

Supreme Decree No. 355

Executive Branch
Ministry of Justice
Undersecretary of the Interior

Creation of the Commission on Truth and Reconciliation

Santiago, April 25, 1990. The following decree was issued today:

No. 355. Considering:

1. That the moral conscience of the nation demands that the truth about the grave violations of human rights committed in our country between September 11, 1973 and March 11, 1990 be brought to light;

2. That only upon a foundation of truth will it be possible to meet the basic demands of justice and create the necessary conditions for achieving true national reconciliation;

3. That only the knowledge of the truth will restore the dignity of the victims in the public mind, allow their relatives and mourners to honor them fittingly, and in some measure make it possible to make amends for the damage done;

4. That the judiciary has the exclusive responsibility, in each particular case, to establish what crimes may have been committed, to identify those persons guilty and to apply the proper sanctions.

5. That the nature of such legal procedures makes it unlikely that the judiciary will quickly provide the country with an overall sense of what has happened;

6. That delaying the formation of a serious common awareness in this regard may potentially disrupt our life as a national community and militates against the yearning among Chileans to draw closer together in peace;

7. That without in any way affecting the responsibilities of the judiciary, it is the duty of the president as the person charged with governing and administering the state and the person responsible for promoting the common good of society to do all within his power to help bring this truth to light as quickly and effectively as possible;

8. That a conscientious report by highly respected people with moral authority in our country, who are to receive, gather, and analyze all the evidence given to them or that they can obtain on the most serious cases of human rights violations, will make it possible for national public opinion to come to a rational and well-grounded idea of what has happened and will offer the various branches of government information that will make it possible or easier to take the measures appropriate to each one;

9. That in order to meet their objective these people must carry out their task in a relatively brief period, and hence the investigation must be limited to instances of disappearance after arrest, executions, and torture leading to death committed by government agents or people in their service, as well as kidnappings and attempts on the life of persons carried out by private citizens for political reasons, so as to provide the country with an overall picture of the events that have most seriously affected our common life together as a nation;

And exercising the faculties conferred on me by Article 24 and Article 32, No. 8, of the Constitution, and in accordance with Article 1, paragraphs 4 and 5, and Article 5, paragraph 2, as well,

I decree

Article One:

Let there be created a National Truth and Reconciliation Commission for the purpose of helping to clarify in a comprehensive manner the truth about the most serious human rights violations committed in recent years in our country (and elsewhere if they were related to the Chilean government or to national political life), in order to help bring about the reconciliation of all Chileans, without, however, affecting any legal proceedings to which those events might give rise.

Serious violations are here to be understood as situations of those persons who disappeared after arrest, who were executed, or who were tortured to death, in which the moral responsibility of the state is compromised as a result of actions by its agents or persons in its service, as well as kidnappings and attempts on the life of persons committed by private citizens for political purposes.

In order to carry out its assigned task, the Commission will seek:

1. To establish as complete a picture as possible of those grave events, as well as their antecedents and circumstances;

2. To gather evidence that may make it possible to identify the victims by name and determine their fate or whereabouts;

3. To recommend such measures of reparation and reinstatement as it regards as just; and

4. To recommend the legal and administrative measures which in its judgement should be adopted in order to prevent actions such as those mentioned in this article from being committed.

Article Two:

In no case is the Commission to assume jurisdictional functions proper to the courts nor to interfere in cases already before the courts. Hence it will not have the power to take a position on whether particular individuals are legally responsible for the events that it is considering.

If while it is carrying out its functions the Commission receives evidence about actions that appear to be criminal, it will immediately submit it to the appropriate court.

Article Three:

The Commission is to be made up of the following persons:

Raúl Rettig Guissen, who will serve as president
Jaime Castillo Velasco
José Luis Cea Egaña
Mónica Jiménez de La Jara
Ricardo Martín Díaz
Laura Novoa Vásquez
Gonzalo Vial Correa
José Zalaquett Daher.

Article Four:

In order to carry out its assigned task the Commission is to:

1. Receive the evidence provided by alleged victims, their representatives, successors, or relatives within the time period and in the manner that the Commission itself will determine;
2. Gather and weigh the information that human rights organizations, Chilean and international, intergovernmental and non-governmental, may provide on their own initiative or upon request about matters within their competence;
3. Carry out as much investigation as it may determine suitable for accomplishing its task, including requesting reports, documents, or evidence from government authorities and agencies; and
4. Prepare a report on the basis of the evidence it has gathered in which it is to express the conclusions of the Commission with regard to the matters mentioned in Article One in accord with the honest judgement and conscience of its members.

The report is to be presented to the president, who will then release it to the public, and will adopt the decisions or initiatives that he regards as appropriate. With the submission of its report the Commission will conclude its work and will automatically be dissolved.

Article Five:

The Commission will have six months to carry out its work. If it cannot do so in that period it may obtain an extension for no more than three months, by passing a resolution to that effect along with providing a justification for so doing.

Article Six:

Jorge Correa Sutil will serve as Commission secretary. The secretary's functions will be to organize and manage the office with sufficient staff to carry out its task, as well as to perform other functions the Commission may entrust to him.

Article Seven:

The Commission will prepare its own by-laws to guide its operation. The Commission's activities will be confidential.

The by-laws will determine which activities the Commission can delegate to one or more of its members or to the secretary.

Article Eight:

Either on its own initiative or upon request, the Commission may take measures to protect the identity of those who provide information or assist it in its tasks.

Within the scope of their competency, government authorities and agencies are to offer the Commission all the collaboration it may request, furnish the documents it may need, and provide access to such places as it may determine necessary to visit.

Article Nine:

The members of the Commission will carry out their tasks without pay. The secretary and the secretariat staff will be paid as contract employees. The Ministry of Justice will provide whatever technical and administrative support may be necessary.

Let it be noted [by the Comptroller General's Office], registered and published [in the Diario Oficial].

PATRICIO AYLWIN AZOCAR, President of the Republic.
Enrique Krauss Rusque, Minister of the Interior.
Francisco Cumplido Cereceda, Minister of Justice.