, Romelio A. (68 years); Escobar Aguilera, Eulalia Ester (68 years); Ocaranza Torres, Agueda B. (68 years);Pizarro Alfaro, Aurora Isabel (67 years);Balut Streeter, María Ledda (67 Years); Lobos Vargas, Luis Sergio (67 years); Santander Vallejos, Mario D (67 years); Tapia Tosetti, María Angélica (67 years); Ramírez Ortiz, Inés Ariela. (67 years); Zepeda Cena, Norma Yolanda (67 years); Tapia Castillo, Alejandro A. (67 years); Cortes Olmedo, Elsi Raquel (67 years); Guerrero Sandoval, Gloria D. (67 years); Cerda Ortiz, Elena Lelia (66 years); Iribarren Cardenas, Isabel del C. (66 years); Collao Rojas, Gladys (66 years); Garrido Berrios, Mirtha Flor D. (66 years); Ubilla Rojas, Aída María Inés (66 years); Rojas Romero, Rodrigo Antonio (65 years); Molgas Cortés, Misael Enrique (65 years) Reyes Locatelli, Miguel Orlando (65 years); Castillo Cruz, Pedro Gabriel (65 years); Munizaga Espinosa, Jaime Enrique (65 years); Cuadra Calderón, Sonia Elsa (65 years); López Zambrano, Juan de La Luz (65 years); Carvajal Reyes, Gloria de Las M. (65 years); Cofre Calderón, Jorge Orlando (65 years); Requeña Núñez, America Elena (65 years); Fredes Soza, Hilda Irene (65 years); Soto Campillay, Rubén Emilio (64 years); Cortes Rojas, Juana Aurora (64 years); Peralta Sepúlveda, Gladys del C. (64 years); Poblete Lemus, Fresia Elena (64 years); Espejo Chepillo, Dilma Eliana (63 years);Barrera Cruz, María Luisa (63 years); Astudillo Morales, Héctor Over (63 years); Vicentelo Gatta, Laura Graciela (63 years); Alegría Olivares, Roberto E. (63 years); Araya Cabrera, Victoria del C. (63 years); Maldini Robles, María Alicia (63 years); Silva Castillo, Miriam Jesús (63 years); Sanhueza Valeria, Gricelda M. (63 years); Aracena Valladares, Ruth María (63 years); Flores Flores, Pedro Edmundo (63 years); Alzamora Alzamora, Orlando E. (63 years); Cabeza Bravo, Gilda Eliana (63 years); Meléndez Díaz, Renán Alberto (63 years) Alcayaga Rojas, Mónica del R. (63 years); Báez Ramírez, Nelly del Carmen (63 years); Podesta Morales, Manlio Luis (63 years); Sáez Ordenes, Antonio Reginaldo (63 years); Gutiérrez Rivera, Héctor Abel (63 years); Espinoza Navea, Uberlinda D. (63 years); Núñez Díaz, Edith del Carmen (62 years); Díaz González, Nancy Leonor (62 years); Callejas Laferte, Yolanda del C (62 years); Rojas Toro, Orlando Efraín (62 years); Cruz Barrera, Nelson Ives (62 years); Ortega Zambra, Sergio Ismael (62 years); Araya Cortes, Sergio Enrique (62 years); Álvarez Álvarez, Gabriela Iris (62 years); Vega Seriche, Wilfredo (61 years); Alcayaga Leyton, Luzmila B. (61 years); Morales Ríos, Gady Graciela (61 years); Ávila Guerra, Nelson Camilo (61 years); Molina Molina, Betty del Rosario (61 years); Palma Sepúlveda, Ana Cecilia (61 years); Loyola Tapia, Silvia Inés (61 years); Tapia Tossetti, María de la Luz (61 years); Flores Pineda, Texa Gladys (61 years); Alfaro Arcaya, Ada Marina (61 years); Flores, Flores, María Amelia (61 years); Sotella Vernal, Celinda del C. (61 years); Zubieta Kong, Elena Ernestina (61 years); Gatica Fernández, Gladys Z. (61 years); Alcayaga Pinto, Gloria Patricia (61 years); Wasaff Cabello, Nelly D. (61 years); Ardiles Quinteros, Luis Alberto (60 years); Briceño Figueroa, Rosa A. (60 years); López Miranda, Ana del C.(60 years); Conteras Carmona, Celsa C. (60 years); Spataris Schaffhauser, Cinthia D. (60 years); Araya Salinas, Delia De Lourdes (60 years); Páez, Páez, Patricia Armidita (60 years); Callejas Rojas, Adela Haydee (60 years); Flores González, Elly Milena (60 years); Caballero Castillo, Oscar A. (60 years); Santibáñez Sagua, Raúl

Segundo (60 years); Leiva Ortiz, Luis Alberto (59 years); Pacheco Pacheco, María Cristina (59 years); Zambrano Aros, Rosa Otilia (59 years); Campusano Álvarez, Mónica C. (59 years); Calderón Lean, Juan Benito (58 years); Aguilar Álvarez, Verónica E. (58 years); Fuentes Cortes, Marfri Iris (58 years); Meléndez Varas, Nora Rita (58 years); Espinoza Villegas, Jose Enrique (58 years); Campillay Cortes, Gladys Mirian (58 years); Valdes Delgado, Ana Manuela (58 years); Mery, Mery, Patricia de Lourdes (57 years); Flores González, Gloria M (57 years) Mortola Godoy, Olga Marianela (57 years); Álvarez Munizaga, Rosa del L. (57 years); Borquez Morales Sonia Margot (56 years); Guerrero Hurtado, Carlos Rubén (56 years); Santibáñez Espinoza, Enrique A. (56 years); Rojas Hernández, Daniel Segundo (56 years); La Rosa Rivera, Mónica Gabriela (56 years); Campillay Villalobos, Laura M. (56 years); Toro Vázquez, Nolvía Angélica (56 years); Reyes Trujillo, Julio Ernesto (55 years); Ossando Pizarro, Isabel Danisa (55 years); Pérez Aguilar, Manuel Antonio (55 years); Naranjo Tapia, Juana Hortensia (54 years); Rojas Vega, Ana María del C. (54 years); Olgún Aguirre, Danilo Waldemar (53 years).

**“BELMAR ET AL. v. Municipality of Parral,” Case 4.051; “BUSTAMANTE ET AL. v. Municipality of Parral,” Case 4.071; “SALAZAR ET AL. v. Municipality of Parral,” Case 4.096; AND “BAYER ET AL. v. Municipality of Parral,” Case 4.274 of Parral First Magistrate’s Court, for payment of entitlement under Article 40 of D.L. 3.551/1980.**

Salvo Candia, Ada del C. (\*); Ruiz Morales, Miguel Ángel(\*); Bustamante Pincheira, Alicia del C (\*); Salazar Aravena, Nilsa Fredes (\*); Sepúlveda Gutiérrez, Fortunato de las Rosas (\*); Muñoz González, Gladys Elena del Carmen (\*); Fuentes Arriagada, Luis Arturo (\*); Czischke Oyharcabal, Sonia A (\*); Aravena Fuentes, José del Carmen (\*); Rivas Ahumada, Nahor (\*); Chacón Bustos, Ana Rosa (76 years); Jerez Jerez Alfonso E. (76 years); Ávila Ceroni, Ulises Napoleón (71 years); Matus Rodríguez, Ceferina Olivia (71 years); Parada Bustamante, Haydee del Carmen (71 years); Salvo San Martín, Enedina del C. (71 years); Ávila Lobos, Nelson Alfonso (70 years); Bastías Manríquez, Lilia del Carmen (70 years); Cáceres Bustos, Juan Orlando (70 years); Fuentes Ramírez, Litta Gaby (70 years); Gómez Villagrán, Luis Ernesto (70 years); González Domínguez, Eugenio A. (70 years); Ibáñez Agurto, Sonia Andrea (70 years); Matus Oñate, Elisa de las Mercedes (70 years); Silva Sepúlveda, Lidia Rosa (70 years); Troncoso Hernández, Sigisfredo (70 years); Vergara Troncoso, Carlos Eliseo (70 years); Ávila Lobos, Iliana de las Mercedes (69 years); Espinoza Díaz, Juan Luis (69 years); Rivas Ahumada, Ramona (69 years); Carsalade Manríquez, Morelia Ernestina (68 years); González Bravo, María Isolina (68 years); Suárez Fermandoy, Mirella del Rosario (68 years); Zúñiga Luna, Laura del C. (68 years); Zúñiga Méndez, Mery del C. (68 years); Ibarra Aravena, Fresia (67 years); Moraga Alarcón, Yolanda Telésfora (67 years); Nader Zerene, Isabel del C. (67 years); Rojas Prado, Raquel Eulalia (67 years); Ávila Contreras, Dalia Edith (66 years); Belmar Montero, Isabel (66 years); Cabrera Ortega, María Virginia (66 years); Chávez Cuevas, Silvia Guillermina (66 years); Montoya Castro, Yolanda del T. (66 years); Morales Agurto, Ana Luz (66 years); Muñoz Navarrete, Gladys de las Mercedes (66 years); Ortega Arevalo, Eliana E (66 years); Parra Moraga. Aquiles Otoniel (66 years); Ramos Matus, Raquel del C. (66 years); Urta Torres, Fresia del Carmen (66 years); Acuña Fuentes, Jaime N. (65 years); Escobar Espinoza, Nirma Flor (65 years); Ramos Ramírez, Alicia del Carmen (65 years); Saravia Lawrence, Fernando (65 years); Araneda Fuentes, Elba del R. (64 years); Ávila Contreras, Juan C. (64 years); Bustamante Sánchez, Ana Rosa (64 years); Cancino Riquelme, María del L. (64 years); Fuentes Gatica, Bersabet de las Mercedes (64 years); Hernández, Hernández, Julia del C.(64 years); López Labra, Adriana del C. (64 years); López Labra, Yolanda E, (64 years); Parra Gaete, Juan Roespiel (64 years); Sepúlveda Sepúlveda, María A. (64 years); Soto Inzunza, Ovidio Gamadiel (64 years); Araya Castro, Julia Hortencia (63 years); Balladares Conteras, María Cristina (63 years); Bayer Torres, Gerardo Jesús (63 years); Contreras Majulez, Sonia del Carmen (63 years); Contreras Medel, Jimena de Sta. Teresita (63 years); Espinace González , Eugenia Uberlinda (63 years); Hernández Fuentes, Ana A. (63 years); Hernández Fuentes, Berta del Carmen (63 years); Jiménez Espinoza, Patricia del Carmen (63 years); Manríquez Díaz Nereida María Inés (63 years); Maureira Troncoso, Servando Enrique (63 years); Ortega Tejos, Irene Adelaida (63 years); Urrutia Muñoz, Juana de las Mercedes (63 years); Urrutia Muñoz, María F. (63 years); Valenzuela Puentes, María Doralisa (63 years); Fuentes Videla, Carmen G. (62 years); Molina Santana, María Teresa (62 years); Quintana Zurita, María Inés (62 years); Roca Sayes, Fresia Celina del C. (62 years); Soto Vera, María Soledad (62 years); Vergara Troncoso, Nancy del Carmen (62 years); Riquelme Contreras, Juana del Rosario (60 years); Aguayo Yañez, Margarita C. (58 years); Tapia Toro, María Angélica (57 years); Ulloa Neira, María E. (54 years).

**“AGURTO CHUENG GUISAN, ELENA v. Municipality of Parral,” Case 63-93; “BARRA ENRIQUEZ MIRTA ET AL. v. Municipality of Parral,” Case 123-93, and “AGULERA MACHUCA ANGEL Y OTROS v. Municipality of Parral,” Case 38-93, del Juzgado de Letras de Cauquenes, for payment of entitlement under Article 40 of D.L. 3.551/1980.**

Díaz Canales, Iliá Ester (\*); Aravena Concha, Gastón (\*); Moya Ramírez, Ana Haydee (\*); Sánchez Sánchez, Ester (\*); Rojas Ortiz, María (\*); Muñoz Flores, Humilde (\*); López Barra, Idia Rosa (\*); Gutiérrez Lara, Elia L. (\*); Cerro Jara, Elcira de las M. (\*); Martínez Suazo, Benita (\*); Cisternas, Cisternas, María Graciela (\*); Muñoz Henríquez, Gladys (\*); Aravena Verdugo, Jose H. (\*); Duran Gutiérrez, Brígido (\*); Canales Espinoza, Silvio (\*); Lara Pereira, María Apolina (\*); Villegas Olivos, Jose (\*); Quiroz Ravanal, Teresita (\*); Vidal Valladares, Antonio (\*); Canales López, Miguel Segundo (\*); Sánchez Sepúlveda, Crisila (\*); Cancino Pérez, Clodomiro (\*); Cofre Cofre, Julio del T. (\*); Ríos Muñoz, María (\*); Pérez Guerrero, Fanor Arnaldo (\*); Reyes Parra, Morelia (\*); Díaz Espinoza, Ramón E. (\*); Valenzuela Enríquez, Gerarda (\*); Alvear Miranda, Gladys (\*); Martínez Salazar, Heriberto Antonio (\*); Medina Aravena, Jose Flavio (\*); Vega Vásquez, Marina (87 years); Aravena Alarcon, Gildardo (86 years);

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Rodríguez Sepúlveda, Fresia del Carmen (85 years); Riquelme Bustos, Raúl René (84 years); Vargas Bustos, María Alicia (84 years); Carikeo Vega, Aída (83 years); Guzmán Urrutia, José Romualdo (83 years); Alvear Márquez, Nelly (83 years); Acuña Aravena, Graciela (82 years); Duran Sepúlveda, Marta del Carmen (82 years); Alvear Márquez Lily (82 years); Bustos, Bustos, Rene (82 years); Jara Apablaza, Claudina del C. (82 years); Leal Vega, Rene O. (82 years); Briones Muñoz, Elba o Elvia Nelly (81 years); Cisterna Garrido, Mario (81 years); Ibañez Soto, Adriana de las M. (81 years); Muñoz Henríquez, Edina (81 years); Espinosa León, María (80 years); Pereira García, Carlos (80 years); Soto Ormeño Manuel (80 years); Landeros Alarcón, Rosalia (79 years); Bahamondes Mena, Rolando (79 years); Acuña Aravena, María Teresa (78 years); Aranda San Martín, Rodolfo (78 years); Coloma Torres, María Teresa (78 years); Echevarria Bravo, Waldo Ignacio (78 years); Espinoza Espinoza, Hernán (78 years); Figueroa Oyanzun, Jaime (78 years); Medel Agurto, María (78 years); Quiñones Duran Martín (78 years); Salgado Torres, Pedro Antonio (78 years); Sepúlveda Valenzuela, Fresia D. (78 years); Torres Moya, Manuela (78 years); Yamal Alborno, Seinap (78 years); Abarza Farias, María (77 years); Cerro Jara, Silvio A. (77 years); Díaz Espinoza, María N. (77 years); Grez Bustos, Guacolda T. (77 years); Soto Pérez, Octavio (77 years); Cerro Jara, Gerardo María (76 years); Flores Domínguez, Inés del C. (76 years); Gaete Aravena, Ana Rosa (76 years); Jara Bustos Margarita del C. (76 years); León León, Lucia del C. (76 years); Quiroz Arriagada, Alicia (76 years); Gajardo Rodríguez, Pedro Iván (75 years); Aravena Coloma, Fresia (75 years); Arellano Díaz, Manuel (75 years); Barra Henríquez, Hugo (75 years); Fuentes Aravena, Vitelia (75 years); Muñoz, Alberto Antonio (75 years); Ortíz Rojas, María Haydes (75 years); Yamal Jiménez, Said (75 years); Bustos Retamal Victoria (74 years); Gallinato Monasterio, María (74 years); Meza Muñoz, Mario Arnaldo (74 years); Moraga Moraga, Silvia Rosa (74 years); Salgado Galaz, Luis H. (74 years); Sanches Tapia, Inés Enriqueta (74 years); Zuñiga Morales, Juan Francisco (73 years); Aravena Hernández, Enrique (73 years); Arellano Peñailillo, Miguel (73 years); Fuentes Muñoz, Norma H (73 years); Fuentes Tejos María (73 years); Grandon Arellano, Jesús (73 years); Guijada Valenzuela, Aída (73 years); Jiménez Inostroza, Isabel (73 years); Orrego Contreras, Leonor (73 years); Peña Castro, María Teresa (73 years); Reyes Leal, María Magdalena (73 years); Salazar Enríquez Sergio (73 years); San Martín Vistoso, Rosa (73 years); Seguel Novoa, Rosa (73 years); Torres Muñoz, Juan F. (73 years); Canales Moya, Rosa Ester (72 years); Salazar Salgado, Héctor Hernán (72 years); Cáceres Reyes, Luis W. (72 years); Chamarro Pradenas, Francisco (72 years); Jara Retamal, Rosa María (72 years); Ortiz Rojas, María Irma (72 years); Plaza Flores, Jorge Arnaldo (72 years); Riquelme Paredes, Sara (72 years); Ruiz Alarcón, Emiliano (\*) ; Salazar Alarcón, María (72 years); Salgado Galaz, Edison (72 years); Valencia Caceres, Miguel (72 years); Yamal Jiménez, Bernardita (72 years); Álvarez Vega, Marta (71 years); Bustamante Yevenes, Abdul (71 years); Duran Pérez, Auria A. (71 years); Fuandez Henríquez, Isabel G. (71 years); García Rojas, Rosamel Del C. (71 years); Hernández Recabarren, Hilda (71 years); Lara García, María Teresa (71 years); Martínez Suazo, María Filomena (71 years), Martínez Suazo, Zunilda (71 years); Moraga Opazo, María Eliana (71 years); Muñoz Osses, Adela del C. (71 years); Muñoz Torres Lucia (71 years); Navarrete Moraga, Raúl (71 years); Salinas Olave, Estela (71 years); Sobarzo Rocha, Gladys (71 years); Yamal Alborno, Alia (71 years); Abarzua Farias, Marta (70 years); Agurto Cancino, Anicia del Carmen (70 years); Arce Sarmiento, María Mercedes (70 years); Bueno Sorbazo, Rina del C. (70 years); Capurro Alborno, Rosa (70 years); Castro Gutiérrez, Elizabeth H. (70 years), Jara Plaza, Jorge A. (70 years); Landeros Alarcón, Luz (70 years); Opazo Veliz, Jose del Carmen (70 years); Salgado Galaz, Ricardo (70 years); Soto Figueroa, Lutgarda (70 years); Agurto Duran, Ruby (69 years); Alarcón, Alarcón, Violeta del Carmen (69 years); Apablaza García, Silvia Rosa (69 years); Canalaez Bravo, Rolando (69 years); Faundez Aladana, Silvia Rosa (69 years); González Flores, Matilde (69 years); Guevara Martínez, Lady Aída (69 years); Hernández Pérez, José (69 years); Hormazabal Duran German (69 years); Leon Leal Heracrito (69 years); Martínez Suazo, Luisa E. (69 years); Meneses Pradenas, Jaime Boris (69 years); Muñoz Duran, Elizabeth (69 years); Muñoz Villanueva, Silvia Blanca (69 years); Ortiz Letelier, María (69 years); Pradenas Rivas María (69 years); Rivas Sánchez, Estela del Carmen (69 years); Aguilera Machuca, Ángel Armando (68 years); Bustos Coloma, María Inés (68 years); Espinaza Saavedra, Iris Esperanza (68 years); Flores Domínguez, Juana (68 years); Guevara Sanhueza, Margarita D. (68 years); Jaque Aravena, Ena Sonia (68 years); Pérez Orellana, Guacolda (68 years); Rojas Alarcón, Lucinda (68 years); Ruiz Alarcón, Juan Nivaldo (68 years); Toledo Cabeza, Mirtha Alicia (68 years); Urra Cofre, Jaime (68 years); Valenzuela Gómez, Gilda (68 years); Aravena Aravena, Ana M. (67 years); Aravena Moya, Corina (67 years); Bravo Canales, María S. (67 years); Canales Moya, Laura (67 years); Castillo Castillo, Guillermo (67 years); Espinoza Galdames, Norma (67 years); Flores Domínguez, Ana Delia (67 years); Herrera Pino, Alicia (67 years); Macaya Gatica, María R. (67 years); Pradenas Riffo, Gregorio (67 years); Retamal Ávila, Mirian (67 years); Valdés Gutiérrez, Filomena (67 years); Veloso, Veloso, Lilian (67 years); Yañez Garrido, Mercedes (67 years); Agurto Chieng Guisan, Elena (66 years); Canales Soto, Irma del Carmen (66 years); Alvear Díaz, Gladys P. (66 years); Arellano Lira, Ana del C. (66 years); Faundez Fuentes, Arturo (66 years); Figueroa Díaz, María (66 years); Muñoz Enríquez, Juana (66 years); Parra Burgos, Teresa (66 years); Peñailillo Reyes, Estela del Carmen (66 years); Pereira Opazo, Frasminia (66 years); Pérez Canales, Lucrecia (66 years); Rojas Bustos, Sonia Petronila (66 years); Urrutia Prat, Patricia (66 years); Valdés Quintana, Oscar (66 years); Vásquez Henríquez, Pedro (66 years); Gavilán López, Magaly de las Mercedes (65 years); González Sáez, Gladys Cristina (65 years); Montecinos Vásquez, Alonso Mercedes (65 years); Aguilera Machuca, Ángel Alberto (65 years); Canales Villarroel, Gastón (65 years); Espinoza Mena, Guadalupe (65 years); Muñoz Henríquez, Elia E. (65 years); Muñoz Jara, Bernarda (65 years); Reyes Aravena, Ema del P. (65 years); Reyes Díaz, Luis A. (65 years); Soto Pérez, Ximena (65 years); Troncoso Venegas, Rebeca del R. (65 years); Veliz Pereda, Jaime (65 years); Amigo Yevenes, Carmen (64 years); Araya Muñoz, Orfelina (64 years); Arellano, Arellano Manuel Antonio (64 years); Arellano Lepe, Elba Rosa (64 years); Candia Pérez, Eva Vainey (64 years); Cereceda Sepúlveda, Myreya del (64 years); Eulufi Luuna, Ramona del

C (64 years); Fuentes Carreño, Dolores del C. (64 years); Guevara Alegría, Gladys (64 years); Moraga Berríos, Doris de las Nieves (64 years); Muñoz Salazar Fernando (64 years); Opazo Veliz, María Eugenia (64 years); Orellana Jara, Enedina (64 years); Orellana Mendez, Silvia Ernestina (64 years); Ramonet Grandon, Rosa (64 years); Rojas Rojas, María (64 years); Tapia Sepulveda, Margarita (64 years); Torres Avila, Helmo del C (64 years); Córdoba Filippi, Patricia Virginia (63 years); Maldonado Pereda, María Ester (63 years); Alarcón Ríos, Héctor Raúl (63 years); Aravena Yáñez, Mirta E. (63 years); Arellano Valdés, Lucía Isabel (63 years); Canales Gutiérrez, Francisco (63 years); Carreño Cortes, Gloria (63 years); Ceballos Mora, Nelly Filomena (63 years); Faundez Hormazabal, Zoila del C. (63 years); Moraga Bustos, Lidia (63 years); Pérez Roldan, Mirian (63 years); Rivero Salgado, María (63 years); Rojas García, Iris (63 years); Ruiz Alarcón, Juan (63 years); Suazo Ulloa, Hugo (63 years); Villegas Venegas, Gabriel (63 years); Fuentes Hidalgo, Mónica Angélica (62 years); Ortiz Díaz, Elizabeth Oriana (62 years); Aguilera Machuca, Ángel Arturo (62 years); Amigo Merino, Miriam (62 years); Benavente Hernández, Mardoqueo (62 years); Canales Eulufi, María Teresa (62 years); Jara Espinoza, Jorge (62 years), Merino Segura, Angélica (62 years); Morales Orostica, Gimena (62 years); Muñoz Díaz, Jose (62 years); Norambuena Castro, Humberto (62 years); Pinochet Garrido, Pedro Antonio (62 years); Sanhueza Basaul, Isabel Alejandro (62 years); Soto Pérez, Carlos (62 years); Urbina Canpos, Verónica (62 years); Vera Briones, Laura del Carmen (62 years); Villegas Olivos, Rosa (62 years); Agurto Cancino, Estelvina (61 years); Agurto López, Mary Teresa (61 years); Alvarado Urrutia, Alicia C. (61 years); Andía Cariqueo, Marcial Ernesto (61 years); Cárdenas Peñailillo, María (61 years); Coloma Benavente, Marina Merced (61 years); Duran Rodríguez, Carlos R. (61 years); Escalona Pérez, Lucila del C. (61 years); Espinoza Torres, María (61 years); González Sepúlveda, Ciro Hernán (61 years); Jara Norambuena, Hilda Luisa (61 years); León Vera, Ana del C (61 years); Martínez Suazo, Rosario (61 years); Muñoz Norambuena, Adelina Rosa (61 years); Norambuena Gutiérrez, Adela del (61 years); Opazo Véliz, Nancy Antonieta (61 years); Torres Moya, Margarita (61 years); Bueno Salgado, Gladis Yolanda (60 years); Torres Castillo, Rubi María (60 years); Burgos Norambuena, América (60 years); Cancino Pérez, Mirta Aurora (60 years); Carmona Pradenas, René (60 years); Estuardo Vergara, Herna (60 years); Landeros Novoa, Ida del Carmen (60 years); León Muñoz, Heriberto (60 years); Meza Iribarra, Gloria Paz (60 years); Morales Orellana, Jorge Alejandro (60 years); Opazo Pérez, Ebaristo (60 years); Pérez Guzmán, Juan Eufrosinio (60 years); Pinto Briones, Arlette (60 years); Sánchez Ibarra Yisel (60 years); Yáñez Retamal, Bélgica (60 years); Peña Aravena, María Gloria (59 years); Alegría Fuentes, Armando Antonio (59 years); Alvial Loyola, Beatriz (59 years); Aravena Luna, Eliana (59 years); Barra Eulufi, Juana (59 years); Díaz Alarcón, Iris del (59 years); Fuentes Carreño, Juana Mariua (59 years); Jara Escalona, Juan Francisco (59 years); Machado Barrera, Nancy (59 years); Meza Gatica, Carlos Patricio (59 years); Peñailillo Reyes, Augusto (59 years); Pérez Orellana, Marcelo (59 years); Rivas Torres, Luz Herminia (59 years); Rojas Cárdenas, Mitzi Carolina (59 years); Ruiz Geurra, Sara (59 years); Salgado Gutiérrez, Juana (59 years); Sepúlveda Kaiser, Soledad de L. (59 years); Urrutia Alarcón, María (59 years); Veliz Grandon, María Angélica (59 years); Vera Briones, Adelina del Carmen (59 years); Espinoza Durán, Pedro Enrique (58 years), Montesinos Becar, Sergio Enrique (58 years), Álvarez Cancino, Inés (58 years), Aravena Amigo, Lilian Rosa (58 years); Barrueto Sepúlveda, Jeanette (58 years); Campos Lobos, Lilian Ester (58 years); Candia Muñoz, Eugenio del T (58 years); Cerro Martínez, Mario Gerardo (58 years); Cifuentes Flores, María (58 years); Díaz Faundez, María Angélica (58 years); Domínguez Hormazabal, Miriam G. (58 years); Peña Guajardo, Aura (58 years); Pineda Tarac, Víctor (58 years); Rojas Benavente, Gerardo Humberto (\*); Salazar Salgado, Carmen (58 years); Seguy Henríquez, Carmen Rosa (58 years); Valenzuela Faúndez, Delfina Mar (58 years); Maureira Bueno, Carmen Rita (57 years); Ahumada Zúñiga, María (57 years); Cerro Martínez, Liliana Amanda (57 years); Cisternas Chamorro, Víctor Manuel (57 years); Concha Espinace, Alejandro Antonio (57 years); Galdame Espinoza, Laura Rosa (57 years); Luna Ávila, Malvina de las M. (57 years); Maldonado Lobos, Victoria (57 years); Mellado Norambuena, Lilian M. (57 years); Reyes Aravena, Hilda (57 years); Villarroel Fuentes, Nilia de L. (57 years); Zamorano León, Gloria Eliana (57 years), Barra Henríquez, Mirta Elizabeth (56 years); Borda Peebles, Roberto Alfonso (56 years); Campos Castro, María Rebeca (56 years); Canales Torres, Gerardo (56 years); Canales Torres, Jorge Enrique (56 years); Cárdenas Grandon, Hilda Elizabeth (56 years); Salgado Barra, María (56 years); Pincheira Leiva, Rafael Agustín (55 years); Quiroga Molina, Carlos Antonio (55 years); Sotomayor Hormazabal, Heraldo Ulises (55 years); Espinoza Loyola, Luz Ester (55 years); Hernández Orellana, Gloria (55 years); Yáñez Recabal, Juan (55 years); Zapata Lagos, Graciela (55 years); Neuñez Vega, Carmen Sara (54 years); Troncoso Venegas, Víctor Manuel (54 years); Véliz Ávila, Nibaldo Enrique (54 years); Vera Briones, Delia del Carmen (54 years); Díaz Acuña, Rosario de las Mercedes (53 years); Canales Pinochet, Luz María (53 years); Canales Carrasco, Marco (52 years); Marino Ayala, Patricia (52 years); Arellano Araya, Leonor (51 years).

**“ABARZA FARIAS, NEFTALI DANIEL ET AL. v. Municipality of Chanco,” Case 217-93; and “AGUILAR LAZCANO, ANA ELENA ET AL. v. Municipality of Chanco,” Case 221-93, of Chanco Magistrate’s Court, for payment of entitlement under Article 40 of D.L. 3.551/1980.**

Contreras Fuentealba, Celso del Carmen (\*); Contreras Jara, Guillermo Ernesto (\*); Álvarez Jara, María Liliam (\*); Yáñez Recabal, Eduardo Andrés (\*); Molina Oyarce, Rolando Antonio (\*); Muñoz Minchel, Humberto Ángel (\*); Escalona Espinoza, Rafaela de las Mercedes (\*); Vistoso Sepúlveda, Liberato Segundo (\*); Aldana Alvear, Raúl Antonio (\*); Pérez Paredes, Luis Teobaldo (\*); Cortés Reyes, María Leontina (83 years); Orellana Gutiérrez, Heriberto del Carmen (80 years); Espinoza Sánchez, Beatriz (67 years); Olivares Quezada, Clara Haydee (76 years); Martínez Espinoza, Silvia Inés (73 years); Orellana Verdugo, Inés del Carmen (72 years); Guajardo Alvear, Norma Inés (71 years); Verdugo Iturra, Jorge Humberto (71 years);



court judgments have not been fulfilled and that as a result of the excessive delay the health of the teachers has declined significantly and some have died.<sup>5</sup>

Muñoz Minchel, Heriberto Arnaldo (69 years); Salgado Fuentes, Juana del Carmen (69 years); Muñoz Loez, Hidal Amalia (67 years); Orellana Gutiérrez, Hugo del Tránsito (67 years); Salgado Fuentes, Aída del Rosario (67 years); Guajardo Parra, Nelly del Carmen (66 years); Aravena Hernández, Hugo (65 years); Carrasco Moya, Haydee del Carmen (65 years); Muñoz López, Sabina del Carmen (65 years); Bustos Kuroki, Jaime Alberto (64 years); Espinoza Sepúlveda, María Adrina (64 years); Meza Montesinos, Marcelina de las Nieves (64 years); Doizi Trucco, Elizabeth Verónica (63 years); Véliz Pereda, Nelson Aler (63 years); Vergara Encina, Angela María (63 years); Arellano Lira, Genoveva de las Mercedes (62 years); Contreras Manríquez, Elsa de las Nieves (62 years); García Vera, Ramiro Aurelio (62 years); Moraga Reyes, Marta Iris (62 years); Muñoz Minchel, Eliana Concepción (62 years); Guajardo Parra, Genoveva del Carmen (62 years); Alvarado Mondaca, Rosa Eliana (61 years); Norambuena Chamorro, Teófila Ester (61 years); Pérez Márquez, Elsa del Carmen (61 years); Pérez Opaso, Alicia (61 years); Gutiérrez Fuentealba, Arturo Enrique (61 years); Abarza Farías, Neftali Damaniel (60 years); Canales Díaz, Rosa del Carmen (60 years); Castro González, Oscar Enrique (60 years); Letelier Fuentes, Eleodora del Rosario (60 years); Retamal Orellana, Bernardita de Lorudes (60 years); Arevalo Jara, María Rodope (59 years); Castro González, Rómulo Edgardo (59 years); Espinoza Cortés, Adelina de las Mercedes (59 years); Fuentes Molina, Olivia del Carmen (59 years); Gómez Moraga, Héctor Antonio (59 years); Guajardo Parra, Elizabeth del Carmen (59 years); Hernández Vásquez, Gloria Elizabeth (59 years); Peña Aravena, Manuel Antonio (59 years); Rodríguez Torres, María Cecilia (59 years); Pérez Espinoza, Edith Adriana (59 years); Alarcón Romero, Hugo Alberto (58 years); Espinoza Campos, Leonor Clarina (58 years); Guajardo Gutierrez (sic), Juana Guillermina (58 years); Meza Gatica, Angélica Violeta (58 years); Muñoz Hidalgo, Patricio Alberto (58 years); Opazo Pérez, Carmen Cecilia (58 years); Díaz Campos, Abraham del Rosario (58 years); Yevenes Faúndez, Sonia del Tránsito (58 years); Aguilar Lazcano, Ana Elena (58 years); Morán González, Sergio Iván (57 years); Muñoz Durán, Rosa Elena (57 years); Pérez Retamal, Elsa del Pilar (57 years); Montesino Cancino, Blanca Josefina (56 years); Rodríguez Torres, Orfelina Angélica (56 years); Andía Cariqueo, José Gustavo (54 years); Landeros Novoa, Eduardo Antonio (54 years); Salazar Aguayo, Sonia Beatriz (54 years), Tapia Tapia, Stanly Antonio (54 years); Vera Fuentes, Yoconda de las Nieves (54 years); Peña Ríos, Vety de las Mercedes (54 years); Martínez Espinoza, Nilvia Irene (53 years).

**“ALEGRÍA CANCINO, LUCILA ET AL. v. Municipality of Pelluhue,” Case 218-93; and “ARAVENA ESPINOZA, MARÍA MERCEDES ET AL. v. Municipality of Pelluhue,” Case 222-93, of Chanco Magistrate’s Court for payment of entitlement under Article 40 of D.L. 3.551/1980.**

Espinoza Suazo, Fidelina del Carmen (\*); Canales Paredes, Gladys Ester (80 years); Orellana Leal, Sofanor (71 years); Bravo Aravena, Adriana (70 years); Yáñez Gallardo, Pedro Ramón (69 years); Torres Yáñez, Eduardo Onofre (68 years); Cárdenas Márquez, Irma Ester (64 years); Salazar Soto, María Benita (63 years); Ayala González, Joaquín del Carmen (62 years); González Jaque, Adrián Gustavo (62 years); Domínguez Ávila, Isabel de las Mercedes (61 years); Mora de la Hoz, Elena del Carmen (61 years); Espinoza Vallejos, Juan de la Cruz (60 years); Zambrano González, Wilson Edgardo (60 years); Orellana Guajardo, María Ninfa (59 years); Vera Aravena, Mónica Beatriz (59 years); Araya Godoy, Melba Ivone (58 years); Jara Amigo, Juan Francisco (58 years); Maureira Cáceres, María Socorro (58 years); Paredes Orellana, Elena del Carmen (58 years); Valdés Medina, Manuel Eduardo (58 years); Muñoz Luna, Teolina Tavita (58 years); Alegría Cancino, Lucila de las Mercedes (57 years); Faúndez Opazo, Alicia de las Mercedes (57 years); Hernández Pérez, Crescencia Ester (57 years); Leiva Salas, José Heriberto (57 years); Aravena Espinoza, María Mercedes (57 years); Villaseñor Jara, Jaime Antonio (56 years); Guayiler Yáñez, Gloria María (55 years); Andaur Alarcón, María Marlene (54 years); Flores Acuña, Patricia (54 years); Fuentes Recabal, Miriam del Carmen (53 years).

(\* ) The petitioners report that the alleged victim in the proceedings before the IACHR has died.

<sup>5</sup> According to information supplied by the petitioners at the working meeting of October 26, 2011, to date, the following alleged victims have died: from the Municipality of Chañaral: Alexis, J. Tornejo Campos; from the Municipality of Vallenar: Norma E. Valderrama Martínez, Silvia Edith Meléndez Cortés, Rosa Elena González Zepeda, Elba del C. Silva González, Ana María Eugenia Zamora Rowe, César Hernán Rivera Barrera, Enrique G. Cavada Mauske, María Edilia Valenzuela Portilla, Gladys Ruth González Rojas, Noel Salomon Zuleta Aguilera, Nolvía Luisa Rojas Veliz, Norma Antonia Marin Escobar, Maranda Yolanda Paez Buigley, Edmundo Mazimo Quezada Araya, Carlos E. Sepúlveda Godoy, Héctor Miguel Morales Morales, Cecilia del C. Pacheco Pacheco, Mateo Segundo Pierotic Cortés, Eduardo Hernando Concha Jirón, Felisa del C. Monardez Iillo, Gregorio Víctor Castillo Marin; from the Municipality of Parral: Adq del C. Salvo Candia, Miguel Ángel Ruiz Morales, Alicia del C. Bustamante Pincheira, Nilsa Fredes Salazar Aravena, Fortunato de las Rosas Sepúlveda Gutiérrez, Gladys Elena del Carmen Muñoz González, Luis Arturo Fuentes Arriagada, Sonia A. Czischke Oyharcabal, José del Carmen Aravena Fuentes, Nahor Rivas Ahumada; from the Municipality of Cauquenes: Iliá Ester Díaz Canales, Gastón Aravena Concha, Ana Haydee Moya Ramírez, Ester Sánchez Sánchez, María Rojas Ortiz, Humilde Muñoz Flores, Idia Rosa López Barra, Elia L. Gutiérrez Lara, Elcira de las M. Cerro Jara, Benita Martínez Suazo, María Graciela Cisternas Cisternas, Gladys Muñoz Henríquez, José H. Aravena Verdugo, Brigido Durán Gutiérrez, Silvio Canales Espinoza, María Apolina Lara Pereira, José Villegas Olivos, Teresita Quiroz Ravanal, Antonio Vidal Valladares, Miguel Segundo Canales López, Crisila Sánchez Sepúlveda, Clodomiro Cancino Pérez, Julio del T. Cofre Cofre, María Ríos Muñoz, Fanor Arnaldo Pérez Guerrero, Morelia Reyes Parra, Ramón E. Díaz Espinoza, Gerarda Valenzuela

19. Based in the foregoing, the petitioners hold that the State has committed violations of Articles 8, 21, 25, and 26 of the American Convention, taken in conjunction with Articles 1(1) and 2 of the same international instrument.

## **B. The State**

20. The State argues that the petition should have been declared inadmissible. With respect to the Chañaral teachers, it says that the petitioners did not exhaust all remedies under domestic law before taking their case to the Commission since, as a general rule, any decision may be challenged by the adversely affected party before the tribunal that issued it by means of a motion for reversal or by presenting an appeal to the superior tribunal and, subsequently, motions for cassation and reconsideration of dismissal of appeal.

21. Thus, the State argues that despite having those judicial remedies at their disposal, all of which, according to the State, were adequate and effective, the petitioners omitted to invoke them to overturn the decision of June 20, 2005, by which Chañaral Magistrate's Court accepted the exemption from compliance successfully pleaded by the respondent.

22. The State adds that apart from the remedies mentioned, the petitioners also had recourse to the appeal for protection [*recurso de protección*] recognized in the Constitution of Chile against acts or omissions that they regarded as violations of their basic rights. It adds that said remedy is adequate and effective and that its purpose is the adoption of immediate measures to redress harm caused; in the case in question, deprivation, abridgement, or threat to the alleged victims' right to property.

23. The State argues that by not having invoked any of the above-mentioned remedies, the petitioners deprived the State of the possibility of resolving the matter in dispute in its internal jurisdiction.

24. In addition, the State holds that at the time the petition was lodged, there was a signed extrajudicial transaction agreement between the parties aimed at settling the suit pending before Chañaral Magistrate's Court for Labor Matters. Thus, it says, in keeping with clause 4 of the payment agreement, the municipality had proceeded to sue the Chilean Treasury so that it might grant the necessary funds.

25. In a communication of August 29, 2008, the State informed the Commission that the Municipality of Chañaral had complied fully in June 2008 with the payment agreement for the amounts owed to the teachers who had petitioned the Commission, which agreement had been signed before Chañaral Magistrate's Court, and which payment was made from the municipality's own funds.

26. The State emphasized the lack of standing to sue of the "other teachers in the same

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Henríquez, Gladys Alvear Miranda, Heriberto Antonio Martínez Salazar, José Flavio Median Aravena; from the Municipality of Chanco: Celso del Carmen, Contreras Fuentealba, Guillermo Ernesto Contreras Jara, María Liliam Álvarez Jara, Eduardo Andrés Yáñez Recabal, Rolando Antonio Molina Oyarce, Humberto Angel Muñoz Minchel, Rafaela de las Mercedes Escalona Espinoza, Liberato Segundo Vistoso Sepúlveda, Raúl Antonio Aldana Alvear, Luis Teobaldo Pérez Paredes; and from the Municipality of Pelluhue: Fidelina del Carmen Espinosa Suazo.

legal situation as the teachers from Chañaral since, as a generalization, it surpasses the bounds of admissibility permitted by the Convention.” The State presented no other pleadings with respect to the municipalities of Chanco, Pelluhue, Parral, Vallenar, and Cauquenes in that regard.

#### **IV. ANALYSIS**

##### **A. Competence of the Commission *ratione personae*, *ratione materiae*, *ratione temporis*, and *ratione loci***

27. The petitioners have standing under Article 44 of the American Convention to lodge petitions with the Commission. The petition names as alleged victims 852 individuals in respect of whom the State undertook to observe and ensure the rights recognized in the American Convention. As to the State itself, the Commission notes that Chile has been a state party to the Convention since August 21, 1990, when it deposited its instrument of ratification. Therefore, the Commission is competent *ratione personae* to examine the petition.

28. The Commission has competence *ratione loci* to examine the petition since the latter alleges violations of rights protected under the American Convention which took place within the territory of a State party thereto. The IACHR is competent *ratione temporis* insofar as the obligation to respect and ensure the rights protected in the American Convention had already entered into force for the State as of the date that the facts alleged in the petition, which concern purported noncompliance with court decisions issued after the Convention’s entry into force, are said to have occurred. Finally, the Commission has competence *ratione materiae* because the petition alleges violations of human rights enshrined in the American Convention.

##### **B. Other requirements for the admissibility of the petition**

###### **1. Exhaustion of domestic remedies**

29. Article 46(1)(a) of the American Convention provides that admission of petitions lodged with the Inter-American Commission in keeping with Article 44 of the Convention shall be subject to the requirement that the remedies under domestic law have been pursued and exhausted in accordance with generally recognized principles of international law. The purpose of this rule is to ensure that the State in question has the possibility to resolve disputes within its own legal framework.

30. The rule of prior exhaustion of domestic remedies refers to the judicial remedies that are available, suitable and able to provide an effective solution for the alleged violation of human rights. The Convention itself recognizes that this provision does not apply when domestic remedies are not available for *de facto* or *de jure* reasons. More specifically, Article 46(2) establishes exceptions to the general rule on exhaustion of domestic remedies: a) when the domestic legislation of the State concerned does not afford due process of law for the protection of the right or rights that have allegedly been violated; b) if the party alleging violation of his rights has been denied access to the remedies under domestic law or has been prevented from exhausting them, or, c) if there has been unwarranted delay in rendering a final judgment

31. The petitioners argue that the responsibility to pay the amounts ordered by the court ruling belongs to the municipalities and the Chilean State. The petitioners hold that the decisions are

enforceable, not de término and that under the Code of Civil Procedure, it is up to the judge presiding over the case to order the appropriate measures for said enforcement.

32. In their additional observations, the petitioners said that the remedies of cassation and reconsideration of dismissal of appeal noted by the state are special remedies admissible only against final or interlocutory judgments that put an end to a suit or make it impossible to continue. They add that, for their part, the purpose of the regular remedies of reversal and appeal is to change a judicial decision, but they are not effective, according to the petitioners, for redressing the municipalities' disobedience of the order issued by the tribunal. In addition, the petitioners argue, with respect to the action of constitutional guarantee or protection, that domestic practice appears to show that said action is not appropriate in the case of judicial decisions.

33. Furthermore, they claim that the remedies that the State had argued they should seek are not effective since the Municipalities Act clearly states that municipal assets are not subject to seizure. Therefore, they say, until the mayoral decree is issued ordering payment, the persons adversely affected are unable to pursue other avenues to secure their payment in keeping with the judicial decisions.

34. With respect to the suit filed by the Municipality of Chañaral against the Chilean Treasury, which was brought in 2000 and, as of the date of the hearing before the Commission, was reportedly pending before the Supreme Court of Chile, the petitioners explained that it was a proceeding in which the municipality claimed that the Treasury should provide the funds with which to pay the sums ordered by the Court of Appeals. They added that it was not an effective domestic remedy inasmuch as the alleged victims were not parties in the suit; the parties in the suit were the Treasury and the Municipality of Chañaral. In a communication of December 29, 2008, the petitioners informed the Commission that on June 12, 2008, the Supreme Court had dismissed the suit, bringing the proceedings to an end. In that same connection, the Supreme Court rejected the claim of the Municipality of Cauquenes which sought to obtain financing from the Treasury to pay the obligations imposed by the court ruling.

35. The Commission notes that in a bid to secure payment of their welfare entitlements, the alleged victims, all of them teachers in the municipalities of Chañaral, Chanco, Pelluhue, Parral, Vallenar, and Cauquenes, filed suit against the municipalities with the appropriate labor tribunals and obtained a final decision in their favor. Furthermore, the information presented to the Commission shows that in all cases a proceeding for payment was initiated, that the specific amounts of the debts have already been approved by the relevant tribunals, and that, as of this writing, the alleged victims have signed different agreements with the municipalities. In spite of that, only in the case of two municipalities have they been paid certain amounts, which they class as very inferior and partial.

36. Accordingly, the Commission finds that the petitioners have taken their case to the competent judicial organs in the domestic jurisdiction, invoked the regular remedies envisaged under Chilean law designed to redress the abridged rights of the alleged victims and, therefore, that the State had full knowledge of the claims that gave rise to this petition and that the remedies mentioned by the latter are of a special nature, whose exhaustion the Commission does not require.

37. The Commission notes that, according to the competent judicial authorities, the final judgments in favor of the alleged victims were issued between 1993 and 1997 and that, as of this writing, they have not been carried. Therefore, the exception contained in Article 46(2)(c) is applicable.

## 2. Time limit for lodging the petition

38. Under Article 46(1) of the Convention, for a petition to be admitted it must be filed within the stipulated period, that is, six months from the date on which the party alleging violation of their rights was notified of the final judgment adopted at the national level. In the complaint under review the IACHR has determined that the exceptions to the rule of exhaustion of domestic remedies pursuant to Article 46(2)(c) of the American Convention are applicable. In this regard, Article 32 of the Commission's Rules of Procedure states that when the exceptions to the rule requiring prior exhaustion of domestic remedies apply, the petition is to be presented within what the Commission deems to be a reasonable period. The Commission must therefore consider the date on which the alleged violation of rights occurred and the circumstances of each case.

39. In this case, the Commission notes that after the final decisions were issued by the Chilean authorities there followed proceedings for settlement and that in some cases the alleged victims are said to have signed payment agreements that were not fulfilled. Therefore, the process of carrying out the sentences would appear to remain pending as of this writing. In that connection, bearing in mind that the object of the petition concerns alleged noncompliance with the aforementioned judgments, which constitutes a continuing situation, the Commission finds that the petition has been lodged within a reasonable time and that the admissibility requirement regarding the timeliness of the petition should be deemed met.

## 3. Duplication of proceedings and *res judicata*

40. Article 46(1)(c) of the Convention provides that admission of a petition is subject to the requirement that the matter "is not pending in another international proceeding for settlement," and Article 47(d) stipulates that the Commission shall not admit a petition which "is substantially the same as one previously studied by" it "or by another international organization."

41. In this case, the State claims that the Chilean Teachers' Association [*Colegio de Profesores de Chile*] presented the case to the International Labour Organization. In that regard, the petitioners point out that said international proceeding is not the same as those mentioned in Article 46(1)(c) and, furthermore, that complaint was presented by the Teachers' Association, which is not a party in the petition analyzed in this report. The petitioners say that the complaint lodged with the Commission claims the international responsibility of the State for noncompliance with certain final and enforceable court judgments, while the complaint of the Chilean Teachers' Association, an entity that represents all teachers in the country, seeks the revision of the education decentralization process because of its abridgment of the rights of the country's teachers in the framework of Chile's labor obligations under international law.

42. For its part, the Commission has held that for duplication or *res judicata* to exist, a petition must be under consideration or have been ruled upon by an international organization with the competence to make decisions on the specific facts described in the petition and to impose measures capable of effectively resolving the dispute.<sup>6</sup>

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<sup>6</sup> IACHR, Report No. 89/05 (Inadmissibility), Case 12.103, *Cecilia Rosa Nuñez Chipana*, (Venezuela), par. 37.

43. In this regard, the Commission has concluded that recommendations issued by the ILO are not of the same nature as proceedings in the inter-American system for protection of human rights,<sup>7</sup> given that such proceedings produce recommendations and not “an effective settlement of the claimed violation;” its decisions “do not have the effect of being legally binding, providing financial restitution, or indemnificatory in character.”<sup>8</sup>

44. The Commission finds no circumstance to suggest inadmissibility in this regard. Therefore, the Commission finds that the requirements set forth in Articles 46(1)(c) and 47(d) of the Convention have been met in this case.

#### **4. Colorable Claim**

45. Article 47(b) of the American Convention provides that the Commission will declare inadmissible those petitions that do not state facts that tend to establish a violation of the rights guaranteed in the Convention.

46. Neither the American Convention nor the Rules of Procedure of the IACHR require that the petition identify the specific rights allegedly violated by the State in a matter submitted to the Commission, though the petitioners may do so. It is up to the Commission, based on the case-law of the system, to determine in its admissibility reports which provision of the relevant inter-American instruments is applicable or could be established as having been violated, if the facts alleged are sufficiently proven.

47. In the present case, it is not for the Commission at this stage of the proceedings to decide whether or not the alleged violations of the American Convention actually took place. The IACHR made a prima facie evaluation and determined that the petition sets forth allegations which, if proven, could tend to establish possible violations of the rights guaranteed by the Convention.

48. Based on the arguments and information presented by the petitioners, the IACHR notes that there complaint concerns noncompliance with final judicial decisions handed down in favor of 852 Chilean teachers between 1993 and 1996, and that, as of this writing, those decisions have yet to be complied with, notwithstanding that in the case of two municipalities a number of payments were ostensibly made in 2008. Taking into account the arguments regarding the time elapsed since the judgments were issued and the alleged lack of effective judicial measures by which to demand their enforcement, the Commission considers that, if proven, the arguments of the petitioners could tend to describe violations of Articles 8(1) (right to a fair trial), 21 (right to property), and 25 (judicial protection) of the American Convention, taken in conjunction with Article 1(1) (obligation to respect and ensure rights) and 2 (duty to adopt domestic legal provisions) of that instrument, which will have to be evaluated in the merits stage. As regards the alleged consequences of the reputed excessive delay for the health and lives of the alleged victims, the Commission will make the corresponding analysis, as far

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<sup>7</sup> I/A Court H.R. *Baena Ricardo et al. Case v. Panama*. Preliminary Objections. Judgment of November 18, 1999. Series C No. 61, par. 57.

<sup>8</sup> IACHR, Report No. 14/97, Case 11.381 (Nicaragua), March 12, 1997, par. 47; IACHR, Report No. 21/06, Petition 2893-02, *Employees of Fertilizantes de Centroamérica (FERTICA)* (Costa Rica), March 2, 2006, par. 40; IACHR, Report No. 23/06, Petition 71-03, *Union of Ministry of Education Workers (ATRAMEC)* (El Salvador), March 2, 2006, par. 27; IACHR, Report No. 140/09, Petition 1470-05, *Members of the Union of State Workers of Antioquia (SINTRAOFAN)* (Colombia), December 30, 2009, par. 75.

as appropriate and in light with the provisions of Article 5 of the Convention, during the merits stage.

49. The Commission also concludes from the information provided by the parties that it does not have sufficient information or evidence from which to infer alleged violations of Article 26 of the Convention by the Chilean State.

## **V. CONCLUSIONS**

50. The Commission concludes that it is competent to examine the instant case and that the petition is admissible in accordance with Articles 46 and 47 of the American Convention.

51. Based on the arguments of fact and law given above, and without prejudging the merits of the matter,

### **THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS**

#### **DECIDES:**

1. To declare this case admissible in relation to alleged violations of the rights protected in Articles 5, 8(1), 21, and 25 of the American Convention, in conjunction with Articles 1(1) and 2 thereof.
2. To declare this case inadmissible in relation to Article 26 of the American Convention.
3. To give notice of this decision to the parties.
4. To proceed with its analysis of merits in the matter.
5. To make this report public and to publish it in its Annual Report to the OAS General Assembly.

Done and signed in the city of Washington, D.C., on the 20th day of March 2013. (Signed): José de Jesús Orozco Henríquez, President; Tracy Robinson, First Vice-President; Rosa María Ortiz, Second Vice-President; Rose-Marie Belle Antoine, Dinah Shelton and Rodrigo Escobar Gil, Commissioners.