

ECUADOR MUST APPEAL THE ARBITRATION AWARD ISSUED IN FAVOR OF CHEVRON BEFORE THE SUPREME COURT OF THE NETHERLANDS

LAGO AGRIO, August 2022. On June 28, 2022, a [Court of Appeals of The Hague](#) (The Netherlands), rejected the appeal bid filed by the Government of Ecuador against the decision by a Dutch court to uphold the arbitral award issued in favor of Chevron who caused one of the most important environmental disasters in the Ecuadorian Amazon. The Dutch appellate Court decided, that the arbitral award was duly motivated and consistent with public policy and applicable law. According to this decision, it is confirmed that an arbitration tribunal, "applying a Bilateral Investment Treaty can order a state not to execute a sentence built under the laws of a sovereign country, imposing a behavior contrary to its legal system and to the interests of the population; but, in favor of the illicit enrichment and the behavior violating the human rights of the Transnational Chevron", see [the analysis](#) by professor Adoración Guamán.

This decision constitutes an unacceptable international precedent. We recall that 260 organizations and networks representing 280 million people, signed an [open letter](#) to the president in which they made clear the unconstitutionality and inapplicability of the arbitration award of 2018, as it violates the human rights of more than 30,000 peasants and members of various indigenous peoples of the Amazon. According to these social collectives, the arbitration award represents a danger to environmental and climate justice and allows one of [the most polluting companies](#) on the planet to benefit from its impunity to the detriment of human rights and Nature, by destroying more than five hundred thousand hectares in the Amazon, which is one of the most important regions for its biodiversity and global climate.

After [the request](#) of international civil society organizations, Ecuador filed an action for the annulment of the arbitral award before a Dutch district court of the Netherlands in 2020. However, the recent refusal of the Dutch appellate court is the latest setback for the Government of Ecuador, which has been criticized for failing to adequately defend the interests of the State.

The case began in September 2009, when the oil company invoked a Bilateral Investment Protection Treaty signed in 1997, although its operations in Ecuador had ended in 1992. The arbitrators, based on the environmental remediation and liability release contract signed between Ecuador, Petroecuador and Texaco in 1995 and ratified in the final act where the State released Texaco from all liability, signed on September 30, 1998, gave the reason to Chevron and condemned the Ecuadorian State despite the fact that there is abundant scientific proof that Chevron never carried out an adequate environmental remediation. What the oil company did was to hide the environmental contamination, to prevent it from being visible. Therefore, the native peoples, peasants and nature continue to suffer the consequences of the oil contamination left on their lands by the North American oil company Chevron.

Additionally, we must note that in a letter signed by the President of the Republic on June 18, 2022 and sent to Mr. Leonidas Iza, President of CONAIE, the Government of Ecuador admits that the oil company Chevron would have left at least 1,107 sites or environmental liabilities. UDAPT has fought for more than 28 years to achieve a comprehensive reparation of the damage caused by Chevron.



We, as UDAPT- Union of those affected by the oil operations of Texaco (now Chevron), urge the government of Ecuador and its Attorney General, to raise the appeal to the Supreme Court of The Netherlands and to improve the technical defense, so that the rights of more than 30,000 people of the Ecuadorian Amazon are not violated.

We hold the Government of Ecuador responsible, especially President Guillermo Lasso and his Attorney General, Iñigo Salvador, for having intervened in favor of Chevron in foreign forums and for having been negligent in the defense of the State, in processes that they have kept confidential and behind the backs of all participation of those affected.

We reject any attempt to release Chevron from environmental liability, for the third time. The lawyer Pablo Fajardo reminds us that the Ecuadorian judgment is enforceable and that it is not susceptible to any legal recourse. Therefore we are preparing actions for its enforcement in other jurisdictions, as well as to denounce before the Inter-American human rights system the undue interference of the Ecuadorian State. It is clear that Chevron has taken control of the Government of Ecuador, through a strategy of corporate capture. Today the oil company intends to pressure Ecuador to be the State, with public funds, that is to say, cutting money to health, education, attention to the most vulnerable groups, to use this resource to carry out a supposed environmental reparation in the Amazon. If the arbitration award against Ecuador were to be enforced, it would be a very serious precedent against the respect of human rights and nature throughout the planet. Indigenous peoples and peasants would be left without access to justice in the face of corporate crimes, said lawyer Pablo Fajardo.

We alert the Ecuadorian society, that in case Ecuador does not appeal before the Supreme Court of the Netherlands; or, due to its deficient technical defense, Ecuador loses the case in the Netherlands, surely the panel of arbitrators will determine the millionaire economic figure that Ecuador should pay Chevron. If this were to happen, we would like to point out the responsibility that the Ecuadorian Attorney General's Office would have.

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