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## THE COURT DELIVERS JUDGMENT ON THE RIGHT OF THE KALIÑA AND LOKONO PEOPLES TO COLLECTIVE OWNERSHIP AND ENVIRONMENTAL PROTECTION IN SURINAME

*San José, Costa Rica, January 28, 2016.* Today, the Inter-American Court of Human Rights served notice the Judgment on Merits, Reparations and Costs in the case of the *Kaliña and Lokono Peoples v. Suriname*, which the Inter-American Commission on Human Rights had submitted to the Court on January 28, 2014. The entire text of the judgment and the official summary may be found at the following link: <http://www.corteidh.or.cr/casos.cfm>.

The case relates to the actions taken by the Kaliña and Lokono peoples to obtain the State's recognition of their collective juridical personality and their right to collective ownership of their traditional territories, land for which titles have not been issued. Parts of the territory claimed adjoin settlements of the N'djuka Maroon tribe and some non-indigenous third parties were granted property titles in other claimed areas located on lots bordering the Marowijne River. Also, inside the territory claimed, three nature reserves were established, namely: (i) the Wia Wia Nature Reserve in 1966, (ii) the Galibi Nature Reserve in 1969, and (iii) the Wane Kreek Nature Reserve in 1986; together they cover around 59,800 hectares of the territory claimed. In the case of Galibi Nature Reserve, the adverse effects on the Kaliña and Lokono peoples relate to restrictions in access to and use of the territory. Also, open-cast mining operations to extract bauxite have been carried out in the Wane Kreek Nature Reserve, without the effective participation of these peoples by means of a consultation process, and the operations have caused problems related to environmental degradation and a decline in the possibility of hunting and fishing.

Regarding the right to recognition of juridical personality, the Court reiterated its case law concerning Suriname and determined that since the State's domestic laws do not recognize the collective legal personality of the indigenous and tribal peoples, the State had violated Article 3 of the American Convention.

With regard to the right to collective ownership, the Court concluded that the State's failure to delimit, demarcate and grant title to the territory of the Kaliña and Lokono peoples violated the right to collective property recognized in Article 21 of the American Convention and the obligation to adopt domestic legal provisions established in Article 2 of this instrument.

In relation to the right to request the restitution of the territory in view of the existence of individual property titles in favor of non-indigenous third parties, the Court found that this right remained valid, and that the State should therefore weight, the private or State territorial interests against the territorial rights of the members of the indigenous communities. Regarding the alleged maintenance of the nature reserves in the traditional territory, the Court determined that the Kaliña and Lokono peoples also had the right to file actions under domestic law for the possible



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return of the parts corresponding to their traditional territory adjoining the reserves and, in this case, the State should weigh the protection of the environment for reasons of general interest against the territorial rights of the indigenous communities.

Regarding the alleged restrictions to the indigenous peoples in the nature reserves, the Court referred to the need to make the preservation of the protected areas compatible with the appropriate use and enjoyment of the traditional territories of the indigenous peoples. Consequently, the Court concluded that, in principle, the protection of the nature reserves and the rights of the indigenous and tribal peoples to the protection of the natural resources in their territories was compatible, emphasizing that the indigenous and tribal peoples, owing to their interrelationship with nature and their way of life, can make an important contribution to this conservation. In this regard, the criteria of effective participation, access and use of traditional territories, and obtaining benefits from conservation are essential elements to achieve this compatibility and should be evaluated by the State, while guaranteeing appropriate mechanisms to put them in practice. In this specific case, the Court concluded that the lack of explicit mechanisms to ensure the access, use and effective participation of the Kaliña and Lokono indigenous peoples in the conservation of the Galibi and Wane Kreek Nature Reserves and its benefits violated the rights to collective property, cultural identity, and participation in public affairs of the victims, recognized in Articles 2, 21 and 23 of the American Convention, in relation to Article 1(1) of this treaty, to the detriment of the Kaliña and Lokono peoples and their members.

Regarding the guarantees of collective property in relation to the mining concession within the Wane Kreek Nature Reserve, the Court found that the State's duty to ensure effective participation, by means of a consultation process, applies prior to the implementation of any action that could have an important impact on the interests of the indigenous and tribal peoples, such as the exploration and exploitation or extraction stages. In this case, although the mining concession was granted in 1958, the bauxite mining operations began in 1997, at which time this consultation should have been ensured. Also, no social and environmental impact assessment was made, and the benefits of the mining project were not shared. Therefore, the Court concluded that the State had violated Articles 21 and 23 of the Convention, in relation to Articles 1(1) and 2 thereof.

Lastly, the Court held that the norms examined did not include any administrative or judicial remedies establishing procedures to protect the right to collective property of the indigenous and tribal peoples. The Court also found that the judicial proceedings and petitions that were filed had not been effective in this regard, and that the State had not provided the public information requested by the victims or justified the impossibility of handing it over. Consequently, the State was found responsible for the violation of the right to judicial protection established in Article 25 of the American Convention, in relation to Articles 1(1), 2 and 13.



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Based on the violations declared, the Court ordered different measures of reparation, including the State's obligations to: (a) grant the Kaliña and Lokono peoples legal recognition of their collective juridical personality; (b) delimit, demarcate, and grant collective title to the territory of the Kaliña and Lokono peoples, and also to guarantee them its use and enjoyment, taking into account the rights of other tribal peoples in the area; (c) take appropriate measures to ensure the access, use and participation of the Kaliña and Lokono peoples in the Galibi and Wane Kreek Nature Reserves; (d) guarantee effective participation by means of a consultation process for the peoples, the execution of social and environmental impact assessments, and the sharing of benefits; (e) implement the sufficient and necessary actions to rehabilitate the affected area in the Wane Kreek Nature Reserve, and (f) establish a community development fund for the members of the Kaliña and Lokono peoples.

The Court will monitor full compliance with this judgment and will consider the case closed when the State has complied with all its provisions.

The Court was composed of the following judges for the delivery of this judgment: Humberto Antonio Sierra Porto, President; Roberto F. Caldas, Vice President; Manuel E. Ventura Robles, Diego García-Sayán, Alberto Pérez Pérez, Eduardo Vio Grossi, and Eduardo Ferrer Mac-Gregor Poisot.

For further information, please consult the Inter-American Court's website: <http://corteidh.or.cr> or send an e-mail to Pablo Saavedra Alessandri, Secretary, at [corteidh@corteidh.or.cr](mailto:corteidh@corteidh.or.cr).