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Chile: Ongoing criminalisation of Mapuche leader, Machi Francisca Linconao

For the past few weeks, the Criminal Court of Temuco has been receiving and analysing evidence on the case against **Machi Francisca Linconao** and ten other indigenous Mapuche people. They were first detained on 4 January 2013 in connection with the murders of Werner Luchsinger and Vivian Mackay in Vilcun, Chile. The case continued for 4 years, until all were acquitted in October 2017. But a ruling from the Court of Appeals of Temuco on 29 December 2017 declared the decision invalid and ordered that the case be reopened. They are all being charged with terrorism and murder. The Court is expected to reach its final decision by the end of April.

[Machi Francisca Linconao](#) is a woman human rights defender and an indigenous spiritual leader for the Mapuche people in Chile. She works for the protection of the Mapuche people's rights and their ancestral territories. In 2008, she submitted a protection action before the Supreme Court in Chile to stop illegal logging in sacred areas of the Chilean forest where medicinal plants used by Mapuche People grow. In doing so, Machi Francisca Linconao was the first indigenous rights defenders in Chile to successfully invoke the International Labour Organization's 169 Convention concerning Indigenous and Tribal Peoples.

Machi Francisca Linconao was arrested on 4 January 2013 in connection with the murders of Werner Luchsinger and Vivian Mackay. Luchsinger and Mackay's home had been set aflame before dawn on 4 January 2013 by demonstrators commemorating the fifth anniversary of the death of activist Matias Catrileo, a Mapuche who was killed by the armed forces while participating in a demonstration in 2008. Unable to escape, Luchsinger and Mackay died in the blaze.

Later the same day, Machi Francisca Linconao was violently detained by police at her house and forced to change out of her indigenous clothing. She submitted a civil claim on the treatment she endured during her detention. In 2015, the Civil Court of Temuco ordered the Chilean state to pay a 30 million pesos in compensation to Machi Francisca Linconao. The Appeals' Court of Temuco later revoked this decision.

Although the Oral Criminal Court of Temuco acquitted Machi Francisca Linconao on 18 October 2017 due to insufficient evidence, the Appeals' Court of Temuco overturned this decision on 29 December 2017, ordering the Criminal Court of Temuco to reopen the case. They are facing charges of terrorism and murder under Article 474 of Chile's Criminal Code and Articles 1 and 2.1 of Anti-Terrorist Law No. 18.314. The court is expected to reach its decision by the end of the month.

The Chilean Anti-terrorist Act has been used to criminalise Mapuches on several occasions in the past. In 2014, in the case of Norin Catriman et al vs. the State of Chile, the Inter-American Court condemned the Chilean State because the sentences it issued against the Mapuche for their alleged crimes were based on an antiterrorism legislation. These sentences were violating the principle of legality and the right to the presumption of

innocence. The IACtHR also held that the sentences were based on stereotypes and prejudices, in violation of the principles of equality and non-discrimination. Front Line Defenders is deeply concerned with the treatment of and charges against indigenous leader and human rights defender Machi Francisca Linconao.

Front Line Defenders urges the authorities in Chile to:

1. Immediately drop all charges and cease any further harassment of Machi Francisca Linconao;
2. Cease targeting all human rights defenders in Chile and guarantee in all circumstances that they are able to carry out their legitimate human rights activities without fear of reprisals and free of all restrictions including judicial harassment.