

# Kaliña and Lokono Peoples v. Suriname

## ABSTRACT<sup>1</sup>

*This case is about the occupation and expropriation of the land of two indigenous tribes (the Kaliña and Lokono peoples) in East Suriname. After more than thirty years of struggle, the two tribes brought their case to the attention of the Inter-American human rights system. Eventually, the Court found Suriname in violation of the American Convention. The case is notable for the discussion of the right of juridical personality of indigenous tribes, as well as the right to property and right to participate in the conduct of public affairs.*

## I. FACTS

### A. Chronology of Events

**1969:** Dutch Guiana declares a nature reserve on ancestral land claimed by indigenous Kaliña and Lokono peoples.<sup>2</sup> The native inhabitants protest the creation of the Galibi Nature Reserve and the sub-division of their territory.<sup>3</sup> Protest efforts are futile as the State fails to recognize indigenous peoples' land rights and dismisses all objections.<sup>4</sup>

**1972:** Kaliña and Lokono peoples file several petitions with the State Independence Commission arguing that the ancestral land is unjustly declared State-owned territory.<sup>5</sup>

**1975 – 1976:** Kaliña and Lokono communities file three additional peti-

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1. Claudia Garcia-Salas, Author; Emily Williams, Editor; Megan Venanzi, Chief IACHR Editor; Cesare Romano, Faculty Advisor.

2. Kaliña and Lokono Peoples v. Suriname, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 309, ¶ 61 (Nov. 25, 2015). Dutch Guiana, a plantation colony of the Netherlands, gained its independence on November 25, 1975 and became known as the Republic of Suriname. Henk E. Chin & Jack K. Menke, *Suriname*, ENCYLOPAEDIA BRITANNICA, (Mar. 9 2016), <https://www.britannica.com/place/Suriname>.

3. Kaliña and Lokono Peoples v. Suriname, Merits, Reparations and Costs, ¶ 61.

4. *Id.*

5. *Id.* ¶ 59.

tions with State courts asserting their right to own and control the disputed land; however, the petitions are denied for lack of legal grounds.<sup>6</sup>

**1978:** The indigenous peoples demand increased participation in discussions and decisions affecting land rights and control of the territory.<sup>7</sup>

**1986 – 1992:** There is a civil war in Eastern Suriname.<sup>8</sup> The prolonged combat results in the destruction of homes, schools, medical facilities, and government offices.<sup>9</sup> Lacking shelter and access to vital services, the Kaliña and Lokono peoples abandon their homestead and migrate to the capital city of Paramaribo and neighboring French Guiana.<sup>10</sup> The conflict ends with the enactment of the 1992 Lelydorp Peace Accord.<sup>11</sup> Many of the displaced inhabitants return and a gradual restoration period begins; however, the Kaliña and Lokono peoples learn that, in the meantime, parcels of ancestral land have been granted to non-indigenous persons.<sup>12</sup>

**1992:** The 1992 Lelydorp Peace Accord endeavors to establish the legal means by which tribal and indigenous peoples can protect their claimed interest in land and hold property title; nonetheless, the provision concerning indigenous land rights is never implemented.<sup>13</sup> Suriname's laws do not recognize tribal and indigenous communities as juridical persons.<sup>14</sup>

**1998:** Kaliña and Lokono peoples seek the return of land granted to non-indigenous persons in front of the Supreme Court of Justice of Suriname; however, the Supreme Court rules against the Kaliña and Lokono peoples.<sup>15</sup>

**December 24, 2002:** Inhabitants of a Kaliña village file a complaint urging the State to cancel a mining concession.<sup>16</sup> The State court denies the

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6. *Id.* ¶ 60.

7. *Id.* ¶ 61.

8. *Id.* ¶ 39.

9. Kaliña and Lokono Peoples v. Suriname, Merits, Reparations and Costs, ¶ 39.

10. *Id.* The ethnic composition of French Guiana is similar to Suriname, yet its legislature has recognized and protected the rights of its indigenous peoples for decades. Committee on the Elimination of Racial Discrimination, 87<sup>th</sup> Session, Report on the Situation of Indigenous and Tribal Peoples in Suriname and Comments on Suriname's 13<sup>th</sup>-15<sup>th</sup> Periodic Reports (CERD/C/SUR/13-15) ¶ 78 (2015).

11. Kaliña and Lokono Peoples v. Suriname, Merits, Reparations and Costs, ¶ 39.

12. *Id.* ¶ 62.

13. *Id.* ¶ 51.

14. *Id.* ¶ 52.

15. *Id.* ¶ 63.

16. *Id.* ¶ 64.

complaint for lack of standing, explaining that tribal and indigenous groups do not have collective legal personality.<sup>17</sup>

**2003-2005:** Indigenous leaders file petitions with the President to urge the State to recognize their ownership of the ancestral land and to acknowledge their legal status,<sup>18</sup> but no response is received.<sup>19</sup> Land ownership continues to be granted to third-parties for the construction of vacation homes, which interferes with access to indigenous villages.<sup>20</sup> On behalf of the Kaliña and Lokono peoples, the Organization of Kaliña and Lokono Indigenous Peoples of Marowijne (“KLIM”) demands that the State Lands Office abstain from granting further third-party land title.<sup>21</sup> Again, no response is received.<sup>22</sup>

**May 2006:** KLIM asks the Minister of Spatial Planning, Land and Forest Policy to refrain from conducting activities that affect or interfere with the Kaliña and Lokono peoples’ ancestral land while previous similar requests are being considered, but the Ministry fails to respond.<sup>23</sup>

**February 16, 2007:** A petition is submitted on behalf of the Kaliña and Lokono peoples to the Inter-American Commission.<sup>24</sup>

**October 7, 2007:** The leaders of Kaliña and Lokono villages write to the President, opposing the construction of a gas station and shopping mall in a Kaliña village; however, the President and State remain silent.<sup>25</sup>

**November 28, 2007:** The Inter-American Court renders a landmark decision in the case of the Saramaka People v. Suriname and declares that the State must recognize the juridical personality of its tribal and indigenous communities, grant collective title of ancestral land, and create legislation to ensure the future protection of these rights.<sup>26</sup>

**January 28, 2013:** Kaliña and Lokono leaders write to the President con-

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17. *Kaliña and Lokono Peoples v. Suriname*, Merits, Reparations and Costs, ¶ 64.

18. *Id.* ¶ 65.

19. *Id.*

20. *Id.* ¶ 98.

21. *Id.* ¶ 67.

22. *Id.*

23. *Kaliña and Lokono Peoples v. Suriname*, Merits, Reparations and Costs, ¶ 67.

24. *Id.* n.3.

25. *Id.* ¶ 68.

26. *Id.* ¶ 107, n.61.

testing the construction of an airplane hangar and casino in a Lokono village, but the President is unresponsive.<sup>27</sup>

**September 27, 2013:** In an effort to increase collaboration, State and indigenous representatives gather to discuss issues related to the control of ancestral land.<sup>28</sup>

**June 3, 2014:** The State outlines a “Draft Bill on Traditional Authorities,” but it is prepared without any participation from the indigenous community.<sup>29</sup> Absent from the draft is language that recognizes tribal and indigenous peoples as legal entities or which addresses their right to land title.<sup>30</sup>

### *B. Other Relevant Facts*

The ancestral land in dispute is comprised of six Kaliña and two Lokono villages, which encompass a vast 133,954 hectares in eastern Suriname.<sup>31</sup> The State-created Wia Wia, Galibi, and Wane Kreek nature reserves occupy a substantial 59,800 hectares (45 percent) of this land.<sup>32</sup> While the 1954 Nature Protection Act authorizes the President to designate government land as nature reserves, it fails to address the rights of indigenous groups with traditional land tenure.<sup>33</sup>

The territory claimed by the Kaliña and Lokono peoples is uniquely abundant in natural resources, biodiversity, and archaeological treasures.<sup>34</sup> This area is vital to the Kaliña and Lokono peoples’ subsistence, since they rely on the land for fishing, hunting, and cultivation of fruits and medicinal plants.<sup>35</sup> Furthermore, the land has profound esoteric significance to the indigenous communities.<sup>36</sup> The ancient sacred land, with which tribal and indigenous inhabitants claim to have a spiritual connection, is the essence of their cultural identity.<sup>37</sup> The Kaliña and Lokono peoples seek their land rights in order to protect the territory from the damaging and irreparable environmental effects caused by strip mining,

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27. *Id.* ¶ 69.

28. *Id.* ¶ 54.

29. Kaliña and Lokono Peoples v. Suriname, Merits, Reparations and Costs, ¶¶ 55–56.

30. *Id.* ¶ 55.

31. *Id.* ¶ 30. Approximately 331,007 acres or 517 sq. mi. or 14,418,688,559 sq. ft. Hectares Conversion, GOOGLE, <https://www.google.com/webhp?sourceid=chrome-instant&ion=1&espv=2&ie=UTF-8#q=hectares%20conversion> (last visited Aug. 10, 2016).

32. Kaliña and Lokono Peoples v. Suriname, Merits, Reparations and Costs, ¶¶ 70–71.

33. *Id.* ¶¶ 72–73.

34. *Id.* ¶ 84.

35. *Id.*

36. *Id.* ¶ 33.

37. *Id.* ¶ 84.

water contamination, logging, and poaching.<sup>38</sup>

## II. PROCEDURAL HISTORY

### *A. Before the Commission*

**February 16, 2007:** The Inter-American Commission on Human Rights receives a petition filed by the Association of Indigenous Village Leaders in Suriname (“VIDS”),<sup>39</sup> through legal representatives of the Forest Peoples Programme, on behalf of the Kaliña and Lokono peoples (“victims”).<sup>40</sup>

**October 15, 2007:** The Commission considers the petition admissible and issues Admissibility Report No. 76/07.<sup>41</sup>

**July 18, 2013:** The Commission adopts Merits Report No. 79/13.<sup>42</sup> It recommends that the State adopt legislation which does the following: recognizes the Kaliña and Lokono peoples’ collective juridical personality and right of property, identifies and delineates ancestral territory, reviews non-indigenous third-party land titles and mining concessions for modifications or nullification, and remedies environmental damage to the land.<sup>43</sup>

### *B. Before the Court*

**January 28, 2014:** The Commission submits the case to the Court after the State failed to adopt its recommendations.<sup>44</sup>

#### 1. Violations Alleged by Commission<sup>45</sup>

Article 3 (Right to Juridical Personality)

Article 21 (Right to Property)

Article 25 (Right to Judicial Protection)

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38. *Kaliña and Lokono Peoples v. Suriname*, Merits, Reparations and Costs, ¶¶ 91-94.

39. *Kaliña and Lokono Peoples v. Suriname*, Admissibility Report, Report No. 76/07, Inter-Am. Comm’n H.R., Case No. 12.639, ¶¶ 1-1(b) (Oct. 15, 2007).

40. *Kaliña and Lokono Peoples v. Suriname*, Merits, Reparations and Costs, fn. 3.

41. *Id.* ¶ 2(b).

42. *Id.* ¶ 2(c).

43. *Kaliña and Lokono Peoples v. Suriname*, Merits Report, Inter-Am. Comm’n H.R., Case No. 12.639, “Recommendations” ¶ 168 (1)-(8) (Jul. 18, 2013).

44. *Id.* ¶ 2(f).

45. *Kaliña and Lokono Peoples v. Suriname*, Merits Report, Inter-Am. Comm’n H.R., Case No. 12.639, “Conclusions” ¶ 167 (1)-(4) (Jul. 18, 2013).

*in relation to*  
 Article 1(1) (Obligation of Non-Discrimination)  
 Article 2 (Obligation to Give Domestic Legal Effect to Rights) of the  
 American Convention.

## 2. Violations Alleged by Representatives of the Victims<sup>46</sup>

Same violations as alleged by Commission, plus:  
 Article 13 (Freedom of Thought and Expression) of the American Con-  
 vention.

**February 18, 2015:** The *Fundación Pro bono-Colombia* submits an *amicus curiae* brief.<sup>47</sup>

**August 17 – 19, 2015:** Court officials travel to Suriname to visit parts of the disputed territory, including two nature reserves and a mining concession, and meet with the parties, indigenous leaders, and the Commission.<sup>48</sup>

### III. MERITS

#### A. *Composition of the Court*<sup>49</sup>

Humberto Antonio Sierra Porto, President  
 Roberto F. Caldas, Vice President  
 Manuel E. Ventura Robles, Judge  
 Diego García-Sayán, Judge  
 Alberto Pérez Pérez, Judge  
 Eduardo Vio Grossi, Judge  
 Eduardo Ferrer Mac-Gregor Poisot, Judge

Pablo Saavedra Alessandri, Secretary  
 Emilia Segares Rodríguez, Deputy Secretary

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46. *Id.* ¶¶ 8-19; “Conclusions” ¶ 5. Mr. Fergus MacKay and Mr. David Padilla of the Forest Peoples Programme serve as representatives for the Kaliña and Lokono peoples. *Kaliña and Lokono Peoples v. Suriname, Merits, Reparations and Costs*, n.7.

47. *Kaliña and Lokono Peoples v. Suriname, Merits, Reparations and Costs*, ¶ 9.

48. *Id.* ¶ 14.

49. *See Kaliña and Lokono Peoples v. Suriname, Merits, Reparations and Costs.*

*B. Decision on the Merits*

**November 25, 2015:** The Court issues its Judgment on Merits, Reparations and Costs.<sup>50</sup>

The Court found by six votes to one that State had violated:

Article 3 (Right to Juridical Personality) in relation to Article 1(1), Article 2, Article 21, and Article 25 of the Convention, to the detriment of the Kaliña and Lokono indigenous peoples,<sup>51</sup> because:

*The State failed to recognize the Kaliña and Lokono peoples' collective juridical personality.<sup>52</sup> In a case decided nearly seven years prior to the filing of the present case – the Saramaka People v. Suriname – the Court declared that the State must “recognize the ... juridical personality” of its tribal and indigenous communities.<sup>53</sup> Here, although the State claimed to be in the process of creating legislature, which would accomplish this, no such laws existed at the time of the violation.<sup>54</sup> Thus, the State violated Article 3 (Right to Juridical Personality) of the Convention.<sup>55</sup>*

Article 21 (Right to Property) in relation to Article 1(1) and Article 2 of the Convention, to the detriment of the Kaliña and Lokono indigenous peoples,<sup>56</sup> because:

*The State violated the Kaliña and Lokono peoples' right to property in the following three ways:<sup>57</sup> “granting property titles to non-indigenous” third parties,<sup>58</sup> restricting the Kaliña and Lokono peoples' access to the nature reserves for conservation purposes where protection could be obtained by less injurious measures,<sup>59</sup> and issuing mining and logging concessions.<sup>60</sup>*

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50. *Id.* ¶ 329.

51. Kaliña and Lokono Peoples v. Suriname, Merits, Reparations and Costs, “Operative Paragraphs” ¶ 1.

52. *Id.* ¶ 101.

53. *Id.* ¶ 107.

54. *Id.* ¶¶ 101, 112.

55. *Id.* ¶ 114.

56. *Id.* “Operative Paragraphs” ¶ 2.

57. Kaliña and Lokono Peoples v. Suriname, Merits, Reparations and Costs, ¶ 115.

58. *Id.*

59. *Id.* ¶ 118.

60. *Id.* ¶ 118.

Article 23 (Right to Participate in Government) in relation to Article 1(1) and Article 2 of the Convention, to the detriment of the Kaliña and Lokono indigenous peoples,<sup>61</sup> because:

*The State made no effort to consult with the Kaliña and Lokono peoples prior to making decisions affecting the ancestral territory.<sup>62</sup> Although neither the victims nor the Commission alleged a violation of Article 23 (Right to Participate in Government), the Court exercised its right to examine and rule on the matter under the principle of iura novit curia.<sup>63</sup> The Court declared that the Kaliña and Lokono peoples were denied the opportunity to effectively participate in discussions regarding land demarcation, property grants, mining concessions, and nature reserves.<sup>64</sup> The Court noted that the State had knowledge of the victims' vehement opposition to such activities and a long history of frustrated attempts to exercise their land rights.<sup>65</sup> Therefore, in failing to create the mechanisms by which the Kaliña and Lokono peoples could engage in "consultation process[es]," the State violated the victims' guaranteed right to participate in government.<sup>66</sup>*

Article 25 (Right to Judicial Protection) in relation to Article 1(1), Article 2, and Article 13 of the Convention, to the detriment of the Kaliña and Lokono indigenous peoples,<sup>67</sup> because:

*The State did not implement the Saramaka judgment despite its obligation to do so.<sup>68</sup> Pursuant to the principle of iura novit curia, the Court examined the State's violation of Article 25 (Right to Judicial Protection) in relation to Article 13 (Freedom of Thought and Expression) of the Convention.<sup>69</sup> The Court stated that the Kaliña and Lokono peoples had exhausted their efforts to obtain recognition of their land rights by submitting numerous claims and petitions to the State President, State agencies,*

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61. *Id.* "Operative Paragraphs" ¶ 2.

62. *Id.* ¶ 126.

63. Kaliña and Lokono Peoples v. Suriname, Merits, Reparations and Costs, ¶ 126. *Iura novit curia* gives the Court authority to look at additional violations that were not previously alleged by the Commission, so long as the parties are given a chance to state their position regarding the underlying facts of the violation. *Id.*

64. *Id.* ¶ 127.

65. *Id.* ¶ 153.

66. *Id.* ¶ 127.

67. *Id.* "Operative Paragraphs" ¶ 3.

68. *Id.* ¶ 231.

69. Kaliña and Lokono Peoples v. Suriname, Merits, Reparations and Costs ¶ 259.



*Ministries, and domestic courts.*<sup>70</sup> *Nonetheless, the State remained unresponsive to all requests and failed to provide effective relief.*<sup>71</sup> *The Court declared that “freedom of thought and expression” is not limited to information that is set forth, but also includes the right to request and receive information.*<sup>72</sup> *The State had an obligation to respond to the victims’ persistent demands for information.*<sup>73</sup> *The Court concluded that the State’s unjustified failure to respond to the Kaliña and Lokono peoples’ numerous inquiries, petitions, and complaints placed the indigenous communities at a disadvantage.*<sup>74</sup> *Therefore, the State violated Article 25 (Right to Judicial Protection) of the Convention.*<sup>75</sup>

### *C. Dissenting and Concurring Opinions*

#### 1. Joint Concurring Opinion of Judges Humberto Antonio Sierra Porto and Eduardo Ferrer Mac-Gregor Poisot

In a separate opinion, Judge Sierra Porto and Judge Mac-Gregor Poisot emphasized the State’s repeated failure to ensure effective participation of the Kaliña and Lokono peoples in mining concession consultation processes.<sup>76</sup> The judges pointed out that a mining concession extends beyond the moment it is issued because it entails several phases with different purposes, such as exploration, environmental assessment, construction, extraction, and completion.<sup>77</sup> They noted that the State deprived the Kaliña and Lokono peoples of prior, free and informed consultation for each separate mining phase.<sup>78</sup> Continuous consultation, the judges explained, was imperative to avoid the erroneous belief that a mining concession could represent unlimited and unrestricted exploitation for the duration of the concession.<sup>79</sup> The judges also agreed that the Kaliña and Lokono peoples share unique traits, views, customs, and values; therefore, their communal interests must be protected by recognizing their right to collective juridical personality.<sup>80</sup>

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70. *Id.* ¶ 254.

71. *Id.* ¶ 258.

72. *Id.* ¶ 261.

73. *Id.*

74. *Id.* ¶ 267.

75. *Kaliña and Lokono Peoples v. Suriname, Merits, Reparations and Costs* ¶ 268.

76. *Kaliña and Lokono Peoples v. Suriname, Merits, Reparations and Costs, Judgment, Joint Concurring Opinion of Judges Humberto Antonio Sierra Porto and Eduardo Ferrer Mac-Gregor Poisot. Inter-Am. Ct. H.R. (ser. C) No. 309, ¶ 14 (Nov. 25, 2015).*

77. *Id.*

78. *Id.* ¶¶ 12-16.

79. *Id.* ¶ 15.

80. *Id.* ¶ 18.

## 2. Partially Dissenting Opinion of Judge Alberto Pérez Pérez

In a dissenting opinion, Judge Pérez Pérez argued that Article 3 (Right to Juridical Personality) concerns the legal rights of the individual person, which Article 1(2) (Definition of “Person”) narrowly describes as a human being.<sup>81</sup> He reasoned that collective entities as a whole cannot be granted juridical personality under this definition.<sup>82</sup> Nonetheless, he conceded that the Kaliña and Lokono peoples’ right to legal recognition could have been declared in relation to different provisions of the Convention.<sup>83</sup>

Furthermore, Judge Pérez Pérez disagreed with the majority regarding the State’s violation of Article 13 (Freedom of Thought and Expression).<sup>84</sup> He explained that much of the information requested by the Kaliña and Lokono peoples was not sought as “a matter of evident public interest,” but as something of interest only to the victims.<sup>85</sup> The judge opined that demands for information concerning a third party land grant were intended to discover whether the title authorized the holder to build a home or store.<sup>86</sup> He explained that such demands were for purposes of seeking protection of property rights and not relevant to freedom of thought and expression.<sup>87</sup>

Finally, Judge Pérez Pérez expressed his disagreement with the Court’s *iura novit curia* ruling on Article 23 (Right to Participate in Government).<sup>88</sup> The judge distinguished the right to engage in “conduct of public affairs” from the right to “participate in decision-making” discussions that affect the victims’ rights as indigenous peoples.<sup>89</sup> He reasoned that the latter regards private matters not covered by the Article,<sup>90</sup> and, furthermore, that the Court failed to describe how the State committed the violation.<sup>91</sup>

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81. Kaliña and Lokono Peoples v. Suriname, Merits, Reparations and Costs, Judgment, Partially Dissenting Opinion of Judge Alberto Pérez Pérez. Inter-Am. Ct. H.R. (ser. C) No. 309, ¶ 3 (Nov. 25, 2015).

82. *Id.* ¶ 5.

83. *Id.* ¶ 9.

84. *Id.* ¶ 12.

85. *Id.* ¶ 14.

86. Kaliña and Lokono Peoples v. Suriname, Merits, Reparations and Costs, Partially Dissenting Opinion of Judge Alberto Pérez Pérez.

87. *Id.*

88. *Id.* ¶ 19.

89. *Id.* ¶ 20(b).

90. *Id.* ¶ 20(f).

91. *Id.* ¶ 20(a).

## IV. REPARATIONS

The Court ruled unanimously that the State had the following obligations:

*A. Specific Performance (Measures of Satisfaction and Non-Repetition Guarantee)*

1. Judgment as a Form of Reparation

The Court declared that the Judgment itself was a form of reparation.<sup>92</sup>

2. Recognize Collective Juridical Personality

The Court ordered the State to recognize the collective juridical personality of the Kaliña and Lokono peoples, thus ensuring their ability to enjoy and exercise communal rights, including the right to own property.<sup>93</sup>

3. Grant Collective Title of Ancestral Land

The Court ordered the State to identify and delineate the ancestral territory belonging to the Kaliña and Lokono peoples and grant collective property title.<sup>94</sup> Further, the State must negotiate with non-indigenous third-party land owners to recover all wrongfully granted ancestral land.<sup>95</sup> The Court stated that in the event a legitimate reason exists for its inability to recover those parcels of land, the State must grant the victims suitable adjacent land in lieu of the lost territory.<sup>96</sup> The Court ordered the State to cease issuing land title to non-indigenous third parties and warned against any trespass upon the ancestral land while the measures are being implemented.<sup>97</sup> Additionally, the State, victims, tribal communities, and non-indigenous third parties must collaborate in drafting a resolution for the amicable and mutual use of land.<sup>98</sup>

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92. Kaliña and Lokono Peoples v. Suriname, Merits, Reparations and Costs, Judgment. Inter-Am. Ct. H.R. (ser. C) No. 309, “Operative Paragraphs” ¶ 4 (Nov. 25, 2015).

93. *Id.* ¶ 279(i)(a).

94. *Id.* ¶ 279(i)(b).

95. *Id.* ¶ 280.

96. *Id.* ¶ 281.

97. *Id.* ¶ 282.

98. Kaliña and Lokono Peoples v. Suriname, Merits, Reparations and Costs ¶ 283.

#### 4. Allow Access to Restricted Nature Reserves

The State must establish appropriate measures in order for the Kaliña and Lokono peoples to access and enjoy the Galibi and Wane Kreek nature reserves.<sup>99</sup> The Court declared that any restriction imposed thereon must have a justifiable legal objective.<sup>100</sup> The Court also pointed out that although mining activities are no longer conducted within the nature reserves, one mining concession remains valid until the year 2033.<sup>101</sup> Rather than revoking the concession, the Court ordered the State to ensure that no mining activities resume, especially without prior consultation with the Kaliña and Lokono peoples.<sup>102</sup>

#### 5. Rehabilitate Environmentally Damaged Lands

The Court required the State to create and implement an action plan with the collaborative participation of indigenous representatives and independent rehabilitation experts in order to assess and remedy the damaged lands through processes of reforestation.<sup>103</sup>

#### 6. Establish a Community Development Fund

The Court ordered the State to establish a fund for the advancement of the Kaliña and Lokono peoples' general welfare and development.<sup>104</sup> The fund must support programs for "health, education, food security, resource management, and other. . ." programs deemed beneficial by the Kaliña and Lokono communities.<sup>105</sup> The State must appoint a fund administrator and the victims must select an indigenous representative to promote collaborative discussion.<sup>106</sup>

#### 7. Guarantee of Non-Repetition

The Court ordered the State to adopt all necessary legislative and administrative measures to: 1) ensure that the Kaliña and Lokono peoples participate in the consultation process for any future project which burdens the ancestral land, 2) assess social and environmental impact prior

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99. *Id.* ¶ 286.

100. *Id.*

101. *Id.* ¶ 287.

102. *Id.*

103. *Id.* ¶ 290.

104. *Kaliña and Lokono Peoples v. Suriname, Merits, Reparations and Costs* ¶ 295.

105. *Id.* ¶ 296.

106. *Id.* ¶ 297.

to commencing any project within the land, and 3) share the benefits, where appropriate, from any project within ancestral territory.<sup>107</sup>

#### 8. Create Law Enforcement Training Programs

The State must develop and conduct “permanent and mandatory programs” directed toward law enforcement officials whose functions, at any level, affect the human rights of the indigenous inhabitants of Suriname.<sup>108</sup> The programs must address “modules on national and international standards concerning the human rights of the indigenous and tribal peoples” with emphasis on the guaranteed protection of collective property ownership.<sup>109</sup>

#### 9. Publish and Broadcast the Judgment

The Court’s official summary of the judgment must be translated and published in Dutch and Surinamese in a newspaper of general circulation.<sup>110</sup> It must also remain published on the State’s official website for no less than one year.<sup>111</sup> The State must also broadcast an official press release on the first Sunday of each month for at least four months in at least one radio station, which reaches the Kaliña and Lokono communities.<sup>112</sup>

#### *B. Compensation*

The Court awarded the following amounts:

##### 1. Pecuniary Damages

[None]

##### 2. Non-Pecuniary Damages

The Court ordered the State to allocate \$1,000,000 for a community development fund.<sup>113</sup>

##### 3. Costs and Expenses

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107. *Id.* ¶ 305(d).

108. *Id.* ¶ 309.

109. *Id.*

110. *Kaliña and Lokono Peoples v. Suriname, Merits, Reparations and Costs* ¶ 312.

111. *Id.*

112. *Id.* ¶ 313.

113. *Id.* ¶ 298.

The Court awarded \$15,000 jointly between the Association of Indigenous Village Leaders in Suriname and the Organization of Kaliña and Lokono Indigenous Peoples of Marowijne for expenditures associated with their representation of the Kaliña and Lokono peoples prior to and during litigation.<sup>114</sup>

The Court awarded \$10,000 to the Forest Peoples Programme for their legal representation during proceedings before the Commission.<sup>115</sup>

The Court awarded \$18,141.65 to compensate the victims' legal representatives for costs incurred during the public hearing and site visitation.<sup>116</sup>

The Court also announced that it may award compensation for reasonable expenses incurred in future monitoring compliance proceedings.<sup>117</sup>

#### 4. Total Compensation (including Costs and Expenses ordered):

\$1,043,141.65

#### *C. Deadlines*

The State must recognize the Kaliña and Lokono peoples' collective juridical personality within two years from the date of the judgment.<sup>118</sup>

The State must grant property title to the Kaliña and Lokono peoples within three years from the date of the judgment.<sup>119</sup>

The State must create and implement a plan for the rehabilitation of the damaged land and submit progress reports to the Court every year.<sup>120</sup> The rehabilitation process must be completed within three years from the date of the judgment.<sup>121</sup>

The State must designate an administrator for the community development fund within three months from the judgment and must allocate the funds within three years.<sup>122</sup>

The State must guarantee: 1) the effective participation of the Kaliña and Lokono peoples in consultation processes, 2) the assessment of social

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114. *Id.* ¶ 323.

115. *Id.*

116. Kaliña and Lokono Peoples v. Suriname, Merits, Reparations and Costs ¶ 323.

117. *Id.*

118. *Id.* ¶ 305(a).

119. *Id.* ¶ 284.

120. *Id.* ¶ 290(a).

121. *Id.* ¶ 291.

122. Kaliña and Lokono Peoples v. Suriname, Merits, Reparations and Costs ¶¶ 297-98.

and environmental impact by independent experts prior to any development on ancestral land, and 3) the sharing of proceeds from such projects developed on the traditional land, within two years from the date of the judgment.<sup>123</sup>

The State must incorporate law enforcement training programs within a reasonable time and as allowed by financial considerations.<sup>124</sup>

The State must publish and broadcast the judgment within six months from the date of the judgment.<sup>125</sup>

The State must provide the Court with a report disclosing the appropriate actions taken to comply with the payments awarded to the victims and representatives within one year from the date of the judgment.<sup>126</sup>

#### V. INTERPRETATION AND REVISION OF JUDGMENT

[None]

#### VI. COMPLIANCE AND FOLLOW-UP

[None]

#### VII. LIST OF DOCUMENTS

##### *A. Inter-American Court*

##### 1. Preliminary Objections

[None]

##### 2. Decisions on Merits, Reparations and Costs

[Kaliña and Lokono Peoples v. Suriname, Merits, Reparations and Costs, Judgment. Inter-Am. Ct. H.R. \(ser. C\) No. 309 \(Nov. 25, 2015\).](#)

[Kaliña and Lokono Peoples v. Suriname, Merits, Reparations and Costs, Judgment, Joint Concurring Opinion of Judges Humberto Antonio Sierra Porto and Eduardo Ferrer Mac-Gregor Poisot. Inter-Am. Ct. H.R. \(ser. C\) No. 309 \(Nov. 25, 2015\).](#)

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123. *Id.* ¶ 305(d).

124. *Id.* ¶ 309.

125. *Id.* ¶ 313.

126. *Id.* ¶ 328.

[Kaliña and Lokono Peoples v. Suriname, Merits, Reparations and Costs, Judgment, Partially Dissenting Opinion of Judge Alberto Pérez Pérez. Inter-Am. Ct. H.R. \(ser. C\) No. 309 \(Nov. 25, 2015\).](#)

3. Provisional Measures

[None]

4. Compliance Monitoring

[None]

5. Review and Interpretation of Judgment

[None]

*B. Inter-American Commission*

1. Petition to the Commission

[Not Available]

2. Report on Admissibility

[Kaliña and Lokono Peoples v. Suriname, Admissibility Report, Report No. 76/07, Inter-Am. Comm'n H.R., Case No. 12.639 \(Oct. 15, 2007\).](#)

3. Provisional Measures

[None]

4. Report on Merits

[Kaliña and Lokono Peoples v. Suriname, Merits Report, Inter-Am. Comm'n H.R., Case No. 12.639 \(Jul. 18, 2013\).](#)

5. Application to the Court

[Kaliña and Lokono Peoples v. Suriname, Letter of Submission, Inter-Am. Comm'n H.R., Case No. 12.639 \(Jan. 27, 2014\).](#)



## VIII. BIBLIOGRAPHY

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