

This summary provides an overview of the intermediary scheme Chile in 2024. It may not capture all the differences in intermediary work across Chile, neither does it offer a critique of intermediary schemes' compliance with the UN Convention on the Rights of Persons with Disabilities ([UN Convention on the Rights of Persons with Disabilities](#)). This summary was created for [The Access to Justice Knowledge Hub](#).

Chile

The intermediary in the justice system

Intermediaries in Chile are known as intermediarios or intermediarias. However, their role is relatively different from that of intermediaries in other countries. One of the main differences between the Chilean and other systems is that intermediaries can work both as interviewers in the investigative stage and intermediaries in oral trials.

Intermediaries work in the criminal jurisdiction. Since 2018, Law 21,057 has mandated the use of both specialist investigative interviewers and intermediaries for child or adolescent victims or witnesses in the prosecution of sexual or violent crime.

Under the law, intermediaries need to have specialised training and accreditation to work as an intermediary. The Ministry of Justice and Human Rights is responsible for accreditation. Intermediaries can be workers from the judicial branch, the National Prosecutor's Office, the Ministry of the Interior and Public Security and law enforcement bodies (*Carabineros de Chile* or Investigative Police).

The intermediary role is mainly fulfilled by Judges who have been accredited. 70% of intermediations that took place in the first 4 years of implementation of this public policy were led by intermediary judges, an additional 20% have been led by law enforcement officers, and the remaining 10% have been led by other types of officials.¹

The following exclusions apply to who can act as an intermediary:

- Officials leading criminal investigations into this type of cases (prosecutors and attorneys assisting them).
- Police officers or officials from the units of assistance to victims and witnesses cannot be an intermediary on a case they have been involved in.
- Intermediaries working for the Unit of Assistance to Victims and Witnesses of the National Prosecutor's Office may participate in protection and reparation processes, and they can also have work relationships with prosecutors. However, they cannot participate in the case as intermediaries if they have already rendered those services to the victim or victims.
- While the law does not state it explicitly, its objective is to ensure intermediary judges perform their tasks without any prior knowledge of the case. A judge who has participated in hearings or a previous trial related to the same case cannot be an intermediary.

¹ Data requested from the Video Interviews Unit of the Ministry of Justice and Human Rights.

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Children and adolescents younger than 18 giving evidence in an oral trial must do so from a special room where only the judge and/or the intermediary, as required, must be present. Adolescents older than 14 (and younger than 18) can waive the assistance of an intermediary, in which case the judge will be the one asking the questions suggested by litigating attorneys. The child or adolescent in the special room cannot see or hear what happens in the courtroom, and the intermediary or intermediary judge asking the questions will hear them through a headset. The persons in the courtroom can, at all times, see and hear the child or adolescent and the person asking the questions in order to comply with the principle of immediacy of the Chilean criminal justice system.

According to information obtained via transparency information requests from the Ministry of Justice and Human Rights, as of February 2024 2,400 intermediations had taken place all throughout the country.

The intermediary role

Under the new system established by Law 21,057 and its protocols and regulations, intermediaries must work with the judge presiding the hearing to relay to the child or adolescent the questions asked by the parties and monitor their physical and emotional state. These tasks are performed in 4 stages known as previous, initial, development and closing stages.

Intermediaries work occurs on the day of trial. The intermediary appears in the courtroom where the hearing is being held to assist during the so-called previous stage. In this stage, the intermediary and the judge gather relevant information about the adolescent or child giving evidence, including information about their cognitive, psychological, emotional, social status and other aspects that could be relevant to identify their main characteristics and needs, as well as their capacity to understand and express themselves, disorders, diagnoses, etc.

The intermediary then advises the Court and the parties (orally during the same hearing) on the different aspects to take into account with the proceeding, how to formulate questions, the need for breaks, the maximum attention span of the child or adolescent during the hearing, etc. Finally, an agreement will be reached with the court and the parties involved, including formal and logistical aspects related to the way they should communicate during the intermediation process, to avoid any interruptions during the interaction and communication with the child or adolescent victim or witness, the procedures to follow with the child or adolescent, what to do in case of a nervous breakdown, how to schedule breaks and fulfill their needs, how to explain certain rights the court instructs must be explained, how intermediaries can object to questions that are not allowed, etc.

In the initial stage, the intermediary meets the child or adolescent in the special room and, in addition to introducing themselves and explaining the process of their interaction, they will explain to the child or adolescent, in easy-to-understand language, where they are, why there

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are cameras and microphones, who else is listening and why, etc. The intermediary will also explain the basic rules and other aspects ordered by the court, build rapport through the use of neutral questions and, finally, ask the child or adolescent if they are willing to answer the questions to be asked. (The child or adolescent will only hear the intermediary, who is the only person who can hear the rest of the parties in the courtroom through a headset).

During the evidence-giving stage, the presiding judge will receive the questions from the parties and authorize the intermediary to ask them by adapting, dividing and simplifying them.

Questions are mainly adapted in terms of their language, structure and extension, without altering their meaning, unless they are coercive or deceitful questions that may cause suffering or pose a serious threat to the child or adolescent's dignity, in which case the court may reject them; if the court fails to do so, the intermediary can ask the court to review them.

Once the parties have finished asking their questions, the presiding judge will ask the intermediary to proceed with the closing stage. The child or adolescent will be informed about it and will be given an opportunity to ask any questions they want. They will also be thanked for their participation and informed of what will happen after the proceeding, building a rapport to ensure the child or adolescent is calm before they leave.

During the evidence-giving stage, the intermediary must be hypervigilant of the child's or adolescent's physical and emotional state, give them breaks, support, water, bathroom breaks and even allow a significant adult to join them.

Victims/witnesses are supported during other stages of proceedings by professionals from the Unit of Assistance to Victims and Witnesses of the Nation's Prosecutor's Office.² An evaluation of the physical and psychological ability of the child or adolescent to participate in proceedings is completed before the trial. This evaluation is performed by professionals from the Unit of Assistance to Victims and Witnesses and submitted to the prosecutor. This information is not shared with the intermediary prior to the hearing.

The intermediary not meeting the victim/witness before trial, and not receiving the evaluation, is seen to prevent the intermediary from being partial during the trial. The actions of intermediaries are strictly limited to the oral trial. If the intermediary is one of the 3 judges involved in a particular case, the intermediation work will be in addition to their usual tasks, for example, presiding the sentencing hearing or participating in determining the sentence. If they only intervene as intermediaries, they are limited to performing their intermediation tasks and must not intervene in other aspects of the trial.

The same professional may be accredited both as an interviewer and an intermediary, unless there is a reason for his/her exclusion. A professional who has conducted an investigative

² [Fiscalía de Chile | Víctimas y Testigos | Fuiste Víctima o Testigo | \(fiscaliadechile.cl\)](#)

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interview recorded on video can be summoned to appear in an oral trial, at the request of the parties, to explain the methodology used to get the testimony of the child or adolescent.

Funding for intermediaries work is part of the budget of the institution in which they are employed. All intermediaries perform other tasks in the institutions they work for. However, during the trial they are at the service of the court. There is no obligation to work as an intermediary or to renew accreditation. Intermediaries do not receive extra funding or a salary increase for fulfilling this role, despite having a higher workload.

The law

Law 21,057 regulates the use of video interviews and other measures for the protection of minors victims of sex crimes. Article 13 states that, during an oral trial, testimony of children must be taken in a room separated from other parties in the trial. The only persons present in that room must be an intermediary and the child or adolescent victim or witness. The room should also have the conditions necessary to protect their privacy and security, as well as the technological equipment required to facilitate their communication with judges and the parties intervening in the process.³

According to Protocol I of Law 21,057 on *Video interviews and other protection measures*, the following are the two main responsibilities of an intermediary:

- 1) To convey and/or adapt the questions received through the presiding judge or the due process judge to the child or adolescent in accordance with technical guidelines in the matter, in other words, without altering their meaning.
- 2) To verify the child or adolescent's physical and emotional availability to give testimony, initially, in the early part of the trial and then by paying attention to the child or adolescent's psychological state during the whole process, with the judge present to make a decision regarding their testimony continuing or not.

Protocol H of Law 21,057 specifies the requirements to become an intermediary and regulates the training. The law requires intermediaries to complete an initial training on interviewing and intermediation, which takes a minimum of 60 hours.

The law did not include any additional resources for its implementation.

Law 21,057 also provides for the adoption of measures in criminal proceedings to prevent secondary victimization in cases of violent and sexual assault perpetrated against children and adolescents.

³ [Ley Chile - Ley 21057 - Biblioteca del Congreso Nacional \(bcn.cl\)](#)

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It also modifies the criminal proceeding with respect of the participation of children or adolescents.

Training

Training consists of online, in-person and hybrid theoretical-practical courses. Hands-on activities are included, such as role plays with actors playing the role of child and adolescent victims and the parties in a trial. These courses last approximately one month.

The minimum contents of a training course for both interviewers and intermediaries are the following:

- a. Law N° 21,057, its objective and principles: Basic elements and national and international legal framework.
- b. Relevant phenomenological and criminal aspects of sexual and violent crimes described in the catalog of Law N° 21,057.
- c. Procedural aspects related to the reporting, investigation and prosecution of crimes.
- d. Basic elements, objectives and benefits of video recorded interviewing techniques and intermediation during judicial testimonies.
- e. Considerations on the cognitive, socioemotional and moral development of children and adolescents.
- f. Capacity to give testimony and their implication in the application of investigative interviews and intermediation in the process of giving testimony (memory, suggestibility and trauma, among others).
- g. Models for evaluation and self-evaluation of the video recorded investigative interviewing technique and legal testimonies.

Judges who can only perform intermediation tasks, but not investigative video interviews, should know these contents, although their scope may vary.

A skills development ongoing education programme is also available. This programme consists of theoretical training for a minimum of 8 hours and feedback on the intermediary's performance in at least two proceedings, which is provided by a qualified trainer from the institution the intermediary belongs to.

Assessment to pass the training includes:

- adhering to the different stages of the intermediation procedure;⁴
- relaying questions in accordance with the person's developmental progress without altering their original meaning;

⁴ [Intermediaries in Chile: Facilitating the right of child victims and witnesses to participate and be heard in criminal trials - Valentina Gabriela Ulloa, Nicolás Pietrasanta, Rocío Acosta, 2022 \(sagepub.com\)](#)

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- monitoring the emotional and physical state of the child or adolescent during the proceeding.

Institutions providing intermediaries are the ones in charge of running *Specialized Training Initial Courses* both for investigative interviewers and intermediaries.

Once intermediaries have been accredited, their performance in at least two proceedings is evaluated every year. This evaluation is conducted by an instructor watching videos from proceedings and giving feedback. The intermediary renewing their certification for a further two years is dependent on this evaluation.

To assist in the training process, *Fundación Amparo y Justicia* –which is an NGO– has provided technical support for the design, execution, evaluation and transfer of a training model that has been gradually and independently implemented by the training teams of the Public Prosecutor's Office, the Ministry of the Interior and Public Security, and both law enforcement bodies.

In addition, the Judicial Academy has developed training adapted to their own needs. Thus, they developed a basic training for all judges and additional training for intermediaries.

As intermediation in Chile is mainly performed by accredited judges, their experiences and achievements, as well as their practices and those of the Judicial Academy instructors, have helped to improve the technique after 4 years, with significant achievements and changes made in the interaction with children or adolescents in courts, especially taking into account intermediation is mandatory by law.

Every year, the Judicial Branch and Judicial Academy instructors (Nora Rosati and Evelyn Lizana) participate in different training activities led by other institutions training interviewers to share recent developments in the technique.

In addition to the efforts of the Judicial Academy, to address some of the training needs, in 2023, *Fundación Amparo y Justicia* launched two initiatives:

- the creation of a Resource Centre that provides access to online training materials.
- the organisation of the first Congress of Chilean Interviewers, which included the participation of international experts in the areas of self-care, recanting and reluctance, vulnerable victims, investigative thinking, autism and communication barriers.

Fundación Amparo y Justicia also recommends evaluation of the candidates' motivation, commitment and openness to learning as a key element to maintain the quality of actions of intermediaries involved in these proceedings.

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Pressing issues and future perspectives

Raising awareness

The use of intermediaries is not well known or a topic of public interest. The intermediary role was incorporated into criminal proceedings together with the interviewer role, which has drawn more attention because the word "interview" is in the name of the law regulating both roles.

The lack of knowledge about the intermediary and interviewer roles among the authorities, has resulted in the lack of recognition of the persons fulfilling these roles.⁵

Specialisation and training

Intermediaries have expressed the need for specialisation in the role, to address the specific needs of victims such as those in the autism spectrum, preschool children and victims with speech impediments or cognitive disorders, among others. Ongoing training programmes continue to focus on building capacities and providing intermediaries with the tools they need to handle these cases more effectively. To date there are no regulations regarding the appointment of intermediaries based on their area of specialization. This has been identified as a bottleneck and a challenge for the correct implementation of this public policy.⁶

As the intermediary system has only been in operation for a few years, it is difficult for intermediaries to gain the experience necessary to specialise. Intermediaries' excessive workloads make it difficult for them to have the time they need to specialise regardless of the requirements of the law. The concentration of the intermediation role in judges (70%) has made it difficult for other professionals duly trained and accredited as intermediaries to gain experience. In addition, there is a national agreement for law enforcement bodies and public prosecutors to focus on conducting video interviews.

Evaluation

To date there are no evaluations showing the impact and results of this public policy. There is a legal restriction (article 23 of Law 21,057) that prohibits access to intermediation records by persons not involved in criminal proceedings. Therefore, it is impossible to conduct research to gain a better understanding of the actual development of proceedings.

⁵ [La implementación de la Entrevista Investigativa a un año de la ley 21.057 – Amparo y Justicia](#)

⁶ [Taking Oral Evidence in Chile from Child Victims in Priority Groups: Challenges for the Practice and Training of Justice Professionals | SpringerLink](#)

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The Judicial Academy and its instructors have designed and led the initial and ongoing training courses for justice intermediaries, in addition to conducting annual evaluations of intermediary judges. Since those instructors have access to evidence given to evaluate judges, they provide the system with ongoing feedback on the progress of the intermediation process based on what judges do, what works or doesn't work, and share with instructors from other institutions and their students current intermediation guidelines, experiences and ideas. Criminal judges are also informed about the progress of the intermediation scheme and provided with tools to innovate and support intermediaries.

Fundación Amparo y Justicia also participated in the design and implementation of the first courses for operators of the criminal justice system, including the provision of training and specialisation on the issue for our team members, in addition to the compilation of proven practices and models in other countries. For this reason, *Fundación Amparo y Justicia* has highlighted the need to establish effective standards and oversight of proceedings in the months and years following the implementation of the Law. One of the studies conducted has to do with the efficacy of intermediary training, evaluations of the candidates' performance and identifying critical and positive aspects of their practice.

By law, access to intermediation records for academic purposes is prohibited. Therefore, it is not possible to conduct empirical studies to assess the performance of intermediaries or the differences between the different officials fulfilling that role.

While there are initiatives to address interviewers and intermediaries' burnout, with initiatives led by both law enforcement bodies (consisting of days of activities in recreational centers, including self-care techniques), there is not a comprehensive policy in this regard coordinated by the Ministry of Justice, the body in charge of coordinating the application of that Law. For this reason, the Ministry of Justice is currently studying this issue to prevent their burnout, turnover and job abandonment.

Funding

A situation analysis of funds allocated to the execution of the public policy on intermediaries and its financial sustainability is required. The enactment of Law 21,057 did not include any financial resources for its execution. To date, the amount of resources allocated to its implementation is not clear. This makes it difficult to estimate the resources necessary for its effective implementation.

Resources had to be reallocated for the implementation of the role, especially for the creation of special rooms in courts throughout the country and training for professionals on the intermediation technique.

Fundación Amparo y Justicia also played a key role by assisting in the design, execution and evaluation of the initial and ongoing training of intermediation professionals. The

Intermediaries Around the World Map: Chile.

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Foundation allocated financial resources to complement those available from public institutions in charge of the policy implementation, especially in the areas of training, evaluation and oversight of this public policy.

Useful documentation and references

[Intermediaries in Chile: Facilitating the right of child victims and witnesses to participate and be heard in criminal trials - Valentina Gabriela Ulloa, Nicolás Pietrasanta, Rocío Acosta, 2022 \(sagepub.com\)](#)

[Taking Oral Evidence in Chile from Child Victims in Priority Groups: Challenges for the Practice and Training of Justice Professionals | SpringerLink](#)

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[La implementación de la Entrevista Investigativa a un año de la ley 21.057 – Amparo y Justicia](#)

[Fiscalía de Chile | Víctimas y Testigos | Fuiste Víctima o Testigo | \(fiscaliadechile.cl\)](#)

The law

[Ley Chile - Ley 21057 - Biblioteca del Congreso Nacional \(bcn.cl\)](#)

<https://www.minjusticia.gob.cl/media/2020/01/Protocolo-i.pdf>