



**FAX ORIGINAL**

**Ministry of Justice and Police**

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Paramaribo, March 10, 2008

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To: The Inter-American Court of Human Rights  
Apdo 6906 – 1000  
San Jose - Costa Rica  
Attention: Pablo Saavedra Alessandri  
Registrar

CJDM / 938 /08

Esteemed Registrar,

The Republic of Suriname acknowledges the receipt of the judgment of the Honorable Inter-American Court of Human Rights in the case of the **Saramaka People v. Suriname**, Judgment of November 28, 2007 on Preliminary Objections, Merits, Reparations and Costs, by your letter dated December 19, 2007 REF.: CDH-12.338/161, which was received the same day by the Agent of the State by facsimile.

In accordance to article 67 of the American Convention of Human Rights, the State of Suriname hereby respectfully requests this Esteemed Court's interpretation as to the meaning and scope of the following issues as discussed in said judgment.

1. As discussed by this Honorable Court in para. 129 E.2, page 38, the State of Suriname retains the right to issue concessions within the territory the Saramaka People have traditionally lived on as a tribal group for centuries. This issuance of concessions can not amount to a denial of the survival of the Saramaka

People as a tribe. To safeguard the latter, the State of Suriname must abide by the following three requirements:

- a. Effective participation of the Saramaka people through a system created by the State and supervised by the State;
- b. A system of benefit sharing on behalf of the Saramaka People, established by the State;
- c. An environmental and social impact assessments study.

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The State respectfully requests clarification with regard to the following:

***1.1. Must the State, when setting up and supervising the system of effective participation, deal with the collective of Saramaka Captains, or with individual captains involved in the respective territory, or with the Paramount Chief (Gaa'man of the Saramaka people), or with other subsidiary entities within the culture, custom and traditions of the Saramaka People.***

As stated by the Court, the first requirement must be executed in conformity with the customs and traditions of the Saramaka people. In addition, the Honorable Court argued that every individual can file a petition in the Inter-American Human Rights System.

***1.2. Must the State conclude that since every individual, organ or entity within the cultural structure of the Saramaka Tribe can file a petition to the Commission on behalf of the Saramaka Tribe as a whole, it must deal with these individual, organ or entity respectively, when it sets up the system of effective participation of the Saramaka people?***

2. With regard to the second requirement the State respectfully requests clarification of the following.

The State understands that when it sets up the system of benefit sharing to guarantee that the Saramaka people have reasonable benefits from concessions on the territory they have traditionally occupied for centuries, it is the State that has to

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take charge in determining this system of benefit sharing in conformity with the customs and traditions of the Saramaka People.

The State notes that it will be practically impossible and a huge obstruction to the general development of the State of Suriname, if concession holders are confronted with fractions within the Saramaka Tribe, demanding benefits on behalf of those parts of the Saramaka people that live close to the location where the concession was issued.

In addition to the hindrance of the general development of the Surinamese nation, this will also certainly lead to a collapse of the system and a further fragmentation of the organs and entities within the culture and traditions of the Saramaka People. Finally, if the development of the Saramaka tribe as a whole is one of the main objectives, the system that must be created must take cognisance that parts of the Tribe will be living in territories where no concessions are issued. These parts of the tribe however, can not be excluded from certain receiving benefits, because this will lead internal problems within the tribe and effect the Republic of Suriname as a whole.

***2.1. The State respectfully requests the Court's Interpretation as to the understanding of the State with regard to this aspect of the Judgment.***

With reference to current circumstances in Suriname, the State requests the clarification of the Court to the following.

Once a concession that satisfies the three requirements listed in this judgment is issued by the State to a party and in the vicinity another party (individual or company) wants to engage in the same or similar activities as granted by the State to the concession holder, those individuals or companies must comply with the national legislation of the State and request a concession for implementing those activities. This application will give the State the possibility to analyse the request to determine if it is in conformity with the three requirements set out by the Court.

Any party that wants to engage in activities on the territory traditionally occupied by the Saramaka people, can request a concession from the State. The State will grant this concession once it satisfies the three requirements listed in the judgment. The

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State concludes that with these activities the Honorable Court meant activities that are not traditionally within the scope of the Saramaka people e.g mining activities, big scale or commercial forestry, tourism, etc. Since all these activities can have a huge impact on the living conditions of the Saramaka tribe as one entity, the involvement of the State is a necessity since it is the State as a subject of international law that is a member of this human rights system. Therefore it is the State that is charged with several obligations under international law.

***2.2. The State respectfully requests the Court's interpretation as to the understanding of the State with regard to this aspect of the judgment as well as the meaning of the Court with regard to the scope of this particular section of the judgment.***

3. The Honorable Court argues that an environmental and social impact assessment study must be conducted before the State can issue a concession in the territory the Saramaka People have traditionally occupied for centuries. The Court argues that the State must guarantee that the existence of the Saramaka People is not threatened by activities conducted on said territory.

The deciding factor in determining if this requirement is met, is therefore the fact that the results of the environmental and social impact assessment study must be positive. Positive in the sense that the impact must not be of such a nature that this amounts to a denial of the survival of the Saramaka people as a tribal entity.

The State points out that most likely every activity can have to a certain degree an impact on the local Saramaka people living in the vicinity. However, the level of impact is the determining factor. An impact of such a nature that has an effect on the survival of the Saramaka People is considered to be non acceptable.

If the impact is of a lesser nature, meaning it has a minor effect on the Saramaka People, and it does not amount to a denial of the survival of the Saramaka People as a collective tribe, it must be concluded that the social impact assessment study is in conformity with the judgment.

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The State points out that an unbalanced interpretation of this requirement can lead to an obstruction of the development of the Republic of Suriname. That is the reason for requesting the courts interpretation of the meaning of this part of the judgment.

**3.1. *The State respectfully requests the Court's interpretation as to the understanding of the State with regard to this aspect of the judgment as well as the meaning of the Court with regard to the scope of this particular section of the judgment.***

4. In paras 133 – 140 under E.2a and E.2b, this Court has extensively addressed the first and second requirement as listed in para 129 of the judgment because as stated in para 132: "Nonetheless, the Court considers that the actual scope of the guarantee concerning consultation and sharing of the benefits of development or investment projects requires further clarification."

However, this Honorable Court did not elaborate separately on the third requirement.

**4.1. *With reference to the statement made above regarding the results of the environmental and social impact assessment study and a possible level of effect, the State respectfully requests the Court's interpretation as to the understanding of the State with regard to this aspect of the judgment as well as the meaning of the Court with regard to the scope of this particular section of the judgment.***

5. In para 162 of the Judgment, this Honorable Court lists the three substantial arguments of the State regarding the alleged violation of article 3 of the American Convention as this was presented by the representatives and not by the Commission. In para 163, the Honorable Court states that it will address the first two arguments of the State in the preceding paras and that it will address the third argument of the State in the section concerning the right to judicial protection (infra paras 176 – 185). However, it is not clear to the State how this Honorable Court addressed its second argument as pointed out by the Court namely: "...that the American Convention guarantees that every "person" has the right to be recognized as such before the law and not as a "distinct people", as argued by the representatives...".

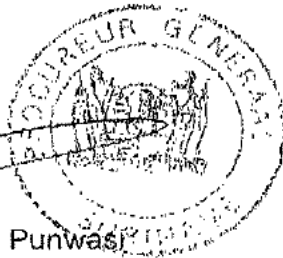
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The arguments of the Court are extremely important because the State will have to take these in consideration in the process of implementing the judgment of this Honorable Court when creating new legislation regarding the subject matter.

**5.1. With reference to the statement made above the State respectfully requests the Court's interpretation as to this argument of the State.**

Please sir accept the assurances of my highest and distinguished consideration.

Yours sincerely,



Soebhaschandre Punwas

Agent

Adress:

Mr. Soebhasschandre Punwas, Agent  
Mr. Eric P. Rudge LL.M., Deputy Agent  
Office of the Procurator-General with the  
High Court of Justice

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