



Enxet-Lamenxay & Kayleyphapopyet (Riachito) v. Paraguay

Case 11.713, Inter-Am. Comm. H.R., Report No. 90/99, OEA/Ser.L/V/II.106Doc. 6 rev. (1999).

Country: Paraguay

Region: Americas

Year: 1999

Court: Inter-American Commission on Human Rights Inter-American Commission on Human Rights

Health Topics: Diet and nutrition, Health care and health services, Medicines, Poverty, Water, sanitation and hygiene

Human Rights: Freedom of movement and residence, Right to due process/fair trial, Right to property, Rights to the benefits of culture

Facts

In 1991, representatives of the indigenous Enxet-Lamenxay and Kayleyphapopyet-Riachito communities commenced administrative proceedings against the Government of Paraguay to recover what they claimed was ancestral land that Paraguay had largely sold to foreigners in the years between 1885 and 1950. The petitioners described the land as "their main sustenance came from hunting, fishing, and gathering." The Rural Welfare Institute granted the communities an injunction preventing any further modifications to the land in December of 1994. However, the petitioners filed criminal proceedings when they found occupants of the land unwilling to obey the injunction. In addition to the criminal proceedings, the petitioners claimed that Paraguay should definitively grant the Enxet communities the right to the land in dispute, totaling roughly 22,000 hectares.

The petitioners filed a claim before the Inter-American Commission. According to the petitioners, until Paraguay gave full effect to the 1991 and 1994 proceedings, Paraguay was in breach of Articles 8 (right to fair trial), 25 (right to judicial protection), 21 (right to property) and 22 (right to movement and residence) and of the American Convention on Human Rights, as well as the right to the benefits of culture under Article XIII of the American Declaration of the Rights and Duties of Man.

In early July 1997, the petitioners agreed to enter into a friendly settlement with the Government of Paraguay under the mediation guidance of the Inter-American Commission on Human Rights. Under the terms of the settlement, the Paraguayan State would purchase the land in dispute and return it to the petitioners free of all liens and with the appropriate title deeds. Paraguay additionally agreed to provide electricity and social and economic assistance to the communities involved. In return, the petitioners would consider all of their claims to the land satisfied. In July of 1999, the Commission visited the site to assess the performance of the parties.

Decision and Reasoning

All parties expressed satisfaction with the terms of the friendly settlement. Although Paraguay had not yet handed over the appropriate title deeds to petitioners, it did so during the Commission's site visit. The Commission also stated it would follow the progress of Paraguay with regards to providing the social and economic assistance it agreed to provide to the communities involved, and it requested quarterly reports from Paraguay and the petitioners to help monitor progress made with regard to those obligations.

Decision Excerpts

"15. [...] Paraguayan State agreed to provide the communities with the necessary assistance: foodstuffs, medicines, tools, and transportation to move the different families and their belongings from their current residences to their new homes. The State also guaranteed the indigenous communities that the people then working the purchased land would be removed, together with their belongings and those of the former landowners."

"16. Similarly, Paraguay guaranteed that the Enxet-Lamenxay and Kayleyphapopyet (Riachito) communities would be given sanitary, medical, and educational assistance in their new settlements, and that the access roads leading to their property would be kept in good repair."