



CORTE INTERAMERICANA DE DERECHOS HUMANOS  
COUR INTERAMERICAINE DES DROITS DE L'HOMME  
CÔRTE INTERAMERICANA DE DIREITOS HUMANOS  
INTER-AMERICAN COURT OF HUMAN RIGHTS



SECRETARIA DE LA CORTE

**ORDER OF THE PRESIDENT  
OF THE INTER-AMERICAN COURT OF HUMAN RIGHTS  
OF APRIL 14, 2007**

**CASE OF THE SARAMAKA COMMUNITY V. SURINAME**

0000053

**HAVING SEEN:**

1. The Resolution of the President of the Inter-American Court of Human Rights (hereinafter "the Inter-American Court", "the Court" or "the Tribunal") of March 30, 2007, in which this Presidency decided, *inter alia*:

[ ]

2. To require the Commission, the representatives, and the State to take all of the necessary measures so that the witnesses and expert witness [ ] may render their testimonies and expert opinions, respectively, by affidavit, and send them to the Inter-American Court by April 23, 2007. This deadline may not be extended.

[ ]

4. To convoke the Inter-American Commission, the representatives and the State to a public hearing that will take place at the seat of the Inter-American Court of Human Rights, on May 9, 2007, starting at 3:00 p.m., and on May 10, 2007, starting at 9:00 a.m., in order to receive their oral arguments on preliminary objections and on possible merits, reparations and costs in the present case, as well as testimony from the following witnesses and expert witness:

[..]

6. To call upon a qualified translator of the State's choice, should the State desire such translation, in order to provide translation services for the State from Dutch into English during the public hearing, and require the State to cover all costs related to said translation services.

[...]

15. To inform the Inter-American Commission, the representatives and the State that they must submit their final written arguments on preliminary objections, as well as on possible merits, reparations and costs in the present case no later than June 6, 2007. This deadline may not be extended and is independent of the issuing of the public hearing's audio recording.

2. The communication of March 30, 2007, by which the Secretariat of the Court (hereinafter "the Secretariat") notified this Presidency's Order (*supra* Having Seen 1), requested the parties' presence at a meeting prior to the holding of the public hearing, further requested the parties to accredit, no later than April 16, 2007, the names of those individuals who would act in its representation at the public hearing and to specify who among them would attend the meeting prior to the public hearing, and informed the parties of the times allotted to each to pose questions and oral arguments during the public hearing.
3. The communication of March 30, 2007, received on April 2, 2007 at the Secretariat, in which the Illustrious State of Suriname (hereinafter "the State" or "Suriname") requested the Court "not to schedule the first public hearing [in the present case] during the LXXV Ordinary Period of Sessions". The State argued, *inter alia*, that it needed more time to prepare its defense for the public hearing and also for the translation of certain unspecified documents.
4. The communication of April 3, 2007, whereby the Secretariat, upon instructions of the Court's President, requested the Inter-American Commission on Human Rights (hereinafter "the Inter-American Commission" or "the Commission") and the representatives of the alleged victims and their next of kin (hereinafter "the representatives") to present their observations regarding the State's request (*supra* Having Seen 3).
5. The communication of April 4, 2007, whereby the State reiterated its request to "convene the first public hearing in [this case] during the LXXVI Ordinary Period of Sessions and not during the upcoming LXXV Ordinary Period of Sessions".
6. The communication of April 4, 2007, by which the Commission stated that it had "some preference" for maintaining the schedule for the public hearing as stated in the Order of March 30, 2007, and added that it would "be able to make the necessary adjustments" should this Presidency "deem it pertinent to modify the terms of [his] Resolution with respect to this hearing".
7. The communication of April 4, 2007, whereby the representatives informed the Court that they "oppose the State's request for a delay to or amendment of the date set by the Tribunal for a public hearing in [the case of the Saramaka Community, and] further oppose the State's request that the Court schedule a separate hearing on preliminary objections during its LXXVI period of sessions". The representatives argued, *inter alia*, that the State had "failed to explain or substantiate in any meaningful way why the Court should amend or rescind [the Order of March 30, 2007]", and that "should the date for the public hearing be changed, the [...] representatives will incur additional and unnecessary costs".
8. The communication of April 10, 2007, by which the Secretariat, upon the instructions of this Presidency, and after having consulted with the Judges of this Tribunal, informed the parties that it is the Court's constant and uniform practice not to modify or suspend public hearings that have already been summoned by way of an Order of this Presidency and notified to the parties, unless good reason is shown to depart from said practice. Accordingly, the parties were informed that, in accordance with the State's communications of March 30 and April 4, 2007 (*supra* Having Seen 3 and 6), the State had not submitted sufficient grounds for the Court to depart from this constant practice. Nevertheless, this Presidency requested the State to submit, no later than April 12, 2007, whether there were any other reasons not mentioned in its March 30 and April 4, 2007 communications (*supra* Having Seen 3 and 6) for this Tribunal to modify or suspend the Order of March 30, 2007.

9. The communication of April 11, 2007, in which the representatives reiterated their "opposition to any postponement [of the public hearing in the present case] for the reasons stated in their communication of 4 April 2007".

10. The communication of April 11, 2007, whereby the State informed the Tribunal of additional reasons, not mentioned in the State's March 30 and April 4, 2007 communications, which "could suffice for the Tribunal to modify or suspend the [...] Order of March 30, 2007". The State explained, *inter alia*, that there is an alleged situation of "*force majeure*" in Suriname due to the resignation of the members of the Presidential Commission on Legal Experts in Human Rights, including the resignation of the Deputy Agent for this case, which allegedly places the State in a position where it currently does not have adequate legal representation for the oral hearings scheduled for May 9 and 10, 2007. The State informed the Court that the Agent, at least in formal terms and pursuant to a constitutional mandate, is the Procurator General of the Republic, and that he will formally remain in the position of Agent of the State in this case. Furthermore, the State relayed that the Deputy Agent will continue working in this case until a replacement has been found, and that an application process is already underway to find said replacement, of which the Court will be informed in due time. Lastly, the State mentioned that, "in addition to preparing for the oral hearings the State will use this period to explore avenues that may result in an out-of-court arrangement".

11. The communication of April 12, 2007, by which the Secretariat, upon the instructions of this Presidency, requested the Inter-American Commission and the representatives to submit their respective observations to the State's communication of April 11, 2007 (*supra* Having Seen 12) no later than April 13, 2007.

12. The communication of April 13, 2007, in which the Commission reiterated its observations of April 4, 2007 (*supra* Having Seen 7), regarding the State's request (*supra* Having Seen 3, 6, and 12).

13. The communication of April 13, 2007, by which the representatives explained in more detail their reasons for objecting to the State's request, arguing, *inter alia*, that there is no *force majeure* situation in Suriname that would justify the State's request, since it is the State itself that is responsible for its alleged lack of legal representation. The representatives argued that the State is not defenseless. The State's main Agent has not resigned and has actively participated in this case, particularly in hearings before the Commission and in meetings with the representatives, including one as recently as April 7, 2007, where he has allegedly demonstrated his knowledge of the case. Therefore, the representatives argue, the State has at least one attorney who has participated in the proceedings of this case for at least six years. Additionally, the representatives stated that the Deputy Agent is still working on this case and will continue to do so until a replacement has been found. Thus, according to the representatives, the Deputy Agent could assist the main Agent in the preparation of the State's defense for the public hearing.

**CONSIDERING THAT:**

1. It is the Court's constant and uniform practice not to modify or suspend public hearings that have already been summoned by way of an Order of the President and notified to the parties.

2. In its March 30<sup>th</sup> communication, which was received on April 2, 2007, that is, after this Presidency had issued its Order of March 30, 2007, the State requested the Court "not to schedule the first public hearing [in the present case] during the LXXV Ordinary Period of Sessions" (*supra* Having Seen 3). The State argued that it needed more time to prepare its defense for the public hearing and also for the translation of certain unspecified documents. The State reiterated said request in its April 4, 2007 communication (*supra* Having Seen 5).

3. This Presidency, after consulting with the Judges of this Tribunal, informed the State that the two reasons mentioned in the State's March 30<sup>th</sup> and April 4<sup>th</sup> communications did not provide sufficient grounds for the Court to depart from its constant and uniform practice (*supra* Having Seen 8). The Court is not aware of which documents the State is referring to, nor has the Court requested their translation. Furthermore, the Secretariat informed the State on March 12, 2007 that a public hearing in the present case was being tentatively planned for its LXXV Period of Ordinary Sessions during the week of May 7 to May 12, 2007. On March 30<sup>th</sup> this Presidency officially notified the parties of the dates and scope of the public hearing, giving the parties ample time to prepare themselves and their witnesses and expert witnesses for said hearing. Nevertheless, this Presidency allowed the State to inform the Court of any additional reasons for this Presidency to modify its March 30<sup>th</sup> Order (*supra* Having Seen 8).

4. In its April 11<sup>th</sup> communication, the State informed the Court, *inter alia*, that there is an alleged "situation of *force majeure*" in Suriname, in relation to this case, due to the resignation of the members of the Presidential Commission on Legal Experts in Human Rights, which "was in charge of providing material legal input [...] to the Agent and Deputy Agent of the State", and to the resignation of the Deputy Agent for this case, which allegedly places the State in a position where it would not have adequate legal representation for the oral hearings scheduled for May 9 and 10, 2007.

5. In this regard, the Inter-American Commission and the representatives submitted their respective observations, as stated *supra* (Having Seen 6, 7, 9, 12, and 13).

6. Having consulted with the Judges of this Tribunal, this Presidency considers that the State has been given ample opportunities to provide reasons that would support the State's request (*supra* Having Seen 3, 5, 8, and 10). Nevertheless, the State's arguments have not persuaded this Presidency, or the other Judges of this Tribunal, to modify the Order of March 30, 2007 and depart from the Court's constant and uniform practice (*supra* Considering 2).

7. Contrary to the State's contention, the resignation of a Deputy Agent or of an advisory Commission to the State's Agent does not constitute a reason of *force majeure* detrimental to the right of defense of the State. A situation of *force majeure* arises when there are circumstances beyond the reasonable control of the parties, which prevent one or all parties from fulfilling their obligations. *Force majeure* is not intended to excuse for circumstances that arise out of the voluntary conduct of one of the parties.

8. The resignation of the members of the Presidential Commission on Legal Experts in Human Rights and of the State's Deputy Agent does not leave the State in a situation of defenselessness. In accordance with Article 21 and of Article 2.1 of the Court's Rules of Procedure, as well as with the Court's jurisprudence<sup>1</sup>, the State's Agent is the person who represents the State before the Court in all of the proceedings before this Tribunal. In the present case, the Agent of the case has notified the Court that he will continue to be

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<sup>1</sup> *Case of Huilca Tecse* Judgment of March 3, 2005. Series C No. 121, par. 53

involved in the present litigation, and the representatives assert that they have met several times with the State's Agent, who has demonstrated a clear understanding and knowledge of the legal issues involved. Furthermore, the State has informed the Court that the Deputy Agent of the case will remain in said position until a replacement is found. Additionally, the State Agent informed the Court that it was exploring avenues to reach an out-of-court settlement with the representatives. Thus, this Presidency, as well as the Judges of this Tribunal, considers that the State is not without adequate legal representation in the present case, as the State has shown that its Agent and Deputy Agent continue to represent the State in the present case. Therefore, the public hearing in the present case may continue in the terms stated in the Order of March 30, 2007, and in accordance with the modifications mentioned *infra*.

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9. Notwithstanding the above, this Presidency has taken notice of the State's concerns regarding the official language of these proceedings. For example, the State has expressed that it faces certain logistical problems in translating certain documents from Dutch into English, which is the official language of the proceedings of the case. For said reasons, this Presidency will allow the State, as well as the Commission and the representatives, to submit their respective final written arguments no later than July 6, 2007, rather than on June 6, 2007, as stated in the Order of March 30, 2007. Furthermore, this Presidency reminds the parties that, pursuant to Article 45(1) of the Court's Rules of Procedure, the Court may obtain, on its own motion, any evidence it considers helpful for the resolution of this case.

10. The State has also requested that it be allowed to address the Court in Dutch during the public hearing. In light of the above considerations, this Presidency hereby deems it pertinent to modify the March 30, 2007 Resolution and declares that the Court will provide the State with a translator from Dutch into English or Spanish for the public hearing in this case, and cover all related costs.

11. In light of the above-mentioned considerations, this Presidency considers it pertinent to allow the Commission, the representatives and the State to submit the testimonies and expert opinions, by affidavit, of the witnesses and expert witness mentioned in the first Operative Paragraph of the Order of the President of March 30, 2007, no later than May 2, 2007, rather than April 23, 2007.

**NOW THEREFORE:**

**THE PRESIDENT OF THE INTER-AMERICAN COURT OF HUMAN RIGHTS,**

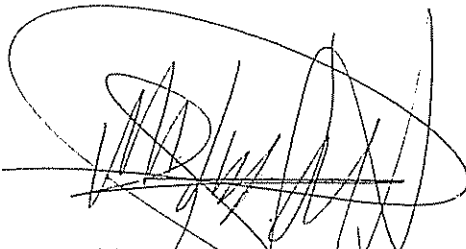
in accordance with Articles 24(1) and 25(2) of the Court's Statute and Articles 4, 14(1), 24, 29(2), 40, 44, 45, 46, 47, 49, 51 and 52 of its Rules of Procedure, and having consulted the other Judges of the Tribunal,

**DECIDES:**

1. To reaffirm the Order of the President of March 30, 2007, with the exception of the modifications made to said Order as stated in the second, fourth, and fifth Operative Paragraphs of the present Order.
2. To require the Commission, the representatives and the State to take all of the necessary measures so that the witnesses and expert witness mentioned in the first Operative Paragraph of the Order of the President of March 30, 2007, may render their testimonies and expert opinions, respectively, by affidavit, and send them to the Inter-American Court no later than May 2, 2007, rather than April 23, 2007. This deadline may not be extended.
3. To request the Court's Secretariat, in accordance with the right of defense and the adversarial principle, to transmit the affidavits to the parties, so that they may submit the observations which they deem to be pertinent, within a period of seven days from the time the affidavit is received. This deadline may not be extended.
4. To request the Court's Secretariat to provide translation services for the State from Dutch into English or Spanish during the public hearing, and require the Inter-American Court of Human Rights to cover all costs related to such translation services.
5. To inform the Inter-American Commission, the representatives and the State that they must submit their final written arguments on preliminary objections, as well as on possible merits, reparations and costs in the present case no later than July 6, 2007, rather than June 6, 2007. This deadline may not be extended and is independent of the issuing of the public hearing's audio recording.
6. To require the Secretariat of the Court to notify the present Order to the Inter-American Commission, the representatives of the alleged victims and their next of kin and the State.



Sergio García Ramírez  
President



Pablo Saavedra Alessandri  
Secretary