Lago Agrio, September 2022

UDAPT Press Release

CHEVRON VS ECUADORIAN STATE

If the State Attorney General's Office does not appeal before the Supreme Court of the Netherlands the sentence issued in second instance, Ecuador would be forced to pay a millionaire penalty in favor of the oil company Chevron-Texaco. The sentence issued by the Dutch court in favor of the multinational corporation violates the Ecuadorian Constitution, the legal security of the country, and the human and environmental rights that should be guaranteed by the State to Ecuadorians.

The second instance sentence was issued on June 28th 2022 by the Dutch Court of Appeals and must be appealed by Ecuador until September 28th of the current year. However, although more than 60 days have passed since the rulling, the State Attorney General’s Office, allegedly called to defend the country’s interests, has not shown any signs of determinacy in promoting their defense. Consequently, this would oblige Ecuador to pay an as yet undetermined amount to the oil company.

This judgment of the Dutch Court of Appeals responds to the international arbitration filed in 2009 against the country, violating national and international norms which establish that, as a matter of principle, no legal rule can be applied retroactively. This case, indeed, is based on a Bilateral Investment Treaty signed between Ecuador and the United States which entered into force in 1997, when Chevron had no more investments in the country. This mechanism was used to involve the State in a private litigation that was won by the indigenous communities once the existence of human rights violations practiced by the oil company against the citizens of the Ecuadorian Amazon was proven.

The arbitration award requests the State, among other things: to annul the
sentence issued in the lawsuit against the oil company won by the indigenous inhabitants of the Ecuadorian Amazon; to prevent the execution of the sentence legally issued by the Ecuadorian Courts; and to pay Chevron the legal fees for the 25 years of litigation, plus the alleged damage caused to the company. This sentence violates international norms establishing that no Court in the world can interfere with a final judgment issued by internal judicial bodies of a certain country. Moreover, it forces the Ecuadorian State to violate its own Constitution, since no government or other power of the State can interfere in the National Justice System. Finally, it violates the rights of the plaintiffs and all the citizens of Ecuador, who would be affected by having to directly compensate the oil company, despite the serious damages caused to the country and its population.

The Aguinda vs. Chevron lawsuit lasted for more than 20 years in Ecuador, due to the constant delays and resources used by the oil company to prevent it from proceeding. However, and due to the existing, visible and undeniable, evidence, in addition to the fact that Chevron could not prove the existence of fraud or denial of the right to legitimate defense, the affected parties won the trial in every national judicial instance, according to Ecuadorian law: the first instance judge's decision, the Provincial Court of Justice of Nueva Loja, and the National Court. Finally, as a result of a protection action filed by Chevron alleging denial of the right to defense, the Constitutional Court established that the rulings are lawful under the Constitution and that Chevron had the adequate guarantees of due process. Therefore, it dismissed the lawsuit. Against this background, the Ecuadorian judgment against the multinational corporation is legally enforceable anywhere in the world.

This inaction by the Ecuadorian State could be explained by the government's policy of favoring investment over human rights. Pablo Fajardo, lawyer for the plaintiffs in the Aguinda lawsuit, has been clear in emphasizing that in the absence of the State's defense, it would be self-evident that the acting regime is favoring economic and commercial rights that protect multinational corporations, becoming complicit in corporate crimes to the detriment of its own citizens.
Justino Piaguaje, leader of the Siekopaai indigenous nation, one of the most affected by Chevron-Texaco, considers not appealing the ruling to the Dutch Court as an act of injustice and as a negative precedent in the extractive history of the country and the world. Failure to appeal would make the State complicit of corporate crimes against its own population, at a time when Ecuador is also opening up to mining activity at the national level. "We, the Ecuadorian people, will be the ones who will pay with our lives for the wealth of multinationals", Piaguaje said.

The Coordinator of the Union of People Affected by Chevron-Texaco (UDAPT), Donald Moncayo, warned about the threat posed against Ecuadorian citizens by the National Government itself by not appealing the ruling and not improving its technical defense. He also announced that UDAPT as an organization, since it is not part of the international arbitration, will continue to carry out collective actions, within the framework of the law, to force Chevron to pay the judgment legitimately won by the plaintiffs.

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