

Press Release 91 /2024 English

**COLOMBIA IS RESPONSIBLE FOR FAILING TO FULFILL ITS
OBLIGATION TO PROTECT THE RIGHTS TO COMMUNAL
PROPERTY, PRIOR CONSULTATION, AND PARTICIPATION IN
CULTURAL LIFE, TO THE DETRIMENT OF THE U’WA
INDIGENOUS PEOPLE AND THEIR MEMBERS**

San José, Costa Rica, December 20, 2024. – In the judgment notified today in the case U’wa Indigenous People and their Members v. Colombia, the Inter-American Court of Human Rights declared the international responsibility of the State of Colombia for violating the rights to collective property, political participation, access to information, participation in cultural life, a healthy environment, freedom of expression, freedom of assembly, self-determination of indigenous and tribal peoples, children’s rights, judicial guarantees, and judicial protection, to the detriment of the U’wa Indigenous People and their members.

The official summary and the full text of the judgment can be consulted [here](#).

The facts of the case concern the U’wa Indigenous People, settled around the Sierra Nevada del Cocuy. The U’wa cosmogony is based on the permanent balance between humankind, the environment, and their cosmic universe, making the defense of their territory a central part of their identity and way of life. Particularly, Zizuma (snow-capped mountain in Spanish) is a water source for the territory and a site of great cultural and spiritual importance for the U’wa People. In 1999, the State created the Unified U’wa Indigenous Reserve with an approximate area of 220,275 hectares. Since then, various actions have been taken to achieve territorial clearing through the acquisition and titling of lands and improvements. In May 2014, the Colombian National Government and the U’wa People signed several agreements, including clarifying colonial titles, clearing the Unified U’wa Reserve, and establishing the “Santa Marta” (Kuituia) reserve. The territorial clearing process for both reserves remains ongoing after the 2014 agreement.

Additionally, the case examined facts related to the authorization of seven extractive projects involving oil, gas, and minerals, which allegedly affected the rights of the U’wa People. Some projects were carried out within the U’wa Reserve: the Samoré Block, the Catleya Block, the Sirirí Block, and mining titles. Other projects, including Gibraltar 1, Gibraltar 3 (Gibraltar Gas Field), and the Magallanes Exploratory Drilling Area (APE Magallanes), are located outside the Unified Reserve’s territory. The Court analyzed whether the State was required to conduct prior consultations for these projects and whether such consultations complied with international obligations. Additionally, with the creation of the Unified U’wa Reserve, there is an overlap with part of the Cocuy National Natural Park (PNNC). The PNNC is managed by the State. The U’wa People have claimed that this overlap prevents them from exercising their autonomy and governance, demanding the park’s closure.

Since the 2000s, the U’wa People have maintained that the presence of third parties, members of the military, and other armed actors in the territory has resulted in acts of intimidation, violence, and cultural and environmental impacts that have affected their community members.

The Tribunal recalled that Article 21 of the American Convention on Human Rights obliges States to guarantee indigenous and tribal peoples’ rights to collective property by delimiting, demarcating, and titling their territories. In this case, the Court concluded that this process remains incomplete more than 23 years after the Reserve’s creation and approximately nine years after the 2014 agreements,

violating their right to collective property. Regarding the administration of the PNNC, the Court determined that the U'wa People's participation in the park's administration has not been constant and permanent but rather based on specific agreements, violating their right to collective property and political participation. Regarding prior consultation, the Court identified flaws in the consultation processes for the Samoré Block, Catleya Block, and Sirirí Block projects. Additionally, it concluded that the Gibraltar 1, Gibraltar 3 (Gibraltar Gas Field), and Magallanes Exploratory Drilling Area (APE Magallanes) projects could have directly impacted the U'wa People's rights, requiring a consultation process despite being located outside their territory. Actions and omissions in this regard constituted violations of the rights to collective property, participation, access to information, and participation in the cultural life of the U'wa People.

The Court also recalled that the right to participate in cultural life is among the rights protected under Article 26 of the Convention. The Tribunal concluded that the right to participate in the cultural life of indigenous peoples includes, among other manifestations, the right to maintain and strengthen their cultural relationship with their lands and territories when it holds spiritual or religious significance integral to their cultural identity. In such circumstances, protecting this aspect of cultural life requires States to refrain from interfering with the enjoyment of an indigenous people's cultural heritage and to adopt measures to prevent third parties from hindering or nullifying such enjoyment.

The Court concluded that the exploration and exploitation of natural resources disrupted indigenous customs and that some ecotourism activities in Zizuma affected the cultural and spiritual values upheld by the community, constituting a violation of the right to participate in cultural life, protected under Article 26 of the American Convention.

The Court determined other human rights violations resulted from violent dispersal of a protest by the U'wa People against exploration in the Samoré Block, deficiencies in environmental impact assessment approvals, and insufficient mitigation measures regarding the explosion of the Caño Limón-Coveñas pipeline, among other issues.

The Court ordered the adoption of measures aimed at redressing the human rights violations suffered by the U'wa People and their members, as well as preventing the recurrence of events similar to those analyzed in the case. In this regard, it ordered the State to adopt and complete the necessary actions to carry out the comprehensive clearing of the Unified U'wa Reserve and the Kuita Reserve, and to clarify the colonial titles of the U'wa People. It also instructed the State to convene a roundtable with representatives of the U'wa People to agree on their participation in the administration and conservation of the overlapping area with the Cocuy National Natural Park (PNNC).

Furthermore, the Court ordered the State to conduct a participatory process regarding the ongoing extractive projects analyzed in the judgment, ensuring that these projects do not impact the exercise of the U'wa People's right to participate in cultural life. It also mandated the adoption of measures to mitigate environmental damage caused by the explosion of the Caño Limón-Coveñas pipeline.

Finally, the Court ordered the creation of a community development fund to redress harm to cultural life participation and as compensation for material and immaterial damages suffered.

Judges Rodrigo Mudrovitsch, Eduardo Ferrer Mac-Gregor Poisot, and Ricardo C. Pérez Manrique issued a joint concurring opinion. Judge Nancy Hernández López issued a partially dissenting opinion, and Judge Patricia Pérez Goldberg issued a partially dissenting and dissenting opinion.

The composition of the Court for the issuance of this judgment was as follows: Judge Nancy Hernández López, President (Costa Rica); Judge Rodrigo Mudrovitsch, Vice President (Brazil); Judge Eduardo Ferrer Mac-Gregor Poisot (Mexico); Judge Ricardo C. Pérez Manrique (Uruguay); Judge Verónica Gómez (Argentina); and Judge Patricia Pérez Goldberg (Chile).

Judge Humberto Antonio Sierra Porto, a Colombian national, did not participate in the processing of this case, nor in the deliberation and signing of this judgment, in accordance with Article 19 of the Court's Rules of Procedure.

This press release was drafted by the Registrar's Office of the Inter-American Court of Human Rights; it is solely responsible for this document.

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