

**ORDER OF THE**  
**INTER-AMERICAN COURT OF HUMAN RIGHTS\***  
**SEPTEMBER 26, 2018**  
**CASE OF THE SARAKA PEOPLE V. SURINAME**  
**MONITORING COMPLIANCE WITH JUDGMENT**

**HAVING SEEN:**

1. The judgment on preliminary objections, merits, reparations and costs (hereinafter “the judgment”) delivered by the Inter-American Court of Human Rights (hereinafter “the Court” or “the Inter-American Court”) on November 28, 2007.<sup>1</sup> In this case, the Court declared that the Republic of Suriname (hereinafter “the State” or “Suriname”) had incurred international responsibility for the violations perpetrated against the Saramaka people. Between 1997 and 2004, it was Suriname’s practice to issue logging concessions involving the land and natural resources traditionally used by the members of the Saramaka people. In the case of these logging concessions, the State did not undertake or supervise prior social or environmental assessments; furthermore, it failed to implement guarantees or mechanisms to ensure that the concessions would not result in major damage to the Saramaka communities and territory. In addition, Suriname did not allow the Saramaka people effective participation in the decision-making process concerning the logging concessions and they received no benefit from the extraction of timber from their territory. Lastly, it was noted that the State had not granted the Saramaka people the legal capacity to enjoy, collectively, the right to property and to claim the violation of this right before the domestic courts. Consequently, the Court declared that the State had violated the right to property, the right to recognition of juridical personality and the right to judicial protection recognized in the American Convention on Human Rights, of the members of the Saramaka people. The Court determined that the said judgment constituted, in itself, a form of reparation and ordered the State to take additional measures of reparation (*infra considerandum* 1).

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\* Judge Elizabeth Odio Benito did not attend the 127th regular session of the Inter-American Court for reasons beyond her control that were accepted by the full Court. Consequently, she did not take part in the deliberation and signature of this order.

<sup>1</sup> Cf. *Case of the Saramaka People v. Suriname. Preliminary objections, merits, reparations and costs.* Judgment of November 28, 2007. Series C No. 172. The complete text of the judgment is available at: [http://www.corteidh.or.cr/docs/casos/articulos/seriec\\_172\\_ing.pdf](http://www.corteidh.or.cr/docs/casos/articulos/seriec_172_ing.pdf). The judgment was notified to the State on December 19, 2007.

2. The judgment interpreting the judgment (hereinafter "the interpretation judgment") delivered by the Court on August 12, 2008.<sup>2</sup>
3. The two orders on monitoring compliance with judgment issued by the Court on November 23, 2011, and September 4, 2013.<sup>3</sup>
4. The reports submitted by the State on March 22 and April 12, 2013.
5. The observations presented by the representatives of the victims<sup>4</sup> (hereinafter "the representatives") on February 10 and March 4, 2013.
6. The observations presented by the Inter-American Commission on Human Rights (hereinafter "the Inter-American Commission" or "the Commission") on March 12, 2013.
7. The private hearing on monitoring compliance with judgment held on May 28, 2013.<sup>5</sup>
8. The six reports submitted by the State between July 2013 and April 2015.<sup>6</sup>
9. The four observation briefs presented by the representatives between August 2013 and May 2015.<sup>7</sup>
10. The three observation briefs presented by the Inter-American Commission between August 2013 and June 2015.<sup>8</sup>
11. The note of the Court's Secretariat of December 21, 2016, in which, on the instructions of the President of the Court, the State was asked to present a report on

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<sup>2</sup> Cf. *Case of the Saramaka People v. Suriname. Interpretation of the judgment on preliminary objections, merits, reparations and costs*. Judgment of August 12, 2008. Series C No. 185. The complete text of the judgment is available at: [http://www.corteidh.or.cr/docs/casos/articulos/seriec\\_185\\_inq.pdf](http://www.corteidh.or.cr/docs/casos/articulos/seriec_185_inq.pdf)

<sup>3</sup> Cf. *Case of the Saramaka People v. Suriname. Monitoring compliance with judgment*. Order of the Inter-American Court of Human Rights of November 23, 2011, available at: [http://www.corteidh.or.cr/docs/supervisiones/saramaka\\_23\\_11\\_11.pdf](http://www.corteidh.or.cr/docs/supervisiones/saramaka_23_11_11.pdf).

Cf. *Case of the Saramaka People v. Suriname. Request for provisional measures and Monitoring compliance with judgment*. Order of the Inter-American Court of Human Rights of September 4, 2013, available at: [http://www.corteidh.or.cr/docs/supervisiones/saramaka\\_04\\_09\\_13.pdf](http://www.corteidh.or.cr/docs/supervisiones/saramaka_04_09_13.pdf).

<sup>4</sup> The Forest Peoples Programme represents the victims in this case.

<sup>5</sup> The following participated in the hearing: (a) for the State: Jules Wijdenbosch, Government Advisor, former President of the Republic of Suriname; Stanley Betterson, Minister for Regional Development; Martin Misiedjan, Presidential Commissioner on Land Rights; Jennifer Van Dijk-Silos, Government Legal Advisor; Albert Aboikoni, Head Captain of the Saramaka People; Henk Finisi, Head Captain of the Saramaka People; Jornell Vinkwolk, Head of the Human Rights Department of the Ministry of Justice and Police, and Monique Pool, interpreter; (b) for the victims and their representatives: Hugo Jabini, representative of the Saramaka People; Wazen Eduards, Director in Chief, President of the Association of Saramaka Authorities; Peter Amoida, Representative of Gaama and the Association of Saramaka Authorities; Nicolas Petrusi, Association of Saramaka Authorities; Fergus MacKay, Coordinating Lawyer for the Forest Peoples Programme, and Alanca Morales Garro, of the Forest Peoples Programme, and (c) for the Commission: Elizabeth Abi-Mershed, Deputy Executive Secretary. The hearing was held before Judges Diego García-Sayán, President of the Court, Alberto Pérez Pérez and Humberto A. Sierra Porto.

<sup>6</sup> Briefs of July 9, 10, 11 and 26, and October 25, 2013, and April 27, 2015.

<sup>7</sup> Briefs of August 5, 2013, March 10 and November 3, 2014, and May 29, 2015.

<sup>8</sup> Briefs of August 29 and December 17, 2013, and June 18, 2015.

compliance with the reparations by March 17, 2017, at the latest, and the notes of the Court's Secretariat of August 9 and October 10, 2017, reminding the State that the said time frame had expired (*infra considerandum* 4).

### **CONSIDERING THAT:**

1. In the exercise of its jurisdictional function of monitoring compliance with its decisions,<sup>9</sup> the Court has been monitoring compliance with the execution of the judgment handed down in this case for almost eleven years (*supra* having seen paragraph 1). In the order issued by the Court in November 2011 (*supra* having seen paragraph 2), the Court declared that the State had complied fully with three reparations,<sup>10</sup> and that seven reparations remained pending compliance (*infra consideranda* 5, 12 and 34). Subsequently, in its order of 2013, the Court ruled on a request for provisional measures with regard to a mining exploitation project and determined that "the analysis and assessment of the information submitted with regard to the mining exploitation project in Saramaka territory is related to monitoring compliance with the judgment" and, therefore, asked the State to provide relevant information (*infra considerandum* 18).

2. In accordance with Article 68(1) of the American Convention, "[t]he States Parties to the Convention undertake to comply with the judgment of the Court in any case to which they are parties." This obligation includes the obligation of the State to inform the Court of the measures taken to comply with each element ordered, which is essential in order to evaluate the status of compliance with the judgment as a whole.<sup>11</sup> Indeed, it should also be recalled that, according to Article 67 of the American Convention, "[t]he judgment of the Court shall be final and not subject to appeal"; thus, when the Court has delivered its judgment, this has the effect of *res judicata* and must be complied with promptly and fully by the State.

3. The States Parties to the American Convention are bound by this treaty to implement fully and promptly, at both the domestic and the international level, the decisions taken by the Court in the judgments that involve them. This obligation, as indicated in international customary law and as the Court has recalled, is binding for all the powers and organs of the State<sup>12</sup> and, if it is not fulfilled, an internationally wrongful act is committed. In this regard, it should be added that, under international customary law and as indicated by the Court, whenever an internationally wrongful act

<sup>9</sup> A prerogative that also arises from Articles 33, 62(1), 62(3) and 65 of the American Convention and 30 of the Court's Statute, and that is regulated in Article 69 of its Rules of Procedure.

<sup>10</sup> Suriname has complied fully with the following measures of reparations: (i) translate into the Dutch language and publish in the State's official gazette and in another newspaper with widespread circulation Chapter VII of the judgment, without the corresponding footnotes, and operative paragraphs one to fifteen (*eleventh operative paragraph of the judgment*); (ii) finance two broadcasts in the Saramaka language of the pertinent paragraphs and operative paragraphs of the judgment by a radio station accessible to the Saramaka people (*twelfth operative paragraph of the judgment*), and (iii) make the payment for costs and expenses to the Forest Peoples Programme and to the Association of Saramaka Authorities (*fourteenth operative paragraph of the judgment*).

<sup>11</sup> Cf. *Case of the Barrios Family v. Venezuela. Monitoring compliance with judgment*. Order of the Inter-American Court of Human Rights of September 2, 2015, *considerandum* 2, and *Case of the Massacres of El Mozote and neighboring places v. El Salvador. Monitoring compliance with judgment*. Order of the Inter-American Court of Human Rights of May 30, 2018, *considerandum* 2.

<sup>12</sup> Cf. *Case of Castillo Petruzzi et al. v. Peru. Monitoring compliance with judgment*. Order of the Inter-American Court of Human Rights of November 17, 1999, *considerandum* 3, and *Case of Fleury et al. v. Haiti. Monitoring compliance with judgment*. Order of the Inter-American Court of Human Rights of November 22, 2016, *considerandum* 3.

that can be attributed to the State occurs, the State's international responsibility arises based on violation of an international law, and this results in a new legal relationship consisting in the obligation to provide redress.<sup>13</sup> As the Court has indicated,<sup>14</sup> Article 63(1) of the Convention reproduces the text of a customary norm that constitutes one of the fundamental principles of the law on the international responsibility of States.<sup>15</sup> Failure to execute the reparations in the domestic sphere signifies denial of the right of access to international justice.<sup>16</sup>

4. Following the Court's order of 2011 (*supra* having seen paragraph 3), the State has submitted several reports, the last of which was forwarded in April 2015 (*supra* having seen paragraph 8). Suriname did not submit the report requested by the President of the Court in December 2016 (*supra* having seen paragraph 11 and *infra considerandum* 46). The Court will assess the degree of compliance with the reparations based on the information provided by the parties and will structure its considerations as follows:

A.	<i>Compensation for pecuniary and non-pecuniary damage</i>	4
B.	<i>Delimit and demarcate and grant collective title over the territory of the members of the Saramaka People</i>	6
C.	<i>Other measures of reparation</i>	12
D.	<i>Pending report and possible monitoring visit</i>	15

## **A. Compensation for pecuniary and non-pecuniary damage**

### *A.1. Measure required by the Court and monitoring realized in previous orders*

5. In the thirteenth operative paragraph and in paragraphs 199, 201, 202, 208 and 210 to 212 of the judgment, the Court ordered the State to "allocate the amounts set in th[e] judgment as compensation for pecuniary and non-pecuniary damage in a community development fund created and established for the benefit of the members of the Saramaka people in their traditional territory." Pursuant to paragraphs 199 and 201 of the judgment, the State must pay into this fund the sum of US\$75,000.00 (seventy-five thousand United States dollars) for pecuniary damage, and US\$600,000.00 (six hundred thousand United States dollars) for non-pecuniary damage in favor of the Saramaka people.

6. Regarding the administration of this fund, in the judgment, the Court ordered that it "serve to finance educational, housing, agricultural and health projects, as well as to provide electricity and drinking water, if necessary, for the benefit of the Saramaka people." Paragraph 202 of the judgment indicated that:

An implementation committee composed of three members will be responsible for designating how the projects will be implemented. The implementation committee shall consist of a

<sup>13</sup> Cf. *Case of Garrido and Baigorria. Reparations* (Art. 63(1) American Convention on Human Rights). Judgment of August 27, 1998. Series C No. 39, para. 40, and *Case of Fleury et al. v. Haiti, supra* footnote 12, *considerandum* 3.

<sup>14</sup> Cf. *Case of Castillo Páez v. Peru. Reparations and costs*. Judgment of November 27, 1998. Series C No. 43, para. 50, and *Case of Fleury et al. v. Haiti, supra* footnote 12, *considerandum* 3.

<sup>15</sup> Cf. *Reparation for Injuries Suffered in the Service of the United Nations, Advisory Opinion: I.C.J. Reports 1949*, p. 184; *Case concerning the Factory at Chorzów (Claim for Indemnity) (Merits)*, Judgment No. 13, 13 September 1928, P.C.I.J. Series A. No. 17, p. 29, and *Case of Fleury et al. v. Haiti, supra* footnote 12, *considerandum* 4.

<sup>16</sup> Cf. *Case of Baena Ricardo et al. v. Panama. Jurisdiction*. Judgment of November 28, 2003. Series C No. 104, para. 83 and *Case of Fleury et al. v. Haiti, supra* footnote 12, *considerandum* 4.

representative appointed by the victims, a representative appointed by the State, and another representative jointly appointed by the victims and the State. The Committee shall consult with the Saramaka people before decisions are taken and implemented. Furthermore, the members of the fund's implementation committee must be selected within six months from the notification of the present Judgment. Should the State and the representatives fail to reach an agreement as to the members of the implementation committee within six months after notice of the present Judgment, the Court may convene a meeting to resolve the matter.

7. Lastly, in paragraph 208 of the judgment, the Court indicated that "[t]he State must allocate at least US\$225,000.00 (two hundred and twenty-five thousand United States dollars) for the purposes of the development fund mentioned in paragraphs 199 and 201 within one year of notification of the [...] Judgment, and the total amount must be allocated within three years from notification of th[e] Judgment." The time frames indicated expired on December 19, 2008, and December 19, 2010, respectively. The Court also indicated that "should the State fall behind in its establishment of the development fund, Surinamese banking default interest rates shall be paid on the amount owed".

8. In its 2011 order, the Court declared that this measure had been complied with partially, because the State had deposited US\$600,000.00 in the account of the Saramaka peoples' community development fund, as compensation for non-pecuniary damage. The State indicated that this fund was established in compliance with the Court's requirement and as ordered in the judgment<sup>17</sup> (*supra considerandum* 6). Since the Court "was not offered evidence to verify these statements" made by the State, it asked the State and the representatives to "provide it with information regarding whether an amount of USD \$75,000.00 [...] was also deposited into the community development fund in order to fully comply with this order of the Court and whether any interest payments remain pending".

#### *A.2. Considerations of the Court*

9. Based on information provided by the State<sup>18</sup> and acknowledged by the representatives, the Court notes that, in 2009, the US\$675,000.00 ordered in the judgment as compensation for pecuniary and non-pecuniary damage was paid to the Saramaka peoples' community development fund within the time frame specified in the judgment. The Court underscores that, in August 2013, the representatives acknowledged that this measure of reparation had been fulfilled,<sup>19</sup> and that, subsequently, the representatives had not referred to this measure of reparation or raised any objections in this regard.

10. Nevertheless, regarding administration of the fund (*supra considerandum* 6), the Court recalls that, in the order issued in 2011 (*supra* having seen paragraph 2), it was noted that the representatives had raised an objection regarding the fact that "the funds have been transmitted to the development fund ordered by the Court", but indicated that "no funds ha[d] been used for activities in Saramaka territory to date". However, the Court notes that, following the said order, the representatives had made no further reference to the administration of the fund or the execution of the money in

<sup>17</sup> Cf. *Case of the Saramaka People v. Suriname. Monitoring compliance with judgment*. Order of the Inter-American Court of Human Rights of November 23, 2011, *considerandum* 39.

<sup>18</sup> In July 2013, the State indicated that "the amount of US\$675,000.00 for pecuniary and non-pecuniary compensation has been paid in full and deposited in the said fund." The State did not present a voucher for this deposit.

<sup>19</sup> The representatives attached a document to their observation brief of August 5, 2013, acknowledging that this measure of reparation had been complied with.

the fund. To the contrary, in their observation brief of August 5, 2013, the representatives indicated that the thirteenth operative paragraph had been complied with (*supra considerandum* 9). Accordingly, the Court will not include any further considerations on the administration or execution of the money in the fund. Nevertheless, the Court recalls that, according to paragraphs 200 and 201 of the judgment, the purpose of the sum allocated to the community development fund is to “finance educational, housing, agricultural and health projects, as well as to provide electricity and drinking water, if necessary, for the benefit of the Saramaka people” (*supra considerandum* 6).

11. Based on the above, the Court considers that the State has complied fully with the measure of reparation relating to the payment of the compensation for pecuniary and non-pecuniary damage.

## **B. Delimit and demarcate and grant collective title over the territory of the members of the Saramaka People**

### *B.1. Measure required by the Court and monitoring realized in previous orders*

12. In the fifth operative paragraph of the judgment, the Court ordered the State to:

Delimit, demarcate and grant collective title over the territory of the members of the Saramaka people in accordance with their customary laws, and through previous, effective and fully informed consultations with the Saramaka people, without prejudice to other tribal and indigenous communities. Until said delimitation, demarcation, and titling of the Saramaka territory has been carried out, Suriname must abstain from acts which might lead the agents of the State itself, or third parties acting with its acquiescence or its tolerance, to affect the existence, value, use or enjoyment of the territory to which the members of the Saramaka people are entitled, unless the State obtains the free, informed and prior consent of the Saramaka people. With regards to the concessions already granted within traditional Saramaka territory, the State must review them in light of the present Judgment and the Court’s jurisprudence, in order to evaluate whether a modification of the rights of the concessionaires is necessary in order to preserve the survival of the Saramaka people, in the terms of paragraphs 101, 115, 129 to 137, 143, 147, 155, 157, 158, and 194(a) of this Judgment

13. In paragraph 194(a) of the judgment, the Court indicated that “[t]he State must begin the process of delimitation, demarcation and titling of traditional Saramaka territory within three months from notification of the present Judgment and must complete this process within three years from such date.”

14. In paragraphs 129, 133, 143 and 155 of the judgment, the Court determined that:

129. In this particular case, the restrictions in question pertain to the issuance of logging and mining concessions for the exploration and extraction of certain natural resources found within Saramaka territory. Thus, in accordance with Article 1(1) of the Convention, in order to guarantee that restrictions to the property rights of the members of the Saramaka people by the issuance of concessions within their territory does not amount to a denial of their survival as a tribal people, the State must abide by the following three safeguards: First, the State must ensure the effective participation of the members of the Saramaka people, in conformity with their customs and traditions, regarding any development, investment, exploration or extraction plan (hereinafter “development or investment plan”) within Saramaka territory. Second, the State must guarantee that the Saramakas will receive a reasonable benefit from any such plan within their territory. Thirdly, the State must ensure that no concession will be issued within Saramaka territory unless and until independent and technically capable entities, with the State’s supervision, perform a prior environmental and social impact assessment.

These safeguards are intended to preserve, protect and guarantee the special relationship that the members of the Saramaka community have with their territory, which in turn ensures their survival as a tribal people.

[...]

133. First, the Court has stated that in ensuring the effective participation of members of the Saramaka people in development or investment plans within their territory, the State has a duty to actively consult with said community according to their customs and traditions (*supra* para. 129). This duty requires the State to both accept and disseminate information and entails constant communication between the parties. These consultations must be in good faith, through culturally appropriate procedures and with the objective of reaching an agreement. Furthermore, the Saramakas must be consulted, in accordance with their own traditions, at the early stages of a development or investment plan, not only when the need arises to obtain approval from the community, if such is the case. Early notice provides time for internal discussion within communities and for proper feedback to the State. The State must also ensure that members of the Saramaka people are aware of possible risks, including environmental and health risks, in order that the proposed development or investment plan is accepted knowingly and voluntarily. Finally, consultation should take account of the Saramaka people's traditional methods of decision-making.

[...]

143. As mentioned above, Article 21 of the Convention does not *per se* preclude the issuance of concessions for the exploration and exploitation of natural resources in indigenous or tribal territories. Nonetheless, if the State wants to restrict, legitimately, the Saramakas' right to communal property, it must consult with the communities affected by the development or investment project planned within territories which they have traditionally occupied, reasonably share the benefits with them, and complete prior assessments of the environmental and social impact of the project (*supra* paras. 126-129).

[...]

155. The Court must also analyze whether gold-mining concessions within traditional Saramaka territory have affected natural resources that have been traditionally used and are necessary for the survival of the members of the Saramaka people. According to the evidence submitted before the Court, the members of the Saramaka people have not traditionally used gold as part of their cultural identity or economic system. Despite possible individual exceptions, members of the Saramaka people do not identify themselves with gold nor have they demonstrated a particular relationship with this natural resource, other than claiming a general right to "own everything, from the very top of the trees to the very deepest place that you could go under the ground." Nevertheless, as stated above (*supra* paras. 126-129), because any gold mining activity within Saramaka territory will necessarily affect other natural resources necessary for the survival of the Saramakas, such as waterways, the State has a duty to consult with them, in conformity with their traditions and customs, regarding any proposed mining concession within Saramaka territory, as well as to allow the members of the community to reasonably participate in the benefits derived from any such possible concession, and perform or supervise an assessment on the environmental and social impact prior to the commencement of the project. The same analysis applies regarding other concessions within Saramaka territory involving natural resources which have not been traditionally used by members of the Saramaka community, the extraction of which will necessarily affect other resources that are vital to their way of life.

15. In the order issued on November 23, 2011, the Court considered that "the State ha[d] not complied with this obligation and must thus submit updated and detailed information on the specific measures it is implementing in order to delimit, demarcate, and title Saramaka territories as indicated in the Judgement". It also required the State to provide information "on the specific actions it is taking in order to consult the Saramaka people on the implementation of this particular order, as well as on the results of those consultations". Lastly, it required Suriname to present "a detailed schedule for compliance with this obligation" and a "sketch map that was used by the Association of Saramaka Authorities to hold 'consultations in [...] Saramaka areas'".

16. Additionally, the Court emphasized that, according to the time frame granted in the judgment, the State should have complied with this reparation within three years of its notification. Therefore, "this measure of reparation should have been implemented by December 2010, at the latest".

17. Moreover, in the said order of 2011, the Court determined that, since the "titling of Saramaka lands has not yet been carried out [...], the Court considers that the granting of any new concessions in those territories after December 19, 2007, the date on which the Judgement was served, without the consent of the Saramaka and without prior environmental and social impact assessments, would constitute a direct contravention of the Court's decision and, accordingly, of the State's international treaty obligations". Additionally, the State was required to provide "detailed information on whether it has reviewed concessions existing in Saramaka territory prior to the issuance of the Judgement"<sup>20</sup> and also with regard to "all the logging and mining concessions allegedly granted after the Judgement was served"<sup>21</sup>.

18. Lastly, in its order of September 2013, the Court asked the State "to forward to the Court a complete, detailed and specific report" on the alleged granting of a mining concession in Saramaka territory to IAMGOLD in June 2013,<sup>22</sup> indicating: "(a) the scope and content of the said concession, b) whether the Saramaka People was consulted and what measures were taken to this end; c) whether the said concession was preceded by environmental and social assessment studies, and d) if applicable, the benefits for the Saramaka People; all of this pursuant to operative paragraphs 5, 7 8 and 9 of the Judgement".

### *B.2. Considerations of the Court*

19. Regarding the obligation to delimit, demarcate and grant collective title over the territory of the members of the Saramaka People, in its report of March 2013, the State indicated that it had "contracted a consultant acceptable to the VSG to arrive at the demarcation of the Sa[r]amaka residential and living area"; that a "draft land use map" had been drawn up, and that "the Saramaka have accepted this draft and approved it, but no agreement has been reached within the whole society on this". Subsequently, the State only referred to the impossibility of complying with this point and with the other elements of the judgment owing to an alleged "crisis of authority" due to the death of a Saramaka leader, and to the lack of unanimity among the clans of which the Saramaka people are composed. According to the State, this made it impossible to comply with the measures (*infra considerandum* 40). Meanwhile in their 2014 and 2015 observations, the representatives insisted in Suriname's failure to adopt measures to comply with this element of the measure of reparation.

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<sup>20</sup> In this regard, the Court ordered that "the State must report on: whether it has consulted with the Saramaka and ensured their effective participation in those reviews; how it is guaranteeing that the Saramaka will receive reasonable benefits from those concessions; and whether environmental and social impact assessments have been carried out".

<sup>21</sup> The Court requested information "on the title of land lease apparently granted to the 'Anaula Nature Resort NV'; on any upgrades to the Afobaka road in Saramaka territory", regarding which the representatives presented information at that time, and "on any other action that could affect the existence, value, use, or enjoyment of the territory of the members of the Saramaka people".

<sup>22</sup> Following delivery of the judgment, the representatives of the victims presented information concerning "a mineral exploitation Project that has allegedly been awarded to IAMGOLD, [...] and which would have 'severe effects' on the subsistence practices, spiritual freedom, and the land and culture of the Saramaka. In addition, this Project would affect the viability of the Saramaka territory for present and future generations...". Cf. *Case of the Saramaka People v. Suriname. Request for provisional measures and Monitoring compliance with judgment*. Order of the Inter-American Court of Human Rights of September 4, 2013, para. 18. The representatives requested provisional measures. However, the Court did not grant these in the said order; rather, it indicated that this information would be assessed in the context of monitoring compliance with the judgment.



20. The Court underscores that the State has not presented precise, updated information on this aspect of the measure, despite the requests for information and the reminders contained in notes from the Secretariat (*supra* having seen paragraph 11). Bearing this in mind, the Court reiterates, as it did in its 2011 order, that full compliance with this measure of reparation should have been completed by December 19, 2010, at the latest. Thus, the three-year time frame indicated in the judgment expired approximately seven years and nine months ago, without any indication to date that the State has made substantial progress in compliance. To the contrary, in view of the representatives' observations regarding the absence of measures aimed at compliance, the Court considers that the State is in non-compliance with the time frame granted in the judgment.

21. Compliance with this measure has special relevance for the Saramaka people. As established in the judgment:

82. Their culture is also similar to that of tribal peoples insofar as the members of the Saramaka people maintain a strong spiritual relationship with the ancestral territory they have traditionally used and occupied. Land is more than merely a source of subsistence for them; it is also a necessary source for the continuation of the life and cultural identity of the Saramaka people. The lands and resources of the Saramaka people are part of their social, ancestral, and spiritual essence. In this territory, the Saramaka people hunt, fish and farm, and they gather water, plants for medicinal purposes, oils, minerals and wood. Their sacred sites are scattered throughout the territory, while at the same time the territory itself has a sacred value to them. In particular, the identification of the members of the Saramaka people with the land is inextricably linked to their historical fight for freedom from slavery, called the sacred "first time." During the public hearing in this case, Head Captain Wazen Eduards described their special relationship with the land as follows:

The forest is like our market place; it is where we get our medicines, our medicinal plants. It is where we hunt to have meat to eat. The forest is truly our entire life. When our ancestors fled into the forest, they did not carry anything with them. They learned how to live, what plants to eat, how to deal with subsistence needs once they got to the forest. It is our whole life.

22. Consequently, the Court requires the State to adopt forthwith the necessary measures to delimit and demarcate the lands corresponding to the Saramaka people definitively, and to grant them collective title. In this regard, the State must present a detailed timetable to comply with this obligation.

23. Furthermore, regarding the obligation to review the concessions granted in the territory corresponding to the Saramaka people before the judgment was handed down (*supra considerandum* 12), the Court observes that the *State* has not provided information, following the 2011 order, to show that it has taken any measure aimed at reviewing such concessions. Consequently, the Court requires the State to specify the concessions that were granted and subsist within Saramaka territory, and the measures it has taken to review them. Suriname must indicate whether it has consulted the Saramaka and guaranteed their effective participation in these reviews. Also, if appropriate, whether it is ensuring that the members of the Saramaka people receive reasonable benefits from these concessions, and whether the relevant social and environmental impact assessments were carried out.<sup>23</sup>

<sup>23</sup> Similarly, in *considerandum* 25 of the order of 2013, the Court required "the State must forward the Court a complete, detailed and specific report on the alleged award of the mining concession on the Saramaka territory to IAMGOLD, in which it must indicate: (a) the scope and content of the said concession, (b) whether the Saramaka People was consulted and what measures were taken to this end; (c) whether the said concession was preceded by environmental and social assessment studies, and (d) if applicable, the benefits for the Saramaka People; all of this pursuant to operative paragraphs 5, 7, 8 and 9 of the Judgement".

24. Lastly, regarding the logging and mining concessions granted following the judgment and the State's obligation to "abstain from acts which might lead the agents of the State itself, or third parties acting with its acquiescence or its tolerance, to affect the existence, value, use or enjoyment of the territory to which the members of the Saramaka people are entitled" (*supra considerandum* 12), the Court observes that, after 2011, the legal debate on this aspect of the measure has been restricted to the alleged concession granted to IAMGOLD, which the Court referred to in the 2013 order (*supra considerandum* 18) and to the modification of the Rosebel Mineral Agreement, in force since April 1994, by the April 2013 amendment (*infra considerandum* 25).

25. In this regard, based on the information provided by the parties, in April 2013 an amendment was made to the Rosebel Mineral Agreement, which regulated the terms of the rights for the exploration and exploitation of mineral resources in certain "areas of interest," by IAMGOLD and its subsidiary, Rosebel Gold Mines ("RGM"). As emphasized by the representatives in their 2013, 2014 and 2015 observations, Suriname has not provided the Court with a copy of the said Rosebel Mineral Agreement as it is in force at the present time; hence the Court is uncertain of the contents of the agreement and the areas of interest that are affected by this amendment.

26. The parties hold contradictory positions (*infra consideranda* 27 and 28) with regard to the content and scope of the said agreement, and regarding whether the State has complied with its international obligations to legitimately restrict the Saramaka people's property rights over their territories established in the judgment.<sup>24</sup>

27. In its 2013 report, the *State* indicated that this amendment to the agreement "does not grant RGM [IAMGOLD's subsidiary] any rights of exploration (or exploitation) within the joint venture area", so that "there is no conceivable scenario possible" in which the mining activity carried out by the joint project between RGM and the State of Suriname will take place within Saramaka territory. The State also asserted that RGM would be obliged to complete a social and environmental impact assessment for the planned exploitation and any possible impact it would have on the Saramaka communities. In addition, the State indicated that the communities had been offered the opportunity to give their opinions on the amendment to the said agreement, and the Saramaka people had raised no objections to the modification of the agreement or the activities of IAMGOLD in their districts; moreover, there would be benefits for the local communities, because "RGM provides significant opportunities for the local communities by engaging and consulting with them, providing employment and by financing sustainable development projects". The State failed to provide any evidence to support these assertions. The State has not forwarded any further information about this amendment since 2013, despite the requests made, on the instructions of the President of the Court (*supra* having seen paragraph 11).

28. To the contrary, the *representatives* indicated that the agreement between the State and IAMGOLD affects 33 Saramaka communities, and that it indirectly affects all

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<sup>24</sup> According to the judgment, "Article 21 of the Convention does not *per se* preclude the issuance of concessions for the exploration and exploitation of natural resources in indigenous or tribal territories. Nonetheless, if the State wants to restrict, legitimately, the Saramakas' right to communal property, it must consult with the communities affected by the development or investment project planned within territories which they have traditionally occupied, reasonably share the benefits with them, and complete prior assessments of the environmental and social impact of the project." *Cf. Case of the Saramaka People v. Suriname*, *supra* footnote 1, para. 143.

the others within the “areas of interest” covered by the Rosebel Mineral Agreement. In addition, they pointed out that the term “area of interest” used in the text of the agreement has the same legal effects as the mining rights regulated in the 1986 Mining Decree, in that they would grant powers for the reconnaissance, exploration and exploitation of the lands indicated in the “area of interest”; thus the new legal relationship arising over the “areas of interest” is that of a concession granted in favor of IAMGOLD. They also noted that these rights granted to IAMGOLD are exclusive, and include “the right to exclude the Saramaka from areas in which it operates or intends to operate”. The representatives contested the State’s assertion that it had carried out a prior consultation; they also provided a note in which “traditional authorities” of the Saramaka people stated that they had not been consulted as regards the expansion of IAMGOLD operations.<sup>25</sup> In this regard, they recalled that, according to the judgment, Suriname had the obligation to obtain the consent of the Saramaka people in order to carry out such activities. In addition, they indicated that they disagreed that the proposals mentioned by the State would represent shared benefits in favor of the Saramaka people. Lastly, they considered that the impact assessments mentioned by the State had no correlation with the current amendment to the Rosebel Mineral Agreement. The *representatives*, in their May 2015 observation brief, asked the Court to refer to the validity of the said mining exploitation activities.

29. Meanwhile, in its December 2013 observations, the *Commission* indicated that the State continued “to promote actions that directly contravene the obligations established by the Court”, and that “the information provided by the State does not demonstrate that mining activities of IAMGOLD would not affect Saramaka territory”. Subsequently, in its June 2015 observations, the Commission pointed out that the State had not presented the information requested in the Court’s order of 2013 and asked the Court to require the State to provide “concrete information regarding the implementation of the measures of reparations”.

30. The Court underlines that the State has not provided the information required to assess compliance with this aspect of the measure of reparations. In addition to failing to provide evidence to support any of its assertions relating to this measure, since 2013 it has not sent the information required, despite the requests made by the President of the Court (*supra* having seen paragraph 11). The information available, such as the note from “traditional authorities” of the Saramaka people opposing the expansion of IAMGOLD activities (*supra considerandum* 28) and a press release in which the president of this company recognized that his company’s gold exploitation concession was being expanded,<sup>26</sup> allow the Court to consider that the effects of the second amendment to the Rosebel Mineral Agreement could be similar to those granted by a new concession; that the said concession could have affected territories belonging to the Saramaka communities, and that measures had not been taken to

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<sup>25</sup> The representatives attached a letter to their brief of August 5, 2013, indicating that it bore the signature of “the traditional authorities” of the Saramaka people. The letter states, *inter alia*, that “we are united in our position that implementation of this judgement is urgently required because our rights remain unrecognized by the State and the State continues to act inconsistently with those rights to this day; the granting of additional concession rights in our territory to IAMGOLD being the most recent example”.

<sup>26</sup> The representatives’ brief of March 10, 2014, provided a link to the press release published in the “Financial Post” of April 15, 2013, entitled “Iamgold’s Rosebel mine expansion approved by Suriname, in which the CEO of IAMGOLD declared that “[a]ccess to new concessions creates ample opportunity to add to the life of the Rosebel Gold Mine and to find softer ore which can be processed at lower cost.” In addition, the press release indicated that “[t]he agreement is for an expansion of the operation and anything in the new area qualifies for a lower power rate.” The article is available at: <http://business.financialpost.com/investing/iamgolts-rosebel-mine-expansion-approved-by-suriname>.

guarantee prior consultation, social and environmental impact assessments, and benefits shared with the Saramaka people.

31. In this regard, in its 2011 order, the Court established that “given that the titling of Saramaka lands has not yet been carried out [...], the Court considers that the granting of any new concessions in those territories after December 19, 2007, the date on which the Judgment was served, without the consent of the Saramaka and without prior environmental and social impact assessments, would constitute a direct contravention of the Court's decision and, accordingly, of the State's international treaty obligations”<sup>27</sup>.

32. Based on the above, the Court considers that Suriname is not complying with this measure of reparation. This is especially serious taking into account that more than seven years and nine months have elapsed since the expiration of the time limit for complying with the measure established in the judgment.

33. Taking into account all the foregoing, the Court requires the State to adopt measures to put an end to the situation of non-compliance with this measure of reparation and, essentially, to proceed forthwith to delimit, demarcate and grant title over the traditional lands that correspond to the Saramaka people. In this regard, the State is requested to provide information on the measures taken to comply with this requirement.

### **C. Other measures of reparation**

34. In addition to the measures of reparation assessed in the preceding sections, the Court ordered the following reparations in the judgment:

- a) grant the members of the Saramaka people legal recognition of the collective juridical capacity, pertaining to the community to which they belong, with the purpose of ensuring the full exercise and enjoyment of their right to communal property, as well as collective access to justice, in accordance with their communal system, customary laws, and traditions (*sixth operative paragraph of the judgment*);
- b) remove or amend the legal provisions that impede protection of the right to property of the members of the Saramaka people and adopt, in its domestic legislation, and through prior, effective and fully informed consultations with the Saramaka people, legislative, administrative, and other measures as may be required to recognize, protect, guarantee and give legal effect to the right of the members of the Saramaka people to hold collective title of the territory they have traditionally used and occupied, which includes the lands and natural resources necessary for their social, cultural and economic survival, as well as manage, distribute, and effectively control such territory, in accordance with their customary laws and traditional collective land tenure system, and without prejudice to other tribal and indigenous communities (*seventh operative paragraph of the judgment*);
- c) adopt legislative, administrative and other measures necessary to recognize and ensure the right of the Saramaka people to be effectively consulted, in accordance with their traditions and customs, or when necessary, the right to give or withhold their free, informed and prior consent, with regards to development or investment projects that may affect their territory, and to reasonably share the benefits of such projects with the members of the Saramaka people, should these be ultimately carried out (*eighth operative paragraph of the judgment*);
- d) ensure that environmental and social impact assessments are conducted by independent and technically competent entities, prior to awarding a concession for any development or investment project within traditional Saramaka territory, and implement adequate safeguards and mechanisms in order to minimize the damaging effects such projects

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<sup>27</sup> Cf. *Case of the Saramaka People v. Suriname. Monitoring compliance with judgment*. Order of the Inter-American Court of Human Rights of November 23, 2011, *considerandum* 19.

may have upon the social, economic and cultural survival of the Saramaka people (*ninth operative paragraph of the judgment*); and  
 e) adopt legislative, administrative and other measures necessary to provide the members of the Saramaka people with adequate and effective recourses against acts that violate their right to the use and enjoyment of property in accordance with their communal property system (*tenth operative paragraph of the judgment*).

35. In its 2011 order, the Court noted that the State had not presented relevant information regarding the said measures.<sup>28</sup>

36. The Court will refer, first, to the arguments submitted by the State in 2013 concerning alleged obstacles to compliance with the said measures of reparation arising from its domestic laws (*infra consideranda* 37 to 39) and to the supposed "internal conflicts" within the Saramaka themselves (*infra considerandum* 40). Subsequently, the Court will refer to the lack of information between 2011 and 2018 that would allow it to assess the degree of compliance with the said measures of reparation (*infra consideranda* 44 and 45).

37. In 2013, the State referred to supposed obstacles to compliance with the judgment derived from its domestic laws. In the private hearing held in May of that year, it asked "how can the State amend its legislation to following redistrict content as dictated in the Saramaka judgement, while taking into account, one the national interest of the entire population within our territory and second the principles and regulations of our Parliamentary democracy?" It also indicated that "certain aspects of the judgement also implicate that the State should demand the Constitution", and emphasized that "carrying out any changes of fundamental nature to the Constitution will thus require a referendum". In its report of July 2013, Suriname indicated that "[i]n practice the implementation of certain parts of the judgement, especially those relating to legislation, appeared to be very complicated and almost unfeasible", because it "entails that new legislation has to be formulated and that existing laws have to be amended"; moreover, it called into question the possibility of doing so "within the constitutional system of the Republic of Suriname".

38. In this regard, the Court recalls that the obligation to comply with the decisions made in its judgments corresponds to a basic principle of the law on the international responsibility of States, supported by international case law, according to which States must comply with their international treaty-based obligations in good faith (*pacta sunt servanda*) and, as this Court has indicated and as established in Article 27 of the 1969 Vienna Convention on the Law of Treaties, a State "may not invoke the provisions of its internal law as justification for its failure to perform a treaty"<sup>29</sup>.

39. The States Parties to the Convention may not invoke provisions of constitutional law or other aspects of their domestic laws to justify a failure to comply with the

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<sup>28</sup> In the Court's 2011 order, regarding the ninth operative paragraph, the State had indicated that the information "was 'not yet available'" at that time. Regarding the sixth, seventh, eighth and tenth operative paragraphs, the State merely advised that the purpose of the project "Support for the Sustainable Development of the Interior" was "to 'provide the building blocks for [...] the legal framework [and] collective rights'" ; indicating, subsequently, that "on December 15, 2010, the SSDI project was 'officially [...] stop[ped]'" .

<sup>29</sup> Cf. International Responsibility for the Promulgation and Enforcement of Laws in Violation of the Convention (Arts. 1 and 2 American Convention on Human Rights). Advisory Opinion OC-14/94 of December 9, 1994. Series A No. 14, para. 35, and *Case of López Lone et al. v. Honduras. Monitoring compliance with judgment*. Order of the Inter-American Court of Human Rights of May 25, 2017, *considerandum* 15.

obligations contained in this treaty.<sup>30</sup> As regards compliance with the Court's judgments, it is not a question of deciding whether international law has supremacy over domestic law in the domestic sphere, but merely of complying with commitments made by the States in exercise of their sovereignty.<sup>31</sup>

40. In its report of April 27, 2015, when acknowledging that it had not taken measures to comply with the judgment, the State referred to a second obstacle to compliance with the argument that this was due to "internal conflicts in this case differences of opinion (crisis of authority) within the Saramaka community"<sup>32</sup>. In this regard, it provided a document<sup>33</sup> and indicated that "this lack of unanimity among the members of the Saramaka community makes the implementation of the outstanding parts of the judgement more complex". The State added that "[t]o contribute to the solution of the situation that has arisen the State has through the mediation of the Ministry of Regional Development established a Commission on 1 November 2014 [called] 'Mediation succession dispute Saramaka Traditional Authorities'. The composition of this commission was established in consultation with the Saramaka tribe"<sup>34</sup>.

41. The *representatives*, in their observation brief of May 29, 2015, pointed out that "[t]he Saramaka have explained that the Association of Saramaka Authorities ('ASA') is their designated representative [for the implementation of Judgement] in this regard on numerous occasions". In addition, they referred to a document of July 2013 in which "approximately 80 percent[... of the] traditional Saramaka authorities endorsed a statement confirming again that they are unanimous in their desire to see the judgement implemented and that they expect the State to collaborate with them via their freely chosen representatives"<sup>35</sup>. Regarding the document provided by the State (*supra* footnote 33), the representatives indicated that the letter "submitted [...] was signed by merely 18 authorities (less than 4 percent of Saramaka authorities) and it is a serious misrepresentation of Saramaka political and social organization to claim, as the State does in its report, that these 18 authorities can by themselves speak on behalf of either their clan or the Saramaka as a whole".

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<sup>30</sup> Cf. *Case of Ivcher Bronstein v. Peru. Jurisdiction*. Judgment of September 24, 1999. Series C No. 54, *para.* 37, and *Case of Fontevecchia and D'Amico v. Argentina. Monitoring compliance with judgment*. Order of the Inter-American Court of Human Rights of October 18, 2017, *considerandum* 14.

<sup>31</sup> Cf. *Case of Fontevecchia and D'Amico v. Argentina, supra* footnote 31, *considerandum* 14.

<sup>32</sup> According to the State, this crisis was generated by the "passing away of the Paramount Chief of the Saramaka [... as a result of] which each of the 12 tribes have an own opinion about the succession of a new tribal leader".

<sup>33</sup> Attached to this report, the State provided a letter addressed to the President of Suriname dated June 24, 2013, supposedly signed by representatives of 18 clans of the Saramaka people; however, it does not bear their signatures. The letter states, *inter alia*, that "[w]hen trying to find solutions to the land rights issue in general and the implementation of the Sa[r]amaka judgement in particular, it is striking that not all Sa[r]amaka matriclans are consulted in an acceptable manner. This causes irritations with the different groups and stagnation in the progress of the process". Consequently, they asked the Suriname authorities "to make all efforts to ensure that all Sa[r]amaka matriclans can participate in a proportionate manner in the process to arrive at an acceptable solution of the land rights issue [...]."

<sup>34</sup> The State provided the document in which the Ministry of Regional Development extended the mandate of the committee created for "Mediation Succession Dispute Saramaka Traditional Authorities". Cf. Resolution No. 2951 of the Ministry of Regional Development dated February 18, 2015 (attached to the State's report of April 27, 2015).

<sup>35</sup> They indicated that this would represent approximately 80%. Cf. Document presented by several authorities of the Saramaka people in July 2013 (attached to the observation brief presented by the representatives on August 5, 2013).

42. Meanwhile, the *Commission* expressed its “deep concern regarding the complete lack of measures adopted by Suriname to comply with the measures of reparations ordered by the Court”.

43. Subsequently, in a note of December 2015 sent by the Court’s Secretariat on the instructions of its President, the State was requested to present a report concerning compliance with the judgment that took into account the observations of the representatives of the victims and of the Commission (*supra considerandum* 41). Despite the reminders sent subsequently by the President of the Court in notes from the Secretariat (*supra* having seen paragraph 11), the State failed to present any additional information that would identify the actions taken to overcome the obstacles to compliance with the judgment.

44. The Court considers that the State has not submitted information that would allow it to assess the degree of compliance with the five measures of reparation referred to in this section. In this regard, although more than ten years have passed since notification of the judgment of November 28, 2007 (*supra* having seen paragraph 1), the State has not submitted information that would allow the Court to identify any progress made towards compliance with the said reparations.

45. A State’s inactivity before the international human rights jurisdiction is contrary to the object, purpose and spirit of the American Convention.<sup>36</sup> In this regard, at the stage of monitoring compliance with judgment in other cases,<sup>37</sup> the Court has established that the State’s neglect of its duty to provide information constitutes non-compliance with the obligations established in Articles 67 and 68(1) of this instrument.

#### **D. Pending report and possible monitoring visit**

46. The time frame granted to the State by the President of the Court to present a report on compliance with all the pending measures of reparation expired on March 17, 2017. Reminders were sent in notes from the Secretariat (*supra* having seen paragraph 11); but the report was not submitted. Consequently, within the time frame established in operative paragraph 6 of this order, the State is again required to submit a report on compliance with the judgment in which it provides updated information on compliance with the pending measures of reparation.

47. In addition, the Court recalls that, during the private hearing held on May 28, 2013, the State expressed its wish “to invite the Court to Suriname in order to experience the practical elements of the various complexities and challenges” in relation to implementation of the judgment. Bearing this in mind, and since it would appear that no progress has been made in compliance with the above-mentioned measures, as well as the possible benefits of a visit to monitor compliance, the Court considers it necessary to establish that, pursuant to Article 69 of its Rules of Procedure, if appropriate, the President of the Court could delegate one or more judges of the Court or officials of the Secretariat to carry out a visit to Suriname to obtain precise and relevant information directly from the parties so as to monitor compliance

<sup>36</sup> Cf. *Case of Caesar v. Trinidad and Tobago. Merits, reparations and costs*. Judgment of March 11, 2005. Series C No. 123, *para.* 38, and *Case of the Barrios Family v. Venezuela*. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of November 22, 2016, *considerandum* 6.

<sup>37</sup> Cf. *Case of Caesar v. Trinidad and Tobago. Monitoring compliance with judgment*. Order of the Inter-American Court of Human Rights of November 21, 2007, *considerandum* 11, and *Case of the Barrios Family v. Venezuela*, *supra* footnote 36, *considerandum* 6.

with the judgment, after obtaining the consent of, and in coordination with, the State of Suriname.

48. Furthermore, based on Article 69 of its Rules of Procedure, the Court establishes that the Secretary shall take steps to coordinate with Suriname, with its consent, a visit to that country to obtain precise and relevant information in order to monitor compliance with the pending measures of reparation. If the visit is made, the President himself could execute this procedure of monitoring compliance with judgment, or delegate this to one or more judges of the Court or officials of the Secretariat. In this regard, the President will take the necessary decisions based on the provisions of the Court's Rules of Procedure.

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

in exercise of its authority to monitor compliance with its decisions, in accordance with Articles 33, 62(1), 62(3), 65, 67 and 68(1) of the American Convention on Human Rights, Articles 24, 25 and 30 of the Court's Statutes and Articles 31(2) and 69 of its Rules of Procedure,

**DECIDES TO:**

1. Declare, as indicated in *consideranda* 9 to 11 of this order, that the State has complied fully with the measure of reparation concerning the payment of US\$675,000.00 as compensation for pecuniary and non-pecuniary damage to a community development fund created and established to benefit the members of the Saramaka people in their traditional territory.
2. Keep open the procedure to monitor compliance of the following measures of reparation:
  - a) Delimit, demarcate and grant collective title over the territory of the members of the Saramaka people, in accordance with their customary laws, and through previous, effective and fully informed consultations with the Saramaka people, without prejudice to other tribal and indigenous communities. Until said delimitation, demarcation, and titling of the Saramaka territory has been carried out, Suriname must abstain from acts which might lead the agents of the State itself, or third parties acting with its acquiescence or its tolerance, to affect the existence, value, use or enjoyment of the territory to which the members of the Saramaka people are entitled, unless the State obtains the free, informed and prior consent of the Saramaka people. With regards to the concessions already granted within traditional Saramaka territory, the State must review them, in light of the [...] judgment and the Court's jurisprudence, in order to evaluate whether a modification of the rights of the concessionaires is necessary in order to preserve the survival of the Saramaka people (*fifth operative paragraph of the judgment*);
  - b) grant the members of the Saramaka people legal recognition of the collective juridical capacity, pertaining to the community to which they belong, with the purpose of ensuring the full exercise and enjoyment of their right to communal property, as well as collective access to justice, in accordance with their communal system, customary laws, and traditions (*sixth operative paragraph of the judgment*);
  - c) remove or amend the legal provisions that impede protection of the right to property of the members of the Saramaka people and adopt, in its domestic legislation, and through prior, effective and fully informed consultations with the Saramaka people, legislative, administrative, and other measures as may be required to recognize, protect, guarantee and give legal effect to the right of the members of the Saramaka people to hold



collective title of the territory they have traditionally used and occupied, which includes the lands and natural resources necessary for their social, cultural and economic survival, as well as manage, distribute, and effectively control such territory, in accordance with their customary laws and traditional collective land tenure system, and without prejudice to other tribal and indigenous communities (*seventh operative paragraph of the judgment*);

- d) adopt legislative, administrative and other measures necessary to recognize and ensure the right of the Saramaka people to be effectively consulted, in accordance with their traditions and customs, or when necessary, the right to give or withhold their free, informed and prior consent, with regards to development or investment projects that may affect their territory, and to reasonably share the benefits of such projects with the members of the Saramaka people, should these be ultimately carried out (*eighth operative paragraph of the judgment*);
- e) ensure that environmental and social impact assessments are conducted by independent and technically competent entities, prior to awarding a concession for any development or investment project within traditional Saramaka territory, and implement adequate safeguards and mechanisms in order to minimize the damaging effects such projects may have upon the social, economic and cultural survival of the Saramaka people (*ninth operative paragraph of the judgment*); and
- f) adopt legislative, administrative and other measures necessary to provide the members of the Saramaka people with adequate and effective recourses against acts that violate their right to the use and enjoyment of property in accordance with their communal property system (*tenth operative paragraph of the judgment*).

3. Require the State to adopt, finally and forthwith, all necessary measures to comply effectively and promptly with the pending elements of the judgment on preliminary objections, merits, reparations and costs delivered in this case, in accordance with the considerations in this order, and with the provisions of Article 68(1) of the American Convention on Human Rights.

4. Establish that, pursuant to Article 69 of the Court's Rules of Procedure, following the consent of, and in coordination with, the State of Suriname, the President of the Court may visit Suriname to obtain relevant information directly from the parties in order to monitor compliance with the judgment, or may delegate this to one or more judges of the Court or officials of the Secretariat.

5. Order that, based on Article 69 of the Court's Rules of Procedure, the Secretariat take steps to coordinate with Suriname a possible visit that country to obtain precise and relevant information in order to monitor compliance with the pending measures of reparation.

6. Require the State to submit to the Inter-American Court of Human Rights, by January 15, 2019 at the latest, a report indicating the measures adopted to comply with the reparations ordered by the Court, in keeping with the considerations in this order.

7. Require the representatives of the victims and the Inter-American Commission on Human Rights to present observations on the State's report mentioned in the preceding operative paragraph, within four and six weeks, respectively, of receiving the report.

8. Require the Secretariat of the Court to notify this order to the State, the representatives of the victims and the Inter-American Commission on Human Rights.

I/A Court H.R. Case of the Saramaka People v. Suriname. Monitoring Compliance with Judgment. Order of the Inter-American Court of Human Rights of September 26<sup>th</sup>, 2018.

Eduardo Ferrer Mac-Gregor Poisot  
President

Eduardo Vio Grossi  
Porto

Humberto Antonio Sierra

Eugenio Raul Zaffaroni

L. Patricio Pazmiño Freire

Pablo Saavedra Alessandri  
Registrar

So ordered,

Eduardo Ferrer Mac-Gregor Poisot  
President

Pablo Saavedra Alessandri  
Registrar