

FUNCIÓN JUDICIAL

REPUBLIC OF ECUADOR

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MULTICOMPETENT CHAMBER OF THE PROVINCIAL COURT OF JUSTICE OF ORELLANA

Process no.: 22281-2020-00201
Entry No: 1
Action/Infringement: PROTECTIVE ACTION
Actor(s)/Featured(s): ORACO AJON FREDDY NIXON
LAZZARI CELMO
GREFA AGUINDA VERONICA BEATRIZ
CERDA ANDI HERNANDO RAFICO
LICUY LICUY MAMALLACTA JUAN
ELIAS COQUINCHE ANDI GABINA
JIPA GREFA BAYRON ALFREDO
SALAZAR DIGUA EDGAR FELIPE
TANGUILA CHONGO CLAUDIA LOURDES
ALVARADO TAPUY SAQUEO EDGAR
GREFA AGUINDA CAMILO RAMIRO
GREFA TANGUILA ROMARIO LUIS
GREFA TANGUILA MARTHA ROSA
GREFA SHIGUANGO JAIRO GEOVANNY
GREFA ORACO FANNY MARIA
JIPA ANDI JOHNNY ABEL
MAZABANDA CALLES CARLOS SANTIAGO
JIMENEZ MENDOZA JOSE ADALBERTO
ACERO GONZALEZ JORGE

Respondent(s)/Prosecuted(s): ABG. JUAN ANDRES DELGADO GARRIDO, MAE COORDINATOR
PABLO ANTONIO FLORES CUEVA, GENERAL MANAGER OF THE PUBLIC
HYDROCARBONS COMPANY OF ECUADOR - EP PETROECUADOR ANDRÉS
EUGENIO MENDIZÁBAL MOCHKOFKY, LEGAL REPRESENTATIVE OF THE
HEAVY CRUDE OIL PIPELINE COMPANY (OCP) ECUADOR S.A.
ÍNIGO SALVADOR CRESPO, STATE ATTORNEY GENERAL JUAN
CARLOS ZEVALLOS LÓPEZ, MINISTER OF PUBLIC HEALTH PAULO
ARTURO PROAÑO ANDRADE, MINISTER OF THE ENVIRONMENT (E)
RENÉ ORTIZ, MINISTER OF ENERGY AND NON-REVERSIBLE NATURAL
RESOURCES

Date Court proceedings

23/03/2021 **REASON**
11:24:00

REASON. I feel that in the reason dated March 23, 2021, at 11:12 a.m., in the sense that on this date a true copy of the Judgment is left in the file kept by the Chamber, due to an involuntary error in the signature, the name of Ms. Jakeline Véliz Pinargote is included as Secretary, when in fact the person who should sign said reason is the undersigned, since I have been acting as Secretary (E) since Monday, March 23, 2021. Jakeline Véliz Pinargote, as Secretary, when in fact who should sign said reason is the undersigned, because I am exercising the function of Secretary (E) since Monday, March 22, 2021, therefore, correcting this error, I proceed to sign the present reason. Which I hereby communicate for the purposes of the Law. Francisco de Orellana, March 23, 2021. I certify it

Abg. Tobías Castro Castro SECRETARY

23/03/2021 **REASON**
11:12:00

REASON. I feel therefore, that on this date I leave a true copy of the Judgment in the file kept by the Chamber for this purpose. Which I hereby communicate for the purposes of the Law. Francisco de Orellana, March 23rd, 2021. I certify it

Abg. Jakeline Véliz Pinargote
SECRETARY (E)

03/23/2021 REJECTION OF APPEAL APPEAL

09:20:00

Orellana, Tuesday, March 23, 2021, 09h20,

IN VIEW OF The Chamber takes cognizance of the Protection Action filed in the appeal filed by the plaintiffs as stated in the appealed judgment: Norma Mirian Mirian Andy Guinda; Juan Gualberto Pelileo Papa; Omar Estuardo Jipa Gualinga; Alicia Celinda Salazar Medina; Lanza Andi Wilmer Roberto; Acero Gonzalez Jorge; Mazabanda Calles Carlos Santiago; Jipa Grefa Bayron Alfredo; Grefa Oraco Fanny Maria; Marco Antonio Grefa Tapuy; Grefa Aguinda Verónica Beatriz; Jiménez Mendoza José Adalberto; Pelileo Aviles Cesar Manuel; Andrés Tapia Arias; Nely Alexandra Almeida Albuja; Huatatoca Alvarado Ricardo; Orlando Danny Gualinga Avilés; Paola Fernanda Maldonado Tobar; Grefa Shiguango Jairo Geovanny; Grefa Tanguila Martha Rosa; Salazar Digua Edgar Felipe; Tanguila Chongo Claudia Lourdes; Licuy Mamallacta Juan Elías; Carlos Simón Jipa Andi; Miguel Grefa Oraco; Lazzari Celmo; Andi Tanguila Mónica Alexandra; Grefa Alvarado Nelly Sofia; Edilma Iralda Shiguango Aguinda; Jipa Andi Johnny Abel; De Jesús María García Lasd Heras; Camacho García Darwin Orlando; GAD Parroquial de Guayusa; René Porfirio Tapuy Andy; Cesar Machoa; The Social Organizations: La Confederación de Nacionalidades Indígenas de la Amazonía Ecuatoriana (CONFENIAE); La Fundación Alianza Ceibo; La Comisión Ecuemica de Derechos Humanos (CEDEHUA); La Corporación Acción Ecología; La Asociación Latinoamericana para el desarrollo para el Desarrollo Alternativo (ALDEA); La Fundación Alejandro Labaka; Centro de Apoyo y Protección de los Derechos Humanos "Surkuna"; Unión de Afectados y Afectadas por las Operaciones de Texaco (UDAPT); The Federation of the United Communes of the Kichwa Nationality of the Ecuadorian Amazon (FECUNAE); the Center for Support and Protection of Human Rights and Mr. Jorge Acero González and Mr. Mazabanda Calles Carlos Santiago, Defenders of Human Rights and Nature, once notified with the written sentence, filed an appeal, which was admitted for processing on October 27, 2020, 20H05, within the case No. 2020-00201-SU-CPJO, which was admitted for processing on October 27, 2020, 20H05, within the case No. 2020-00201-SU-CPJO, which was admitted for processing on October 27, 2020, 20H05, within the case No. 2020-00201-SU-CPJO, and Mr. Jorge Acero González and Mr. Mazabanda Calles Carlos Santiago, Defenders of Human Rights and Nature. 2020-00201-SU-CPJO challenge made in accordance with the provisions of Art. 24 of the Organic Law of Jurisdictional Guarantees and Constitutional Control; and, finding the case in a state of resolution, to do so it is considered: FIRST: COMPETENCY AND VALIDITY. The Chamber is competent to hear and resolve the appeal filed by the plaintiffs, pursuant to the provisions of Art. 86 numeral 3 second paragraph of the Constitution of the Republic; Art. 4 numeral 8 and Art. 24 of the Organic Law of Jurisdictional Guarantees and Constitutional Control and the Minutes of the drawing of lots of the SATJE system of the Provincial Court of Justice of Orellana; giving the present action the respective procedure, within which the guiding principles of due process have been observed, reason for which its validity is ratified; SECOND; OF THE LEGITIMATE PARTIES. In the present constitutional action for protection, pursuant to the provisions of Art. 9 of the Organic Law of Jurisdictional Guarantees and Constitutional Control, Norma Mirian Andy Guinda; Juan Gualberto Pelileo Papa; Omar Estuardo Jipa Gualinga; Alicia Celinda Salazar Medina; Lanza Andi Wilmer Roberto; Acero González Jorge; Mazabanda Calles Carlos Santiago; Jipa Grefa Bayron Alfredo; Grefa Oraco Fanny María; Marco Antonio Grefa Tapuy; Grefa Aguinda Verónica Beatriz; Jiménez Mendoza José Adalberto; Pelileo Aviles Cesar Manuel; Andrés Tapia Arias; Nely Alexandra Almeida Albuja; Huatatoca Alvarado Ricardo; Orlando Danny Gualinga Avilés; Paola Fernanda Maldonado Tobar; Grefa Shiguango Jairo Geovanny; Grefa Tanguila Martha Rosa; Salazar Digua Edgar Felipe; Tanguila Chongo Claudia Lourdes; Licuy Mamallacta Juan Elías; Carlos Simón Jipa Andi; Miguel Grefa Oraco; Lazzari Celmo; Andi Tanguila Mónica Alexandra; Grefa Alvarado Nelly Sofia; Edilma Iralda Shiguango Aguinda; Jipa Andi Johnny Abel; De Jesús María García Lasd Heras; Camacho García Darwin Orlando; GAD Parroquial de Guayusa; René Porfirio Tapuy Andy; Cesar Machoa; The Social Organizations: La Confederación de Nacionalidades Indígenas de la Amazonía Ecuatoriana (CONFENIAE); La Fundación Alianza Ceibo; La Comisión Ecuemica de Derechos Humanos (CEDEHUA); La Corporación Acción Ecología; La Asociación Latinoamericana para el desarrollo para el Desarrollo Alternativo (ALDEA); Alejandro Labaka Foundation; Center for the Support and Protection of Human Rights "Surkuna"; Union of People Affected by Texaco Operations (UDAPT); Federation of United Communes of the Kichwa Nationality of the Ecuadorian Amazon (FECUNAE). The Center for Support and Protection of Human Rights and Mr. Jorge Acero González and Mr. Mazabanda Calles Carlos Santiago, Defenders of Human Rights and Nature; and as legitimate defendants, Mr. Pablo Antonio Flores Cueva, General Manager of the Public Hydrocarbons Company of Ecuador-EP PETROECUADOR; Mr. René Ortiz, MINISTER OF ENERGY AND NON-RENEWABLE NATURAL RESOURCES; Paulo Arturo Proaño Andrade, MINISTER OF ENVIRONMENT (E); Juan Carlos Zevallos López, MINISTER OF PUBLIC HEALTH; Dr. Íñigo Salvador Crespo, ATTORNEY GENERAL OF THE STATE; Andrés Eugenio Mendizábal Mochofsky, Legal Representative of COMPAÑÍA OLEODUCTO DE CRUDOS PESADOS (OCP) ECUADOR S.A.; THIRD: BACKGROUND. The plaintiffs in their initial memorial and when completing the claim substantially state: That due to the rupture of the OCP and SOTE oil pipelines on April 7, 2020, in the vicinities of

The oil spill in the San Rafael Cascade, Quijos sector between the provinces of Orellana and Sucumbíos, where approximately fifteen thousand barrels of crude oil and gasoline base were spilled, affecting the banks of the Coca and Napo rivers, causing irreparable damage to one hundred and nine ancestral communities, warning that it was an event that could have been foreseen both by the company that carries out such transport as well as by national organizations, since several distinguished scientists in the field, warned in advance of the phenomenon of regressive erosion, so that the spill could have been avoided. This is that from February 2, 2020, when the San Rafael waterfall collapsed, the companies had sixty-five days to take the appropriate and necessary measures to avoid contamination in nature through the waters of the Coca and Napo rivers. That in that time no actions were taken to avoid the environmental disaster, that among other actions should have been the modification of a section of the passage of pipes, or the placement of drainage valves, or conduct studies and research on how they would have avoided the spill or at least minimized it. And when the disaster occurred on April 7, 2020, neither the State agencies, nor the companies that transport oil and its derivatives, intervened immediately, nor did they generate agile and immediate warning mechanisms for the natives and settlers of the riverbanks, only the collapse was reported, the information that it was a hydrocarbon spill and derivative was not made transparent, to such an extent that the one hundred and nine communities affected did not have the opportunity to prepare and take care of themselves; a fact that occurs while the health emergency due to the COVID-19 pandemic is being experienced. The possibility of having clear and timely information of the facts that could put at risk the integrity of the people, it is essential even more in this pandemic to have access to a safe water source, a right that is affected by the acts of omission on the part of private companies and the State. That the communities were not informed according to the testimonies included in the lawsuit, where they state that they found out about the spill when they observed the oil reaching their communities through the river water, adding that for this reason there was no timely warning information so that they could protect themselves and take care of themselves. That their rights to water, health, nature and the environment have been violated because they have not been attended to in a timely and adequate manner by the State and companies. Although Compañía de Crudos Pesados O.C.P and EP. PETROECUADOR have made huge communication attempts to show that they are bringing supplies, these are efficient and not in accordance with their cultural customs. The affected communities are suffering conditions of isolation due to COVID-19 and confinement due to the oil spill because they cannot exceed their basic consumption of fish and interrelation with the river water necessary for their physical and emotional integrity, in other cases they cannot access the products of their farms, since the spill coincided with a winter season when the river was swollen flooding the farms of several communities, The communities are therefore unable to provide themselves with plantain, malanga, cacao and traditional fruits and are suffering health problems, apparently related to direct contact with the crude oil, as they are forced to continue using river water because they have no safe water sources and the scarce water provided by the OCP Company and PETROECUADOR is insufficient. The communities are afraid of public intrusion on their lands, which is due to the erosion that continues to advance, putting at risk other sections through which the pipelines would pass. As of May 5 and 16, 2020, the Minister of Energy and the oil companies are concerned about the regressive erosion, a fact that was known since February 2, 2020 and they did not pay attention to it, they should have acted in that period to avoid the spill. They reiterate that their constitutional rights to life, water, food, health, territory in relation to the identity of indigenous peoples, to the environment, to nature and to information have been violated, whose violation is persistent, that is to say until the present date, which puts the existence of the people who live in the localities at serious risk. They go before the constitutional judge to request the protection of their rights, arguing that the State knew of the risk and did not act, that once the events occurred, it acted insufficiently and therefore the risk persists as they will demonstrate at the hearing. Unfortunately, the main concern of the companies and entities involved has been to prevent oil production from declining or at risk, without worrying about the life and integrity of the population, this is not the first spill, so the companies are well aware of the risk that exists in the area, due to the geomorphological and geo-seismological conditions, which is aggravated by the regressive erosion. There is abundant jurisprudence from the Inter-American System and the Constitutional Court on the obligation that companies and the State have when issuing or generating measures on indigenous peoples, that they must be consulted and agree with them on the necessary actions when they are affected. The cleaning actions mentioned by the companies in the public media are not so, since the actions are scarce as well as water and food, and the few medical brigades have been carried out without consulting the communities, without taking into account the ethnic particularities of the affected peoples, which result in a new violation of their rights, requesting that the sentence establish: 1. That the defendants provide a sufficient amount of culturally appropriate food for ten months, according to the diet to be defined between the communities and medical personnel specialized in intercultural health; 4.- That the defendants provide sufficient drinking water to all the affected communities during the next ten months or during the time that the construction of the water systems takes; 5.- That during the six months the defendants shall provide systems that allow access to drinking water to communities that do not have them. That the defendants are obligated to finance the formation of a community monitoring committee on socio-environmental remediation activities; and, 8. That the defendants publish and disseminate public apologies in Spanish and Kichwa, and

request measures of non-repetition: a) Guarantee a rapid and effective containment of this and future oil spills and derivatives, through the establishment of a rapid response plan to spills for the Coca River, financed by the defendants and the execution coordinated with the affected communities and consisting at least of measures for immediate containment of crude oil and water supply to those affected to avoid further violations of their rights. b) Prohibit the reconstruction of the pipelines following the original route; c).- Hydro-sedimentological studies of the area be carried out, develop and implement a long-term sediment management plan according to the results of these studies, which should include the area where the COCA CODO SINCLAIR project is currently located, given the technical criteria that state that the erosion of the river bed may be caused by the retention of sediments by the dam, which represents serious damage to the riverbanks and slopes, upstream in the area of the waterfall and population that was affected by the April 7 spill; d).- The design and implementation of a rapid response plan for spills in the Coca and Napo rivers to ensure the rapid and effective containment of this and future spills financed by the defendants, but its implementation in coordination with the affected communities and to agree on measures for immediate containment of crude oil and provision of water and health care to those affected and to ensure the proper flow of information to the affected populations, these will have direct and effective access to an early warning mechanism in case of new spills; e).- The publication of an excerpt of the sentence in Spanish and in Kichwa in two newspapers of wide provincial and national circulation at the expense of the defendants. The restoration and economic compensation measures will be financed by the defendants and planned and executed jointly with the consent of the plaintiffs. They shall comply with the objective of eliminating all the impacts caused by the spill in any of the structural subunits of the environment and where it is not possible to eliminate the impacts, they shall seek to mitigate them by way of compensation. Adding the following: 1.- There is a record of at least 72 spills occurred on the route of the SOTE and OCP pipelines in Ecuador, on the route where the spill occurred last April 7, in a 30 km route, high risk area for its passage next to the Reventador volcano, crossing population centers, the limits of the Cayambe Coca and Gran Zumaco Ecological Reserves and passing next to the San Rafael waterfall; 2. Since 1972, the SOTE has had 72 spills, the last ones, greater than 10,000 thousand barrels are: one on April 8, 2003, which generated a crude oil spill in the Cayambe Coca reserve, which went down to the Papallacta lagoon. On February 25, 2009, another spill of 14,000 barrels of crude oil in the Santa Rosa parish, Napo province, affecting 32 towns including the city of Coca; since the construction of the OCP oil pipeline, several organizations have reported risks related to seismic and volcanic conditions - landslides. On February 2, 2020 the "San Rafael" waterfall collapsed, located between the provinces of Napo and Sucumbios, causing the waterfall to retreat upstream 1.5 kilometers, due to the sinking of the river bed. The landslide that caused the rupture of the pipelines is not an isolated incident, but has its cause in another previous phenomenon that would explain the erosion process. Several experts had pointed out that, since the disappearance of the San Rafael waterfall on February 2, 2020, there could be a process of regressive erosion that threatened the upstream structures. They do not know if the Ministry of Environment carried out erosion monitoring processes in the area before and after the construction of the largest hydroelectric plant in the country: Coca Codo Sinclair, which has its water catchment dam 15 to 20 kilometers above the San Rafael waterfall. Diario el Universo, on April 10, 2020, reported that experts are "extremely concerned" because they called the attention of the authorities, which was ignored, and warned of the danger in the area, quoting Emilio Cobo, coordinator of the IUCN (International Union for Conservation of Nature) Water Program for South America, who states: "It was said that it was going to happen, but no action was taken. Now the country needs to talk about what is going to happen with the bases of the pipeline, with the road and, in the future, with the Coca Codo Sinclair hydroelectric dam"; 5.- MAE experts shared their concern that the authorities have not acted according to the seriousness of the regressive erosion process that was taking place: "This issue, as I told you a month and a half ago, is too serious not to have analyzed the speed of the regressive erosion, something that should have been done by the OCP and the SOTE and that I hope Coca Codo Sinclair is doing"; 6.- The causes for the drying of the San Rafael waterfall would be associated with a phenomenon of regressive erosion, which was warned as a possibility since the construction of the Coca Codo Sinclair dam. There is abundant scientific research on a hydrological phenomenon known as "hungry waters", associated with the construction of dams and mining, since both activities alter the normal flow of sediments, which alter the hydrology of the rivers; 7.- Carolina Bernal, an expert in hydrosedimentology, quoted by El Universo newspaper, assuring that what happened with the waterfall may be due to the construction of the Coca Codo Sinclair intake plant; indicates that Coca Codo is a hydroelectric plant of river edge that in theory this model does not generate the phenomenon of "white waters or hungry waters", the practice shows that if there was this problem, which appear because the river has become unbalanced, making the erosion very strong, that the disappearance of the waterfall, was "the first warning bell". 8.- The responsible entities ignored the warnings and omitted to take measures against the interruption of the water flow in the San Rafael waterfall and the scientific warnings. On April 7, an earth movement and the formation of a 70-meter sinkhole, a consequence of the regressive erosion of the Coca River bed, fractured the pipelines and affected the operation of the Trans-Ecuadorian Oil Pipeline System (SOTE), the Heavy Crude Oil Pipeline (OCP) and the Shushufindi-Quito Polyduct. When the pipelines ruptured, people were not informed that they could be affected by this situation, but rather a simple loss of pressure in the pipeline and the suspension of operations was announced: on April 7, operations of the Trans Ecuadorian Oil Pipeline System (SOTE) were suspended, due to the fact that at 19H15 there was a land subsidence in the San Rafael sector, on the border between the provinces of Napo and Quito.

and Sucumbios which caused a reduction in the pressure of the pipeline, affecting the operation of the SOTE, which has a capacity to transport 360 thousand barrels of crude oil per day. 11.- On April 8 at 08H23 OCP through its Twitter^{2°} account reported the pipeline rupture, which occurred in the early morning of April 7, i.e., it alerted of the facts one day after its occurrence as follows: Oleoducto de Crudos Pesados (OCP) Ecuador informs that on Tuesday, April 7, an erosion was detected in the bed of the Coca River, which triggered in the early hours of this morning the rupture of the OCP pipeline in the limit between the provinces of Napo and Sucumbios; as part of the emergency protocol, the pumping of crude oil was suspended at 17h30 yesterday, April 7, 2020; the corresponding authorities have been notified of this force majeure event. 12. The authorities express their concern exclusively about the economic impact that the interruption of oil pumping would have; and, emphasizing the short time that the reconstruction would take. 13. The fracture of the pipelines occurred during the mobility restrictions due to the national state of health emergency generated by the pandemic declared by the WHO due to the onslaught of the COVID-19 virus. OCP and PETRECUADOR, through their social networks, state that they are working to mitigate and remediate the environmental impact. They do not know the details of the plans and projects, schedule and procedures that are being applied. No statement assures the implementation of consultation and/or consultation and consent processes with the Indigenous Peoples that are affected. The implementation of containment barriers at different points of the river to control the spill, which are insufficient given that on April 12 CONFENIAE and FECUNAE were still receiving community reports of the advance of the oil slick along the Napo River. The Ombudsman's Office, through official letter No. DPE-DP-2020-0195-0 made several requests to the Ministry of Energy and Non-Renewable Resources, in coordination with PETROECUADOR, to inform the citizens about the damages caused, mitigation and remediation plan and the actions being carried out to guarantee the constitutional rights of people and nature, which publicly has not made any pronouncement whether or not it has obtained a response. 16.- The defendants have not presented remediation and reparation proposals, socio-environmental concrete with communities and indigenous organizations; on April 27, OCP through press release No. 10 states that it is carrying out verification in communities in order to determine the census of those affected; which shows that the response offered (water and food rations) cannot be considered efficient, timely, suitable and sufficient; they did not refer to the contamination, nor to the needs of the affected populations. 17. The Ministry of Energy and Non-Renewable Natural Resources, by means of a press release dated April 8, 2020, stated that: 1) the National Government guarantees the supply of hydrocarbon derivatives and oil exports; and, 2) that exports are carried out normally. The Trans-Ecuadorian Oil Pipeline System (SOTE) and Heavy Crude Oil Pipeline (OCP) and the polyduct have a capacity to transport 360 thousand and 180 thousand barrels per day respectively; on the other hand, the Shushufindi-Quito Polyduct has a capacity to transport 9,600 barrels per day of fuel, LPG from the Shushufindi refinery. In a press conference on April 10, the Minister stated that the spill only amounted to 4,000 barrels, without referring to the real dimensions of the impact on the rights of the affected populations and its reparation. On April 8, the local populations began to denounce the presence of oil contamination in the river, the damage caused and the threat of further damage. CONFENIAE reported the spill in social networks, after the sinking of the SOTE at the height of San Rafael, between Napo and Sucumbios; community members from the banks of the Coca River and other tributaries report the presence of oil in the water, putting at risk the water supply for the riverside communities. On April 8, CONFENIAE denounced the existence of water contamination in the Coca River due to a new oil spill; more than 97,000 people living in the cantons of Francisco de Orellana and Aguarico have been left without drinking water service due to the suspension of water collection from the Coca and Napo Rivers. The life of the Kichwa communities settled along the Napo River in Ecuador and Peru is once again at risk for their water and food sources, with the imminent catastrophe of facing the COVID 19 epidemic. The Alliance of Human Rights Organizations warned on April 8 that several communities living along the banks of the Coca and Napo rivers have reported that the spill has reached their territories, causing serious damage, which for many of them is their only source of water and food. Although several human rights organizations have requested PETROECUADOR and the responsible Ministries, they have not disclosed information on the amount of crude oil spilled, the containment measures taken and the alternatives for the affected indigenous and peasant communities to guarantee their minimum subsistence rights, which aggravates the situation of vulnerability of the current pandemic caused by Covid-19. 20. The official bulletin No. 053 of the Ministry of Environment states that an Emergency and Contingency Committee has been created to establish immediate control actions and implementation of remediation plans in the affected sites, headed by the Vice Minister of Environment, Steven Petersen, and the Ministries of Energy and Non-Renewable Natural Resources; Health; Foreign Affairs and Human Mobility; Agriculture and Livestock; the Technical Secretariat of the Amazon Special Territorial Circumscription; Petroecuador EP, and OCP Ecuador. In bulletin No. 055 of April 9, the Ministry of Environment states that in the first meeting of the committee, the application of emergency measures and mitigation of damages, provision of water to communities in the province of Orellana and the work being carried out in the sector were reported; on April 11, PETROECUADOR mentioned that environmental remediation actions are being carried out in the area of the spill, without making transparent what measures have been taken; and, they have not been carried out in conjunction with the affected populations. 22.- The bulletin N. 057 of April 10 states that an articulated, timely and effective work is being carried out for the benefit of the communities affected by the natural event; however, there is no public demonstration of the processes of agreement and consultation with the affected indigenous peoples and communities for the purpose of establishing and implementing environmental and social actions of the affected communities.

contingency, mitigation and correction in the territory; they point out that they have prioritized the provision of water and basic services to the local population, in support of the affected communities and attention to the communes, communities, indigenous peoples and nationalities on the banks of the Coca River; however, the water that is delivered (2 bags of 5 liters each, every 4 days) and some food rations are not sufficient or suitable. As demonstrated in the testimonies attached to this lawsuit. The Mayor of Gonzalo Pizarro, after an inspection of the river, verified that communities, such as Panduyacu, are contaminated; the president of the Parish Government of El Reventador, says that fish are dying in the Coca River; the Municipality of Aguarico, suspended the collection of water from the Napo River. On April 27, the Mayor of Francisco de Orellana, informed through social networks and local media, that due to damage to the pumps at the Payamino river station, drinking water service is suspended in the city, the only alternative source being the Napo river. 24.- The state and the public companies involved have not taken sufficient, adequate and culturally appropriate measures to guarantee access to water and food for all affected populations. Furthermore, the measures that have been adopted have been focused on providing water to the nearest cities and communities, and not to the people on the banks of the affected rivers. Carlos Jipa, president of FCUNAE indicated that after the oil spill in the Coca and Napo rivers, the main need is to have drinking water: that more than 70 communities and about 800 people would be affected, those who live on the banks of the Coca and Napo rivers; the most needed aid are the communities that were supplied with water from the river for their consumption and at this moment they do not have it, neither to prepare their food, nor for fishing. On April 13, 2020, through Oficio No. 005-2020-ACE-AGRP, the Academy of Sciences of Ecuador (ACE), professionals and researchers sent a letter to Minister René Ortiz Durán, indicating that the collapse of the SOTE and OCP, is related to the erosive process of the Coca riverbed, which led to the disappearance of the San Rafael waterfall, located 1.5 km downstream and warning that this phenomenon of regressive erosion can put at risk other strategic infrastructure located upstream of the spill site. With respect to the oil spill, they indicate that they are concerned about what is happening downstream of the accident, with local communities and wildlife, noting that they have no information on the volumes spilled, contamination levels, or the containment and remediation actions being implemented by PETROAMAZONAS and OCP. On April 21, 2020, in the appearance before the Biodiversity and Natural Resources Commission of the National Assembly, Minister René Ortiz announced that the spill exceeded 15 thousand barrels of crude oil, through one of the pipelines, inferring that the amount spilled must be greater, since there were three broken pipes and for a long period of time until pumping was suspended. According to the report "Situación poblacional de los afectados y afectadas del derrame de crudo por la ruptura del SOTE, OCP y Poliducto", the estimated population affected by the spill amounts to 118,617 people, belonging to 22 rural parishes of 8 cantons bordering the banks of the Coca and Napo rivers, in the provinces of Sucumbios and Orellana; the indigenous nationalities have 2,375 inhabitants according to the INEC census of the Population and Housing Census of 2010. According to the Ministry of Public Health's website, in the 8 affected cantons and 22 riverside parishes near the Coca and Napo rivers, there are 37 health centers of the national public system; 8 mobile health care and support services. In the framework of COVID-19 emergency care, only 6 of the 30 centers have the CONTACT CENTER -171 system. 30. We do not intend to enter into a technical discussion about the causes of the land subsidence that caused the spill. This discussion would be sterile because, even if it were a fortuitous event or force majeure, the Organic Environmental Code applies, which in its Article 307 provides the following with respect to Force Majeure or Fortuitous Event: "When the environmental damage was caused by an event of force majeure or fortuitous event, the operator of the activity, work or project shall only be exonerated from the administrative sanctions, only if he proves that such damage could not have been reasonably prevented or that, even if it could have been foreseen, it is inevitable". 31.- The fortuitous event argument would be able to exonerate the defendants only from their administrative responsibilities, for which Art. 307 regulates the obligations of the pipeline operators in case of fortuitous event, stating that "However, the operator shall have the obligation to adopt immediate measures or actions, in order to contain the damage and prevent it from spreading. The measures to be implemented shall be contingency, mitigation, correction, remediation, restoration, follow-up, evaluation or others that may be administratively necessary". 32. By constitutional mandate, the State is obliged to act directly and immediately; as stated in Article 397 of the Constitution: "In case of environmental damage, the State shall act immediately and subsidiarily to guarantee the health and restoration of ecosystems", that is, even when it is no one's fault, the State has the obligation to act immediately, which is not being complied with. The plaintiffs are part of and/or are representatives of indigenous communities, we share what Darwin Vargas said (ratified with his signature in this lawsuit), that we are extremely concerned, because the spill is of great magnitude, and it will be a large-scale impact, affecting the passage of the river, animals and people living in the communities near the banks that benefited from the water they used for drinking and cooking. 34.- It is evident that warnings were given regarding the threat posed by the regressive erosion, that the damages that were warned for the upstream structures were complied with, the defendants failed to act in time. The defendants committed a series of acts and omissions, linked to the fact that the State knew of the risk and failed to take measures in the face of the interruption of the flow of water in the San Rafael waterfall and the warnings of the experts. 36.- The defendants should have analyzed the speed of the natural phenomenon of regressive erosion that affected the San Rafael waterfall, that they were warned of the threat to the OCP and SOTE, and that the cause of the oil spill affected constitutional rights. 37.- Presents a map, which shows the proximity between the San Rafael waterfall, site of the

The Polytechnic School in a research process shows the erosion in the Coca River bed, in the San Rafael sector, concluding that: from what is known about the CHRC and what has been observed in the last two months, it is most likely that the regressive erosion will continue at an accelerated rate, which could be stopped only if the riverbed is found with a different type of rock resistant to erosion (lava). According to the PIMI 14-09 project, this phenomenon would be associated with the construction and operation of the CHCCS, which would produce the well-known "Aguas Blancas" phenomenon in the Coca River, a phenomenon that will continue to affect the banks of the Coca River, and therefore any infrastructure work or nearby human settlements could be disturbed in the coming months. Hydro-sedimentological studies are required to understand the evolution of the dynamic equilibrium of the Coca River and predict the impacts upstream of the sites where the events described above occurred. It is clear that the management of oil installations, such as oil pipelines, implies a naturally high risk, therefore the warnings must be taken very seriously; the defendants omitted to act according to their duty, while the erosion advanced towards the pipelines, whose consequences are enormous for the country's economy, but fatal for the people living in the basins of the Coca and Napo rivers, which must be protected immediately. According to Art. 3 of the Constitution, the duties of the State are: To guarantee, without any discrimination, the effective enjoyment of the rights guaranteed in the Constitution and international instruments, particularly education, health, food, social security and water for its inhabitants, in addition to protecting the natural and cultural heritage of the country. 41. The communiqués of the entities involved on April 7 do not mention the existence of a spill; and it is not possible to determine the magnitude of the spill, with the number of barrels; the areas, territories and communities affected; the containment, attention and response actions carried out or to be carried out; the contingency plan to prevent future disasters; and the measures of integral reparation of the affected areas. This means that we, the affected communities, have not been warned in advance, nor have we been consulted for subsequent actions. 42.- Some government spokespersons have lamented this "accident" qualifying it as fortuitous, it is evident the existence of a causal relationship (or at least correlation) between the disappearance of the San Rafael waterfall, a phenomenon known as regressive erosion and the landslide that broke the pipelines that caused the spill and considering the multiple and public warnings of experts, the rupture of the pipelines was probable. Consequently, the possibility of attributing the violations of rights to an act of God or force majeure is destroyed, since the violations are a direct consequence of the omissions and/or actions of the Respondents. 43.- In the supposition that the omissions incurred by the defendants are not related to this tragedy, and that it is an unfortunate coincidence that has caused a fortuitous collapse, in the same place that had been warned that it would happen, the defendants maintain intact the obligation to respond in the face of the emergency. 44.- Consequently, we accuse the omission of the duty to protect and act immediately and effectively in the face of the crisis caused by the water contamination; the omission to implement effective measures of containment, mitigation and restoration of the environmental damage, established in Article 397 of the Constitution, which establishes the obligation to respond to the emergency. 397 of the Constitution, which provides that "In case of environmental damage the State shall act immediately and subsidiarily to ensure the health and restoration of ecosystems", an obligation that extends to individuals when applying the provisions of paragraphs 5 and 6 of Art. 83 of the Constitution, which imposes the obligation on all persons to respect human rights and the rights of nature. In other words, the defendants failed to act, as was their duty, while the erosion was advancing in the direction of the pipelines. 45. Additionally, we charge that the omission of the duty to guarantee timely and sufficient assistance to the affected persons and communities, through all necessary and sufficient measures for this purpose, which also means providing the means of life when they are unable to do so by themselves, in the face of the crisis caused by the contamination of the water and the omission in measures of containment, mitigation and restoration of the environmental damage, which is aggravated by the sanitary emergency. 46. By failing to provide priority, timely, necessary and sufficient attention to those affected by the oil spill, the State places them in a situation of violation of rights, aggravated by the health emergency declared throughout the country and puts them at risk of suffering irreparable damage; without water and food one cannot survive. The delivery of food and water bottles, so much announced by the authorities, has not been enough to reach all the affected populations and people. 47.- As proof of the above, we present a series of testimonies of residents of the affected area, as shown in Annex 5, which correspond to 13 people who present this action, belonging to various communities, who share serious affectations, some recorded on video, and others in audio presented together with the transcripts. We urge you to listen to them, since they contain an eloquent sample of the tragedy that looms over the inhabitants of the area affected by the spill and the limitations of the actions taken by the defendant entities. Testimony of Jairo Geovanny Grefa Shiguango: We want to ask the OCP to come to remediate, because with that smell we do not live well, the children are affected, I ask for remediation and cleaning. Martha Rosa Grefa Tanguila: We don't have any help, only the parish council gave tesalia water and 10 to 15 dollars for food; we have children, there is no money, no medicine, we live far away to go out, we are in a difficult situation, plus the oil contamination. Ramiro Luis Grefa Tanguila: There has been no support from kits. Camilo Ramiro Grefa Aguinda: We have had no help from the national government. Saqueo Edgar Alvarado Tapuy: So far there is no support for the spill, we are without environmental remediation, and you have seen how it is well stained, there is no dialogue, socialization of public institutions and companies, there is no agreement so far. Claudia Lourdes Tanguila Chongo: No nothing we do not have, no support. 49. Testimony of: Édgar Felipe Solazar Digua: You see, we requested that the company give them some tanks and support us with a water well and they say that tomorrow and nothing is known so far. As secretary of the community we are requesting three tanks per family for the water well.

collect rainwater. Gabina Coquinche Andi: That oil kills us plantain and yucca, that smell is what the people carry here, how they consume the water and bathe. Now, we can't bathe, we get scabies, the children are sick and where are we going to get water from. Those three small glasses of water they send us run out in 15 minutes, because we have a lot of children. Juan Elías Licuy Mamallacta: The only source of water we have right now is no longer available, that is why we ask for help with water bottles because the rain is contaminated and it is not enough, the federation has supported us but it is not enough. Hernando Rafico Cerda Andi: This is the third time they have received bottled water, they are coming once a week, which is not enough. Verónica Beatriz Grefa Aguinda: I think they should help us with food and water. There are many people who have nets, they put them in the water and they came out full of crude oil, there should be medical attention. There has only been talk of remediation and they are just words. Fanny María Grefa Oraco: We went fishing at five o'clock in the morning, when the child returned he was black with oil, his body was itching. No one has come to support us, my daughter is also disabled. 50.- Also the containment tasks that may have been announced and/or deployed have been ineffective, as contamination was reported in Peru. 51.- These omissions cause the violation of constitutional rights of the affected populations, who see their lives altered and their rights violated, as a direct consequence of the contamination of their only source of water and food. 52.- A situation of violation of constitutional rights is evident, so that the action for protection is the appropriate and effective way to know, repair and prevent further damage. In this sense, the Constitutional Court has stated that "(...) the jurisdictional guarantees, specifically the action for protection, proceed when the process reveals the violation of constitutional rights arising from an act of a non-judicial public authority (...). The action for protection is the mechanism that complies with the obligation established in Article 25 of the American Convention on Human Rights to provide individuals with a simple, prompt and effective remedy "before the competent courts or tribunals for protection against acts that violate their fundamental rights recognized by the Constitution, the law or this Convention, even when such violation is committed by persons acting in the course of their official duties. In this line, the Constitutional Court has established through binding precedent No. 001-10-PJO-CC, of December 22, 2010, that: "(. . .) the jurisdictional guarantees, specifically the action for protection, proceed when the process shows the violation of constitutional rights arising from an act of non-judicial public authority (. . .) the action for protection has a reparatory nature whether material or immaterial, another of the great advances that the Constitution of 2008 incorporates in terms of protection of rights. In conclusion, it can be established that the legal nature of this jurisdictional guarantee is that of a process of knowledge, tutelary, simple, fast, effective and contains reparatory effects". 54. On the other hand, the action for protection has a non-residual character, which makes it the appropriate mechanism for the affected populations to demand the reparation of their violated constitutional rights, without the need to exhaust other avenues. 55.- The damage could become irreparable for people who, deprived of access to water and food, face a continuous violation of their constitutional rights. Faced with this complex situation, the action for protection becomes an appropriate and effective way to address the constitutional dimension of the problem raised. In this regard, the Constitutional Court has determined: the scope of numeral 1 of Art. 40 of the LOGJCC, is that all the rights enshrined in the Constitution have several facets; that is to say, they are multidimensional. Therefore, the mechanisms or ways that the legal system adopts to guarantee its effective enforcement must cover both the constitutional dimension of the right, as well as its legal scope, so that the content of the violated right is integrally protected. By virtue of this, the doctrine has held that the constitutional dimension of a right is that which is directly related to the dignity of persons as subjects of rights. 56.- The spill and the omissions of the entities involved violate the constitutional rights to life with dignity, to water, food, health, to a healthy environment, to information, to territory (indigenous peoples and nationalities) and to the rights of Nature. As explained below, the contamination of the water of the Coca and Napo rivers with hydrocarbons drastically limits the livelihood and survival capacities of the people living along its banks, a situation worsened by the sanitary crisis and the difficulty to obtain food normally; and by the fact that many indigenous communities have preferred to isolate themselves to avoid contagion. For these people, the river was the only source of food and water, so their rights are being violated as they are contaminated. These rights are interrelated. Thus, for the realization of the right to health, to which we refer below, it is vital for the satisfaction of the right to water (and all are related to the right to a dignified life). The same happens with the right to food, since contamination can affect the health of families through food, because the main source of protein for the population is fishing, and because water and soil contamination can affect vegetation, as well as the self-sustaining crops of families. The violation of the exercise of the right to water, which impacts the right to food and affects the right to health, also undermines the right to decent living conditions. 58. However, there are two considerations that must be analyzed when assessing the violations of constitutional rights developed. The first is the national state of health emergency generated by the pandemic declared by the WHO due to the onslaught of the COVID-19 virus, which limits the mobility of people and imposes a series of health care standards linked to regular access to safe water and food sources that must be covered to protect people. The second is that the population that is suffering the consequences of the spill, amounting to 118,617 people, suffers from high poverty rates and very limited health coverage. In particular, more than 2,000 affected indigenous families should be considered in a special situation of vulnerability due to the multidimensional reality of vulnerability, the persistence of conditions of inequality, exclusion and discrimination in the access to health services and the lack of access to health care.

to society's goods and services, as well as due to the relative geographic isolation of their territories. In particular, the health situation of indigenous peoples and rural communities is already serious, due to the high prevalence of introduced infectious and contagious diseases, chronic non-communicable diseases, economic and socio-environmental conditions, and deficient health services. 59. The cross-cutting analysis of these two elements allows only one logical conclusion: the inhabitants of the areas affected by the spill are in a situation of triple vulnerability, so the State's role as guarantor of the constitutional rights of the victims of the rights violations in this case is reinforced, and it must, therefore, comply with specific positive obligations. 60.- The IACHR observes, based on the situation reported (supra III.C, III.D and III.E), that the various environmental impacts in the Amazon greatly compromise the indigenous peoples' enjoyment of their rights to water and food. In several cases, mercury contamination, the use of toxic agrochemicals or oil spills have caused serious violations of these rights, given that these substances are transmitted mainly through the consumption of contaminated water and animals. On occasion, the contamination of water resources even generates a food crisis, given that, for many Amazonian communities, fish are the basis of their traditional diet. Likewise, the IACHR observes that, given that food practices are closely linked to their worldview, certain State measures for food supply have not been culturally appropriate, as would be the case of the distribution of industrialized products. Added to this are impacts related to the deforestation of forests and the loss of biodiversity, which have been reported to affect traditional hunting and gathering practices. 61.- The Inter-American Court in the Case of the Yakye Axa Indigenous Community vs. Paraguay ordered the State to act with respect to the community, which at the time was landless, as follows. "(

...) given their special state of vulnerability and their inability to access their traditional subsistence mechanisms, the State shall provide, immediately and periodically, sufficient potable water for the consumption and personal hygiene of the members of the Community; provide periodic medical attention and adequate medicines to preserve the health of all persons, especially children, the elderly and pregnant women, including medicines and adequate treatment for the deworming of all members of the Community; to provide food in sufficient quantity, variety and quality so that the members of the Community have the minimum conditions for a dignified life; to provide latrines or any type of adequate sanitary service so that the biological waste of the Community is managed effectively and safely; and to provide the school located in the current settlement of the Community with sufficient bilingual materials for the proper education of its students". 62. The Catholic Church recognizes that the water and land of the Amazon region nourish and sustain nature, life and the cultures of hundreds of indigenous communities, peasants, Afro-descendants, mestizos, settlers, riverside dwellers and inhabitants of urban centers. Water, the source of life, has a rich symbolic meaning. In the Amazon region, the water cycle is the connecting axis. It connects ecosystems, cultures and the development of the territory. The Amazon today is a wounded and deformed beauty, a place of pain and violence. The attacks against nature have consequences against the life of the people. This unique socio-environmental crisis was reflected in the pre-synodal hearings that pointed out the following threats against life: appropriation and privatization of nature's goods, such as water itself; legal logging concessions and the entry of illegal logging; predatory hunting and fishing; unsustainable megaprojects (hydroelectric, logging concessions, massive logging, monocultures, highways, waterways, railroads, mining and oil projects); pollution caused by the extractive industry and city dumps and, above all, climate change.(...) Behind all this are the economic and political interests of the dominant sectors, with the complicity of some rulers and indigenous authorities. The victims are the most vulnerable sectors, children, young people, women and Sister Mother Earth. Article 66.1 of the Constitution of the Republic of Ecuador establishes that people are recognized and guaranteed "the right to a decent life, which ensures health, food and nutrition, drinking water, housing, environmental sanitation, education, work, employment, rest and leisure, physical culture, clothing, social security and other necessary social services". The Inter-American Court of Human Rights holds that: The right to life is a fundamental human right, the enjoyment of which is a prerequisite for the enjoyment of all other human rights. If it is not respected, all rights are meaningless. Because of the fundamental nature of the right to life, restrictive approaches to it are not admissible. In essence, the fundamental right to life includes not only the right of every human being not to be arbitrarily deprived of life, but also the right not to be denied access to the conditions that guarantee a dignified existence. States have the obligation to ensure the creation of the conditions required to prevent violations of this basic right and, in particular, the duty to prevent their agents from violating it. 64. In the same sense, the Constitutional Court of Ecuador has stated that "it is not enough to assume a "reduced interpretation" according to which the State limits itself to preventing attacks on the lives of persons and punishing those responsible in the event that they have already been committed. The content of the right also requires the deployment of a set of activities at all levels, in order not to admit that, at the cost of preserving life, peoples and individuals are forced to compromise the recognition of their quality of human beings". 65-. In emergency situations, the Inter-American Court of Human Rights has provided that "(i)n accordance with Article 27(2) of the Convention, this right is part of the non-derogable core, since it is enshrined as one of the rights that cannot be suspended in cases of war, public danger or other threats to the independence or security of the States Parties".

In this regard, the United Nations Human Rights Committee has referred to the content of the right to life in the following terms: "(t)he Committee has noted that the right to life has too often been narrowly interpreted. The expression 'the inherent right to life' cannot properly be understood in a restrictive manner, and the protection of this right requires the State to adopt positive measures". The Inter-American Court has understood that this right is violated by State omission; that is, by the State's failure to comply with positive obligations (obligations to do) to generate conditions that guarantee a decent life for children, indigenous communities and persons in vulnerable situations. These conditions that guarantee a dignified life, to which the IACHR Court refers, are measured specifically in relation to access to the right to water, food, health, education, among other social rights. In this specific case, the lack of access to material conditions and the rights to water, food and health constitute a violation of the right to life with dignity. The right to life implies, in principle, existence, but it does not end there. Therefore, its exercise is violated not only by taking the life of another person but also when it fails to generate conditions that make possible a dignified existence. For example, when faced with an oil spill that affects access to water, the state fails to create conditions so that this lack of access does not generate violations of the rights to food and health of people who depend for their subsistence on the rivers whose waters have been affected. Therefore, the content of the right to life with dignity is violated when the state has not carried out actions, or has done so in an insufficient or inadequate manner, to generate conditions that allow individuals or communities to live and develop with the necessary material resources. 68. Similarly, oil contamination of the rivers has altered their life cycles, affecting the entire ecosystem of the basin of both rivers. There is abundant literature that refers to the effects of oil pollution on plants, amphibians, invertebrates, fish, etc., so we can speak of a whole alteration of life cycles, protected by constitutional law. The Inter-American Court of Human Rights, in the Case of the Yakye Axa Community, established that the State had not guaranteed the right of the members to community property and considered that this fact affected the right to a dignified life of the members of the Community, since it deprived them of the possibility of accessing their traditional means of subsistence, as well as the use and enjoyment of the natural resources necessary for obtaining clean water and for the practice of traditional medicine for the prevention and cure of diseases. In the same 2005 judgment, it established that: "The special affectations of the right to health, and intimately linked to it, those of the right to food and access to clean water have an acute impact on the right to a dignified existence and the basic conditions for the exercise of other human rights, such as the right to education or the right to cultural identity. In the case of indigenous peoples, access to their ancestral lands and the use and enjoyment of their natural resources are directly linked to obtaining food and access to clean water. In this regard, the aforementioned Committee on Economic, Social and Cultural Rights has highlighted the particular vulnerability of many groups of indigenous peoples whose access to ancestral lands may be threatened and, therefore, their ability to access the means to obtain food and clean water. 70. The violation of each of the rights described below also constitutes a violation of the right to life with dignity, in the terms of the jurisprudence of the Inter-American Court; and, the jurisprudence developed by the Ecuadorian Constitutional Court. It should also be noted that all rights are interdependent, which means that they are interrelated. One right cannot be affected without affecting others. The omissions of the entities involved violate the right to water of individuals and communities. 71. For the effective exercise of the right to health, which is explained below, the satisfaction of the right to water is vital. All people must have access to a sufficient quantity of drinking water to prevent dehydration and maintain basic health. The right to water is the only right that has the characteristic of "fundamental" in the Constitution, which recognizes it in the following terms: "Art. 12.- The human right to water is fundamental and inalienable. Water constitutes a strategic national patrimony for public use, inalienable, imprescriptible, unseizable and essential for life". The Committee on Economic, Social and Cultural Rights also stressed that the right to water is a sine qua non for the exercise of other rights, inasmuch as "water is necessary to produce food (right to food); to ensure environmental hygiene (right to health); to procure a living (right to work) and to enjoy certain cultural practices (right to participate in cultural life)". While States must give priority to guaranteeing the supply of water for personal and domestic use, they must also take measures to ensure the availability and sustainability of water for food production and environmental hygiene. It is accepted, in current international doctrine, that the content of the right to water encompasses that it be sufficient in quantity, safe in quality, accessible and affordable. It is for all these reasons that our 2008 Constitution granted a pioneering protection to the right to water in a double aspect: as a human right and as part of the rights of nature. This is precisely the right that is being violated by the contamination with crude oil of waters that serve as the only source of subsistence for entire communities. In 2002, the Committee on Economic, Social and Cultural Rights adopted its General Comment No. 15 on the right to water, defined as "the right of everyone to sufficient, safe, acceptable, accessible and affordable water for personal and domestic uses. In it, the Committee held that access to safe - potable - water is undoubtedly one of the essential guarantees for ensuring an adequate standard of living, as an indispensable condition for preventing death from dehydration, for reducing the risk of disease, for reducing the risk of disease, and for ensuring that everyone has access to safe and potable water for personal and domestic uses.

water and to meet the needs of consumption, cooking, personal hygiene and domestic hygiene. According to this Observation, water must be free of microbes and parasites, as well as chemical and radiological substances, which may constitute a threat to human health. It is evident that a spill of thousands of barrels of crude oil deprives water of its salubrious qualities, since hydrocarbons are known to cause detrimental effects on the health of living beings. The DESCA Committee stressed that "[w]ater should be treated as a social and cultural good, and not primarily as an economic good" and that "the following factors apply in all circumstances: a) Availability. Each person's water supply must be continuous and sufficient for personal and domestic uses [...]."

... (b) Quality. The water required for each personal or domestic use should be safe [...]. In addition, water should have an acceptable color, odor and taste [...]. e) Accessibility. Water and water facilities and services should be accessible to everyone, without discrimination, within the jurisdiction of the State party". 75. With respect to the right to water, although the Inter-American system does not have specific norms regarding this right, the IACHR has held that all of its instruments recognize a series of rights that are closely linked to access to water and its different dimensions, such as the conditions of availability, quality and accessibility of water without discrimination of any kind. 60 Specifically, it has considered that although the American Declaration does not expressly recognize the right to water, it establishes the right to life, to personal integrity and the right of every person to have his or her health preserved by sanitary and social measures relating to food, clothing and housing.⁶¹ Likewise, the American Convention enshrines a series of human rights that are closely linked to access to water and sanitation as inherent conditions for the realization of those rights, such as the right to life and personal integrity. Likewise, Article 26 of the same instrument should be taken into account, which allows for the derivation of human rights provisions from "the economic, social, educational, scientific and cultural standards contained in the Charter of the Organization of American States" and Article XI of the aforementioned American Declaration. 76. The populations located on the banks of a river contaminated by oil are exposed to acute and chronic health effects. Acute effects are related to skin conditions, headaches, dizziness, general malaise and intoxication. Chronic effects are related to the contamination of river beds by substances such as polycyclic aromatic hydrocarbons and heavy metals, such as vanadium, which do not degrade easily, are bioaccumulative, mutagenic, genotoxic and some are carcinogenic. When these substances enter the food chain, they reach the human organism and cause abnormal cell reproduction, forming malignant tumors and genetic damage that is often expressed in future generations. 77. There are numerous studies that demonstrate the toxic effects that oil or its components have on human health. According to scientists from the Universidad del Estado de Zulia, in Venezuela, vanadium, a mutagenic heavy metal present in oil and hydrocarbon residues, is capable of causing changes in the genetic material of plants, animals and humans. Exposure to vanadium can cause alterations in blood vessels, blood pressure and calcium transport in the human body. 78. Another study carried out in Venezuela in 2001, found in Maracaibo, levels of vanadium in the blood of a sample of the young population of this city. Vanadium exposure causes respiratory, cardiovascular, neurological and hematological disorders. In the Peruvian Amazon, one of the places affected by spills is located in areas near the Corrientes River. Studies, which included blood sampling and surveys, detected people with high levels of lead in their blood, especially children. This finding is of concern because young children absorb lead more easily than adults and its effects on the central nervous system cause a decrease in intellectual abilities. In less severe cases, it can cause migraines, abdominal pain, loss of appetite, vomiting and convulsions. 79. In 2003, a study was conducted in the oil-producing areas of the Ecuadorian Amazon on 1,520 inhabitants where cancer was described as the leading cause of death with a frequency of 32% of all deaths, which was three times the national average (12% for those years)⁶⁶ The Yanacuri Report conducted in 2000 found that women living exposed to oil pollution in the Ecuadorian Amazon had a higher frequency of symptoms related to oil exposure and a 9.8% rate of abortions.⁶⁷ In another study conducted in 2014, in the Libertador field, the percentage of abortions in women was found to be 15.3%.

80. In a doctoral thesis carried out in 2009 in the Bolivian Chaco, it was found that the population exposed to water contamination by petroleum compounds showed an increase in general, musculoskeletal and nervous system symptoms for the last two weeks and mood changes and dermal symptoms for the last 12 months. It was also found that populations that have continuous dermal contact with petroleum compounds have a high probability of suffering from skin cancer and to a lesser extent oral ingestion of contaminated water can lead to the appearance of other types of cancers. 81. Despite the studies available, oil companies are often unaware of the relationship between oil spills and the impact on human health. In this regard, there is an important precedent in Peru. In March 2017, Peru's Office of Environmental Evaluation and Oversight (OEFA) issued a landmark resolution that sets a methodological precedent linking oil spills to the health affectation of the population. Indeed, OEFA issued a resolution in the administrative sanctioning process (PAS), regarding two spills that occurred in early 2016 in the Peruvian jungle. In this it specifically establishes Petroperu's responsibility for real and objective damage to health and life due to the aforementioned spills. And it does so on the basis of circumstantial evidence. 82. This OEFA resolution constitutes a substantial advance, not only because it has declared the existence

The authority has the right to prove the existence of a real damage to health, but also for the result obtained thanks to the method used to reach that conclusion, considering the difficulties of obtaining direct evidence in these cases: "One of the ways that the authority has to accredit that the person administered committed the facts imputed is through evidence by indicia. The fact that the determination of what happened in a case is made indirectly does not imply that this way of proving the imputation is less reliable than that made through direct evidence. The quality of the reasoning depends on the reliability of the means of proof, the soundness of the rules of inference and the strength of the facts proved with respect to the facts sought to be proved". In the Ecuadorian legal framework, the Organic Law on Water Resources, Uses and Development of Water establishes in Article 57, with respect to the human right to water, that "this right includes access to environmental sanitation that ensures human dignity, health, avoids contamination and guarantees the quality of water reserves for human consumption". That said, in order to guarantee the human right to water, the State is obliged to take environmental sanitation measures against contamination, to safeguard the health and dignity of people and to permanently guarantee access to water reserves for human consumption. 84. In this case, many of the affected populations lack drinking water or a rainwater system, so they depend exclusively on river water for daily activities such as cooking, personal washing and even for direct drinking 85. The testimonies of those affected are very clear in this regard: Jairo Geovanny Grefa Shiguango: The water has changed a lot, there is a bad smell, the stones are stained, it is not like before. Before it was clean, the river is clean too. The water is changed in another way. Martha Rosa Grefa Tanguila: We live on the banks of the Coca River, we take water from there, we are catching water to eat and drink, for all our food, for our children, for the whole community, we fish to eat ourselves. There is no more for us, it is difficult to leave. Ramiro Luis Grefa Tanguila: In the river it is totally polluted, you cannot enter the river, you cannot even fish, you can see the fish dead on the river bank, you cannot catch them Camilo Ramiro Grefa Aguinda: We cannot catch the water. The institutions send, but that is not enough for the families. They send a bale of Tesalia and that is not enough for the family. With that water we have to bathe ourselves because there is no way to get to the river. Yes, that's it. Edgar Alvarado Tapuy: With the spill, there is nowhere to go to get water, so we have to keep rainwater in tanks that the company used to give us to drink and to wash ourselves we have to go to an estuary to get water from there and wash ... To drink, we have to receive rainwater. If it doesn't rain, we have to go with bottles to fetch water from inside. Édgar Felipe Salazar Digua: How has it affected the river they use? o A small river, about 7 people live there, they live there, and since there is no water right now, there is no way to bathe and drink. And right now they are giving bottles of water and that is not enough for those most affected, that is what we need, and for food too, we are in crisis right now. Did you see if anyone from the authorities came to clean up? o No, just recently. The company came here, and they say that they only give water, we accept the water, but there is no food, not even until now, they have not acknowledged, they say tomorrow, tomorrow, but they don't know until now. What is your usual food? o We, the people here, not even to fish, the river is not worth it, as it is very contaminated, now the people have been able to catch a little bit from the river, somewhere else, they don't want to go around like this, that is what we are with, that the company supports us with whatever it is with food and until now we still don't know anything about food. Gabina Coquinche Andi: What is your relationship with the river, with the farm and with nature o That oil kills bananas, yucca, that smell that it carries and the people here consume the water, they bathe. We can no longer bathe, we get scabies, the children are sick and where do we go to drink water. That water they send us, three tachitos, that water runs out in 15 minutes. We have enough children. What do they use the river for? o To bathe, to fish, the people fish from here and eat. Now they can't eat with that oil, the fish stinks of that smell. 86. On this subject, one can read the report on the "Situation of Human Rights in Ecuador" (1997), where the IACHR referred to the case of approximately 500,000 members of several millenary indigenous ethnic groups -Quichua, Shuar, Waorani, Secoya, Siona, Shiwiar, Cofán and Achuar- who lived in sectors of oil and extractive development, and who considered their lives and health to be in danger, given that the exploitation activities in their communities or in neighboring areas had contaminated the water they used for drinking, cooking and bathing, the soil they cultivated to produce their food and the air they breathed. Likewise, in its report on "Access to Justice and Social Inclusion in Bolivia" (2007), the IACHR referred to the contamination of the waters of the Pilcomayo River in the departments of Potosí and Tarija, indicating that it affected both indigenous and other ethnic and peasant communities whose agricultural and/or subsistence activities, such as fishing, had been seriously diminished due to the amount of toxic waste metals and other elements produced as a result of extractive activities. In both cases, the IACHR reminded the States that the right to a life in dignified conditions is included in the American Convention and that having knowledge of the serious situation being suffered by the people living in areas near rivers and streams contaminated as a result of resource exploitation projects, it was their duty to adopt all measures within their reach to mitigate the damages being produced in the framework of the concessions granted by them, as well as to impose the appropriate sanctions for non-compliance with the respective environmental and/or penal norms 4. Despite the fact that adequate food is essential for a dignified life and is vital for the realization of many other rights, such as the rights to health and life, the testimonies of the inhabitants affected by the spill show how this right is affected: Jairo Geovanny Grefa Shiguango: We used to go fishing in the Coca River, since our food is fish and food from the bush, including any bird. Martha Rosa Grefa Tanguila: As Kichwa natives, we have an island to make farms, all of our food is fish and food from the forest, including birds.

is destroyed without being able to work it and make it produce; animals and fish die. The contamination affects us all and our children with sickness. We can no longer drink the water for everyone on the farm, the animals, the fish; there is no way to produce the green yucca in the fields. Ramiro Luis Grefa Tanguila: Before, many birds used to sleep on the islands, but not now, not even the toads can be seen, they died with the smell in the river. The farm is contaminated, you can't go to take out the yuccas, and when you cook you can smell the contamination. Camilo Ramiro Grefa Aguinda: We have not been able to go out to buy anything to eat and live. Our cause is very affected, the farm is also contaminated, the produce rots and does not bear fruit. We have almost nothing to eat. Edgar Alvarado Tapuy: The river water has changed a lot, before we knew how to go down to bathe and fish, now there is no small mouth. Just that day of the spill we went to get bottled water, the fish were dead, and now we go fishing in the river with the net and there is nothing, I caught three carachamas but they were soft, with the smell of diesel or crude oil, there is nowhere to fish to feed us and with this crisis we cannot go out either; it is quite scary to go out because we have to avoid contagion. The spill went through the farms on the islands and the crops are rotting. So we totally lose our food, which for the Kichwa people is based on hunting and fishing, and now they can't even go to the river where we used to look for everything. Hernando Rafico Cerda Andi: I have farms near the river, but it is totally contaminated and will be damaged in a few more days, our usual food was plantain, yucca, rice, corn and other things, and when we want to plant we can no longer do so because it is contaminated. Verónica Beatriz Grefa Aguinda: Now the river is contaminated, it affects us a lot, because from the river we feed ourselves, we drink, since we live on its banks that with the pandemic is terrible, my brothers go fishing and they bring the fish with a stench that there is no way to consume it; that the contamination affects us all, most of the inhabitants of my community have crops on the islands of the river, as well as cassava and corn and they support themselves by fishing, and now they have nowhere to go fishing, with what happened, they better go live in other places or with relatives; that the cassava smells strong and they cannot eat the fish because of the spill and there are so many mosquitoes. Fanny María Grefa Oraco: We used to go fishing every day at five in the morning and now that this spill has happened we can't catch anything. Juan Elías Licuy Mamallacta: Our daily meals used to be fish, greens and yucca, but now we can no longer fish, because the fish is stinky and tasteless, it is useless, just like the yucca, so we have nothing to eat. 89. The right to food should not be understood in a restrictive way. The good protected by the right is not mere physical subsistence and, particularly with respect to indigenous peoples, it has a relevant cultural dimension. The IACHR notes that the survival of certain indigenous peoples in many cases depends to a large extent on the natural resources found in their territories. Various ethnic groups may depend on hunting, fishing, and/or gathering to satisfy their food needs and practices. When their territories suffer environmental impacts that alter the ecosystem, situations of resource depletion often arise that could lead to a food crisis. In addition, their food practices are closely linked to their worldview and cultural identity. The Special Rapporteur on the right to food has explained that "understanding what the right to food means for indigenous peoples is much more complex than what emerges from a simple analysis of statistics on hunger, malnutrition or poverty. Many indigenous peoples have their own particular conceptions of food, hunger and subsistence. In general, it is difficult to conceptually separate indigenous peoples' relationship to food from their relationship to land, resources, culture, values and social organization. Food, food procurement and food consumption are often an important part of culture, as well as of social, economic and political organization. Many indigenous peoples understand the right to adequate food as a collective right. They usually consider subsistence activities such as hunting, fishing and gathering as fundamental not only to guaranteeing their right to food, but also to nurturing their cultures, languages, social life and identity. Their right to food often depends closely on their access to and control over their lands and other natural resources in their territories. In this regard, it should be noted that access, protection, recognition and guarantee of the right to adequate food is one of the primary duties of the Constitution of the Republic of Ecuador, considering also that this right is part of the guidelines of Sumak Kawsay or Good Living. However, environmental contamination, in this case of the Coca and Napo rivers, affects the health of the populations that depend on these rivers and are fed by their flows for two reasons. On the one hand, because the main source of protein for the population is fishing, and on the other, because environmental contamination (water and sediments) can affect the vegetation and the families' self-sustaining crops. At the time of the spill, the Coca River levels were quite high due to abundant rainfall. Therefore, the spilled oil was carried by the river, and in many cases ended up deposited near or on the farms of the affected populations. 93. Article 13 of the Constitution states: "individuals and communities have the right to safe and permanent access to healthy, sufficient and nutritious food, preferably produced locally and in accordance with their diverse cultural identities and traditions (. . .)". In this case, the affected populations are claiming precisely this right because they have lost access to healthy and nutritious food. Reports from local inhabitants indicate that the fish are contaminated with hydrocarbons and are not fit for human consumption. In addition, because the river was swollen, large quantities of crude oil were deposited on the riverbanks, contaminating the soil and affecting crops: "The farm is contaminated, you can't go to get the yuccas, some of us have yuccas planted there, when cooking they have the smell of contamination, so you can't take them from the farms on the islands. 95.- As described in the testimonies attached to this complaint, the food of these populations is based on the following

fish since the affected villagers used to fish in the Coca River. However, they say that everything is destroyed in their homes, the animals, the fish are dying. They say that not even the toads can be seen, they died with the smell in the river. If the farm is contaminated, you can't go to harvest the yucca because when you cook it, it smells of contamination. To make matters worse, the affected populations cannot go out and buy anything to eat and live, due to the current sanitary emergency. 96.- It is important to point out that OCP and Petroecuador have stated in public communications that food aid has been given to several affected families, however, there is no evidence that the food supplied corresponds to the usual diet of the community and that it guarantees the nutrients and minimum quantities necessary according to their uses, customs and requirements. The Inter-American Court has indicated that it is "necessary" to consider the "cultural dimension" of the right to adequate food and that "since food is a cultural expression of the peoples, it is necessary to treat it integrally and in direct interdependence between civil, political and economic, social and cultural rights". 98.- It is appropriate here to incorporate the difference between the concepts of "adequacy" and "food security" in relation to the right to food. The first concept emphasizes that not just any type of food satisfies the right, but that there are factors to be taken into account that make food "adequate". The second concept is related to that of "sustainability", and implies "the possibility of access to food for present and future generations". The United Nations Committee on Economic, Social and Cultural Rights has determined "that food should be acceptable to a given culture or consumers [, which] means that the non-nutritional values associated with food and food consumption should also be taken into account as far as possible. 99.- Furthermore, it should be noted that this right is recognized in various instruments of international law. For example, Article 12.1 of the Protocol of San Salvador states that: "everyone has the right to adequate nutrition which ensures the possibility of enjoying the highest level of physical, emotional and intellectual development". 80 Accordingly, Article 11 of the ESCR Covenant recognize, "the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties shall take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international cooperation based on free consent. In turn, the United Nations Declaration on the Rights of Indigenous Peoples addresses the human rights of indigenous peoples. This declaration highlights the rights of indigenous peoples to live in dignity, to maintain and strengthen their own institutions, cultures and traditions, and to pursue their self-determined development in accordance with their own needs and aspirations. The exercise of the right of indigenous peoples to food and food sovereignty depends fundamentally on their access to natural resources. In this case, this access is truncated. General Comment 12 of the Committee on Economic, Social and Cultural Rights considers that the basic content of the right to adequate food includes the following: "The availability of food in a quantity and quality sufficient to satisfy the dietary needs of individuals, free from adverse substances, and acceptable within a given culture; The accessibility of such food in ways that are sustainable and that do not interfere with the enjoyment of other human rights. 102.- When referring to food being free of harmful substances, the same body of law clarifies: "food safety requirements and a range of protective measures are established both by public and private means to prevent contamination of food products due to adulteration and/or poor environmental hygiene (...)". 103.- In this regard, the Inter-American Commission had pointed out in 1997 that: "oil exploitation in eastern Ecuador was directly harming the right to life of many inhabitants of the region, noting that such activities have exposed them to toxic derivatives in the water they use for drinking and bathing, in the air they breathe and in the soil they cultivate in order to obtain food. The Commission found that this posed a considerable risk to human life and health by exposing them to increased risks of contracting serious diseases" 104.- Indeed, States have special obligations in relation to the right to food of indigenous peoples, including respecting the traditional lifestyles of indigenous peoples, strengthening traditional food systems, and protecting subsistence activities such as farming, hunting, fishing and gathering. Under the right to food, States are responsible for ensuring the application of general human rights principles to indigenous peoples, both in their food and nutrition security policies and in other policies that may affect access to food. The right to adequate food, like any other human right, imposes three types or levels of obligations on States parties: the obligations to respect, protect and fulfill. "The obligation to respect existing access to adequate food requires States not to take measures of any kind that result in preventing such access. The obligation to protect requires the State party to take measures to ensure that enterprises or individuals do not deprive individuals of access to adequate food. The obligation to fulfill (facilitate) means that the State must endeavor to initiate activities to strengthen people's access to and utilization of resources and means to ensure their livelihoods, including food security. 106.- Similar events have occurred in Ecuador, for which a jurisprudential precedent already exists. In the case of the Sarayaku people, it was established that "it has not been disputed that the company affected areas of high environmental, cultural and food subsistence value in Sarayaku. The State did not adopt any measure to satisfy its obligation of protection, taking into account the situation of special vulnerability in which the indigenous people found themselves in the face of the oil company's incursion. They alleged that during the period of food scarcity and the situation of

Another jurisprudential contribution with respect to access to water, food, health and access to education is presented by the members of the Xákmok Kásek Indigenous Community in Paraguay. In this case, the IACHR Court observed that the proven conditions of extreme vulnerability particularly affected the children. As previously mentioned, the lack of adequate food has affected the development and growth of the children, has increased the normal rates of stunted growth and high rates of malnutrition (...). Consequently, with respect to the facts raised in the action for protection and with respect to the analysis of the right to adequate food, it is clear that the State had knowledge of the harmful activities, concealed information and omitted its duty to protect. 109.- It is important to emphasize that both General Comment 12 and Article 13 of the Constitution recognize that food should be provided respecting diverse cultural identities and traditions, so that the measures of reparation of this right should revolve around the recovery of the purity and ichthyological richness of the river, so as to allow families to recover their traditional ways of life. The delivery of food from the outside is a reparation measure that is acceptable only provisionally. Finally, in Ecuador, since the 2008 Constitution came into force, food sovereignty is a constitutional principle that the State must guarantee and promote its application. Our Magna Carta states that: "Food sovereignty is a strategic objective and an obligation of the State to ensure that individuals, communities, peoples and nationalities achieve self-sufficiency in healthy and culturally appropriate food on a permanent basis. To this end, it shall be the responsibility of the State: 281.13. To prevent and protect the population from the consumption of contaminated food or food that endangers their health or that science is uncertain about its effects. In other words, the State has the obligation to guarantee that the affected populations can resume our subsistence around the river, and that this subsistence is permanent. In this sense, to ensure that this right is not affected by future spills, in a similar way as indicated for the right to water, it is necessary to take measures against this and future spills. 112.- The Ecuadorian State, then, has the obligation to promote the enjoyment and effective fulfillment of the right to adequate food through economic, social, cultural, educational and environmental policies; and permanent, timely and without exclusion access to programs, actions and promotional services. Thus, any person or group that has been a victim of a violation of the right to adequate food should have access to adequate judicial remedies to defend it. 113.- We wish to emphasize that it is the responsibility of the State "to ensure that animals destined for human consumption are healthy and are raised in a healthy environment") With the consequences of the spill, the Ecuadorian State is failing to comply with both responsibilities (art. 281.7 and 281.13) and the right to food is evidently violated. 4.3.4. The omissions of the entities involved violate the right to health of individuals and communities. As established above, the right to health is closely linked to the right to water and food sovereignty; therefore, Article 32 of the Constitution establishes that "Health is a right guaranteed by the State, whose realization is linked to the exercise of other rights, including the right to water, food, education, physical culture, work, social security, healthy environments and others that support good living. The State shall guarantee this right through economic, social, cultural, educational and environmental policies (...).

)". As explained, the rights to water and food are being flagrantly violated as a consequence of the oil spill and the defendants' inaction. Consequently, without healthy food and water, the attack against health is evident. 115.- The testimony of Camilo Grefa is very decisive in this regard, since after being exposed to the spilled crude oil, he describes how: The river is contaminated, we cannot eat from the river, I have scabies on my arm and foot from bathing in the river, the spill was going down, There are other testimonies that allow us to understand the seriousness of those affected. Edgar Felipe Solazar Digua, I was told that three people are affected, because they bathed without knowing and have caught scabies, how are we going to drink that water, we are helping people to live above. Gabina Coquinche Andi, That oil kills us plantain, yucca, that smell sticks to the people, those three tachito of water that they send is finished in 15 minutes, now we have to look for some lagoons almost 3 km away to wash clothes. Verónica Beatriz Grefa Aguinda there are health effects, since April 8 with the spill, in several places, I have a brother who went into the water and came out with hives. Fanny María Grefa Oraco, I found out about the oil spill in the river at 3:15 when we went fishing, when the child came back he was stained with oil, black and he already had pimples. Juan Elías Licuy Mama/lacta, it is worrisome because the elderly, the children are really affected, we have no creek, no streams, we all have coughs and stomach aches, here about 2 children died during this season. Although article 66.2 of the Supreme Norm states that "the right to a dignified life, which ensures health, food and nutrition, drinking water, (...)" is recognized and guaranteed, in this case the right is not being guaranteed. Taking into account the preamble of the Constitution of the World Health Organization, health is defined as a complete state of physical, mental and social well-being, and not only the absence of disease and illness. The right to enjoy the highest attainable standard of physical and mental health is a fundamental human right considered indispensable for the exercise of other rights and, in turn, depends on other rights, such as food, housing, or rights of a similar nature, such as water. The IACHR recalls that the jurisprudence of the Inter-American Human Rights System has considered that Article 26 of the American Convention protects the right to health, and has understood this not only as the absence of illness or disease, but also as a complete state of physical, mental and social well-being, derived from a lifestyle that allows people to achieve an integral balance. The link between environmental protection and the right to health, given that the environment is essential for a healthy population.

Therefore, when there is contamination and degradation of the environment, this constitutes a threat to the life and health of the people who live there. Thus, in the context of extractive industries, the IACHR has expressed its concern regarding the presence of substances in the body that can cause neurological diseases, bacteria in the body, malformations, skin diseases, disabilities of various kinds, among others. 118.- The essential relationship between the right to health, water and food, rights that have been seriously violated by the facts described, and which are related to other fundamental rights, is indisputable. The IACHR Court, in its judgment of June 17, 2005, in the Case of the Yakyé Axa Indigenous Community v. Paraguay (Merits, Reparations and Costs) on the right to health, determined: "167. The special affectations of the right to health, and intimately linked to it, those of the right to food and access to clean water have an acute impact on the right to a dignified existence and the basic conditions for the exercise of other human rights, such as the right to education or the right to cultural identity. In the case of indigenous peoples, access to their ancestral lands and the use and enjoyment of the natural resources found therein are directly linked to obtaining food and access to clean water. 119.- Consider also that, according to Judgment No. 209-15-JH/19 of the current date. 209-15-JH/19 of the current Constitutional Court, in accordance with the provisions of the Committee on Economic, Social and Cultural Rights, the right to health has four essential and interrelated elements: (i) Availability: States must have a sufficient number of public facilities, goods and services, as well as health programs; (ii) Accessibility: such health facilities, goods and services must be accessible in fact (physical accessibility) and in law, to the most vulnerable and marginalized sectors of the population, without discrimination on any of the prohibited grounds; (iii) Acceptability: all health facilities, goods and services should be respectful of medical ethics and culturally appropriate, and should be designed to respect the confidentiality and improve the health status of the persons concerned; and (iv) Quality: such health facilities, goods and services should be scientifically and medically appropriate and of good quality. Again, when the right to water and food are violated, the right to health is also violated. But, as has been said throughout this action, the situation is worse for the communities settled in the river basins for two fundamental reasons. First, because of the difficulty in accessing health services and facilities that can respond quickly and effectively to the effects of the oil spill, accessibility would be affected. Second, because in addition to the lack of nearby facilities that affects availability, the communities are also at risk due to the Covid-19 pandemic, also affecting their accessibility. 121.- With these violations, due to the extension of the contamination of the river and the effect it will have on the communities, the right to health will be affected by not complying with at least two of the standards inherent to the realization of the right: availability and accessibility. The Ecuadorian State is not complying with its constitutional duty to guarantee the right to health to these citizens, since it has placed the populations affected by the spill in a distressing and desperate situation, by depriving them of vital liquid and food in the midst of the health crisis caused by Covid-19. The effects of the spill on people's physical health will not take long to appear, but the psychological health of these people must also be taken into account. 4.3.5. The omissions of the entities violate the right to a healthy and ecologically balanced environment of individuals and communities. The right to a healthy and ecologically balanced environment is enshrined in Article 14 of the Constitution of the Republic of Ecuador, which recognizes "the right of the population to live in a healthy and ecologically balanced environment that guarantees sustainability and good living, *sumak kawsay*. The preservation of the environment, the conservation of ecosystems, biodiversity and the integrity of the country's genetic heritage, the prevention of environmental damage and the recovery of degraded natural spaces are declared to be in the public interest." In other words, the right to the environment makes it possible to achieve Good Living and a dignified life, so that if this right is violated, these rights are also disrespected. 124.- Concordantly, numeral 27 of Article 66 of the Constitution establishes that people are recognized and guaranteed "the right to live in a healthy, ecologically balanced environment, free of contamination and in harmony with nature." 91. That is to say, the right to a healthy environment free of contamination is strengthened by the characterization of the environment as "ecologically balanced", since this ecological notion forces us to consider the attributes of the ecosystem and its changes as a consequence of the impact suffered by the oil spill. In specific environmental matters, it must be emphasized that the principle of prevention of environmental damage is part of customary international law, and entails the obligation of the States to carry out the necessary measures *ex ante* the production of the environmental damage, taking into consideration that, due to its particularities, it will frequently not be possible, after such damage has occurred, to restore the previously existing situation. By virtue of the duty of prevention, the Court has indicated that "States are obliged to use all the means at their disposal in order to prevent activities carried out under their jurisdiction from causing significant damage to the [...] environment" 92 This obligation must be fulfilled under a standard of due diligence, which must be appropriate and proportional to the degree of risk of environmental damage. Likewise, the Inter-American Court in its most recent judgment⁹⁴ has taken into account that various rights may be affected by environmental problems, and that this "may occur with greater intensity in certain groups in situations of vulnerability", among which are indigenous peoples and "communities that depend, economically or for their survival, fundamentally on environmental resources, [such as] forest areas or river domains". Therefore, "based on international human rights law, States are legally obliged to address these vulnerabilities, in accordance with the principle of equality and non-discrimination.

Ecosystems, seen as functional systems of interactions, are models derived from the processes that operate between structural subunits of the entity. Therefore, in order to understand them, it is necessary to recognize the different functions that occur at the ecosystem level. For this we can attribute economic, biological and social values to local native ecosystems, whether natural, semi-natural or restored. These values are related to ecosystem functions and services, which in this case are degraded by the oil spill, such as the provision of clean water, healthy soils and food essential for people's health. Therefore, the river can be considered degraded if the disturbances are affecting the attributes of the ecosystem, such as its structure and function. It is evident that the ecological balance has been lost as a consequence of the oil spill in the Coca River because the river is no longer able to provide the population with ecosystem services, especially water and food. 129.- A reparation measure should be ordered consisting of the ecological restoration of all the affected components of the ecosystem. For this, as part of the reparations for the violations of constitutional rights, we request that the defendants finance a project that must be jointly planned and comply with the objective of eliminating all the impacts caused by the spill in any of the structural sub-units of the environment. Where it is not possible to eliminate impacts, mitigation will be sought. The basic objectives that will be part of the restoration project are the recovery of the integrity, health and long-term sustainability of the Coca and Napo River ecosystems. 130.- In order to measure the progress of the project towards its goals, it is essential to clearly establish measures and objectives. To do so, it is necessary to consider the selection of a reference ecosystem, the definition of a temporal and spatial scale, the identification of restoration thresholds, the determination of sample distribution, the selection of monitoring parameters, and finally the use of restoration criteria and indicators. The identification of restoration thresholds can provide early warning when recovery is not progressing and for early detection of lethal changes. 131.- The thousands of barrels that spilled over the Coca River and contaminated the Napo River have not and will not disappear, but are scattered on the riverbed, in the sediments, on the banks, and in the flora and fauna of the affected rivers. It is necessary to order urgent measures to address these environmental impacts and implement an ecological restoration plan with the participation of the affected communities and financing from the defendants. These are some of the testimonies of the people affected by the omissions of the defendants: Fanny María Grefa Oraco: Could you describe what you have seen in the river, from when this spill started, what did you see? o The river is pitch black, both sides are very ugly, you can go and see it up to now, it is very ugly. There is no way to fish, because even now the fish still have a bad smell. How have the animals in the river changed? o They are the same, they are the same, the same rotten fish, so far the fish are not worth anything. Juan Elías Licuy Mamallacta: When did you find out? On the 7th it was a Wednesday or Thursday. The 7th was the day of the spill, on the 8th at dawn we realized it, but on that day around 6 in the morning we were in the river taking pictures, catching the oil in the pots, the little fish that were unable to breathe, we were there watching. And what were they coming that day 8? o There was more fish coming down, that is, among the frost, the big campeches (I don't understand), little turtles were coming out of the water, they couldn't, they were coming out of the palisades, so we couldn't save them, and we also ran out of the river. In this case it is also essential, given the serious omissions prior and subsequent to the events that occurred, to remember that in environmental matters the precautionary principle requires preventing and avoiding that damages and impacts occur or deepen. The precautionary principle is enshrined in domestic and international law as a guiding and protectionist principle of the environment, whose purpose is to guide the conduct of all agents to prevent or avoid serious and irreversible damage to the environment, even when (I) such damage is not at the stage of consummation or threat but at a stage, if you will, prior to the latter and different, considered as risk or danger of damage, and (II) there is no absolute scientific certainty as to its occurrence. This precautionary principle is one of the fundamental pillars of sustainable development and of the duty to protect the environment enshrined in the Constitution, among others, in article 313, which obliges the State to "administer, regulate, control and manage the strategic sectors in accordance with the principle of environmental sustainability, precaution, prevention and efficiency". This is in addition to the express obligation set forth in Articles 73, 259 and 396 of the Constitution. The latter article expressly states: "The State shall adopt the appropriate policies and measures to avoid negative environmental impacts, when there is certainty of damage. In case of doubt about the environmental impact of any action or omission, even if there is no scientific evidence of damage, the State shall adopt effective and timely protective measures. Liability for environmental damage is objective. Any damage to the environment, in addition to the corresponding sanctions, shall also imply the obligation to fully restore the ecosystems and compensate the affected persons and communities". 135.- In other words, in this case the State is obliged to act in a timely manner, that is, now, to stop the violation and avoid irreparable damage. We do not need to find a guilty party, a guilty or negligent act attributable to the State, but rather the responsibility arises from the damage itself, which by the fact of existing already generates the obligation to fully restore the ecosystems and compensate the affected persons. The omissions of the entities involved violate the right to territory of the indigenous peoples and nationalities of the individuals and communities and their culture in reference to their vision and relationship with the river. 136.- Juan Elías Licuy Mamallacta, affected person who subscribes to the present lawsuit, stated in a testimony of April 24, 2020, when asked about his relationship with the river that suffered and spread the contamination: "Well absolutely, it is very painful. It makes me sad to tell the story of the history of our Coca River, because when I was in the Coca River, I had to tell my own story.

here in 98-99 this river was so beautiful. It was an enchanted kind of river. We enjoyed our river very much, especially with the young people, as a teacher who worked here before, and we used to catch enough fish, all kinds of fish from the Coca River, we bathed, we drank, we had our happy recreation in this river, but unfortunately, after the first spill from the earthquake that happened during that season, since then all kinds of fish are gone [...], it does not exist anymore. Nowadays there is nothing, because in those palisades we see there are all kinds of fish, everything is dying. We can't even enter the river, or play in the water like before, or rather, we have moved away from the river because it doesn't allow us to go near it, it has been painful for us". When asked if the river waters were part of some spiritual practice of cleansing, Mr. Licuy demonstrated that we are facing very serious cultural losses: "Yes, we have done it before, but eventually, to be able to conserve our river wealth. To the fish, to the owners of the river, all of those, with the boas, but in this season the contamination and also the spill that with these are 3 times that are happening, so we are practicing our ceremonies, our culture we have not been able to, we have totally lost" 138.- As many of the affected people are members of indigenous peoples and nationalities, we cannot fail to analyze the territorial dimension of this tragedy, considering the special relationship between indigenous people and their territories, in addition to the broad concept of indigenous ancestral territory recognized in international law and Ecuadorian law. Article 57 of the Constitution enshrines a series of collective rights linked to the right to territory of indigenous peoples and nationalities: "Art. 57.- The following collective rights shall be recognized and guaranteed to indigenous communes, communities, peoples and nationalities, in accordance with the Constitution and the covenants, conventions, declarations and other international human rights instruments:1. To freely maintain, develop and strengthen their identity, sense of belonging, ancestral traditions and forms of social organization. (

... To participate in the use, enjoyment, administration and conservation of the renewable natural resources found on their lands. (...) 8. To conserve and promote their practices for the management of biodiversity and their natural environment. (...)". 140.- The Committee on Economic, Social and Cultural Rights, in its General Comment 21, has highlighted, among the "elements" required for the realization of the right to take part in cultural life, the following: availability, which it defined as "the presence of cultural goods and services", among which it highlighted "gifts of nature" such as "rivers", "forests", "flora" and "fauna", as well as "intangible cultural property, such as[, among others] customs [and] traditions [..], as well as values, which make up the cultural heritage".], as well as values, which shape identity and contribute to the cultural diversity of individuals and communities"; accessibility, which "consists in having effective and concrete opportunities for individuals and communities to fully enjoy a culture"; adaptability, which "refers to the flexibility and relevance of policies, programs and measures adopted by the State [.... ..] in any field of cultural life, which must respect the cultural diversity of individuals and communities", and appropriateness, which "refers to the realization of a given human right in a manner that is relevant and appropriate to a given context or cultural modality, i.e. in a manner that respects the culture and cultural rights of individuals and communities, including minorities and indigenous peoples". On this last point, the Committee on Economic, Social and Cultural Rights "emphasized the need to take into account, to the fullest extent possible, the cultural values associated, inter alia, with food and its consumption [and] the use of water. For the IACHR, the special relationship between indigenous and tribal peoples and their territories means that "the use and enjoyment of the land and its resources are integral components of the physical and cultural survival of indigenous communities and of the effective realization of their human rights in more general terms. "98 In the same sense, the IACHR Court has repeatedly affirmed that "[t]he relationship with the land is not merely a matter of possession and production but a material and spiritual element that they must fully enjoy, including to preserve their cultural legacy and transmit it to future generations. The right of persons to enjoy their own culture "may [...] be related to ways of life closely associated with the territory and the use of its resources", as is the case of members of indigenous communities'...'. The right to cultural identity, then, can manifest itself in various forms; in the case of indigenous peoples it is observed, without prejudice to other aspects, in "a particular way of life related to the use of land resources [...]. This right may include traditional activities such as fishing or hunting and the right to live in reserves protected by law" In the same vein, the Inter-American Court has already had occasion to note that the right to collective property of indigenous peoples is linked to the protection of and access to the natural resources found in their territories (supra para. 94). Accordingly, the Working Group on the PSS has noted that "the physical, spiritual and cultural well-being of indigenous communities is intimately linked to the quality of the environment in which they develop their lives.- Both Article 21 of the American Convention on Human Rights and Article XXIII XXV of the American Declaration on the Rights of Indigenous Peoples protect this close connection that indigenous peoples and nationalities have with their lands, as well as with the natural resources of ancestral territories, a connection of fundamental importance for the enjoyment of other human rights of indigenous and tribal peoples. As the IACHR and the Inter-American Court have reiterated, the preservation of the particular connection between indigenous communities and their lands and resources is linked to the very existence of these peoples, and therefore "merits special measures of protection. 144.- Accordingly, ILO Convention 169 contains an entire chapter dedicated to the special protection required by indigenous territories by virtue of the close and particular relationship they have with their custodians. Of particular interest are articles 13 (relationship between community and territory), 14 (delimitation and protection of the land), 18 (sanctions for unauthorized uses and intrusions) and 19 (protection of the land).

(guarantee of equity and food sovereignty). 145.- It is essential that the judge take into account all these considerations in a cross-cutting manner when analyzing this claim, since the right to health, water and food of the members of indigenous peoples and nationalities cannot be understood as separate from their right to territory. Consequently, the violation of these rights - amply explained throughout this section - has as a necessary consequence the violation of the right to territory as described in this section. 4.3.7. Article 71 of the Constitution establishes that "Nature or Pacha Mama, where life is reproduced and realized, has the right to full respect for its existence and the maintenance and regeneration of its vital cycles, structure, functions and evolutionary processes". To specify the concept of nature, we refer to the definition of the Organic Environmental Code (hereinafter COAM), which defines it as the "environment in which all forms of life, including its components, reproduce and develop, which depends on the uninterrupted functioning of its ecological processes and natural systems, essential for the survival of the diversity of life forms". Thus, the Constitution and the COAM, by identifying the holder of this right, Nature or Pacha Mama, as the sphere "where life is reproduced and realized", implies that the rights of Nature "do not seek to protect only certain beings, but all of them and their interactions within an ecosystem, as well as the interactions between ecosystems". Protection, then, must encompass the community of life as a whole, where each biotic and abiotic element interacts to maintain the balance within an ecosystem so that life can develop. The rights recognized to Nature or Pachamama, by the aforementioned article 71, recognize that Nature has an intrinsic value and therefore the right to respect the cycles and structures that allow it to function, independently of the services that the ecosystem provides to people. Thus, attention is focused on alterations in the nutrient cycle, the flow of water and energy, and others related to the capacity to ensure ecosystem exchanges in the Coca and Napo river basins. In addition, it should be taken into account whether the river basins show symptoms, such as loss of flagship species or loss of biodiversity, characteristic of a degraded structure. It is evident that such a process of rupture of vital cycles, disruption of the structure and interruption of the functions and evolutionary processes of the basins of these rivers constitutes a violation of the constitutional right contained in article 71. For this reason it is indispensable that the judge knows what vital cycles, energy flows and nutrient cycles are, and that he understands the consequences of the disruption of this delicate balance. The following is a clear and concrete explanation of these concepts: Life cycles: Life cycles are the processes that enable life, i.e., the vital processes of Nature. Prieto, quoting De la Torre, explains that from the perspective of biology it is recognized that "life in the biosphere exists and is maintained thanks to two basic and interrelated processes", which are

1) the flow of energy; and 2) nutrient cycles", 104 That is, in order to understand what the life cycles protected by the constitutional norm are, it is necessary to consider energy flows and nutrient cycles. Energy flows. All living beings need energy to live, so energy supply is fundamental. The primary source of energy is the sun, which is the only unlimited source of energy. From this first link, solar energy is transformed, through photosynthesis, into chemical energy, which is then absorbed by other living things along the food chain. [4SJ This means that the organisms that transform solar energy into chemical energy take on a leading role as the basis of this chain of energy flow. In the case of an oil spill in rivers, it is clear that this flow will be interrupted. Plants, cyanobacteria and algae will not be able to carry out this task as they will be covered by oil. Consequently, all species that depend on them will be affected by losing access to their energy source. Nutrient cycling. Nutrients are also available in limited quantities in nature, so their recycling is essential. Prieto explains: living beings absorb nutrients from other components that surround them and at the same time secrete others, until the day of their death, when all the nutrients that formed the living being return to the ecosystem as simple compounds. Each of these elements has a specific cycle, so that an alteration of it implies interruptions in this exchange and a transformation or rupture of the balance of an ecosystem. Thus, in the case of the spill on the Coca and Napo rivers, we are faced with an interruption of these cycles, since oxygen, hydrogen, carbon, to name a few, would be altered by the presence of the hydrocarbon. Algae, plants, fish and soil bacterial communities will undoubtedly be affected. It would be absurd to think that oil would allow the nutrient cycle that depends on the river to be maintained. The opposite is the case. Disruption of the structure. It is indisputable that the rupture of vital cycles (energy flows and nutrient cycles) will break the structure of the ecosystems in these rivers, their basins and all living beings that depend on them. These rivers are a fundamental part of the ecosystem and we cannot afford to lose them. Many living beings will suffer an indirect impact when they will not be able to acquire the nutrients and energy they need to live precisely because of the impact of the April 7, 2020 spill. This disruption will be palpable in various indicators, such as changes in biodiversity indices, relative abundance of species and the decline of key species in the ecosystem. Disruption of functions. The April 7, 2020 spill will cause alterations in the functions of rivers, plants, soil bacterial communities, animals and all living beings that are part of the basins of these rivers.¹⁵⁰ Regarding the elements that are protected by the standard, it is possible to explain them briefly as follows: Nature has the right to "maintain its order (structure), the way this order works (its functions) and the result of this work that is reflected in the life cycles and evolutionary processes". In this way, we understand

because if we alter any component of Nature, we alter its structure and also its functions. This has effects on the vital cycles and evolutionary processes; as happens when water is contaminated with hydrocarbons, altering the balance of the ecosystem. 151.- In this sense, numeral 1 of Art. 395 of the Constitution establishes that "The State shall guarantee a sustainable model of development, environmentally balanced and respectful of cultural diversity, that conserves biodiversity and the capacity for natural regeneration of ecosystems, and ensures the satisfaction of the needs of present and future generations". 152.- And, in numeral 4 of this same article, related to environmental principles, it establishes the principle in dubio pro natura: "In case of doubt about the scope of the legal dispositions in environmental matters, these shall be applied in the sense most favorable to the protection of nature". Which is no more than recognizing the preponderant and preferential priority right of nature over other rights (in the face of a tension between conflicting principles and rights, the authority must favor the interpretation that is more in accordance with the guarantee and enjoyment of the rights of nature and a healthy environment, over that which suspends, limits or restricts it). Based on this principle, the Constitutional Court, in the aforementioned judgment on the Chevron case, established that "the core principle imposed by the Constitution of the Republic in environmental matters is the principle in dubio pro natura, whose content has a configuration of constitutional rank that in its irradiation on the infra-constitutional juridical order produces determining effects in favor of nature as a consequence of its application". 154.- And the Court adds that this principle "helps the judge to choose the rule to be applied to the concrete case, based on this principle, the judges at the moment of applying the environmental rules must preferably choose the interpretation or the rule in favor of nature as a result of the imperative constitutional mandate, contained in the form of an environmental principle". Likewise, the Constitutional Court, in judgment 166, of August 28, 2015, Official Gazette Supplement 575, had already stated that: "This Constitutional Court has been emphatic in pointing out the importance of the rights of nature that derive in the obligation of the State and its officials to encourage and promote respect for all the elements that are part of an ecosystem, and the right to respect nature in its integrality - as a subject of rights. 155.- In development of these rights of Nature, the Provincial Court of Azuay, in judgment of August 3, 2018, known as Rio Blanco case states " ... nowadays, there is talk of another type of position of environmental law with the so-called biocentric or ecocentric, which considers that the human being, does not constitute the only being that needs protection and is important. All living beings and even the earth or nature itself are entities that deserve respect and protection by the legal system of a country.... Nature must be seen as a whole where different ecosystems, living beings, natural resources, and human beings cohabit. "156.- In this sense of considering Nature and the beings that integrate it as subjects of rights, the Colombian Constitutional Court in its resolution T-622- 2016, on the Atrato River, declared, in its paragraph 9.32, that: "the Atrato River is subject to rights that imply its protection, conservation, maintenance and in the specific case, restoration. For the effective fulfillment of this declaration, the Court will order the Colombian State to exercise the guardianship and legal representation of the rights of the river together with the ethnic communities that inhabit the basin of the Atrato River in Chocó". 157.- Similarly, resolution STC4360-2018, the Supreme Court of Colombia, established that "in order to protect this vital ecosystem for the global future, as the Constitutional Court declared the Atrato River, the Colombian Amazon is recognized as an entity "subject to Rights", holder of protection and conservation, maintenance and restoration by the State and the territorial entities that comprise it". 158.- It is undoubtedly with respect to the present case, that among the subjects that make up nature and therefore are subjects of rights, are both the rivers and the jungle impacted by the oil spill. 159.- The area affected by the spill has certain particularities that make it especially vulnerable to the damage caused by the oil spill. It is an area of high habitat diversity, where thousands of species are present. The damage also extends to protected areas. The following are some of the serious impacts, extracted from the study "Impacts of the April 7, 2020 spill on biodiversity and the system of protected areas in the Napo River basin The rupture of the SOTE and the OCP occurred at the eastern boundary of the Cayambe-Coca National Park, just inside the protected area. The oil went down a 4 km stretch of the Quijos River located inside the park (in this sector the river is the park boundary), including the San Rafael waterfall sector, before exiting the park and continuing downstream. About 45 km downstream from the spill site, the oil reached the Coca River on the banks of the Sumaco-Napo-Galeras National Park, impacting more than 30 km of the Coca River within the park. More than 125 km downstream, the oil reached the Napo River at the town of Francisco de Orellana. Some 170 km downstream of the spill, the oil slick reached the Limoncocha Ecological Reserve, impacting 10 km of the reserve before continuing downstream for about 5 km more before reaching the Yasuní National Park, affecting more than 25 km of the banks of the Napo River that border the national park. In total, approximately 70 km of river banks within Ecuador's protected areas were affected by the April 7, 2020 spill. Cayambe-Coca National Park, according to biological inventories, is Ecuador's most biologically diverse protected area due to its high diversity of habitat, climate, and micro-watersheds, with more than 691 vertebrate species identified, including 399 bird species and 106 mammal species. The park's Management Plan describes the eastern fringe of Cayambe-Coca National Park impacted by the spill as being located in the very humid premontane forest zone, which covers 11% of the park' The spill occurred in the Napo River basin, known as the most biodiverse in the world in terms of ichthyofauna for a basin of this size, where more than 470 species of fish have been named.

for more than 85 species of fish?". In addition, more than 8 species of fish are endemic to the 109cosea region that are found nowhere else in the world, which means that the destruction of their habitat risks their survival as a species. A spill of this size can have very serious impacts on fish populations in the region and thus affect fishing for Amazonian peoples. The spill impacts 25 km of the northern fringe of the Yasuní National Park, known as one of the most significant protected areas in the world for biodiversity protection 110 The oil spill will affect several aquatic species in these protected areas, including species that are on the IUCN Red List of endangered species (see Annex 8 for a detailed list of threatened species). The ecosystems of the Amazon are especially vulnerable to spills and other impacts of oil exploitation 111 The large numbers of spills in the Amazon have been investigated for their various impacts. Some of the consequences observed are: Massive death of fish during the first days of the oil spill, due to the lack of oxygen and the high toxicity of the crude oil. Decreased reproduction and growth rate of fish"; High risks of contamination and suffocation for mammals (fish ... otter, dolphins, etc.), reptiles (alligator, turtles, etc.) and birds (fish .. herons, kingfishers, osprey, etc.Oil pollution in the Amazon allows the entry of some very toxic chemicals into the aquatic food chain: contamination of local (non-migratory) fish by mercury has been demonstrated near spill sites116[29], which t h r e a t e n s the health of fish consumers by exposure to this neurotoxicant contained in crude oil. The presence of Polycyclic Aromatic Hydrocarbons (PAH) in sediments and their ability to enter the food chain increases the risks to human health from spills through contamination of Amazonian fish; 4.3.8. The omissions of the entities involved violate the right to information of individuals and communities. Article 18 of the Constitution enshrines the right to receive truthful and timely information In this case it is important that the existence of the violation of the right of the citizens to receive truthful and timely information regarding the reasons, scope and consequences of the spill be recognized and declared in a judgment. It is essential that in order to repair the violation of this right, those responsible for the disinformation be identified so that the same cover-up dynamic is not repeated in future events. 161. Based on this right, the State has the obligation to issue truthful and timely information. In the case of the spill, neither was the case: first, the spill was concealed, which undermines the veracity of the announcements, as it covered up a truth that was highly relevant for the populations that depend on the waters of the Coca and Napo rivers. Likewise, the information provided days later referred to 4,000 barrels of crude oil and "at least 7 communities", a fact that was denounced by human rights organizations. 120. The information provided by the Respondents was not timely either, since the affected populations were confronted with the consequences of the spill before being warned by any of the Respondents. Only during the hearing before the National Assembly on April 21, 2020, it was made known that the spill exceeded 15 thousand barrels of crude oil, only from one of the pipelines.162 Even after receiving a request for information from the Ombudsman's Office, the Respondents have not provided accurate information. Specifically, the Ombudsman's Office, through official letter No. DPE-DP-2020-0195-0 made several requests to the Ministry of Energy and Non-Renewable Resources, in coordination with Petroecuador, to inform the public about the damages caused, the mitigation plan, the remediation plan and the actions being carried out to guarantee the constitutional rights of people and nature during the implementation of the plans described. The omission to inform the possible victims of the spill is clearly demonstrated in some of their testimonies: Gabina Coquinche Andi: The river was crystal clear, like the Napo River, not even the mayor has come to see how the people are here, they left us like animals to drink that dirty oil water, but they did come for the silver. Fanny María Grefa Oraco: I found out about the spill when the boy who went fishing came, he was stained with oil, black and his body itched. Juan Elías Licuy Mamallacta: only the federation has informed us what to do in cases of oil contamination in the river, they were not consulted about what they needed, they were only given water by the authorities and the company. Hernando Cerda: that they were given water but they were not consulted about what they needed. The IACHR Court has repeatedly ruled on the right to information in the specific framework of environmental rights. Thus, Advisory Opinion 23/17 states in paragraph 221: "221. In addition, as this Court has recognized, the right of individuals to obtain information is complemented by a correlative positive obligation of the State to provide it, in such a way that the individual may have access to know and value it. In this sense, the obligation of the State to provide information ex officio, known as the "obligation of active transparency", imposes the duty on States to provide information that is necessary for individuals to exercise other rights, which is particularly relevant in matters of the right to life, personal integrity and health. Likewise, this Court has indicated that the obligation of active transparency in these cases imposes on the States the obligation to provide the public with the maximum amount of information informally. Said information must be complete, understandable, provided in accessible language, updated and provided in a manner that is effective for the different sectors of the population". The advisory opinion under analysis concludes with regard to environmental information: "225. Therefore, this Court considers that the States have the obligation to respect and guarantee access to information related to possible effects on the environment. This obligation must be guaranteed to all persons under their jurisdiction, in an accessible, effective and timely manner, without the individual requesting the information having to demonstrate a specific interest. In addition, in

In the framework of environmental protection, this obligation implies both the provision of mechanisms and procedures for individuals to request information, as well as the active collection and dissemination of information by the State. As for the link between the right to information and the right to health, this is clearly developed in the Organic Law of Health, which in the relevant part of article 95 provides that "the State, through the competent bodies and the private sector, is obliged to provide the population with adequate and truthful information regarding the environmental impact and its consequences for individual and collective health". 167.- As stated throughout the present action, the respondent entities did not comply with their obligation of active transparency at the time of verifying the existence of the spill. By focusing purely on the economic implications of the spill, they deprived the affected persons of the possibility of making informed decisions about the situation. 168. Although this is not an action for access to public information, it is vital that when analyzing the other omissions identified here, it is considered in a cross-cutting manner how the omission of information by the respondent entities has influenced the impact on the environmental and health rights of the affected persons. 169. Additionally, there is the problem of the lack of public, reliable and trustworthy information. As has been explained, the Respondents did not inform the populations about the spill, but limited themselves to informing the country about the "loss of pressure in the pipelines". The local populations learned that they should not consume water or food from the river because they themselves could see, smell and feel the oil in the water. Neither the state nor the defendant companies warned them, which constitutes a clear violation of their right to receive truthful and timely information. 170.- The affected populations are facing a very difficult situation in the midst of the COVID19 pandemic, but the spill and the lack of information about it has worsened the situation to dangerous levels. It is essential that the affected populations are well informed in order to be able to face this crisis and make responsible and appropriate decisions to protect the health of their families. Once the case was substantiated, it was denied as inadmissible, which, in view of the appeal filed by the plaintiffs, was accepted by this Court of second instance. FOURTH.- 4.1.- The appeal is a constitutional and legal means of impugnation that every citizen has against the decisions issued by the administrators of justice in the cases submitted to their knowledge, it is contemplated within the guarantees of due process contained in Art. 76.7, literal m) of the Magna Carta, which states: "To appeal the decision in all proceedings in which rights are decided". It is the ordinary means of appeal through which one of the parties or both request that a court of second degree examine a resolution issued within the process by the judge who knows of the first instance, expressing their disagreements at the time of filing it, with the purpose that the hierarchical superior, once analyzed and without being able to make up for its deficiencies, corrects its defects, modifying or revoking it if necessary; 4.2.- The Constitutional Court, regarding the right to appeal, in judgment No 095-14-SEP-CC, of June 4, 2014, in lawsuit 2230-11-EP, indicates: "The power to appeal the judgment brings with it the possibility of questioning a resolution within the same jurisdictional structure that issued it, hence the establishment of various degrees of jurisdiction to strengthen the protection of the justiciable, since every resolution is born from a human act, susceptible to contain errors or generate different interpretations in the determination of the facts and in the application of the law(...) It is clear, however, that the right to appeal, like all other constitutional rights, must be subject to limitations established in the Constitution and the law, provided that they respond to the need to guarantee the rights of the other intervening parties, in accordance with the principles of suitability, necessity and proportionality"; and, 4.3. The appeal has two conditions for its validity: a) Requirements of form, among which are mentioned the term of presentation before the respective judge and more formalities; and b) Those of substance, which are those concerning the grounds; that is to say, to indicate the errors of fact and law contained in the challenged sentence, specifying the nature of the grievance produced, which is expressed in the appeal briefs from pages 4674 to 4708; and from the second instance notebook the pronouncements of OCP (fs. 19 to 43 vta.; and 71 to 72); State Attorney General's Office (fs. 75; 419 to 423); of the plaintiffs (fs. 77 to 79; 126 and vta;

161 to 162 and vta.; 164 to 165 and vta.; 167 to 170; 227 to 232; 441 to 478; 491 to 504; 525 to 529); Ministry of Environment and Water (fs. 82 to 83); Ministry of Health (fs. 132 and vta.); amicus curiae of the Delegate of the Orellana Ombudsman's Office (fs. 3 to 6 returns; fs.106 and vta.); of Elizabeth Bravo of the Pro-Defense of Nature and its Rights Foundation (fs. 48 to 58); of PEROAMZONAS EP (fs. 108 and vta. and vta.); of Elizabeth Bravo of the Fundación Pro- Defensa de la Naturaleza y sus Derechos, (fs. 48 to 58); of PEROAMZONAS EP (fs. 108 and vta; 159; 385 to 392 and vta.); of Ab. Cristina Cepeda Tipan (fs. 114 to 124); Pastoral Social Caritas Ecuador (fs. 174 to 177); Centro Amazónico de Antropología y Aplicación Práctica Lima-Perú (fs. 182 to 190); RED ECLESIAL PANAMAZONICA- ECUADOR (REPAM) (fs. 196 to 204; of Esperanza Martínez Yáñez (fs. 207 to 213; Marcia Martha Andy Alvarado (fs. 264 to 370) of Dr. Manuela Picq of Amherst College & Universidad San Francisco de Quito USFQ (fs. 394 to 403); caritas Española) fs. 507 to 512) which obliges this Court to analyze the judgment issued by the first level constitutional judge, contrasted with the arguments, claims and evidence presented by plaintiffs and defendants in the oral, public and contradictory hearing, as well as the amicus curiae; FIFTH - The Court will analyze the judgment issued by the first level constitutional judge, contrasted with the arguments, claims and evidence presented by plaintiffs and defendants in the oral, public and contradictory hearing, as well as the amicus curiae; FIFTH. From this recital onwards, we will describe the presentations where the claims of the plaintiffs, defendants and amicus curiae, produced in the public and contradictory hearing held in the first instance, as well as the evidence presented by the litigants, as we fear: BY THE ACCIONANTS.- 5.1.- Edilma Iralda Shiguango Aguinda: I want to talk about the oil spill issue that was made in the contamination in the Napo River. We did not know about the oil spill, my children have gone to bathe in the river, to get contaminated in the river. After two days they have gone fishing and have fed and the fish have an unpleasant smell of oil contamination. Because of the contamination, they have delivered bottles

The water supply is not enough because they use water from the Napo River, and the water they have been given is very little and they cannot fish at the moment because the river is polluted. The company that has provided food is not enough, because they are families of five or more members, they want more help, because the help they are giving is insignificant. On the health issue, they have not made the respective assessment, because they have not reached the communities where they are settled. Dr./Ab. Sylvia Fernanda Bonilla Bolaños: Article 88 of the Constitution in accordance with articles 40 and 41 of the Organic Law of Jurisdictional Guarantees and Constitutional Control, establishes that the protection action will have only one object, which is the direct and effective protection of the rights recognized in the Constitution. When there is a violation of constitutional rights; and, 2.- When this violation impairs, diminishes or nullifies the enjoyment or exercise of the rights against acts or omissions of any non-judicial public authority or of any person of private law when providing public services. In this sense, when does the Constitutional Judge know that it is the effective or adequate way? According to the Constitutional Court, it requires the verification of two situations: 1.- That the right invoked does not have another means of protection in the same constitutional justice system; and, 2.- That the violation referred to in the action for protection actually falls within the constitutional scope of the violated rights. This raises another question that is a little more complete. How does the judge differentiate that it is a problem of a constitutional nature? The answer is simple, inasmuch as in the first place the Constitutional Judge must identify what is the subject matter decidendum and what is the correspondence with the action for protection. That is to say, when what is stated in the complaint and it is clear from the factual evidence that there is a direct violation of constitutional rights, which is the primary object of the action for protection. To understand what is the scope of numeral 1 of article 40 of the Organic Law of Jurisdictional Guarantees and Constitutional Control, is that all the rights enshrined in the Constitution have several facets, that is to say, they are multidimensional. Therefore, the mechanisms and means adopted by the legal system to guarantee their effective enforcement must cover both the constitutional dimension and the legal sphere. The recognition of all the rights and guarantees established in the Constitution and in the International Instruments of Human Rights in accordance with article 11 numeral 3 and 4 of the Constitution, which are of direct and immediate application. Therefore, all rights do not exclude even all other rights that come from the dignity of persons, in that sense life as a right. Therefore, we understand that the action of protection does not have a residual character, nor does it have a subsidiary character, what does it mean that it does not have a residual character? That the legislator, when issuing the text of article 40 numeral 3, does not consider that the action of protection is of residual character. Therefore, we understand that, if a right that has been violated, it is not necessary to previously exhaust different decisional instances, before accessing constitutional justice, even more so when the essential nature of the right that has to do with human dignity has been violated. In the present case, the argumentative burden that we are going to expose below will be able to verify without a doubt that there is a violation of the rights to nature, rights to a healthy environment, right to life, understood in its complete dimension, by virtue of the dignity of what is known as dignified life linked to water, food, health and of the people and the community. As the violation of all these rights has occurred in its constitutional dimension, the action for protection is the most suitable and effective way. What is the role of constitutional justice and what is your role as a Constitutional Judge? Then, the action of protection as a jurisdictional guarantee is a mechanism available to all citizens, which is recognized by the Constitution so that all persons whose rights have been violated either by public authorities or by private persons in the exercise of public services, can obtain the reestablishment of their rights and the subsequent reparation for the damage caused. In this sense, the action for protection becomes a right in itself, the right to access justice without delay, to an impartial justice. And the legal nature of this action is that the procedure must be of knowledge, tutelary, simple, fast, effective and must have a restorative content of rights. This requires two things from the judge 1. That there is a thorough study of reasonableness in the specific case; 2. Strict compliance with the rules of due process in constitutional matters and all the guarantees of due process. One of the most important, the right to defense, which is a central component of due process. To treat the individual at all times throughout the process as a subject and not as an object of constitutional justice. From this conception, the right to defense also allows that all persons involved have certain minimum guarantees to ensure fair and equitable results. This will allow the opportunity to be heard at all procedural stages in the language in which the persons respond, also understanding that the Kichwa language is one of the official languages of intercultural communication recognized in the Constitution. The action for protection seeks to ensure that the claims of the plaintiffs are heard by the judge and, if necessary, granted. Therefore, it is the obligation of all others to guarantee access to justice and the substantiation of proceedings in accordance with these guarantees. Article 11, numeral 9 of the Constitution clearly establishes that the State shall be responsible for violations of the right to effective judicial protection and for all delays to the principles and rules of due process, and therefore, it is possible to file a lawsuit against judicial authorities that violate the procedure. The right to defense also constitutes the foundation that supports the equality of the intervening parties to safeguard the right to defense. Legal operators are obliged to protect rights through impartiality and observance of the procedure applicable to each case. In this case, an action of protection is a constitutional process, so that the procedural subjects obtain a correct administration of justice. It is the obligation then of all public servants to avoid the

arbitrariness in public actions. We also demand that the principles of interculturality, plurinationality and collective rights recognized in the Constitution and international human rights instruments be guaranteed throughout the hearing. This obliges you to guarantee the highest standards in intercultural matters. On the other hand, we also demand that you guarantee the provisions of Article 4.7 of the Organic Law of Jurisdictional Guarantees and Constitutional Control, insofar as respecting the procedural principle of conditional formality, that is, to adapt the formalities provided for in the legal system for the pursuit of the purposes of the constitutional process, that is, the guarantee and the full and effective enjoyment of rights. Justice cannot be sacrificed by the mere omission of formalities, which is also stated in article 169 of the Constitution. However, and according to what was established by the Inter-American Court of Human Rights in the case of Herrera Espinoza and Others v. Ecuador, in order to achieve the objectives of justice, the process must recognize that there are real factors of inequality of those who are brought to justice. The obligation of the judge is that if these means did not exist in the various aspects of knowledge, it would be difficult to say that those who are disadvantaged enjoy real access to justice and benefit from a legal process on equal terms with those who do not face these disadvantages, i.e. those who are in conditions of real and material inequality. Consequently, the right to due process is a guarantee of the right to defense that includes procedural equality as a substantial element, therefore, although the State and the state-owned companies that provide public services have the right to guarantee procedural equality in all procedural stages, it is also incumbent upon the Constitutional Judge to make an analysis of proportionality and reasonableness in all decisions made in this case. Regarding the plaintiffs and defendants, we must say that the plaintiffs are diverse and participate in various capacities, i.e., there are individual plaintiffs who appear as victims, likewise and based on a preliminary survey of information contained in Annexes 7 and 9 attached to the complaint, it is estimated that the number of indigenous and peasant communities affected by the oil spill that occurred on April 7 is at least 109, belonging to at least 21 parishes and 6 cantons in the provinces of Pastaza, Orellana, Sucumbios and Napo. In this sense, other affected persons have also joined the present action for protection, in accordance with Article 11 of the Organic Law of Jurisdictional Guarantees and Constitutional Control. On the other hand, and in accordance with article 86 numeral 1 of the Constitution, we also intervene as plaintiffs in this action for protection, social organizations, human rights organizations, indigenous organizations and individual human rights defenders. We, the individuals, communities and social organizations that appear, are and are protected by Article 71 paragraph 2 of the Constitution, which recognizes the broad legal standing for all persons to bring actions for protection and rights when talking about the rights of nature. We also understand that there is a multiplicity of plaintiffs, therefore, the present case has also been legitimized, as victims of the affected people. Therefore, we also request that the right to defense be guaranteed. The plaintiffs in this sense are the public institutions, the Ministry of Non-Renewable Natural Resources, the Ministry of Environment, the Ministry of Public Health, the Public Company Petroecuador E.P., and the company OCP, Oleoducto de Crudo de Pesado Ecuador, as a person under private law that provides public services. If we start from a general principle of constitutional primacy which is guaranteed in article 424 of the Constitution that determines that the Constitution is the supreme rule, therefore, all the rules and acts of the public power, as well as the acts and rules, the private persons in the exercise of public services must have conformity with the provisions of the Constitution, otherwise they lack effectiveness. Since the Constitution of the Republic is not only a set of principles, but a norm in itself with principles and rules established in the Constitution, they are mandates for all institutions of the public sector and for private persons in the exercise of public services. Therefore, the defendant institutions and the companies have positive obligations to comply with, which means that things must be done by constitutional mandate and their non-compliance constitutes an omission, therefore, they produce violations and impairment of constitutional rights. Article 16 final clause of the Organic Law of Jurisdictional Guarantees and Constitutional Control, in accordance with article 86 numeral 3 of the Constitution, states that the facts of the lawsuit will be presumed true when the accused public entity does not demonstrate the contrary or does not provide the requested information and in cases in which the accused person is a private individual, the facts will be presumed true when it is a matter of discrimination or violation of the rights of the environment and nature. The protection of the rights to nature and the environment, have a reinforced protection in the public framework. Thus, Article 313 of the Constitution reserves the right to administer, control, regulate and manage the strategic sectors in accordance with certain principles, which are not guiding principles, but principles of environmental sustainability, precaution and efficiency. Only 315 establishes that it is exceptionally the private initiative exercises these activities and by virtue of this, the private companies of public utilities, also have this positive obligation that grants them the exercise of the constitutional rules, even more when the constitutional framework provides for a reinforced protection, when dealing with rights of nature and rights of the environment. Article 397 numeral 1 final part, the burden of proof with the non-existence of potential or actual damage will fall on the manager of the activity or the defendant, in case of environmental damage, whether it is the State or private companies providing public services. Therefore, the positive obligation that is omitted and therefore violated the constitutional rights of nature, environment and life is the one contained in article 395 of the Constitution and in case of doubt on the scope of the legal provisions on environmental matters, these will be applied in the most favorable sense.

in attention to the nature and related rights that come in the violation of rights. Edgar Felipe Salazar Digua: I come from the San José community, I have a family with 13 children and I want to express what I think. I ask for help with the water issue because we don't have any. Also, the food they give us is not enough and it does not help us much. We need to address the issue of the water project in our community. What the company shares in food is only 20 dollars, it does not provide enough, and the water bottles that they give us for family hygiene are not very useful, it does not provide enough because they do not give us much. The community has asked the OCP company to help with 3 tanks and they have no knowledge of this. In addition, they have delivered a food ration and up to now they do not know if they are going to deliver it or not. Due to economic situations I went to the company to work in the environmental remediation cleanup, however they have wanted me to take more people from the community, and with Mr. Jaime Bolaños they have not been able to deal with and take the best way to take more personnel like 10 more people, and there has not been good will. The person in charge said to bring the folders, we have already brought the folders, but they have not made them known until now. In addition, the company has not made the community members who are working sign contracts. I request your Honor that the authorities support the communities by solving the problem of the oil spill.

5.4.- Dr./Ab. Lina María Espinosa Villegas: The spill occurred on April 7, where at least 15,800 barrels of crude oil and gasoline were disposed into the environment, was a foreseeable act, it was an act that could have been avoided or at least minimized and it did not happen. The state and corporate actions of not avoiding this spill, generates responsibilities by omission. Since February 2, when the San Rafael waterfall collapsed, several entities, scientists and experts, through various public media, called the attention of the State and warned it of the risks related to the regressive erosion. The State had 65 days to take measures to avoid, among other facts, the rupture of the pipe and did not act. In those 65 days it could have made a change in the section of the pipeline, it could have installed drainage valves, it could have carried out investigations and studies that would have prevented the spill or at least minimized it. Once the event occurred, that is to say on April 7, neither the State, meaning the persons involved, nor the two companies generated timely warning and intervention mechanisms. On April 7, what can be observed is that a collapse was reported, but in no way was it made transparent that it was a spill, in such a way that the affected communities, the 109 affected communities did not have the opportunity to prepare themselves and take care of themselves. This also occurs in a very significant context and it is Covid-19, in a pandemic context, the right to information is of fundamental importance for life. The possibility of having clear, timely information about any event that could put one's integrity at risk is fundamental. In a pandemic, access to a safe water source is fundamental for life and water is one of the rights that is affected by these omissions of the State. Nobody informed the communities and according to what the two witnesses, who preceded me, said that they found out about the spill when they saw the oil reaching their communities, that is to say, there was no timely information, there was no timely alert so that the communities could protect themselves and take care of themselves. Likewise, once the events occurred, the violated rights, i.e., water, food, health, the rights of nature and the environment, have not been adequately addressed by the State and by the companies. Although both OCP and Petroecuador have made communication attempts to show that they are bringing water and food, these are not efficient and are not culturally relevant. The people of the affected communities are suffering isolation conditions due to Covid-19 and confinement conditions due to the oil spill, they cannot access basic services such as fishing, or the relationship with the river which is fundamental for their physical and emotional integrity, and in many cases access or benefit from the products of their farms, because this spill coincided with a winter season when the river was swollen and flooded in several communities, The people are not being able to provide themselves with bananas, malanga, cocoa and traditional fruits, and have experienced several health problems, apparently linked to the direct contact they have had with the crude oil due to the obligation to continue using the river, since they do not have safe water sources and the scarce water that OCP and Petroecuador have been providing is clearly insufficient. During these days, the communities, as Mr. Dahua has stated, are afraid because there is public interference and the fact that the regressive erosion continues to advance and puts at risk new sections through which the oil pipelines would pass. It is from dates such as May 5 and 16 that the Minister of Energy and the oil companies are concerned about the regressive erosion, it is an act that was known at least since February 2 and to which they did not pay any attention, now they are concerned and the actions they are taking now, would have been carried out between February 2 and April 7 avoiding this spill. The rights to life, to water, to food, to health, to territory in relation to the identity of indigenous peoples, to the environment, to nature and to information have been violated, this violation is persistent, that is to say, to this day it continues in form and substance and puts the existence of the people who are coming before you to ask for the protection of their rights at a very serious risk. The State knew of the risk and did not act, once the events occurred it acted insufficiently and the risk persists today and that is what we intend to show in this hearing. Unfortunately, until now the main concern of both the companies and the entities involved has been to prevent oil production from declining or being at risk, far from their concerns has been the life and integrity of their populations, understanding that this is not the first spill that has occurred, so the companies are also well aware of the risk that exists in the area, due to the geomorphological, geo-seismological conditions of the area, which today is aggravated by the regressive erosion. There is abundant jurisprudence from the Inter-American System and the Constitutional Court on the obligation of the companies and the State when issuing or generating measures on indigenous peoples, to consult them and agree with them.

The few medical brigades have been carried out without consultation, without consultation, without consultation, that is, the ethnic particularities of the peoples and the people affected are not taken into account, which additionally far from resulting in a solution, result in a new violation of their rights. Alicia Celinda Salazar Medina: I represent the Ceibo Alliance Foundation, which is made up of 4 nationalities, Siona, Secoya, Waorani and Cofán. The nationalities analyze that we all have the same threats and we have formed an alliance of solidarity, to support our communities, we share experiences against the exploitation of our territories and contamination of our jungle. We work together to keep our territories healthy, happy, free of invasions by companies that do not respect us or our jungle. For the life of our jungle, for the life of our families and customs, I am not directly affected, but I claim the right of nature, I do not live in the area directly affected by the April 7 spill, but the problem is that it has not been the only spill, there have been many spills that have done much damage to all the Amazonian peoples and they are not repaired. In the Cuyabeno reserve there have been two spills, one in 1988 and the other in August 2006, of which until now we have to live day by day with the contamination, in the summer season the water level drops and on the river bank you can see the traces of oil, even after several years, although they always say they are cleaning up. The rivers are important for food, for drinking, cooking, washing, also the indigenous people have a spiritual relationship with the river. Under the water in the river, live living beings like the anaconda, which spiritually relate to us, it gives us food and protection. The indigenous people bathe in the morning hours, to take energies that encourage us to live in harmony with Mother Nature. The rivers have to be clean of all impurities and pollution, because of pollution many species of animals, aquatic and terrestrial species are in danger of extinction. Pollution causes health problems in the skin, respiratory tract and other diseases. The water is not fit for human consumption, agricultural production in contaminated areas is low, bananas and cassava no longer produce as they used to. I learned about the spill of the two oil pipelines on April 7, from colleagues from other organizations, it affected indigenous communities on the banks of the Coca River, such as Dashino, Panduyacu, Shiguacocha, Sardinias, Huataraco, Playas del Río Coca and others. This new spill causes a lot of damage to the indigenous peoples and their rights are always violated, that is why we accompany the Kichwa comrades in this demand, so that these spills do not happen again because they put our cultures and ways of life at risk and now it is worse because we are in a pandemic and water is fundamental. Dr./Ab. Verónica Potes: The April 7 spill is not an isolated incident, this area near the Reventador volcano is known for being a highly seismic, highly volcanic area, there is a very strong erosion as we can see now in the case of the Coca River. The environmental studies, the impact studies of OCP, when it was built in 2003, the studies that preceded the Sote spill, reveal that it is an area that constantly erodes due to the high risk. So it has to be providing for incidents such as those that have occurred in recent months. There is a record of at least 72 spills from Sote and as many from OCP, of the 44 spills that OCP has suffered over 5,000 barrels, half that is 22 of these spills have occurred in the same area at the foot of the Reventador volcano, which is the endangered area. These spills and negative impacts are known as sica, which pollutes the water, contaminates the soil, affects the ecosystems, affects the quality of the water and the productivity of the soil which is related to the possibility of feeding the communities that live along the riverbanks, which feed on fish from the rivers, as the colleagues have indicated before, plantain and yucca which are basic foodstuffs, malanga, etc. This also implies an impact on health in the short, medium and long term, both the health of the people and the health of the communities, which is a public health problem and also the health of the ecosystems, and remediation can only be cosmetic. In addition, as Alicia commented, when the river goes down, a stick is put in the ground and oil comes out of old spills. So what we want to say is that we already know the effects of a spill and that is why they have to be particularly foreseen, prevented as much as possible, and this one was avoidable. Reference is made to February 2 with the San Rafael waterfall and what happened later on April 7, the collapse of the San Rafael waterfall, experts say that it is due to an aversive process of sedimentation of the Coca River, which makes the waterfall disappear on February 2, 2020 and in its place the so-called San Rafael arch is formed, this collapse of the waterfall increases the regressive erosion, that means that it is manifested from there backwards, from the place of the San Rafael waterfall backwards. Immediately after the collapse, experts warn that all the infrastructure that was upstream of the river is at serious risk precisely because this regressive erosion is also very aggressive. Which is the infrastructure at risk? They are the highways such as the Quito-Baeza highway, the oil pipelines and polyducts, the Coca Codo Sinclair catchment company, communities such as Manuel Galindo. Therefore, experts speak of a time bomb and warn that immediate measures must be taken to protect these structures and prevent damage. Despite these warnings, the authorities take measures not to prevent disasters, but simply to monitor, and we have no evidence of what actions in the particular case of an oil spill, actions that could be taken, measures that were available, measures already known by the operators and controllers, were not taken. This includes monitoring the stability of the slopes because of the danger of collapse, identification of areas of possible landslides because of the proximity of the landslides to the old or former San Rafael waterfall, installation of anchorage in hillside areas, The action immediately necessary when there is a danger that the pipe may break is to close valves and establish the necessary measures for a controlled emptying of the contents, so that even if the pipe breaks and the breakage of the pipe is inevitable, the spill to the environment does not occur. There were measures and it was announced that it could happen, it was alerted and nothing was done by the authorities and the operators to avoid this. In the meantime

we can see the images, the first one shows the pre-collapse scenario of the San Rafael waterfall in January 2020, at the site of the waterfall and at the site of the incident of the pipelines, the distance between those was 1,500 meters, by February 5 the distance after the collapse of San Rafael the distance was reduced 1,200, because they retreated and formed from that and 3 waterfalls were created. By March 13, the aggressive erosion was already evident 700 meters from the site of the incident and there were no measures to ensure that if the pipes were broken, as they were later broken, the spill would occur. On April 7, a landslide occurred, which caused a 70-meter sinkhole, the pipes collapsed, the pipes fractured and those pipes, which had contents that they should not have had knowing that this could happen, were emptied into the Coca River. What is the content? It is not water, but crude oil and fuels that we know produce high contamination. The collapse was foreseen, the rupture was foreseeable and although the rupture was not avoidable because perhaps it was too fast in time, but the spill was foreseeable and it was avoidable and it was not avoided. On April 7, neither OCP nor Petroecuador, respond for the oil spill, Petroecuador reports earth movements, reduction of pressure, the following day OCP talks about reduction in the channel and rupture of the pipeline, but it is careful to say in its communiqué that there was a force majeure, when the spill that it does not mention, I insist, was foreseeable and avoidable. The following communiqués of April 7 focus on economic issues and vaguely mention measures of attention, without clarifying what they are, but nevertheless, since April 8 the communities begin to report that there is oil in the Coca River and in the Napo River and they do it in the midst of a pandemic context, because people begin to find out, one comments to the other and sends a photo through the internet and so they start to find out. The video that is here is from April 8, it corresponds to the area and in this video, the communities report what is happening in the river, the effects on the soil, then the negative impacts that occurred that were foreseeable, and occurred in the pandemic, the communities are affected by the spill which is equivalent to approximately 120,000 people, of which 27,000 are indigenous inhabitants and it is along the Coca River and the Napo River, where you can see the number of red dots correspond to affected communities, especially the Kichwa territory, which is affected. The implementation of the containment barriers is deficient. As of April 12, the organizations contained in FECUNAE, which are part of the plaintiffs in this case, were still receiving community reports of the advance of the oil slick along the Napo River and it was expected to reach Peru. The condition or circumstance of the flooding of the rivers also means that these containment plans are of little use in these conditions. Then the impact mitigation plan with respect to food and water was also inopportune, insufficient and inadequate, let us remember that we are in an emergency situation due to the pandemic, water is essential to prevent contagion, we are in a situation of general restriction of mobility, that is why rivers become essential as a source of water and food and in this case the preservation of health and life. The measures taken by the companies are insufficient, they deliver insufficient water cans, in relation to a person and a family in this case a community needs daily, such as clean water for their different needs. In addition to consumption, insufficient delivery of food kits that do not respond, as mentioned before by Ms. Espinosa, to intercultural criteria on food and nutrition of the people, which are rights established in the Constitution. We have little contradictory information, information that was given little by little, they started saying that there were 4,000 barrels, that the environment had been discharged then they reached 15,000, we suppose it is more because of the magnitude of the spill, according to what the experts also say. There is another important issue in May 2020, that is 25 to 30 days after the spill, the two pipelines are already operational, the Sote started operating on May 2, and they preferred to ignore the known consequences of this impact of the spill that was known, and that could have been foreseen. 100 days after the alert was generated by the collapse of San Rafael, and after the announced demarre, PETROECUADOR is now announcing preventive measures to avoid a new impact on the pipeline, so they are talking about drainage systems, equipment to immediately block the transportation of crude oil, to avoid spills in case of a new impact on the pipeline, These are not new measures, or measures that some scientists invented, they are already known, these solutions have been available for a long time, and certainly they were available after February 2 when San Rafael collapsed and endangered all the infrastructure of the river upstream, including towns such as Manuel Galindo. We have new probabilities of spill so we have asked for precautionary measures, the pipes are 100 meters from the erosive front, we have been told by an expert that they should be removed, and they should be removed, and the route of OCP, del Sote, and the polyduct should be changed, far from the river bank, however we have to remember that the area in general is of high risk. The thousands of spills that have occurred have to do with the high risk of the area, and so far there has not been a public process of alternatives for the layout from science, academia, and legal experts. Are the known risks of the whole area being taken into account or is it just a cosmetic measure to send the pipe on the other side, and to privilege the economic interests of all and we must all, authorities, operators and citizens that is to prefer rather than the flow of hydrocarbons, is to prevent that rights are violated and then force majeure is removed, which does not exist here. 5.7.- Dr./Ab. Prieto Méndez Julio Marcelo: We were listening to Ms. Verónica Potes, she was very clear in establishing the omissions incurred by the Ecuadorian State and the defendant companies, first prior to the spill the omissions are evident in different media, and different people already told us about these omissions, they had more than 80 days to act after the San Rafael waterfall broke, after the waterfall collapsed due to the phenomenon of rapid regressive erosion, however, they omitted this action that is what has us here. The rights of nature, in this case there are violations to these rights, suffered as a consequence of the spill caused by the rupture of the San Rafael waterfalls.

pipelines of April 7. We are here to make you realize that this can have detrimental repercussions on the rights of nature, you as a constitutional judge in this case have the obligation to pronounce on these violations. The problem we have in most of the cases that have been presented regarding the rights of nature is that the judges, as you are going to hear, even the lawyers of the Ministry of Environment, confuse the protection of the environment with the protection of nature, and for most people, the environment is the same as nature and this is a serious mistake. The concept of environment comes to be a totally anthropocentric concept, it refers to the human environment, nature includes the human environment, but the human environment does not include nature, this is an important distinction that must be made, because you are going to listen to the lawyers of the Ministry of the Environment, they are going to present reports and norms, they are going to say that they comply with all the measures and as they comply with them, the rights of the environment are guaranteed, and the rights of nature, for which it is necessary to differentiate between the norms of the environment, of environmental law as such, they serve to protect the human environment, that is to say the norms of air quality, water, use of soils, all are there to protect our health, not that of nature, therefore the norms of environmental law are irrelevant to determine a violation of the rights of nature. To understand the violation of the rights of nature, it is necessary to identify the interruption of the vital cycles, what we know its structure, its functions, it is not only about the human environment. The lawyers of the State will present their reports and all the norms, but these norms do not meet the criteria and the concepts that we have, when we talk about the rights of nature. The Constitution gives us an alternative which is the ancestral wisdom, the knowledge of the indigenous peoples, who are eco-centrist by nature and who know how to distinguish when the balance of an ecosystem has been broken, not simply when we have transgressed a norm, which in the majority of cases have been made by oil companies themselves, and the compliance of the environmental norms of water quality, which is what we are supposedly going to hear a lot of reports that water is wonderful, there have already been some cases in which the judges of instance, or as you are a judge of flagrancy, acting as constitutional judges have made mistakes, when interpreting that environmental norms include the protection of rights of nature. We have the case of the shrimp farms, that the judges of the Sole Court of the Provincial Court of Esmeraldas, were reprimanded precisely for this, because they ate the story of the Ministry that the water was clean, and in that case the reports that they presented said that there were no effects on the environment, we are talking about the rights of nature in which the judges ruled and made a pronouncement. You have the specific duty to pronounce on the rights of nature and I would not like you to make the mistake of assuming that compliance with environmental regulations also implies that the rights of nature are being complied with. The Biodigestores case, which also when the new Constitution was inaugurated says something very similar, says that it is the obligation of the Constitutional Court, as guardian of the compliance of all the constitutional mandates, to materialize the will of the constituent, since our Fundamental Charter grants rights to nature, shares a guaranteeing philosophy of rights, This differentiation is very important because biocentrism is what frames the rights of nature, while anthropocentrism frames environmental law, which are two different areas, that although they are closely related because the human being that depends on the environment, they do not have a mutual dependence, nature does not need the human being. In this sense it is important to recognize the proper value and in this case it is an oil spill on the Coca and Napo rivers, the effect produced on the biotic and abiotic elements is evident, as we will be able to demonstrate later with the participation of our experts, the energy flows are interrupted, the nutrient cycles are interrupted, all this independently of the human rights affected. There is an intrinsic relationship between facts of nature and human rights, but more than two centuries ago Victor Hugo had already explained to us that the earth does not belong to man, but man belongs to the earth, we are the ones who depend on nature, if there is no clean nature and if we do not respect the rights of nature, we cannot speak of a healthy environment and much less of human rights, The opposite is possible, that is to say, the right to a healthy environment depends on whether we respect the rights of nature, and that is why, Mr. Judge, you have to make a specific pronouncement on this issue and you must make your pronouncement based on the evidence on vital flows, on nutrient flows, structure and functions of nature, not on simple reports that are going to be presented to you. I am also sure that we are going to try to reinvert the burden of proof, on the part of the OCP company, surely they are thinking about the horizontal effect of the constitutional rights, it has certain limitations in the evidentiary aspect possibly influenced by the German doctrine that points out that the burden of proof is reinverted when it is applied between individuals. But in this case the Ecuadorian constitutional law, unlike the German constitutional law, foresees a direct horizontal effect between constitutional rights. 5.8.- Acero González Jorge: I have been a defender of the rights of nature for more than 14 years in the province of Sucumbios, and the protection of what is established in the Constitution I have presented myself in this action as plaintiff before the violations nature that were caused by the spill in the Coca and Napo rivers, independently of the multiple violations to the rights of persons that are denounced in this process, although all of them have an intimate and essential relationship and interconnection, adding that it is a violation whose origin was more than a month and a half ago, but that continues to occur and that has constant effects due to the lack of adequate reparation measures, aggravated by the evident risk that threatens to cause a new environmental disaster to nature, for the same reasons and omissions denounced here. No one can dispute or doubt that the rights of nature have been violated under the protection of the provisions of Article 71 of the Constitution, the serious spill contaminated the rivers and their banks, that

are complex spaces where life develops, affecting an infinite number of ecosystems that survive and interact in a delicate balance. In this context, this action entails an obligation for you, but also an opportunity for you as a judge to assess, analyze and declare this violation of rights, but essentially to establish the comprehensive reparation measures that must be applied and that are appropriate according to the real present and future damages. The Constitution, the Constitutional Court and international jurisprudence mark a very clear and unavoidable path. If the titles of life as Julio indicated and therefore the rights of nature must be protected in any part of our country, you know the Amazon, you know that this protection is even more necessary when it is the lungs of the earth in which we live, recognized worldwide rich in biodiversity and whose balance and survival is essential for the lives of millions of beings, including the people and the area affected by the spill that for hundreds of kilometers crossed the Coca River, the Napo River, called the Napo River Basin or Upper Amazon Basin, which is one of the most biodiverse and complex terrestrial ecosystems on the planet and one of the most diverse watersheds. For your information, more than 470 species of fish have been named for this area, including 8 that do not exist anywhere else in the world and that have been affected by the contamination, as well as many other aquatic species, some of them on the Red List of endangered species, for example the giant otter, the river dolphin, the whale catfish or the bigheaded turtle, but also land animals such as the jaguar, puma, tapir, anteater and harpy eagle. Even this spill in its path crossed 70 km of shores within 4 protected areas of Ecuador and this area is essentially important and mega diverse, Ecuador also recognized that 4 areas, Cayambe Coca National Park, Sumaco Napo Galeras National Park, Limoncocha Ecological Reserve and Yasuni National Park, should be specially protected and have been affected. You know that these reserves, especially the Yasuní, is one of the most important in the world, but the biological importance of the Amazon, not only lies in the world of species present, but in the complexity of life forms that exist and the interrelationships and mechanisms that have developed to survive and maintain balance. The effects of the entry of thousands of barrels of oil into aquatic ecosystems have profound impacts on the ecology, not only on rivers, but also on terrestrial ecosystems, due to the high toxicity of crude oil and its effect on the food chain, from bacteria to aquatic plants that feed species were contaminated and are still being contaminated, from the smallest to the largest fish, fish were fed, impregnated, contaminated and many died or were severely affected. Birds, otters, caimans, jaguars and many other animals that feed on the water of these rivers died or were contaminated. In addition they suffer the scarcity of food and so in a continuous cascade where the effects are spreading and multiplying from the smallest, to the largest. Even the crude oil, as you know and as you may have read, also reached the earth, affecting plants and animals, from the micro to the macro, the inhabitants have evidenced it and will explain it. In addition, it is important to understand that crude oil is not only something that the river carries away, that floats dragging death and contamination and passes on. The heavy crude oil, due to its composition, has also been deposited along its course, on the banks, in sediments, maintaining the effects in the medium, short and long term. Animal and plant species will continue to be in contact until an adequate repair process is carried out, the food chain, reproduction and life will continue to be affected, remembering that many animals, especially fish, accumulate part of this contamination in their tissues and it is a permanent contamination process. We have had almost 50 years of oil exploitation, with hundreds of thousands of barrels spilled, contaminated and with 12 years of validity of the Constitution that protects the rights of nature, but that have never been taken into account in the face of the serious impacts caused by the spills. We know this well in the provinces of Orellana and Sucumbios, the cleaning actions or supposed renovation plans, even those that are already underway, have never looked at how the river was before the contamination and how it is now, how it was affected and how life develops or depends on it or interacts with it and how it is going to continue. It is essential to establish this plan, which represents a plan for the present and a plan for the future. This has not existed, as you will be able to verify, because there is no interest in repairing the real impact caused to nature, that is clear, the vital cycles affected and in recovering the multiple interconnected ecosystems. There is probably more interest in the photo cleaning the stone, as has appeared in some media and of course there has been no attempt to build these plans with the participation of those who know nature in that area, in this case the indigenous peoples and the affected communities, so that in our provinces we have agonizing rivers or seriously damaged by this permanent violation, where life has been disappearing, which of course affects people and communities, but also in an essential way to all non-human life that develops our lungs of humanity and on which we also depend in the end. Therefore, Mr. Judge, you must declare the violation of the rights of nature and establish reparation measures appropriate to the impact, which allow to correctly identify all the impacts, the measures and the process of short, medium and long term, which guarantee, as established by the Constitution, as the Constitutional Court has already said, a restoration aimed at ensuring that the natural system will once again enjoy conditions that allow it to enjoy the conditions that allow it to be restored, The restoration of the natural system, as established by the Constitution and as stated by the Constitutional Court, is aimed at ensuring that the natural system will once again enjoy conditions that allow the correct development of its vital cycles, its structure, functions and evolutionary processes as it was in the situation prior to the spill, also including systems that, together with the affected communities, monitor compliance and the evolution of the process into the future. You live here, Mr. Judge, and you know what has happened so far with the spills and contamination. I also live here with my daughter, I know how our provinces are, but I know what I want for their future, for our future and for the future of nature, for the sake of the environment.

that is why I have presented myself in this process as plaintiff. Carlos Santiago Mazabanda Calles: I am an engineer in geography and environment, I have worked 15 years promoting the protection of the rights of indigenous peoples and the conservation of the Amazon, at the moment I am a consultant for the Amazon Watch Organization. My appearance today is as plaintiff due to the inactions or insufficient actions that the passive legitimized, have led to the violation of the constitutional right of the population to live in a healthy and ecologically balanced environment, established in Article 14 of the Constitution. For which we must also take into account that the undeniable relation of protection of the environment and the relation of other human rights is established in an advisory opinion OC-2327 of the Inter-American Court of Human Rights, on the environment. The inactions are related to the accounts of the people who preceded my word have given it. The state company and OCP, already knew by expert studies of a particular erosive process that was occurring in the area and that was confirmed with the collapse of the San Rafael waterfall on February 2, this should have alerted the State authorities and OCP to take the necessary measures, This should have alerted the State authorities and OCP to take the necessary measures to prevent this erosive process from affecting their infrastructure and consequently avoid an environmental disaster, such as the oil spill, especially if we take into account that the pipelines are very close to this erosive area and adjacent to a water source of the Coca River. On April 7, 2020 the inevitable occurred, the rupture of the oil pipelines, of the polyduct, and up to 15,800 barrels of hydrocarbons were spilled, as far as is known from official figures. Then the State of the companies in charge of the Sote, OCP and polyduct, did not pay the necessary attention to the potential risk involved in this aggressive process, and negligently failed to comply with the constitutional duty to foresee environmental damage as stated in Article 14 of the Constitution. According to the OCP bulletin, which was issued on April 8, 2020, it is textually stated that work is being carried out in the construction of crude oil and it is also stated that the water supply is guaranteed. However, the facts disprove this action since the authorities of the Coca canton, take the decision to suspend the collection of water from the Coca River, which provides drinking water that same day, since the river was contaminated by hydrocarbons, which affected the provision of drinking water to a city of about 58,000 inhabitants. In fact, you and all those present at that outage must have been affected by this outage in the days and weeks following the spill. This fact demonstrates that the containment and repair measures after the spill were not appropriate or timely, which led to a violation of the right to access to water. An aggravating factor of this situation, which has already been mentioned, is that this occurs in the midst of a health crisis due to the Covid-19 pandemic, where the use of water is essential as a prevention mechanism. With that we have that the spill caused by the rupture of the pipelines and polyduct caused the contamination of the Coca River and Napo River, affecting the right to water essential for life and the right to health as stated in Articles 12 and 32 of the Constitution of Ecuador. If we put this situation in the context of the indigenous communities, as we have already heard in the initial testimonies that there are 109 indigenous communities that are settled between the banks of the Coca and Napo rivers, from which they get their water daily since they do not have drinking water, their right to water was also affected. It was also mentioned that the subsequent rains flooded areas of farms and crops with hydrocarbons, affecting the main sources of food for these indigenous families, and fishing was also affected. Likewise, this spill, which could have been prevented, affected the collective right of the indigenous populations to freely maintain, develop and strengthen their ancestral traditions, as mentioned in Article 57, paragraph 1 of the Constitution, and their right to food sovereignty, as stated in Article 13 of the Constitution. All these rights, health, food and water, are established as primary duties of the State in Article 3 paragraph 1 of the Constitution and have been violated by the inaction of those currently responsible for managing the oil spill and preventing it. The right to the environment is linked to *sumak kawsay* or good living, concepts that prevail as a transversal axis of the Constitution that define our society as a new form of citizen coexistence in diversity and harmony with nature. Similarly, Article 275 establishes that good living will require that individuals, communities and indigenous peoples and nationalities can effectively enjoy their rights and the harmonious coexistence with nature. This has brought before you, your Honor, a diversity of actors, several Human Rights organizations, church, indigenous communities, indigenous organizations, which is something historic that such a large conglomerate of such diverse organizations are together at this moment claiming all the rights. Finally, this foreseeable oil spill due to the rupture of the oil pipelines has affected the right to the environment, but with it a series of primordial human rights and collective rights fully recognized in our Constitution. Your Honor, it is your task to recognize the violation of these rights and to demand an integral reparation that guarantees the population the right to live in a healthy and balanced environment. 5.10.- Freddy Oraco, President of the Kichwa Community El Edén: Our community has been contaminated since 2001, when the oil company started, we have had a spill. Currently we have had a spill in the pat F, about water contamination, many fish that we had in the pools died, and now we cannot go to the river, or to fish because our children are getting sick eating that fish and drinking that water. So I want it to be respected, and I want PETROAMAZONAS to comply, because since 2016, until this year, they have not given results to the documents that we submitted to the management in Quito, so far they have not given us any results. On the other hand, OCP is affecting us, the Kichwa communities such as the Kichwa community of El Eden that live in the lower parts because the fish in the pools have died because of the oil spill, the Yuturi River also collapsed, the river rose upwards, our lagoon was affected. We have two lagoons, we have our hotel Eden Amazon Lodge there, we have thousands of attractions, that was also affected, I want them to give us some results about the contamination, so far the gentlemen of the Ministry of Environment have not given us anything. 5.11.- Dr./Ab.

Luis Xavier Solís Tenesaca: I will make my intervention in the part on the right to a healthy environment. The right to a healthy environment is enshrined in international norms, among them the Protocol of San Salvador that supports the Inter-American Convention on Human Rights, in this Protocol of San Salvador it is better developed than in the Inter-American Convention on Human Rights, it is in article 11 and the Ecuadorian State has to respect this Protocol because it is part of it. In addition, one of the important things that has already been mentioned during the hearing is that the Advisory Opinion 2317 issued by the Inter-American Court of Human Rights, which is mandatory for the Ecuadorian State, already establishes and expands the concept of the right to a healthy environment, it understands it as a particular right, but also as a right that can be demanded before any authority and especially before the Ecuadorian State. I would also like to emphasize that the right to a healthy environment in our Constitution is developed in two ways: 1.- As a collective right; and, 2. But above all, and to the part I want to refer to, the right to a healthy environment is also developed as an obligation, we will find this in article 83. 6 of the Constitution of Ecuador, where it says that it is one of the obligations, to respect the rights of nature, to preserve a healthy environment. This principle has to be respected by public institutions, by both public and private companies and in this case it is something that did not happen. The right to a healthy environment is developed and is related to the right to development, but mainly the right to economic development. That is to say, the right to economic development has to be governed through respect for the environment, so the oil industry has to respect the standards of the right to a healthy environment and in the same way the Constitution already develops this part that says that the development regime of the country has to be governed respecting the environment, this can be found in article 276. 4 of the Constitution and also in 395. 1 of the Constitution of Ecuador. The OCP Heavy Oil Pipelines Company, whose mission is found on its web page, literally says, to contribute to the development of the country through a reliable, safe, efficient and environmentally committed crude oil transportation operation. In the same way, Petroecuador Public Company in its mission states that its objective is to develop its business management in accordance with the national policy of respect for the environment and social responsibility with its members and the communities surrounding the areas of operation that they maintain in the national scope. This does not have to be a simple statement, the Constitution develops the principles of environmental law, among them are: integral responsibility, the best technology, sustainable development, the polluter pays, in dubio pro natura, the right of precaution, the right of prevention, integral reparation, among others. I want to emphasize the principle of the right of access to information, which in environmental matters has to do with the fact that when companies have relevant information that may affect the communities, peoples, nationals, individuals, they have to alert the different communities, the different peoples and nationalities, that is to say, to avoid any situation like the one we have seen now, it is a right that is crossed in environmental issues as well. The principle of prevention has to do with certainty or scientific certainty about an impact. This is emphasized for the following reason OCP, Petroecuador and the other public institutions had an obligation before the oil spill that occurred in April, during the oil spill and after the oil spill. Before the oil spill they had a very clear obligation established in the law, they had the obligation to observe the principle of prevention. The disappearance of the waterfall of San Rafael was already known, as Dr. Potes has well explained, that there were alerts, several days had passed since this waterfall disappeared. A company with medium technology should have alerted about this situation according to the principle of prevention, should have looked for a way to avoid, eliminate or reduce and mitigate the effects that could be caused by this regressive erosion that has already been mentioned. In addition, these companies had several alerts, among them is the 2009 spill, where OCP ended up paying about twelve million dollars to the GAD Municipal de Orellana, that is to say there was already a pipeline rupture near that place, they knew that it is a place that had several complications in the terrain in the seismology. In the same way Petroecuador had several alerts one of them was in 2013 when thousands of barrels of oil were spilled in the Coca and Napo rivers, they did not listen to the alerts of the scientists, at least they should have applied the principle of prevention established both in the Constitution and in international standards, that is to say if there is no certainty, the precautionary principle is used to avoid damage to the populations, but this did not happen. I think it is not conceivable so much ineptitude and also where are the rights of others in the people living in the different communities of Orellana. With the news of the oil spill the least they had to do was to warn the communities, an early warning, in truth you heard what the plaintiffs have said, they found out when the oil was crossing through their communities, that is to say there was not this principle of respect for the information that is collateral to the right to the environment, They should have sent an alert, they should have been warned, they found out when the children were bathed in oil as shown in the different photos, they found out when their communities began to be destroyed, we are talking about nearly 400 kilometers of travel in Ecuadorian territory alone. After these events happened, the companies should have taken measures and the principle of being able to compensate the different communities, but a compensation that is integral, fair and that is an integral reparation, a community is not repaired with cans of water, or with tuna, or sardines. In this way I want to emphasize that the right to a healthy environment has been clearly violated, it is public what we are talking about today. Ecuador has already been called to international attention by the Inter-American Court of Human Rights in the case of Sarayaku, also the Inter-American Court of Human Rights in an advisory opinion that we have already referred to, says that indigenous peoples are in situations of particularity and vulnerability in the face of environmental degradation due to their spiritual and cultural ties they have with the rivers, with nature. That is to say, they must have special protection, what we have seen today is a complete disrespect to the rights of indigenous peoples.

peoples and nationalities. Also, a disrespect to the right to nature. Therefore, Mr. Judge, among the various requests we make, we ask that you take into account what we have mentioned by all our colleagues and that you enforce the rights of the environment and nature.

5.12.- Ricardo Huatato Alvarado: I have seen the impact of the oil spill on April 7 of this year, at dawn of that day, I went fishing in the river, and I saw the oil spill, I feel affected since I could not fish, as is my custom and I live off fishing, I feed myself with yucca and plantain. I realized that more than 100 meters of the sector are affected by the oil, and that morning I saw dead fish in the river, which is affecting my family, since I have not been able to continue with this activity. I request that remediation be made for this contamination of the Coca River, since I feel affected and I have not been able to drink chicha, guayusa and we do not have anything to drink, and this affects the community ancestrally. Mr. Judge, I request that through your authority you request that the contamination of the oil spill be remediated, since it has affected nature, the very customs of the Community of San Pedro del Río Coca, in which I am the president, and I feel affected, since it has been more than a month and they have not done an adequate cleaning and the Ministry of the Environment has not gone to verify, and it is required that the remediation and cleaning be done as soon as possible. They need to clean up the stones and vegetation that are impregnated with oil. In reality it is thought that the river will continue to rise and continue to contaminate downstream, and that the cleanup be done as soon as possible, due to the fact that the impact on the San Pedro Coca River community is approximately 5 km, and that crops such as cassava and greenery have been affected. The authorities who are in charge of this environmental remediation have told me that they are only going to do two or three months of cleaning work, or environmental remediation, and that they should do it in the best possible way so that this work is valued. We have received bottles of water, which is not enough to subsist, to be able to wash and bathe, so we request that the responsible companies help more in the water issue, and we need support with a piped drinking water system, to be able to subsist, since we have customs because we bathe day and night, and we also use the water for the life of the inhabitants. In addition, the contamination of the Coca River, the water used for bathing, can cause illnesses. We have a school in the commune, and we need to be provided with water and we also need to collaborate so that each member has pools of water to plant fish, so that we can naturally subsist when there are these types of contamination events. Mr. Giovanni Vaca, community relations officer, has delivered food rations for the value of 20 dollars, which is not enough because there are many families and with only one pass they do not have enough food, and we requested that in 15 days they would deliver food rations, but we do not know if they are going to deliver them or not.

5.13.- Dr./Ab. Pablo Estenio Fajardo Mendoza: The Coca River was perhaps the first important recipient of more than 15,000 thousand barrels of oil and other derivatives, because let us remember that here is the polyduct through which the oil derivatives are transported, in this case gas, gasoline, diesel, and obviously they dissolve more easily in the water basins in this case. What happened is that the Coca River, the Napo River below and even the Amazon River, are a fundamental part of the life of the indigenous peoples, you cannot talk about these rivers without talking about the indigenous peoples or vice versa. What does this river mean for the communities? The river is a place for fishing as Mr. Huatato says, at 5 o'clock in the morning they went fishing and there they realized that the river was full of crude oil, we have already heard 3 testimonies before that said exactly the same thing, but the river is also the place where water is collected to make chicha, to make guayusa. The river is also the means of intercommunity communication between the indigenous communities located on the banks of the Coca and Napo Rivers. The river is also a place for recreation for children and families, especially in this sector. The river is also the place where many times the mothers wash their clothes because there is no other place, therefore, we have to take into account the importance of these rivers for the indigenous people, as Mr. Huatato told you that at least 100 meters along the river banks were covered with water and obviously with oil due to the river's rise during those days. So the Napo or Coca rivers are not the same for the State, for the OCP company, for Petroecuador, as they are for the indigenous peoples, who are more than 108 communities. The importance of the river for these indigenous communities, without the river there is simply no life, there is no way of life. The river is where they get the basic food for their children, so to contaminate the river is to destroy the life of these indigenous peoples. Here also, other important facts, the spill occurred in April of this year, only on April 8 the communities found out about this fact when they were going to go fishing, when the child was going to bathe in the river and came out full of oil. This fact evidences the non-existent communication that should have been provided, but the oil companies never did it. I was reading that OCP and Petroecuador informed through Twitter, this kind of thing is usually a little laughable, they do not see the internet, much less a Twitter account. So how can it be reported? There are other methods, such as avoiding the spill. There are several rights that have been violated against the indigenous peoples, one of them is territoriality, the river is part of the territoriality of the indigenous peoples, it is part of the extended territory of the indigenous peoples. It also affects their self-determination, their cultural part, since they use the water to make chicha and guayusa, which are part of the culture of the peoples and have obviously been seriously affected. The right to water and food is also affected, there are testimonies in the lawsuit, there is the testimony of Mr. Jairo Giovanni Grefa, who says: "...before we used to go fishing in the Coca River, our food is fish and with that we fed our children...". Today Mr. Jairo Giovanni Grefa cannot fish there because the river is contaminated. Cultural rights are also affected, the right to good living. It is important to point out that good living does not mean the same for OCP, for Petroecuador as it does for the indigenous peoples. The good living for the indigenous peoples is that we let them live in peace in their territory, that we do not contaminate their rivers, that we allow them to continue fishing and that they continue in relation to the river that today is destroyed, the good living of these indigenous peoples, but it should make a

I ask that we take into account the terms, it is not the same as a remediation according to the Constitutional Court, but here it is a comprehensive restoration of all the damage caused, Your Honor, note that many elements and components of the hydrocarbons are bad extra heavy and when they are in contact with the water they go to the bottom to the sediment of the rivers, surely they will say that the river is clean, when there are hydrocarbons on top, but that hydrocarbon is in the sediment and obviously the fish will continue feeding for decades and the indigenous peoples feed on the fish. So we do not want a deceitful remediation, but an integral restoration of all the damage caused and existing, because I insist that the spill occurred on April 7, but its effect continues until today and this damage will continue forward, because the hydrocarbons, the heavy metals and they go to the sediment, although they are not seen, the sediment is there and they are not biodegradable and many of them enter the food system. Surely the community relations of the companies will say that they have given food kits to the affected communities, that they have given jerry cans of water, this is not restored with those 20 dollar kits, nor with 8 jerry cans of water. This is restored by decontaminating and avoiding a new disaster, because this one could have been avoided; and, there is a uniformity of criteria that we are going to hear from the State, Ministry of Environment and the oil companies that unfortunately are the same, there is no difference between the defense of the Ecuadorian State and the oil company, because they are the same, evidently there is no control, there is no sanction and this damage is going to continue. That is why it is necessary to guarantee that we do not repeat this violation of the rights of the indigenous peoples who are on the banks of the Napo and Coca rivers. Therefore, I ask you to order an integral reparation, an integral decontamination of the rivers and while this does not happen, to order the companies and the State to provide a total water supply to all the indigenous communities that are affected, since they will not be able to collect water, nor fish for the next 5 or 10 years, because the hydrocarbons will continue to be present in the river while they are not eliminated. I conclude with this part, Mr. Judge, first we spoke of the violation of the rights of nature, then of the violation of environmental law, now we are in the violation of the rights of the indigenous peoples, I insist it is necessary that we have this differentiation so that we can in this resolution order a reparation in accordance with what has been affected by not complying with this process. 5.14.- Johnny Abel Jipa Andi: I am a resident born and live in the San Pablo commune, which is something outrageous Mr. Judge, this spill is not for the first time, it already happened in 2009, 2013 and today Monday, April 7, 2020. With this I really mean that the Ecuadorian State, the oil companies and others have violated our rights, they are killing us with this pollution, there has already been evidence, cases that happened in my commune, 2 children died with cancer because of this oil pollution from the first spill and today it is something hard that my son went fishing that day April 7 at 5 in the morning with his brother and my son-in-law, when the child instead of bringing food brought oil to the house to feed the family. We live and our source of food is fishing, water to drink, to bathe, to wash clothes. Today my family, my son and all the community members are contaminated with oil. My question is: Who is going to repair this damage, will the State assume all the burden of taking care of our health, our life, our food, will it be the Ecuadorian State or the oil companies? They are not going to do it, Mr. Judge, I ask in a special way in this lawsuit and as an indignant father that this lawsuit remains unpunished. I want the State and the oil companies, both private and public, to comply. We do not know what is going to happen to my son, whether he has a disease now or after 5 years, we do not know what is going to happen to my son. There is his hand, stained, his body stained, the oil stained fishing boat, the fish brought in the shigra, the carachamas, the bocachico, everything is contaminated with oil. Now my son is suffering, he cannot sleep at night, his back is burning, his feet are burning, and now the child is the same, so far the oil companies have not done anything. The doctors hired by OCP arrived 15 days ago, Mr. Judge, do you know what they brought? Two paracetamol and they told him nothing will happen, child, that will cure him, I really bent down and told him I hope that is what it is. The river gives us life, it gives us food, nature and our environmental system is destroyed, it is polluted, it is finished, there is no life for us, that is the evidence. Up to today it has been 49 days since the spill occurred, in my commune they have not intervened, they are not doing any OCP work. As the river continues to rise day by day, now the Ministry of the Environment has not intervened either, they have not even come to the commune to ask what the problem is, the Ministry of the Environment has never come, nor have the representatives at least from here in Orellana or representatives of the government, nor have the environmental departments of the OCP. What I ask for the community is that, because Petroecuador and OCP only went to leave their 4 bottles of water for each family, up to here they have given four times. Water is not only for drinking, water is also for bathing, for washing clothes and for cooking. They have given us a food kit, as the compañeros say, of 20 dollars, but my family lives with 10 people and that is not enough, now that the river is totally contaminated we cannot even go fishing. What we want is that the Ecuadorian State and the company responsible, make full reparation, because it has really caused damage and harm to our humanity, to my people, to my son, to my family and to all the length and breadth of the inhabitants living in the Coca and Napo rivers. We are affected not only by this spill, but also by other spills from the PETROECUADOR and PETROAMAZONAS companies that operate in the territories of our communities, but they have not been fully remediated. I have said that my voice will be silenced when the oil companies comply in its totality, because it is not only my family, but many communes and many more families that are affected, I want to leave in the conscience of the representatives of the oil companies that their actions are given in the best way. I know that the Coca river is contaminated in its totality, not only by oil spills but also by other causes, for carrying out works in the headwaters, they mix in mud and this then contaminates the river, we cannot take it,

we cannot bathe. I hope, Mr. Judge, that you as an Ecuadorian citizen, as a father who has children, who has a family, will think about and support the situation that affects us. We ask and claim our just right because really my son cannot continue with what was bathed in oil. I want to point out that the Coca River was like this before the contamination of the oil spill with the contamination of 2009, 2013 and 2020, this is how the Coca River is now. This is how my son was contaminated with oil because he was taking food to his family and home.

5.15.- Dr./Ab. Yasmin Karina Calva González: It is important to remember all the principles of the Constitution and the rights are inalienable, unrenounceable, indivisible, interdependent and of equal hierarchy. Here we allude to the fact that we are the most interested in this hearing being carried out under the principles of celerity, there are human rights that are in constant violation and put the health of the indigenous communities affected by the oil spill at imminent risk. We will address the violation of human rights such as access to water, health, food, and a life of dignity. Specifically, I will refer to the fundamental human right to water, which has been violated by the Ecuadorian State and the oil companies Petroecuador and Empresa de Oleoductos de Crudos Pesados OCP. The spill of crude oil and other derivatives has affected at least 109 communities, more than 200 indigenous families, contaminated water sources, and destroyed fishing in the Coca and Napo rivers. It is worth mentioning that fishing is the most important source of protein consumption. In addition, the communities, families and people affected have the ancestral custom of growing crops on the riverbanks, which in winter seasons like the current one has the effect of rejuvenating the soil with the organic material that is carried by the rivers. This custom is a very wise adaptation of the indigenous people, but nowadays it is also being damaged by the contamination of the rivers, as a result of the spill of crude oil and other derivatives. This spill of more than 15,000 barrels alerted the mayors of some municipalities, who immediately suspended the collection of drinking water from the contaminated rivers. For example, the mayor of Gonzalo Pizarro, Segundo Jaramillo, assured that after an inspection of the river, contamination points were found, while the president of the Parish Government of El Reventador, Richard Enríquez, indicated that there is a death of fish in the Coca river. The rupture of the pipelines also threatens the Napo River, which is why the Municipality of Aguarico and the Municipality of Francisco de Orellana, both belonging to the province of Orellana, also immediately suspended water collection. Therefore, parishes and communities were left without water supply, especially Kichwa families living on the banks of the Coca and Napo rivers, were left without basic services, unable to relate intrinsically with the river. In this sense, it is important that you, Mr. Judge, consider that the communities, that the affected people are part of the Amazonian Kichwa people, who have a special relationship with the river. The river is their only source of food and their only source of water, so their rights are being violated. The contamination of the water of the Coca and Napo rivers with hydrocarbons drastically limits the livelihood and survival capacities of the people who live on their banks, without being able to fish, without being able to provide themselves with water to drink and to relate with their spiritual beings, which puts the communities in a precarious situation, which is aggravated by the Covid-19, by the difficulty of obtaining food normally and by the fact that many indigenous communities have preferred to isolate themselves to avoid contagion. The oil companies have not guaranteed the minimum standards for the effective exercise of the right to water, which implies that all people must have access to a sufficient amount of drinking water to prevent dehydration and maintain basic health. However, 3 days after the spill, only on April 10, both OCP and Petroecuador communicated that they have provided drinking water to the communities, the former referring to the delivery of 2,000 bales of water, while the latter to 4,800 jerry cans of water. 800 jerry cans of water, which in reality are gallons of approximately 5 to 6 liters of water, an act that does not guarantee the periodicity in time and that has not taken into account the multigenerational condition of the families, since it is known that the Kichwa families are mostly composed of 5 to 7 people. Also in this line, on April 16, the OCP through its social networks reported having reached 34 families with 1,500 bottles of water, however, again, Your Honor, there is no information on how often the communities will be provided with water, nor is there the slightest attempt to ensure that this activity is agreed upon with the indigenous communities. It is important to remember that there are collective rights of indigenous peoples. Now, according to the testimonies that have been incorporated in the lawsuit and that will be made known at the appropriate procedural moment, it has been gathered that each family receives 2 gallons of 5 to 7 liters in a period of approximately 4 days and sometimes up to 15 days. Then it is worth asking ourselves, will the 5 to 6 liter gallons for Kichwa families of 5, 7 or 9 members guarantee the effective exercise of the right to water? In this sense it is important to emphasize the recommendations of the World Health Organization, who have said that in these times of Covid-19 water is essential, so these gallons of 5 to 7 liters approximately for a family every 4 days are not enough, on the contrary, constitute a degrading treatment for human dignity. To guarantee this right, it is important to take into account the recommendation of the Committee on Economic, Social and Cultural Rights, which emphasizes that water should be treated as a social and cultural good and not primarily as an economic good, and that the following factors should be applied in all circumstances: availability, quality and accessibility. This same recommendation defines the right to water as the right of everyone to sufficient, safe, acceptable, accessible and affordable water for personal and domestic use. It also stated that access to safe and potable water is one of the essential guarantees for ensuring an adequate standard of living. It is evident that a spill of thousands of barrels of oil and other derivatives deprives water of its salubrious qualities, since hydrocarbons are products that cause harmful damage to human health. Additionally, in the context of Covid-19 and the oil spill, the affected communities, families and individuals are unable to comply with even the minimum recommendations to prevent contagion, which generates that the

risk in the communities is accelerated. Although water has been provided and this water is of quality, the communities will prioritize whether this water should be used for personal consumption to prepare food or to wash their hands frequently, evidently 2 gallons of 5 or 6 liters are not enough. Regarding accessibility, the oil spill has made it clear that it has limited the communities in an immediate way, now they have to wait between 7 to 15 days to get quality water, not only the availability, quality, accessibility, regarding water consumption has been violated. The intrinsic relationship that the Kichwa communities have with the river is also violated because for them the river is much more than a mere resource for living, it is the source of all life and disturbing it can have irreparable consequences, the forest and its rivers are living, that is, it is composed entirely of beings that they consider as people who communicate with each other and with us. That is why any activity in the jungle, any activity in the rivers and in the farms, and with a relationship with these living beings and an oil spill like the one experienced on April 7, kills not only the fish in these rivers, but also kills the spiritual life that sustains an entire community. Finally, it should be noted that the Committee on Economic, Social and Cultural Rights has also stressed that the right to water is a sine qua non requirement for the exercise of other rights that will be addressed in this block, and that this right is indispensable, since water is necessary to produce food, to ensure environmental hygiene, to procure a living and to enjoy certain cultural practices. In this sense, it should be pointed out that not only water is contaminated by the oil spill, but also fish and other animals. Consequently, complementary rights such as food, health and a dignified life have been violated.

5.16.- Nelly Sofia Grefa Alvarado: I am from the community of San Francisco Chicta, and we have problems about the oil spill that has happened in the Napo River, at about 4 o'clock in the afternoon of April 7, this affectation arrived to the community, and I have come to request OCP and Petroecuador, to help remedy this contamination, and I feel affected enough since there are no fish, because there is no water, to consume in the community, and they cannot go as before, with freedom to consume the water, to wash clothes, and to bathe, and she feels affected. Petroecuador has been offering bottles of water, but that has not been enough to subsist, because we are a few members in my families and we do not have enough. I ask Petroecuador to help us with the water system, because until when are we going to continue bathing in the Napo River with this type of contamination; and in relation to the food rations that have been delivered is not enough, because as Kichwas there are many members of a family at home, which at least in the San Francisco community are more than 100 families, so we ask that they help us with a sack of food to subsist in the best way. The company OCP and Petroecuador have come to the community with the purpose of making a medical evaluation, they have brought medicine, paracetamol and other medicines such as vitamins, and that is not enough, because they have attended 4 children from each family, and that is not good; and it is not good that the doctors come just to visit, but that they attend in the best way to the children and older adults, so that every time they go, they make a more effective examination both in the physical part of the human being, in the whole body. That Petroecuador operates by land and through this sector they make the contamination, and the OCP by the spill of crude oil through the rivers and that in the community where he lives in San Francisco de Chicta, it is a large community and that this affects the 2 parts also by land and by river. We ask the company Petroecuador and OCP, to carry out a project to improve the quality of water through wells for the families, and that when they deliver water in bottles it is not enough, because it is not enough to meet the custom of drinking and drinking chicha and guayusa, and that the bottles of water delivered to the communities are not good for cooking, only for drinking, since they have done the experiment of cooking with that water and when boiling the water has become dark or black gray, which is not good for cooking. With these words I ask the companies that both OCP and Petroecuador, a water project, and as a person I am here suing before the competent authority so that all this is complied with due to the violation of rights. I authorize the defense attorney Michelle Erazo, to continue defending, that in this case they will continue until it is solved in the best possible way.

5.17.- Dr./Ab. Michelle Alexandra Erazo Cárdenas: Your Honor, you have listened to my client and Mr. Abel Jipa, father of one of the children that instead of playing as they did before, had one of the biggest impacts that he will have in his life. He submerged himself in the river and came out stained, his skin was stuck to sticky oil that could not be removed, the same crude oil that is now in his food, in his chicha and that affects the health and life of the entire community. I will refer to the violation of the right to food, after at least 15,000 barrels of crude oil in the Coca and Napo rivers. As stated in the Constitution, the right to food is one of the primary duties of the State. Article 13 of our Magna Carta states that individuals and communities have the right to safe and permanent access to healthy food. In the case of the Kichwa communities of the Ecuadorian Amazon, we must emphasize that the main source of protein for the population is fishing, however it has been affected by the oil spill, as well as by the contamination of the environment, their water, which affects their vegetation and the self-sustaining crops of these families. To this end, as we pointed out in the lawsuit when the spill occurred, the levels of the Coca and Napo rivers were quite high due to the abundant rainfall. Therefore, the spilled oil was carried by the river, and in many cases ended up deposited near or on the farms of the affected population, i.e. on their food. In the lawsuit, among others, we collected the testimonies of the population that has been affected, for example, that of Verónica Grefa, who states, now the river is contaminated, which affects us because we feed from the rivers, we drink, it affects our food since we live on its banks and we support ourselves with this. The pandemic is terrible, there are people, well my brothers go fishing and bring back the fish, they smell of pestilence, and there is no way to consume the fish. The affected populations are claiming precisely this right, because they have asked for access to

These foodstuffs, which were only provided by their land. Although the testimonies of the community attest that the fish are contaminated by these hydrocarbons and that they are not fit for human consumption, your Honor, you will also be able to contrast the effects of these by the testimonies of experts that we will present, such as that of Lida Guarderas, who will be able to explain how this invades the fish. As recognized by international organizations, for example, the United Nations Rapporteur for Food, food, its procurement and consumption is often an important part of culture, as well as of social, economic and political organization, often their right to food depends closely on the access and control they have over their land and other natural resources. As the testimonies attached to the lawsuit describe and other expert witnesses will explain, on the one hand, most of the protein consumed by the communities is in the fish that are now dead. On the other hand, the water that they used to use for their talks, for their chicha, is now contaminated, as the population affirms, when they point out that they can no longer harvest the cassava planted, nor can they cook it because the smell of contamination is excessive. In view of this, Mr. Judge, you will surely hear that both Petroecuador and OCP have delivered more than 1,000 food kits to the affected communities; in fact, on May 10, in their social networks they published that they had delivered 3,376 food kits to 18 affected communities since the incident occurred on April 7. But there are two questions: Has the diet of the communities been considered in order to provide these kits and have they been delivered sufficiently to the entire population? The answer is a resounding no, the few foods supplied do not correspond to the usual diet of the communities, nor do they guarantee the nutrients and minimum quantities necessary for their uses, customs, requirements and have been delivered insufficiently to all those affected. In this sense, the right to adequate food, like any other human right, imposes three levels of obligation on States parties: obligation, respect, protection and guarantees, which in the case of the right to food of the peoples, must respect the traditional lifestyles of indigenous peoples. Strengthen traditional food issues and protect subsistence activities such as agriculture, hunting, fishing and gathering. The obligation to respect access to adequate food requires that in no way should they have to impede this access, as happened with the spill. The obligation to protect requires the State to take measures to ensure that companies or individuals do not deprive people of access to adequate food as they continue to do. The obligation to guarantee means that the State should seek to initiate activities to strengthen the community's access to and use of resources and means to ensure a dignified life, including food security. Contrary to this, the irresponsible actions and omissions of the defendant companies have caused the right to food to be affected with an oil spill that generated that the communities cannot have their food with sufficient availability and quantity to satisfy their food needs. The little or no food they can get from their rivers have harmful substances and the minimal deliveries of humanitarian aid are not acceptable for their culture, as the Inter-American Court said in the recent case of Indigenous Communities Members of the Lhaka Honhat Association v. Argentina, food for indigenous peoples is much more complex, the right to food should not be understood in a restrictive way, the good protected by this right is not the mere physical survival and in particular with respect to indigenous peoples has a relevant cultural dimension. Food for indigenous peoples goes beyond a simple statistical analysis of hunger; it is difficult to conceptually separate the relationship of indigenous peoples with their elements from their relationship with their lands, resources, culture, values and social organization. Food, its procurement and consumption are to a large extent related to their culture, as well as their economic, social and political organization. The Kichwa indigenous peoples of the Amazon understand this right to adequate food as a collective right. They consider that subsistence activities, hunting, fishing and gathering are fundamental not only to guarantee their right to food, but also to nurture their culture, language, social life and identity. Food depends strictly on the access and control they have over their lands, rivers and other natural resources, and this is not happening. The events of April 7 have brought the communities to the limit of deciding between having food or getting sick because they have nothing to eat, thus violating their constitutional right to food. The right to health is a right as established in the constitution, it is closely related to other rights, this is the right to water, food sovereignty, so the same Article 32 of our Magna Carta, health is a right to be guaranteed whose realization is linked to the exercise of other rights, so the State will ensure the economic, social, cultural, educational and environmental policies. As has already been proven, the right to water and food are being flagrantly violated as a consequence of this oil spill and the inaction of the defendants. Therefore, without water, without healthy food, the violation against health is evident as reiterated by the Inter-American Court, in its different jurisprudence, health is a fundamental human right and indispensable for the adequate exercise of other rights. All indigenous peoples have the right to the enjoyment of the highest attainable standard of health, which allows them to live with dignity, understood not only as the absence of disease or illness, but also to a complete state of physical, mental and social well-being, derived from a lifestyle that allows them to achieve a dignified life. Both the Inter-American Court and the Constitutional Court in its judgment No. 16-16-SEP-CC have specified that the general obligation of this right translates into the State's duty to ensure access to persons to essential health services, guaranteeing a quality and effective medical service, as well as to promote the improvement of the health conditions of the population. Unfortunately, the defendants have caused affections, both physical health, since they knew that they were going to water a complex mixture of chemicals. The indigenous peoples one day they woke up and found oil in their

table and on their skin. So scientists, and you can question some expert witnesses, have found that exposure to crude oil in some other way causes effects in the population that is in this contact, even more so when, as I pointed out, no one warned them about it. This exposure to crude oil involves skin irritation, causes itching and irritation to the eyes in case of accidental contact. Not to mention that they can cause nausea, dizziness, headaches due to prolonged exposure and even more so the chronic affectations that will follow, such as cancer or miscarriages. In fact this is what is happening in at least 2,000 indigenous families who depend on the water of the Coca and Napo rivers for their livelihoods and who continue to be exposed to crude oil. As stated in our lawsuit and you will see and have already seen from the communities themselves, they claim that they go out and get rashes, if you, Mr. Judge, have visited one of these communities, you know above all that those who daily enjoy the water are the children, to whom no one told them on April 7 that they should leave to submerge in their most precious space. Consequently, Mr. Judge, you have been able to see the photographs of Bayron, who is full of obstructions to the follicles, these can become burns, and the experts will be able to specify it. But in addition to these visible impacts, there are impacts that are in the emotional health of the children of the population, of all the indigenous communities, that mark impacts that will last for years and which according to the scientific literature include: 1.- Damage and psychoemotional damage such as sadness and guilt, this is an exaggerated alertness; 2.- Cognitive expressions of psychosocial damage such as lack of concentration; and, 3.- Physical expressions of psychosocial damage that are expressed with frequent headaches or nervous tics, among others. All these symptoms are found in our lawsuit and you will continue to hear from the testimonies of the population that was able to come to the hearing today and you will be able to contrast it with the testimonies of experts such as Dr. Fernanda Solis. The communities continue to be afraid, they are now afraid of the river and in the face of this, the defendant institutions must respond to their obligations in light of international human rights standards on which the Inter-American Court has indicated that States must permanently regulate the provision of both public and private services. In the face of the damage caused, such as the one that occurred on Tuesday, April 7, in the first place, they must act on their obligation to provide quality health care, and secondly, taking into account General Comment No. 14 of the Committee on ESCR and as ratified by our Constitutional Court, they must guarantee a series of essential and interrelated elements that satisfy in terms of health, these are availability, accessibility, adaptability and quality. Regarding quality, there must be an adequate and necessary infrastructure to meet the basic needs of people, this includes any type of tool or life support, as well as having a qualified human resource to respond to medical emergencies. This means that specialists must come to the communities to diagnose and treat the entire affected population, and not only deliver paracetamol. Regarding accessibility, emergency health facilities, goods and services must be accessible to all people. Accessible in terms of non-discrimination, physical accessibility, economic accessibility and access to information, thus providing an inclusive health system to all riverbank populations. Regarding availability, there should be a sufficient number of public service facilities and goods, as well as comprehensive programs, for which coordination between health system facilities will be very important. Finally, regarding adaptability, health facilities and services should respect medical ethics, but above all culturally appropriate criteria. In addition, they should include a gender perspective, as well as the life-cycle conditions of the people. We are not talking about just any affectation, we are talking about affectation of indigenous communities, which require intercultural criteria for the fulfillment of obligations. In addition, the reality of these communities that are located in the river basins should be evaluated for two reasons: 1.- Because of the difficulty in accessing health services and facilities that to date have not given a quick and effective response to the effects produced by the spill; and, 2.- Because in addition to the lack of facilities and the existence of facilities near the communities, they are also at greater risk due to the Covid-19 pandemic, which is also affecting their accessibility. As these violations, due to the extinction of the contamination of the river and the affectation that it will cause to the communities, the right to health will be affected by not complying with at least these two inherent standards related to its right, availability and accessibility. Finally, the Ecuadorian State is not complying with its constitutional right to guarantee the right to health, it has placed the indigenous communities in an anguishing and suffocating situation by depriving them of the vital liquid and food in the midst of the Covid health crisis, furthermore, these effects will continue to grow as chronic affectations, evidently violating the right to health, the right to physical health continues to be violated because there is no attention from the institutions and new chronic affectations will come regarding the psychosocial right and the physical health of the peoples. 5.18.- Monsignor of Aguarico, José Adalberto Jiménez Mendoza: I am bishop of the Apostolic Vicariate of Aguarico for the entire province of Orellana. My motto is that all indigenous people have life, because the church is not against oil exploitation, we are against this abusive and rude way of contamination. I have traveled part of the river, I live here in Coca, so I am here and I have listened to the missionaries, I invite you to put your hand on your heart to the lawyers of the defendants and plaintiffs, because you have children and what are you going to tell them this afternoon when you go to dinner, when children are dying in our communities and I have seen and heard this testimony of Bayron that we have seen, our eyes are filled with tears, I am not here to condemn anyone or the opponents, but to see that justice is done for all this damage of contamination. For me we are comfortable, because we have bread to put in our mouths, but let's see what is happening in our communities, I think that many of those who work in OCP, PETROECUADOR and PETROAMAZONAS, only know the

We missionaries have to go in boots to take out the sick here in Coca. It hurts me what I have seen these days because of this spill, and this cannot remain in impunity, and as the maximum authority of the church, I denounce the contamination and abuse. It is good, it already happened, nothing was prevented, nothing was done, but give them dignity, it seems that the communities and the missionaries are going to ask a favor to the government, to PETROAMAZONAS, PETROECUADOR and OCP, they still get angry, like some lawyers here interrupting, when after they beat you they get angry. Your Honor, you have the opportunity to change history in the face of so much impunity, because you are among the most corrupt countries and I do not know how this is going to end. I have seen my Missionaries suffering, crying, what would you do if your children or your relatives were fishing in the river the next day and you did not inform Petroecuador, it is as if they had said that the garden hose broke, and there was a sinking and that is great irresponsibility, this calls for international and national justice, and as the highest authority as Bishop I cannot let it pass. The river is life, it is more than a collection of water, the river for the indigenous people is the right to their territory, the right to clean water, the right to life and in these times of Covid-19, not having anything to eat, and they have been going down the river in their canoes for hours to tell me that we do not have enough to eat and that they do not have water. It is good that oil is exploited, but that our indigenous peoples are not invisible, they talk about the Sote that broke in San Rafael, we have seen in the news that they announce that they are already remedying it, that the indigenous communities do not exist, other peoples do not exist, and this is the clamor that I bring in the name of all the missionaries and of all the communities. Here died Monsignor Labaka, here he left his name speared by a tribe and not for that reason the hatreds. The elements earth, water, air and fire are elements of dignity for our peoples. We missionaries spend time with them and some more than others. I learned about the spill from Father Pablo Gallego, who visits and works with the indigenous communities, and he told me on April 8, the day after the spill, after about 15 hours had passed, some of the communities on the banks of the Napo River were not aware of the spill that was advancing down the river, endangering the lives of those who were in the river at that time. It is a very serious irresponsibility that they did not inform the communities of this disaster. Then I saw a message that caused me indignation that said, on April 7 the operations of the Ecuadorian pipeline system were suspended, due to an earth movement in the San Rafael sector and this caused a reduction in the pressure of the pipeline affecting the operation. For our communities, the river is where they wash clothes, share with their families, play and swim with children and young people. The adults in the river rest and gather strength after their work on the farm and even more so at a time of pandemic, it is a double disaster, the Covid-19 pandemic and this spill. The communities are sad, they are afraid to go near the water, some of them are full of skin rashes, we only saw the one of the child Jipa, but there are more children, the missionaries showed me crying pictures of other children that I will show to you. The children have rashes on the skin, on the back, head, toes, it is sad to see this. A few days after the spill I went in a canoe to see in the sector of San Rafael, between the province of Napo and Sucumbios, I am in Coca, more than 100 kilometers away, I could see the thick oil stains that had entered inland, it looked like a giant black blood curdling in the heart of the Earth. Keep in mind, Mr. Judge, that most of the peasants walk barefoot in the sand and in the fields, most of the time barefoot because it is their habitat or because they do not have shoes and now because of the spill in some places they cannot walk along the banks, let alone go into the river. The women are sad, a couple of women told me they can't use the water, they are sadder when their children can't enter the river. The husbands are angry and also sad. From here in the Amazon the wealth is taken to the rest of the country. Could it be that the communities have no right to anything and the only thing they receive from the oil is evil and contamination? For all these reasons, Mr. Judge, I ask that reparation be ordered and that the damage caused be recognized, and that you support this action for protection in favor of those affected by this spill.

5.19.- Dr./Ab. Vivian Isabel Idrovo Mora: The right to a dignified life as recognized in the Constitution means that the State has to recognize and guarantee water, food, nutrition, health, housing, environmental sanitation, this is established in article 66 numeral 2 of our Constitution as a right, because it is already known that the guarantee of the right to life means not only to abstain from depriving life, but to make, build, generate conditions, those necessary conditions that allow people to live with dignity. This has also been a development of the Inter-American Court through its famous cases of the Paraguayan indigenous peoples and street children, from the jurisprudence based on this, for example, in the case of the Yakye Axa Indigenous Community vs. Paraguay, the Inter-American Court has linked the deprivation of the communal property of the indigenous peoples of the Yakye Axa community with the violation of other types of rights and the violation of the right to a dignified life in the sense that the population was prevented from accessing those resources to which they were accustomed according to their customs, tradition and history. In this sense, the Court condemned the Paraguayan State. In this case, the omissions of the State before the spill and after the spill have configured several human rights violations, violations of the right to water, violations of the right to health, violations of the right to food, violations in relation to all these rights, with the right to information of the populations, violations in relation to the right to a healthy environment, violations in relation to the territory and all this in addition, violations of the rights of nature. In this context, considering that human rights according to article 11 numeral 6 of the Constitution are indivisible and interdependent, we know that the violation of one right affects the violation of other rights. It is necessary to say that 23 years ago in 1997 the Inter-American Commission on Human Rights already pointed out to the Ecuadorian State in the report of that year, that the exposure of people to oil exploitation constituted violations of Human Rights, violations of the right to life, because the air, soil and water are contaminated. Now, 23 years later, the population and the communities tell us that the odor is

unbearable, that they cannot drink the water, that the fish are dead or do not exist or taste like diesel, that the children who go into the river have scabies, rashes, itching. Here we have heard the testimony of Don Abel who pointed out that his son's skin burns after being submerged in the spill. In November 2019 the Inter-American Commission, again makes reference to the oil spills and those effects on the indigenous populations, on the affected communities and says that it compromises again the enjoyment of the right to water and food, that the contamination is transmitted through the water, the food that is ingested because and the contaminants are retained. He says that these contaminations produce a food crisis, because the indigenous peoples and the people who live along the rivers depend on fishing. He also says that since these ancestral survival practices are linked to their worldview and culture, the responses of the State are culturally inappropriate or have been culturally inappropriate. In this report called Situation of Indigenous Peoples in November 2019, it seems that the Inter-American Commission has had a vision of what we are experiencing now in Ecuador. What is happening? We have contamination from a spill, we have water that is not adequate and a response from the State that does not satisfy us the minimum vital and it is not culturally appropriate either. Mr. Judge, do we guarantee the right to water, to a dignified life, when a family of 7 members? They give 4 bales of water, of 6 liters per can, 24 liters of water, gives a family to the State, that for a week and for 7 members, we divide that amount and we have that the State is giving each person in that family less than half a liter of water per day, where there are also children, elderly and disabled people. What are the international minimums? It means treating people with dignity, that dignity in relation to which the State has to act and with respect to these minimums the Inter-American Court in the case of Yakye Axa against Paraguay, said that the amount of 2.17 liters of water per person that the State has been giving is insufficient, because the minimum amount that the State needs for a person, when it has deprived them of water due to contamination and in this case of the Paraguayan peoples did not have ownership of their community lands, the minimum amount of water per day per person is 7.5 liters per day. In the context of Covid-19, the standards that just came out on May 11 in a WHO Public document say that the minimum amount of water per person is 15 liters per day to meet their needs for drinking, human consumption and hygiene. The Ecuadorian State through information we have from families is giving less than half a liter of water per person per day. The Ecuadorian state to comply with the standards of the Court should give 367 liters of water per week, to a family of 7 members, and gives them 24 liters to comply with WHO standards should give 735 liters of water per week to a family of 7 members. That is not treating people with dignity, that violates the right to a dignified life. In relation to food for your knowledge and as we have heard in this hearing, people live on fishing, do you know how much fish they need every 3 days, we have been told, we consume 25 fish every 3 days, the State has given them a kit every 15 days, in the best case scenario or a kit in the whole period of the emergency. That kit does not contain 25 fish, it contains a can of tuna, rice, noodles, oil, salt, sugar, cocoa, and possibly milk. They asked the people what they eat, how much they eat, and what they need to live. We must remember that the amount of protein a person needs per day is between 60 and 90 grams, a can of tuna contains 170 grams of protein maximum, that is what the Ecuadorian State has given to the communities against which it has had actions and omissions that are violating rights. This is a form of treatment that violates the right to a dignified life, enshrined in Article 66 paragraph 2 of the Constitution of the Republic. In relation to health, they inform that they have carried out brigades, that a doctor and a nurse are going, but what is the official bulletin issued by the defendant entities? It says that they go to support health, to treat persistent diseases and to give information to prevent Covid. If you look at the bulletin of May 2, number 12 of the OCP, you will see the photo where the indigenous people who are being attended are without masks, I do not understand how they are being prevented from Covid without giving them masks. But what should be the health care on the occasion of the spill, knowing that we have acute and chronic effects, should be to evaluate the health of the populations to see what happens with those acute defects, what pathology they present, what happens with the skin rashes, whether they have headaches or not, what happens with the integral health situation of the people to identify what those acute effects are and also to do blood tests or other types of analysis to know what types of metals the people have after an exposure of this nature. They haven't done any of that, they've just given paracetamol at best. This is not treating people in a dignified manner and it violates the right established in article 66 number 2 of the Constitution. In addition, they were not informed about the effects of a spill, nor how they should take precautions in case they know that there is a spill in the river. They were not even informed of the spill, they are not informed at that moment if the water is contaminated and they can drink it. They feel the smell and they know it is not, but we need that through their intervention and guarantee of the right to a dignified life, they identify and monitor the river intensively and continuously, so that when it appears clean we know if the river can be used again and not continue to contaminate these populations with metals that accumulate in the fish and in the water they drink. We must ask ourselves

How are these populations surviving? Now they are returning to the same contaminated sources because the choice is to starve to death or die with the contamination. After all the facts that we have referred to, it is necessary that urgent reparation measures be taken, so that these people do not continue to suffer the effects of the actions and above all omissions of the State in relation to their rights and do not continue to be treated as objects and not as they should be according to article 3 of the Constitution, the guarantee of rights as a priority and primordial duty of the State. 5.20.- Nely Alexandra Almeida Abuja: I now present myself as plaintiff in this action for protection, because I am directly aware of the environmental, social, cultural and environmental impacts and the impacts on nature caused by oil spills, and I am also aware of the environmental and natural impacts caused by the oil spills.

the ineffectiveness of the remediation processes used in that area. The spill that occurred on April 7 dumped an amount of oil that has not yet been determined with certainty, although the companies have already made calculations that mention 15,800 barrels of heavy crude, medium crude and fuel that have been dumped into the Coca and Napo rivers. Oil is a mixture of hydrocarbons and has other substances with heavy metals and other minerals such as sulfur, the heavier the crude the more sulfur and metals it contains. All these substances are very toxic to the environment, they do not degrade easily, that is, they can remain in the river beds for a long time, some are liposoluble, that is, they dissolve in fats and most of them are bioaccumulative, This means that they can enter the food chain and accumulate in the fatty tissues of organisms, for example, in fish, and in this way reach the human organism where they can act on the central nervous system or the genetic system, which is the system responsible for the transmission of characteristics from parents to children. This genetic damage is what results, for example, in spontaneous abortions, I say this because I have lived there, I have been able to corroborate all this, the abortion of women and also births with malformations in babies and also mutations in animals. Another of the genetic changes produced by these substances is also evident in the accelerated reproduction of cells that form tumors and this is cancer. The Shushufindi-Quito polyduct, when it broke was carrying gasoline, this is a fuel that also has aromatic hydrocarbon substances such as benzene, xylene and others, some evaporate, but others dissolve in water and are extremely toxic. These substances are also categorized as carcinogenic, mutagenic and genotoxic. That is to say that in addition to the acute effects produced by contact with oil, as we have already seen, skin infections, mucosal infections, irritations, dizziness, headaches, there are also long-term effects because genetic damage can even be expressed in future generations. In the face of these damages, most of them are irreversible and when oil spills occur, the remediation techniques used by the oil companies in the area are not effective, because they prioritize hiding the black oil stain on the ground or in the water and do not make a deep restoration to take the river to the state it was in before the spill, as required by law. As an example, I would like to give two examples, because I know and I have been there, in 2010 when it was one year since the OCP heavy crude oil pipeline spill in the Santa Rosa area, one year later we made an inspection at that site and we found oil buried 30 cm deep in the sand, even though the remediation processes had been completed. In 2003, when oil was spilled in the Papallacta lagoon, an official inter-institutional committee stated that 11 months after the spill, oil residues and large quantities of arsenic were still found in the lagoon water, which is an extremely toxic substance. When a spill occurs, normally what happens is to place containment barriers, this has the objective of preventing the crude oil from passing through the surface, which spreads, however, this use of these barriers is not effective either, because they do not prevent the oil layer from passing, even more so when the river is swollen or is rushing. Normally, most of the time the crude oil passes under the barriers and besides, it must be taken into account that there is a fraction of hydrocarbons that is soluble in water, that is to say, the barriers would not do anything, because they dissolve in the water and other hydrocarbons instead are deposited in the river bottoms together with the heavy materials and can be there for a long time. Currently, I know directly that in the oil fields of the Amazon, for the remediation of spills or environmental liabilities, they are using a product called corexy, which is an oil dispersant that is used to respond to oil spills. This product is applied directly on the oil slick and what it does is to divide the slick into small droplets that are submerged in the water, which avoids accumulation on the shores, but increases the amount under water. There are researchers who say that this product is highly toxic for aquatic life and when it is mixed with petroleum the toxicity increases. Bioremediation, which consists of using bacteria that degrade the oil with an aeration process, is usually used to clean the soil. This method could be recommended in this case in these Amazonian ecosystems, but there are also questions in the sense that it extends the contamination to places that were not affected before. I have directly seen that in remediated soils they do reforestation and that the plants they plant do not grow, that is to say, the soils are not clean, they are not fertile. A member of my organization was in the affected communities last week and was able to confirm that the only work that the remediation companies had done was the clearing of vegetable material impregnated with crude oil and the transfer of this material out of the area. However, in the streams that receive water from the Napo River near the community of Sani Isla, he was able to verify that there was crude oil buried in the ground. In conclusion, I would like to say that we have to differentiate, it is one thing to have a perfect remediation plan or a very well prepared technical report that complies with the legislation and regulations, but it is another thing to apply it in the field, in the field it is not giving the expected results. For this reason, after finishing a remediation process, a serious, independent and in-depth environmental audit should be carried out to guarantee that the contaminants are effectively gone and to monitor for at least one year so that the use of the soil and water by the communities can be guaranteed. This monitoring should also be in health and also in the health of domestic animals, only with this we could say that there is a will to respect the human rights of the populations, the collective rights of the communities and the rights of nature.

5.21.- Paola Fernanda Maldonado Tobar, legal representative of the Latin American Association for Alternative Development ALDEA: We are appearing as plaintiffs, because the ALDEA Foundation is a foundation that has been accompanying the processes of governance and indigenous territory, that has been accompanying processes of recognition of life of the indigenous peoples of Ecuador and the world. In this sense, we are concerned about everything that is happening and we are concerned about what is happening.

specific events that occurred with this spill. I am going to share some pictures to illustrate the April 7 spill, it is another example that the processes of territorial planning from a national perspective without taking into account local planning and the existing dynamics in each of these places lead to this type of contradictions and this type of events, which put at risk the lives of people, of families, in this case of indigenous families and mestizo families along the riverbanks. When we look at the territory from a biophysical, spatial and cold look, we do not know that downstream of the infrastructure of large projects such as Coca Codo Sinclair, downstream of that territory there is life, family, organization and territories, as seen in the image there is nature, which are built every day in relation to the river, from organizational processes of each of these communities, peoples and nationalities is leading them forward and sustaining their territorial governance processes and that are based on a very clear principle of the exercise of autonomy and self-determination. The event that has occurred now with the spill that has affected the entire river bank, not only puts at risk the life of the fish, the plants, the water, but also puts at risk these processes by which the people organize themselves, with which the people decide collectively which are their fishing sites, where their farms are and that now they are going to have to move them from there, which are the conservation sites and which are the rules that manage the life in their community. This is invisible when the State, from a national, hierarchical and sectorial perspective, plans infrastructure works without taking into account the participation of the population. When we are thinking that once the event has occurred, protection, remediation and reparation measures must be taken, we cannot think of these reparation measures without understanding their territory in this integrality. This territory in a physical, spiritual and dynamic dimension that builds the assets of each of the people that make up the communities, such as the knowledge of men and women, old men and old women, who pass their knowledge from generation to generation through oral transmission, and who constitute an integrality in the river and with the territory. I want to show this, because it is important that we have guarantees that the remediation and reparation will take into account all these dimensions of the territory. It should also take into account, as you can see in the map, the context of these territories, which already have other aggressions, such as the presence of the oil extractive activity, which has already left sources of contamination, deforestation and now this fact is added, which further violates the right to territory, and collective rights and autonomy. As a foundation we are concerned that these territories and their territorialities continue to be at risk, the fact that a spill has occurred does not mean that this will not be repeated and I will demonstrate this with information available from the same public sources. Today in the morning at 06H48 the 911 Web Page reports that the road is closed in this stretch of the Chaco - Lago Agrio road. In this section is the catchment site of the Coca Codo Sinclair company and the San Rafael waterfall, in this section is where they are almost crossed as you can see on the map, the pipeline, the road and the river, and that subjected to a process of regressive erosion that we were talking about, means that very rapid transformations will continue to occur in the landscape, which leave us to doubt how we will guarantee the right to non-repetition of these violations of the rights of people, nature and territories. Here is proof of new evidence that these events will continue to be repeated, in addition to the fact that in this area there are risks that continue to be latent and have been latent for a long time. In this first map that is information from the National Secretariat of Risk Management, which speaks of the susceptibility to subsidence, this information is from the end of 2019. In this same section you can see what is happening with regressive erosion where the road table is going away, processes are occurring more rapidly, processes of landscape transformation, here there is a high susceptibility to mass movements. This means that, once again, there will be risks of new incidents, new disasters. On the other side you can see how in this same route there are present and converge especially situations of volcanic risk. The purpose of this protection action is to demand precautionary measures so that the people of this place in this basin, which also has a course that crosses the borders of the country, have the guarantees that these events will not happen again. Look at this map, these colored hexagons that have been put very quickly, summarize the main dangerous events that have occurred from 2013 to 2018, information from the Secretariat of Risk Management, year after year, more than 25 events have been sustained in that stretch, every year they have been repeated related to volcanic activity, pollution, landslides, landslides, subsidence. So, we are left with a very clear doubt as to how they are going to guarantee that these events will not happen again when we are talking about an area of absolute sensitivity and we are in an area that has been made invisible by planning that is completely unaware of everything that exists downstream and the responsibility that exists in relation to the events that occur there. How is it possible that a project as important as the Sote, OCP, or the polyducts, do not have early warning mechanisms for the population. How is it possible that people cannot know that there is a river flooding and that they have to go out, that there was a spill and that they have to take precautions and activate their response plans. How is it possible that all this has been ignored, it seems to me that this is your role as judge to insist that all the actions and all the development decisions of the country be made giving priority above all to life, to the respect that the peoples and nationalities have in the country, the respect for their territories, even more so, in the case of a plurinational and intercultural state. 5.22.- Dr./Ab. Luisa María Villacis Carrillo: The right to environmental restoration I refer to article 72 of the Constitution which states that nature has the right to restoration, this restoration shall be independent of the obligation of the State and natural or legal persons to compensate individuals and groups that depend on the affected natural systems, in cases of serious or permanent environmental impact including those caused by the exploitation of non-renewable resources, the State establishes the most effective mechanisms to guarantee restoration and shall adopt adequate measures to eliminate or mitigate the consequences.

environmental damage. Article 397 of the Constitution states that in the case of environmental damage, the State shall act immediately and subsidiarily to guarantee the health and restoration of ecosystems. We are talking about a right expressly stated in the Constitution and that this supreme legal body already foresees these damages that can be caused, both in nature and as a consequence of extractive activities that cause serious and permanent impacts. In this sense, the Constitutional Court in sentence 166-15-SEP-CC, on the conservation or not of a shrimp farm within the ecological reserve Cayapas Mataje, which has a mangrove system of fauna and flora, the judge's argumentation addressed the restoration, noting the following: it implies the recovery or rehabilitation of environmental functionality, its life cycles, its structure and its evolutionary processes. He also adds that restitutio in integrum is the full restitution of nature by repairing the damage caused to the physical environment until returning as far as possible to the original system. We must be clear, after the spill of 4,900 barrels of Sote crude oil, 2,000 barrels of base gasoline from the polyduct and 8,900 barrels from the OCPs, nature will never be the same again. To speak of an integral restoration that can return the ecosystem to the way it was before is impossible. However, this could have been avoided, but unfortunately it was not, we demand that the entities present here do not forget that they have a pending debt, restoration as a right of nature and remediation, both relevant measures within an integral reparation. While remediation measures are actions aimed mainly at eliminating the polluting or damaging agent, restoration measures include actions aimed at reestablishing, recovering and regenerating the vital cycles, structure, functions and evolutionary processes of nature, ensuring its functioning. They are applied at the ecosystem scale and include actions such as the reconfiguration of the local topography, reestablishment of local connectivity, revegetation, reforestation and recovery of natural conditions of water bodies, both concepts present in the Regulations of the Organic Code of the Environment. In view of this situation, relevant information from documents concerning this case, SENAGUA points out that films were observed on a water surface and trace stains of floating hydrocarbons and stains on the banks, as well as vegetation. The spilled oil has reached the Napo River and continues its course; part of it has been retained on the banks and vegetation. So if only part of it is on the banks and vegetation and it has been removed or cleaned as specified in the other part, we are not talking about an integral remediation. What happens with the crude oil that is in the sediments, habitat of many species? Were cleanup actions carried out with the consultation and agreement of the communities?

Can we really talk about clean-up actions? To this we must add some conclusions of the Technical Report made by the Ministry of Environment, it expressly states: It was noted the late action of the contingency plan by operators EP Petroecuador and OCP, especially in the province of Orellana due to which the presence of crude oil along the Coca and Napo rivers up to the canton of Aguarico was evidenced. There was a total absence of the operators EP Petroecuador and OCP in contingency activities regarding the containment, progress and cleaning of crude along the Napo and Coca rivers. Water resources, soil, aquatic fauna and flora, and the buffer zones of Yasuní National Park have been affected. Likewise, in relation to the document analyzing the documentation attached to the official letter from the Ombudsman's Office on the report of the Sote incident and the Shushufindi-Quito-Petroecuador pipeline, it states the following: The cleanup and remediation activities to be executed once the contingency phase in the area of influence of the spill occurred in the Sote and Shushufindi-Quito Polyduct, contemplates the clearing and collection of solid waste, solid waste treatment, washing banks, suction, recovery and removal of contaminants, treatment of contaminated soil if required. Monitoring of contamination and reconfiguration of the area in general ways. These cleanup and remediation activities are not being integral, they do not allude at any time to any type of flora and fauna management, nor to specific actions to be carried out jointly with the communities, given that this contamination left serious environmental, social and even cultural damage. An integral restoration of the damage comprises a set of actions, processes and measures, which applied integrally tend to revert damages and environmental liabilities, through the reestablishment of the dynamic quality, ecological balance, vital cycles, structure, functioning and evolutionary process of the affected ecosystems. As well as measures and actions that facilitate the restitution of the rights of the affected persons and communities, compensation, indemnification to the victims, rehabilitation to those affected, measures and actions that ensure the non-repetition of the events and that dignify the affected persons and communities. This whole idea of restoration is an essential part of the right to full reparation. Within the Constitution of Ecuador as a constitutional State of rights and justice, the jurisdictional guarantees are not simple judicial mechanisms, but are true instruments of effective and comprehensive protection of rights, which implies the establishment of measures that promote that the situation of the victims of violations is repaired. The Constitutional Court through sentence 146-14-SEP-CC, states the following: Constitutional judges are under the obligation to be creative when determining the measures of integral reparation, which within each case brought before them must be established, so that the jurisdictional guarantee is effective and fulfills its constitutional objective, avoiding linking integral reparation with a reparation produced to the economic, since its nature is different. According to article 18 of the Organic Law of Jurisdictional Guarantees and Constitutional Control, it is stated that the integral reparation is in charge of declaring the violation of rights and the integral reparation of immaterial and material damage is ordered, this integral reparation will try that the person or persons entitled to the violated right enjoy and enjoy the right in the most adequate way possible and that the situation prior to the violation is reestablished. In this sense, it should be emphasized that repression has a material and an immaterial part, and within this part

The different modalities include restitution of rights, economic compensation, rehabilitation, satisfaction and guarantees of non-repetition. There is specific data: in April 2003, the Sote spilled 13,000 barrels of oil and other derivatives in the Cayambe-Coca reserve, which reached Papallacta according to Petroecuador; 6 years later in 2009 OCP spilled 13,000 barrels of oil and other derivatives in the Cayambe-Coca reserve, which reached Papallacta according to Petroecuador; 6 years later in 2009 OCP spilled 14,000 barrels of oil in the Santa Rosa, Quijos and Coca rivers, OCP recognizes 11,000 barrels, 4 years later, in 2013 the Sote again spills 10,000 barrels of oil into the Coca River which reached the Napo River. Seven years later, on April 7, 2020 the Sote, OCP and Polducto spilled approximately 15,800 barrels of crude oil and other derivatives into the Coca, Napo and Quijos rivers. How many times do we need these spills to make the State and private companies take responsibility? Is health, food, water, territory, environment, nature, a game for the State? No, defendants, we are talking about families, people and nature as subjects of rights. Taking into consideration that these incidents are recurrent and that the contamination that is unleashed every time this happens is serious because it violates the rights of thousands of people, the different communities and nature, without a doubt, the guarantees of non-repetition constitute a fundamental part of the integral reparation. In the case of Pacheco León et al. v. Honduras. The Inter-American Court of Human Rights has already pronounced on this and has pointed out that in cases in which a recurrent pattern is configured, as in the case of oil spills at this time, the guarantees of non-repetition acquire greater relevance as a measure of reparation, so that similar events do not happen again and contribute to prevention. In this sense, the State must prevent the recurrence of human rights violations and therefore adopt all legal, administrative and other measures necessary to make the exercise of rights effective. The guarantees of non-repetition and the different positive measures that we consider necessary in the present case are the following: That the reconstruction of the pipelines be prohibited following the same route as their original route. That there be an establishment of a rapid response plan for spills in the Coca River, based on the polluter-pays principle, this plan should be financed by the defendants, but its execution should be coordinated with the affected communities and consist at least of immediate containment measures for crude oil and water supply to those affected. In order to guarantee the correct flow of information to the affected populations, they will have direct and effective access to an early warning mechanism in new cases. It is also ordered to carry out hydro-sedimentological studies of the area and to develop and execute a long-term sediment management plan, according to the results of these studies. The study should include the area where the Coca Codo Sinclair project is currently located, given the technical criteria that states that the erosion of the riverbed is due to sediment retention by the dam and represents a serious impact on the riverbanks and banks of the waterfall sector. These measures must be planned and executed jointly with the indigenous communities in consultation and with their consent and must comply with the objective of eliminating all impacts caused by the spill, in any of the structural sub-units of the environment, where it is not possible to eliminate the impacts, mitigation or compensation will be sought.

5.23.- Andrés Tapia Arias: There is a late response from the State and we are the first organizations to alert about the situation on April 7, a late response and practically hours later as can be corroborated in any of the country's media, the State recognizes the fact that the spill already existed, when in the morning hours the representatives of the communities contact us through our own media and community communication channels. We are the organizations, at the request of the communities and because of the first source information that they have, as the father of the young Jipa pointed out, we are the ones who make known this very serious situation that is occurring, it is a communiqué alert and the information provided to us by the communities of the provinces of Sucumbíos, communities such as Pandayacu, among others that are on the banks of the Coca River and the communities on the banks of the Napo River. Therefore, we are the ones to inform the country practically of the existence of these facts. However, the response several hours later from the Minister of Government was that they could not yet confirm the existence of this spill, when this was already happening in practice in the real facts more than 5 hours later, this confirmation is produced, which demonstrates the delay of the State to recognize the facts that were already arising. We are talking about a community in a specific place, and we know the geography of the Amazon is wide and we know the speed with which the river bed advances, especially the Coca River and then the Napo River, so the impact is extremely considerable. We have registered to present this action for protection, after all the information that at least 105 communities affected in the 2 provinces, corresponding to 22 parishes, of the province of Sucumbíos and Orellana, and at least 27,000 indigenous people of the Kichwa nationality were affected by the spill, and this comes from the same official sources of information from INEC, and in addition to 35,000 people between indigenous and mestizos have been affected. But this does not stop there, we are talking about 120,000 people being affected, taking into consideration that cities such as Coca lost water in the hours following the spill and in fact have had to use water from the Payamino River to provide water in the days and weeks following the rupture. If we consider the population of the city of Coca, we are talking about at least 57,000 people who have been affected. This contamination in the context of the Covid-19 pandemic, places the communities in a situation of triple threat, due to the pandemic itself, flooding situations, but also the situation of the spill has exacerbated the vulnerability of the communities that they have had to face during all the time that has passed since the spill on April 7. From the testimonies provided by the community members we see that there has been no solution to what has happened and that on the contrary we are still in the context of the pandemic and we are still facing these conditions due to the impact of the spill.

access to food, which has been clear in the various presentations. Regarding the limitation of fishing, which is the fundamental resource for the Kichwa, to provide daily food for their families, at this time they cannot do it. With the community members of several communities of Sucumbios that we have talked to and that are part of our organization and of the province of Orellana, they have indicated that they will not be able to fish again in the coming months. I am a biologist and I can certify the river eggs and that the whole ichthyological cycle of the river has been completely altered, it is not something that can be replaced from one moment to the next. The fauna and the ichthyofauna have been seriously affected and because of this the vital ecological functions cannot be reproduced and this means that directly the farmer and the community member cannot have access to fishing to be able to provide for themselves on a daily basis. They cannot fish and therefore cannot access the daily source of protein that the communities need. In addition, they cannot count on the resource of water for obvious reasons that not only have to do with the difficulty of accessing water for bathing, for the daily activities of the community members, but to the whole relationship that the Kichwa have with water as such. A relationship that goes even from the fact that the children bathe daily, as an enjoyment of their childhood, of the adolescent who also satisfies his needs in the water in the sense of going fishing to be able to reproduce his cultural values, but also the whole mythological part that connects the Kichwa with the river, the river, the yaku water that is something sacred for the special Kichwa, since it has a direct relationship with their mythology. In the water are beings that reproduce abundance for fishing, such as the Yacuruna, the Supayacu, and all the protective spirits. At this time, the community members who have been directly affected consider that these spirits, their protective beings and part of their mythology and entity of the Kichwa, are no longer there in the river. Therefore, there is no longer fishing and cultural patterns are affected in a profound way, which perhaps we cannot understand, but in the conception of the Amazonian Kichwa, it is more than clear the impact it generates in the psychosocial, emotional, psychological, psychic and mythological part. The interrelation with water is fundamental, which of course makes this irreplaceable with the delivery of water bottles or with the delivery of similar things, of cans of tuna, because it is practically ignoring the needs that in the daily life of the community members were taking place before this spill. We have presented this action for protection, demanding reparation measures, requesting a true ecological restoration of all the affected components of the ecosystem, there is a multiplicity of impacted areas. The farms are also affected, they are not accessing consumption because the spill affected a hundred meters of the river inland, where the farms are located, and it is not accessing the farm system. We request a repair of all this, but everything that has to do with the water system, as I have pointed out, and we are talking about an ecological repair, an ecological solution, which is not solved by washing the stones, by taking certain actions that only disguise the real impact on the river, which this spill has had on the crops, the inhabited areas and the ecosystems as a whole, in which the living conditions of the Coca and Napo rivers are reproduced. Likewise, compensation should be paid for all material and non-material damages caused to the affected families. It should be taken into account that since the pandemic conditions were still isolated, it was extremely difficult to go out to the population centers to buy food and since the only source of food is fishing and water from the river, practically the affected areas have been at a very high risk. However, despite this, they have had to mobilize to somehow acquire certain resources that allow them to meet their needs during these days. This has caused them to incur in certain extra expenses that, given the historical situation of marginalization in which the indigenous communities live, has practically caused them to incur in a series of expenses that have affected the local economy of the communities. It is important to collect data that allow us to determine the health situation of the affected communities, the prevalence of diseases that may be putting their physical and emotional health at risk at this time. It is important to emphasize, because we are talking about tens of hundreds of children and young people who are being affected mainly by not being able to resort to water to carry out daily activities that they did before the spill. During the time it takes for remediation and repair, sufficient food must be provided for at least 10 months, and there must be cultural relevance in coordination with the community authority that knows first hand what the needs of their community are, otherwise we will simply be entering into actions that will again intervene on the community dynamics and severely affect the local culture and idiosyncrasy. The issue of water should be foreseen in an appropriate manner, in the amount that the communities report, providing the community with the amount and frequency, and that does not respond to the real need that the community members have, the community members know because they live on the river and they know how much water they need, and it is not the same that the community members indicate what their need is, the frequency or the amount they need, than that they establish a plan made at the table and impose it, and there must be this coordination with the communities so that the water prohibition is adequate with the frequency and temporality that the frequencies of the communities respond to their need. For the environmental remediation activities that are established, at least 80% of local labor must be hired, as again this would generate a non-conformity, as people would be hired from elsewhere to work and the community would not be allowed to work. A community monitoring committee could be formed to activate socio-environmental remediation measures that respond to the needs and particularities of the local communities. Finally, establish the necessary public apologies in the local language, in this case in Kichwa, but also in Spanish in the media, for dissemination because it is important that the State recognizes the violation that has existed, for all the causes that we have been mentioning. That measures of non-repetition are established, with quick and effective attention for prevention. There are studies from several years ago since 2011 that warn that

It is therefore essential to prevent new spills from occurring. It is necessary to carry out hydrosedimentological studies and prevent this from happening again. You must act based on the information and testimonies that have been presented, order the State to recognize its non-compliance, to repair the damage and to guarantee non-repetition. 5.24.- Fanny María Grefa Oraco, from the San Pablo Commune: I am Bayron's mother, and my son left at 05:00 am, in spite of this, he came at 07: He came home to wash him with gasoline and he had brought his little fish, and we ate them, those fish that we ate burned our mouths, and my son is like this, and he burned at night, and I also could not sleep, and my son is in bad shape, and we as women need water and food that is enough for all of us and I just want you to help us. 5.25.- Dr./Ab. Ana Cristina Vera Sánchez: I am here to demonstrate how the lack of prevention of the spill, which was foreseeable, the lack of timely information about it and its impacts and the inaction of state institutions and oil companies and OCP to give a timely and adequate response to the spill have generated the violation of the basic fundamental rights of the plaintiffs here, as well as those of the communities as collective subjects and of nature. It has been said that the right to life, to life with dignity, to health, to integrity, to water, to food, to information, to territory, to the collective property of the peoples, which clearly includes the use of the natural resources found in the site and which is fundamental to guarantee the right to identity of the peoples, according to all international jurisprudence in the framework of human rights and also to the identity of the indigenous foods, has been violated. It is important to talk about the right to integral reparation, which according to our constitutional norm, is not only a part of the sentence, it is a right in itself, it has to be understood as a set of mechanisms that allow compensating the violation of rights and returning people, communities and nature to the situation as close as possible to their state prior to the violation. Reparation is made up of several elements that are of fundamental importance such as restitution, satisfaction, rehabilitation, compensation, guarantees of non-repetition and must be capable of satisfying and compensating for material and non-material damages. Comprehensive reparation is a constitutional mandate established in articles 82, 3 and 397 of our Constitution. According to the jurisprudence of the Constitutional Court, in sentence 00413-SEP-CC, it constitutes a fundamental constitutional right to which every person affected by the violation of rights is entitled. Furthermore, it must be a guiding principle for the guarantee of rights, transversal for the exercise and guarantee of human rights, the highest and main function of our State. In this sense, the Court has stated that the jurisdictional operators must guarantee the reparation of the damages caused, in order to be considered constitutionally adequate. The Court has also stated that it is the duty of the judges to determine the integral reparation within each case, according to sentence 146-14-SEP-CC, the judges have the obligation to be creative, avoiding linking the reparation only to the economic, but understanding its integral nature. Likewise, it is essential to remember that for the construction of the reparation measures, the intervention of the communities is required, which are the only people who can determine which measures to repair in this regard and to safeguard the right of the victims, the Inter-American Court of Human Rights allows the submission of petitions, our law is consistent with that, thus, Article 18 of the Law of Jurisdictional Guarantees establishes that to determine the reparation, it is essential to listen to the victims of the violated right. In the present case the victims of the violated rights and of the concrete right to reparation, because these rights that have been stated as violated, continue to be violated, the right to food, the right to water, the right to a dignified life, the right to community property, because the communities are not being able to access these basic and fundamental resources for survival, not only physical but also for their cultural survival as different peoples. In this demand we have to consider three different subjects of rights, first the communities and indigenous peoples as subjects of collective rights according to what is established in articles 10, 55, 57 and 60 of our Constitution; nature as a subject of rights according to what is established in articles 10 and 71 of the Constitution and the individual persons affected according to the conditions and articles 11, 86, 87 and 88 of the Constitution of the Republic. The rights must be repaired both in their individual and collective dimension, reparations must be made to each affected and violated person taking into account their particularities. In general, reparations must be made to the Ecuadorian society with respect to the impact of the spill, to the environment, and to nature as a subject of rights. In this case these three subjects are interrelated, it is not possible to talk about repairing one of them without adequately repairing the other, this repair must be comprehensive, it must be structural and try to reverse in the long term the consequences of the spill produced, establishing measures of non-repetition, to prevent the damages and affectations from being repeated, but it must also be able to urgently and immediately address the needs of the communities and stop the violation of rights that have been shown to be ongoing. The first measure of reparation that we demand is that the violation of rights ceases urgently, in this sense, your Honor, you should consider that according to international and national human rights standards in terms of reparation to indigenous peoples and nationalities, in order to consider the integral reparation it is fundamental to consider that it cannot restrict its individual recognition, but rather, it has to consider the close relationship that these peoples have with their territories, with the environment and how this is fundamental for this collective dimension. In this regard, the Inter-American Court of Human Rights, in the Case of the Sawhoyamaya Indigenous Community v. Paraguay, establishes: "The culture of the members of the indigenous communities corresponds to a particular way of life of being, seeing and acting in the world, constituted from their close relationship with their traditional lands and natural resources, not only because these are their main means of subsistence, but also because they are their main means of subsistence, as well as their main means of survival.

also because they constitute an integral element of their cosmovision, religiosity and, therefore, of their cultural identity". When it comes to indigenous or tribal peoples, the traditional conception of their lands and the cultural patterns that arise from this close relationship are part of their entity, such entity reaches a particular set due to the collective perception that their groups have, as their worldviews and their collective imaginaries of the relationship with the land where they develop their lives. In this sense, repairing the territory and nature is a fundamental and indispensable step to cease the violation of the rights of indigenous peoples and guarantee their dignified life. For this reason, Your Honor, we request as a reparation measure, the ecological restoration of the waters, soils and the components of the ecosystem affected by the oil spill, which must be integral, it cannot be restricted to cleaning stones or removing certain contents, but must be based on scientific standards to protect the health and integrity of the population. This repair must be capable of recovering and guaranteeing the integrity and health of the Coca and Napo rivers. In order for this ecological restoration to be restorative, it must also be agreed with the affected communities, guaranteeing their effective participation and oversight of the members in these processes. This is the only way in which this process will allow the State to comply with its duty to consult actively and in an informed manner with culturally appropriate procedures and in good faith with the indigenous peoples and nationalities, so that their rights are not violated. A requirement for which our country has already been sanctioned for not complying with, in the case of *Sarayaku vs. Ecuador*, and which we hope will be fulfilled in this case so that there will be no further international sanctions. We also request the creation of a community monitoring committee on socio-environmental reparations and on the situation of the river and water for human consumption. This committee should function for at least one year and should be able to monitor and give early warning on what is happening with this. In this regard, the Inter-American Court of Human Rights in the case of *Pueblos Kallifia and Lokono Vs. Suriname*, states: "...participation in environmental conservation for indigenous communities is not only a matter of public interest but part of the exercise of their right as indigenous peoples to participate in decision-making in matters affecting their rights, in accordance with their own procedures and institutions (...). In sum, this Court finds that the State violated the rights to collective property, cultural identity and participation in public affairs of the victims, mainly by impeding effective participation and access to part of their traditional territory..." This is what is currently happening with the reparations that are being made, beyond whether these are good or not, by not including the people, their right to participation and to make decisions in all matters that may cause them violations is being violated. We also request that 80% of the personnel can be local personnel, even more, in times of pandemic where the introduction of external people already constitutes a violation of rights and we have the right to no contact with the vulnerable situation, who should do the cleaning has to be the people of the community with the appropriate biosafety elements for remediation and with all the necessary management and training to do it properly. We also request an environmental audit, soil and water monitoring and contamination monitoring. Non-repetition measures have already been mentioned by both Luisa and Andres. It is necessary to emphasize that the right to community property is being violated by not allowing people to access the resources that allow them to survive. In this sense, as these measures of reparation, of ecological restoration, are measures that require time and adequate form, time in which it is demonstrated that the survival of the indigenous communities and of the affected people is at risk, since the contamination of the water, the river and the land did not allow them to access fundamental resources for their subsistence and dignified life, which depend on this; we urgently request as urgent measures of reparation, to urgently provide the affected communities at least for the next ten months, safe water in the minimum adequate amount per person, which according to the World Health Organization, is 15 liters per day, per person and this measure will allow to cease the violation temporarily since a much more comprehensive measure is needed. Therefore, we ask as another urgent reparation measure to start building water systems that will allow the affected communities to have permanent access to safe water, without having to depend on the river. As has already been said, this is not the first spill and the people's right to water is constantly violated, the only way to repair is as an effective and structural measure, such as the construction of drinking water systems and other mechanisms always with community participation. We also ask that health data be collected to determine the situation in which the people find themselves. Our State has already been observed in several cases for not exercising its obligation of active transparency with respect to health information, of telling the people what risks they run, without the people asking. Ecuador has been sanctioned in several cases, such as *Lluy vs Ecuador*, *Suarez Peralta vs Ecuador*, *Albán Cornejo vs Ecuador*, *Vera Vera vs Ecuador* for not having complied with this obligation of timely transparency. In this process also, the State is being violated because they never told the population that the spill had happened, but neither how they could prevent the harmful effects of this spill. We must remember that the State is obliged to provide all the information relevant to people's health without waiting for them to request it and it must provide information so that people can make decisions about their lives and their health. We want this data collection to generate an epidemiological profile of the population, identify recurrent acute chronic diseases, determine the number of health professionals needed to provide care and their specialty, not as two doctors who are going to give paracetamol, but as a medical health system and a State that responds and guarantees rights and determine the need for community promoters. On the basis of this survey, we have also solved a health plan that considers the three dimensions of health: physical, mental and social, which all international human rights instruments state that they cannot be hierarchized, and that in the long term, the communities are guaranteed attention to the health of their communities.

adequate health, covering all their needs, from health promotion, risk prevention, considering the specific conditions of women, pregnant women, children, adolescents and the elderly according to the standards established in the cases, Sawhoyamaya Indigenous Community v. Paraguay; Yakye Axa Indigenous Community v. Paraguay; Jiménez López v. Brazil; González Lluy v. Ecuador; Vera Vera v. Ecuador; Xákmok Kásed Indigenous Community v. Paraguay. This health plan has to be a priority and relevant, it has to guarantee sexual and reproductive health issues because, as we have heard in several of the impacts, it has to do precisely with the possibility of women to decide on their reproduction, with repeated abortions and genetic damage. We request the creation of a protocol for events that cause contamination of land, rivers and water, that is participatory, that establishes what should be done, who should be contacted for an immediate response and in case there is no immediate response who should be presented, this in compliance with the obligation of transparency. This protocol must be culturally appropriate as well as being translated into each of the languages of the indigenous peoples and nationalities. We also request that sanitary batteries or latrines be provided for the population, sufficient and culturally adequate food for the affected people for at least ten months, while environmental remediation activities are being carried out. The food must be sustainable, culturally adequate and relevant, decided with the communities, you can not give any kit as it said in the case of the Indigenous Community Xákmok Kásed Vs. Paraguay, of the Inter-American Court is a violation of the right to life with dignity of food to give any food kit without considering all the necessary cultural factors, without having the participation of communities. In addition to providing this food, the food sustainability of the affected population must be guaranteed, and for this the communities must build fish ponds or seek other mechanisms that provide effective access, availability and sustainability of food in the long term. In order to guarantee all the violated rights and to adequately repair the population, finally as measures of satisfaction we request that the defendant entities apologize publicly in Kichwa and Spanish in two media of major national and local circulation, the dissemination of the sentence in Kichwa and Spanish, in two media of major circulation in the area. At the same time, we request as a means of compensation that the damages suffered by each of the persons be adequately valued, that their dignity be recognized and that these persons be compensated for the damages they have suffered, according to national and international parameters, considering both the consequential damages caused and the loss of profits produced by the violations of human rights, considering the material and immaterial damages for the calculation of the compensation. In this regard, the Constitutional Court in its sentence 146-14-SEP-CC, has established, however this Court makes clear that the determination of the amount of the economic reparation, consequence of the violation of human rights will not generate a new process of knowledge, but exclusively a quantification within the process of constitutional execution, because otherwise the execution of the constitutional decisions would be at the expense of these being ratified in a new process of ordinary justice that declares the violation of rights. We ask that our petitions be heard, that the violation of all the rights raised be declared, and that adequate measures of reparation and non-repetition be established. 5.26.- Carlos Simón Jipa Andi, of FECUNAE: According to our 2008 Constitution, in the fourth and sixth chapters, on the rights of the communities, peoples and nationalities, and in article 56 on the communities, and in one part it treats us as unique and indivisible, and in 57 it recognizes and guarantees the communes, communities, peoples and indigenous nationalities. Today our brothers or we the Kichwa nationalities of Orellana are totally affected, more than a nationality we are those who are living on the banks of the Coca River, there live Kichwa and not Kichwa, I speak Spanish, all of us who live on the banks of the Coca River and the Napo River. It is regrettable that the transnational company OCP and Petroecuador did not take the necessary precautions at the time when they were already announced and at the same time it is regrettable that these control points have been set up. It is not the first of this affectation, nor will it be the last, we have been suffering, I have lived on the Coca River area, because I am from one of the communities on the banks of the river, we have been feeding ourselves, our parents have been feeding us from the fish. Now we are defending ourselves from the companies that we have given entrance to, but we do not want to continue being contaminated. Today we want the company to have an honest coordination for the reparation to the affected families and within this we want them to respect our life, our culture, our cosmovision and they have not done it. Apart from this demarcation, we have been very calm in our territory, apart from the fact that we are avoiding this contagion, this outbreak, and today there has been migration from the communities to another side, clearly to the town. Today we see our brothers and sisters infected and clear for the same reason that they are running away from our territory, from our food, from our drinking water that we did not have. Our brothers have gone out to the people, today they are infected. The defendants have delayed in giving help, they have not presented any action, and in the meantime our brothers are suffering in search of water and also suffering for food and health. There has been no immediate action on the part of the company and we have left it, from 2009 and 2013, but today it is no longer time to say enough, that the Kichwas of Orellana, we are tired, we when we go out, we go out to protest and claim our rights. A survey of data to determine the health situation in the communes and communities that are on the banks of the Coca and Napo rivers, from the canton of Orellana, Joya de los Sachas, and Aguatico; 2. The ecological restoration of the ground water affected by the spill, ecological restoration of different affected components of the ecosystem. We request economic compensation for all those affected by the material and immaterial damages, since there is a deep affectation to our brothers. That the defendants are obliged to provide the food supply, and that we do not want this type of food again.

We are not able to support the 9 to 5 children that we have in our family or home, we want a decent kit, we want it to be said that it is a help. Likewise, the water supply has to be sufficient for our brothers and sisters and that they verify where they are supplying us with this water, because the first bottles that have arrived have been normal, but today we hear in our communities that we need quality water, and we should not be told that we have delivered so many liters, that does not justify it since the river is our life. In the same way, the plaintiffs must be ordered during the 7 months, we need the construction of the drinking water system for those affected in the affected communities. There are communes in which they have not even collected the stains, to this day in the commune of San Pablo, commune Domingo Playa, commune San Francisco Chicta, they are not doing the collection, in other communes they are cleaning it. In addition, the hiring of personnel as 80% of the local qualified and unskilled labor is being requested. That is why today I want to state that we are dissatisfied and indignant that this is being complied with and we do not only want a collection, we want remediation, because only where the stain exists is it being cleaned. We want the remediation of the Coca River and at the same time of the Napo River. The fish are not only contaminated but also the human beings, the children who have gone to bathe in the river have some stains, we want reparations for these children who were affected, we want them to be compensated, because our rights have been violated. The Kichwas of Orellana want the company OCP and Petroecuador to make a public apology and at the same time guarantee guarantees of non-repetition. I believe that the company should comply with all the technical standards and they are not doing it. They are displacing our brothers and sisters from our territories and from food, we do not agree only with the cleaning of the river. We request the provision of water and food for 10 months and the integral reparation to all the affected families, including the children who are there and the most important thing is that their health should be evaluated. The defendant company should at least have a schedule for the delivery of water, if that is what they are doing, and food kits, because the kits were only delivered once, and they should make a schedule. Regarding the health issue, we do not want doctors who only give us paracetamol and go to take our blood pressure and nothing else. We want proper medical attention to which we all have a right, here they go when they feel like it and then say that they go and we are not there. We are not fortune tellers, we are Yachay, therefore we request that there be coordination, we will be very vigilant and watchful of this action of protection.

5.27.- Dr./Ab. Ernesto Patricio Rodríguez Gaibor: We have listened yesterday to all the expositions both in the normative part as well as the national and international motivations here we have been able to determine that with the rupture of the OCP between the provinces of Napo and Sucumbíos from where the Coca River starts and flows into the Napo River and reaches the Amazon, it has been dragging several communities, both indigenous and Afro-descendant colonists that live on the banks of the Coca River, This Coca River has been polluted and has violated the right to nature, the same that its ecosystem has been altered to its normal development and from the same that not only animal life is emitted, also human life is so it reaches the banks of the parish of San Sebastian del Coca better known as the canyon of the monkeys where the claims and adherents has known in photographs the living contamination of the river with oil the same that has sat on its banks in its mountains on its beaches on its stones, that damage to nature, damage animal life, as human life, has been altered the ecosystem, this has affected several people the parish of San Sebastian del Coca a population of approximately 1.300 people whose water source is the Coca River, not only the parish but all its communities to which it has been made known what works within the open file within the case 22281-2020-00201 of protection action and that the plaintiffs have spoken with all clarity and specifications with respect to the damage of the ecosystem to the damage of nature to the remediation to be done and have been spilled approximately more than 15. This amount is presumed to be approximately 15,000 barrels of oil and has traveled more than 100 kilometers down the Coca River, until it reaches the Napo River, so that this damage has influenced the daily life of all the people who live along the banks of the river and all the community members who live from the river, it is clear that they live from fishing, and this river has not only damaged the life of the fish but also the land itself where the green plantations are planted, yucca is the natural product, the first food product of all the communities, The fact has provoked that all the institutions involved in one way or another have wanted to repair this affectation by giving them water and food, but this water and food has not been coordinated, to all the affected communities that has not been good for the development of their normal life, this affectation has reached the Napo River and has altered its normal course, because the oil has not gone away, the oil is still in its sediments and the claim of the plaintiffs is viable, the adherents have joined because they have also been affected directly and indirectly, as required by the Law of Jurisdictional Guarantees, On behalf of the president Andy Tanguila María Alexandra, representative of the GAD Parroquial de San Sebastián del Coca, I take the floor because she has not been able to connect due to circumstances beyond her control, so that as a guarantor of violated rights, she can accept that the rights of all the communities have been violated, including the communities of the GAD Parroquial de San Sebastián del Coca, After this acceptance, Mr. Judge, the necessary, pertinent and urgent precautionary measures that all the people need to continue their normal life cycle will be issued, I request that precautionary measures be imposed because rights that have already been violated have been violated, rights to health, food, rights to territory, rights to life, not only to human life but also to nature. Therefore, I request that this petition be accepted as adherents to guarantee this right that the San Sebastián del Coca parish has, and at the moment of issuing the precautionary measures, your Honor, to take into account the following

to all the residents of this parish are in the name of its president have adhered and are included in the file of the protection action.

4.28.-Intervention of Mr. Camacho García Darwin Orlando, representative of the parish of San José de Guayusa: I would like to inform you, Your Honor, that the parish along the river has been affected by this oil spill for about 45 kilometers, along the parish where 12 communities are located on the banks of the river, I would like to inform you that there are 10 communes and 2 communities of settlers, in this sense, we, as representatives of this parish, have seen the citizenship violated, On the night of April 7th there was this spill that went down the waters of the Coca River in large quantities of oil, as we had already said, none of the companies that are in charge of these pipelines were alerted. As representative of the parish I received calls from the citizens starting at 5 in the morning, they told me that there was contamination in the river and that there were strong odors of hydrocarbons and fuels, and that they had approached and that there were large quantities of oil:00 am, I went to the banks of the river within the communities and contact was made in the Canoa Yacu community that belongs to the Sardinias Commune, Mr. Wilfrido Grefa that at 4 am he took his boat to go to the other side to Sardinias to go to the city and did not realize that the crude oil was already in the river and when he was there in the river they were affected in his boat and his engine indicated that there were layers of crude oil of approximately 25 to 30 cm, There were large quantities of crude oil that at that time there were citizens who had contact with the water and with the crude oil in this sense were affected for their health, in the same way several versions of the Huataraco Mines, where there was a young lady of the vulnerable groups who had just given birth, and because of the strong odors this young lady had fainting and had called the Ministry of Public Health, 911 to come to give first aid, but no one had come to help her neither the Ministry nor the companies, there was no one to attend her, and I want to make it clear. That the right to live in a healthy and ecologically balanced environment and the right to health, the right to water, and the right to nature are violated, affected the rights of all the citizens who are next to the Coca River and the Napo River, because we do not see an immediate response from the companies, they have control points on the banks of the rivers in certain sectors at the height of Madero, another is located at the height of the Coca River bridge via Lago Agrio-Coca, There was no immediate control for an emergency of this project that OCP and Petroecuador have, in the morning they would have acted against the spill so that the crude oil would have been removed. It could be confirmed that on the 8th at 4:00 p.m. just in San Sebastián del Coca trying to control it, that is why there was affectation all along the river because there was no disposition on the part of the company to act immediately knowing that there was already a risk, they knew about it through the news in that sense there was enough negligence of those who also represent these companies and to mitigate it immediately, The right to live in a healthy and ecologically balanced environment, the environmental contamination that was caused to the citizens, the animals, the contamination was very strong, and the right to health, In the same way that to this day has not been helped to the citizenship, the due approaches were made with the companies, they indicated that they made some medical brigades in the communities, they said that it was an assessment to the health of the citizens, who have already been directly affected, not to all the citizenship, only to those who had contact with the oil, we request that they take into account that all the citizenship was environmentally violated in this right, and in this way attention should be given to all the citizens, the Ministry of Health should also send a representative and ask them to take action in this matter because we do not know that a medical brigade comes with a car and visits the communities, we do not know these people who are there if they are doctors, we request that the authorities take action in this matter and coordinate with the Ministry of Health so that it is integral and also send a representative to verify if the company is giving good quality attention to the people, He did not consider it to be a good quality service, not even with those who have been directly affected by the crude oil, and likewise the right to water to make it known that this right has also been violated and due to the contamination to this day it has not been possible to use the water, it is true that knowing the communities the citizens have not been attended with sufficient water, they are delivering 4 bales of water per family, that is to say that there are 6 bottles, The water is not enough to drink or to cook, much more for personal hygiene and to wash clothes, communities know how they use the river to bathe, they use something ancestral to get into the river, There are also parts where the river overflows to the lower parts which also affected the crops, there is talk of a spill of approximately 15,000 barrels of crude oil that went down the river. The company has arrived to carry out remediation but they have not been concrete in the parish or in the communities in 2 communities and they have not intervened any more and they have made inspections with the authorities but they have not been able to address these issues because of the Covid issue, The flooding of the river has left the crude oil on the beaches in the sand and how they have seen that the remediation is not going to be done and it is also necessary to take into account that it will continue to cause damage because with the flooding it will begin to go down the river again as a representative of here I make known what has occurred and is occurring within the communities, Mr. Judge I ask the authorities to be governed according to the laws and make the remediation and the respective compensations of inter-institutional agreement No. 1, which is in the Ministry of the Environment and the Ministry of the Environment. 1, which is the Ministry of the Environment and the Ministry of Natural Resources.

In this agreement it indicates that the polluter must remediate and compensate the families or people affected, and in this way I request, Mr. Judge, that we take into account and, as far as possible, as remediation in these affected areas, that the companies become aware that the environment and the river must be totally clean of any contamination and that both local labor and the local workforce be considered, that the companies become aware that the environment and the river must be totally clean of any contamination and that the local labor force be considered, as well as services such as land transportation services, river transportation and food services, He ratified that the companies are always here and violate our rights and have come on several occasions and we have never been compensated as in 2009, 2013, and as has happened in 2020, and our rights have been violated, We have listened to the father of the child who says that he has a conscience and the companies do not have a conscience with the communities. I ask that the law and your criteria be respected, Mr. Judge, that you be the one to make those who contaminated us comply, it is in your hands, Mr. Judge, we have come to you and we have placed our trust in you and that you be taken into account and that our rights of the parish of San José de Guayusa be respected.

SIXTH. EVIDENCE OF THE PLAINTIFFS: 6.1.- Testimony of Grefa Oraco Fanny María: I am from the San Carlos commune, we do not have water to wash, to bathe because the river is contaminated with oil, I used to fish with a fishing line, now there are no fish, my 12 year old son went out fishing and arrived home black with oil stains at 5 in the morning, He feels bad, they only gave him paracetamol, the water they give us is not enough for anything, I have received only once a food kit, but it is not enough for us, because there are 10 of us, it consisted of 5 pounds of rice, a liter of oil, two tinapás. 6.2.- Testimony of the minor Jipa Grefa Bayron Alfredo, Jipa Andi Johnny Abel, father of the minor, is named guardian ad litem: I live in the San Carlos commune, I went to the river to fish with my brother and brother-in-law, then I looked at my body and it was black, I got scared and went to the house where mom and dad got scared because I was black, they washed me with gasoline, the river is used for fishing, washing clothes, bathing for and cooking; that was on April 7, 2020, I got fever and pimples on my body, I ask you to help us with a water well and a pool with fish; we can no longer fish, wash clothes, get water for cooking, or bathe; 6.3.-Testimony of Juan Elías Licuy Mamallacta: I am a partner and legal leader of the Sardinias Commune, as a witness to verify and witness directly what I observed, very sorry for the situation we are going through with the oil spill of April 7, and tired of so much pollution, we have gathered as nationalities living in the Coca River, The Kichwa communities were directly affected in our territory and beaches, fish, medicinal plants and ancestral rituals in the stone of the river, our recreations, when the oil spill happened, the terrible smell was very strong at one o'clock in the morning we went to the river and it was full of oil, It gave us a headache and the next day the fish were dead and some authority was going to arrive and now we came to support them, and we called different authorities but they did not arrive, 3 to 4 days later they began to arrive little by little, without anything, only to observe, my concern is how and when they would leave us already restored, cleaned up all the damage caused in the Coca River, they left us without feet and hands to be able to walk and ask for help, we have nothing, we need medical attention, for the babies, the elderly, the next day at 09:00 am, two doctors and a gentleman from OCP arrived, and surprised us, they were there from 9:00 until 12, because no one could come because everyone was in their farms, and even I was attended, but they did not have enough medicine, my grandmother was given two paracetamol, a vitamin card and nothing more, the rest as she had itchy feet they gave her a cream and nothing more, and for bugs, we are 446 families, and 745 inhabitants, our islands and beaches have been affected, the fish do not exist, there is no creek to catch water, now Mr. OCP has been giving us water in bottles to the family 4 gallons, and yesterday Petroecuador has come to deliver only 4 gallons tesalia, since April 7 they left us water three times, that his family consumed daily from 15 to 20 pounds of fish, we shared among the families we made maitos, and now I have to look for cassava, plantain, and go to look for something in the mountain, fruits and nothing else, because the kit, It contains a bag of noodles, 2 kg of sugar, a bag of cocoa, cow's milk, a tuna, a tinapa, 2 pounds of lentils, a bag of quaker oatmeal, a bag of salt, a liter of oil, a disinfectant; 6.4.-Testimony of Grefa Aguinda Verónica Beatriz: I live in the Toyuca community, parish San Sebastián del Coca, canton La Joya de Los Sachas, province of Orellana, I am president of the Toyuca community, since April 8 we have been aware of the oil spill, we found out when we went fishing, my family is made up of 2 adults (one 60 years old, with a 42% visual disability), and 3 girls, we live from fishing and farming the farms that are damaged. We have no access to food, my mother has sores on her fingers, and I am getting spots on my face and back; on April 11 they delivered 4 gallons of 6 liters of water to each family, which is not enough for our daily life, since we get up early at 4 in the morning, make guayusa, chicha and drink the 7 members of my family, then we go fishing, every 3 days, if we do well, we consume 25 bocachico from the Coca river, which has been decreasing since the oil spill, on May 2 they delivered food kits, half a liter of oil, 4 pounds of rice, a tuna, a tinapa, sugar, salt, cocoa, and a pound of lentils, Then we were visited by the medical brigade, a doctor and a nurse to attend for two hours to the communities composed of 62 families, each with 4, 7, and 9 children, they gave them syrup for all their children in the family, paracetamol, dewormers nothing more, they should have done tests, many people are presenting stains on the body and so continues narrating the effects produced by the oil spill in the Coca River in a similar way to the previous testimony. 6.5.-Testimony of Ina Shkurti: I was able to visit the commune of San Pedro Río Coca, on April 18, I collected 7 testimonies of affected community members, it was very shocking for me to see first hand the crude oil still staining the riverbanks, sand and under the stones, and 11 days later I was able to see the oil spill in the Coca River.

I got into the canoe to get to the San Pedro commune, Mrs. Claudia Tanguila told me that we are hungry, we have no water and we have no way to fish, several people commented that they did not have many fish left in the river; Saqueo Alvarado, that they had caught carachama fish that smelled raw and could not be eaten; In Puerto Amadeus Parish, people told me that they did not have enough water, that the company had given them two bales of tesalia per family, and 8 bottles of 6 liters per family, every 15 days, which was not enough, because they had to drink, bathe, cook, and wash their clothes, continuing to describe what these people had already said in their testimonies.

6.6.-Testimony of Ángel Benigno Sánchez Cumbicus: priest of pastoral service in the Vicariate of Aguarico, we accompanied 54 communities, 12 in the area affected by the oil spill; On April 8, at 11 o'clock in the morning I was informed by a communiqué from the Mayor's Office of Orellana, with the team I made some visits to the communities to see how they were, on April 14 I found people from the Guangula Hurco Center of the Sardinias community, on the other side of the Coca River, carrying water that had been given to them for the community, They asked me to help them by taking water in the Vicariate's car, they told me that it was a bale of 4 bottles of 6 liters for each family, I returned on April 21, on that day I went to the community of San Pedro del Río Coca, I could see black stains on the walls of the river bank, on both sides of the river and the smell was very strong; The president of the community and the motorist told me that all of this was the result of the spill, and I could see the stains at the entrances to the estuaries and along the river, and during the visit on April 30, a family and I was introduced to their son Cristian Grefa who had skin lacerations; On the 22nd and 23rd with the Fecunaie and Human Rights organizations, the Vicariate was able to contact the Ministry of Public Health, which made some visits to the communities to help a little bit that unfortunately we could not reach the community San Pedro del Río Coca, on Saturday 23rd we arrived at the community 10 de Agosto, with a brigadista doctor from the Guayusa Center, belonging to the Ministry of Public Health, and a nurse there was made the attention to the people, and a community which has 24 to 25 families, among them were the children Yalitza Calapucha, Cristian Grefa who has the same lacerations, and attention in vaccines for children under 5 years old, pregnant women, flu problems, but it was a 2 hour attention, the following Sunday we arrived at the Guangula Hurco Center, belonging to the Sardinias Commune, 18 people were attended, in the same way as the previous ones, EXPERT TESTIMONY.-

6.7.- Testimony of the witness Dr. Miguel San Sebastián. Miguel San Sebastián: expert doctor of oil exploitation of the population in the Ecuadorian Amazon in close relationship with the communities, the contamination of an oil spill can enter through 3 ways; through the skin, respiratory tract and ingestion, all go to the blood and from there to any part of the human body, in the Amazon has been exposed to these spills 70 years; this spill can produce possible affectations in the health of the population, such as skin lesions in the medium term, or in the long term, the medical literature reflects the possible general impacts on health and the other on sexual and reproductive health, also on mental health such as anxiety, depression, post-traumatic stress, physical impacts, such as respiratory diseases, skin diseases, even genetic or hormonal alterations, which can produce abortion and prostate cancer; we have done studies based on three areas; we have found irritation of the skin, nose, eyes, headaches, diarrhea, the second may have a higher risk of developing ammonia, and a third group related to cancer of men, stomach, and skin that could be happening in the population exposed to the oil spill; deepening in the studies conducted and that are contained in the scientific literature conducted in general in the Amazon since the initiation of oil exploitation, which in relation to this particular case has only seen photographs of affectations in the skin. Testimony of Catalina del Carmen Campo Imbaquingo: She speaks in a very broad manner, with a series of details related to the population and territories of the eastern zone in a general manner related to the intercultural health issues of the population in the territories seen from the cosmovision of the Kichwa culture; referring to facts since the initiation of oil exploitation as it has affected the people that inhabit the eastern zone of the country, without referring to the concrete facts that are the subject of the present action.

6.9.- Testimony of Soliz Torres María Fernanda: Proposes the issue that the collective health of three dimensions, the first is the health of ecosystems, this in that way the extractive industry, negligence in the management of their waste and the various unreported accidents, has been responsible for the contamination of air, soil, surface water, and altered ecosystems where indigenous nationalities and settlers inhabit, The oil activity, the displacement of communities and transformation of the way of life of social groups, which ends up as damage to health, productive economic activities, food, change of life in social and cultural rights, drinking water and forms of recreation. The issue of hydrocarbons has on health in three levels of affections such as water, air, soil, flora and fauna will alter the way of life of the communities, in five dimensions; first the economic productive process, of care, with life, social and cultural; all these affections are finally expressed in the disease derived from oil pollution, skin, respiratory and intestinal, cancerous, autoimmune, fertility, spontaneous abortions, congenital malformations, among others of which there is a lot of scientific documentation. In this spill we have been able to see impacts of the three levels of contamination of the ecosystem, the affection of the way of life of the social groups as diseases that have already begun to appear, to this is added the epidemic of COVID19.

6.10.-Testimony of Guarderas Flores Lida Eufemia: My expertise is ichthyology, science related to fish, ethnobiology related to the management system of aquatic ecosystems and aquatic animals, I have been conducting studies of aquatic ecosystems for 17 years, in the sub-basin of the Curaray River tributary of the Napo River, in more Kichwa communities in the area, The Napo River basin is a very diverse area based and segmented in very complex psychological relationships that at the time of a drastic change, can be fatal for all aquatic ecosystems, they have to provide ecosystem services not only for the Amazon but for all humanity, this is

The production of oxygen, carbon capture, maintenance of tropical systems, energy nutrients, reproduction and maintenance of flora and fauna, for example, the territory of peoples and ancestral nationalities have allowed the management and conservation of these Amazonian ecosystems, which when there are interruptions in the ecosystems such as oil spills, are affected from their origins to the mouths of the river, then we have an effect on the food system and flooding, developing a broad analysis of the polluting discharges of hydrocarbons into the rivers and their effects on the aquatic ecosystem and people. 6.11.-Testimony of Jorge Emilio Celi Sangurima: The Napo River is the sixth largest tributary of the Andes that goes to the Amazon, with 6. It is known from studies by Dr. Carolina Bernal that after the construction of the Coca-Codo Sinclair dam and the San Rafael waterfall, erosion has increased by 42%, there are two holes in the Napo and Coca rivers, due to increased erosion because the water did not have enough sediment that was being captured by the dam, understanding that the water and the amount of sediment that flowed formed that hole and a process of regressive erosion began, in the sense that the erosion begins to move backwards, as for example if you remove a shovel of sediment in the lower part, the upper part will erode and so on, it was commented when the waterfall landslide happened, the press published in mundo ab, very recognized in Latin America that there were eminent risks to the infrastructure that was upstream of the waterfall in mid-February; the region is volcanic because it is on the left bank of the Reventador river, it is prone to earthquakes as in 1987, with very high rainfall; in April the oil pipelines were broken affecting people, the systems of the Coca and Napo rivers and their surroundings, which could have been avoided because the risk was evident and in the rainy season the riverbed increases and in a couple of months it has eroded approximately 2.5 kilometers and by April it had already eroded approximately 2.5 kilometers.5 kilometers and by April it had already eroded up to the Reventador river and there was the collapse of the waterfall that could affect the dam, we are at risk and we could have foreseen the regressive erosion, in the map we can see that the spill begins in the area of the Reventador river, it crosses the Coca Codo, the oil passed through there, it has been seen that they have put certain barriers downstream to contain the oil that was spilled, and the size of the river has increased a lot, and the Napo River, which is more than a kilometer wide, can get up to 5 kilometers, for example in Pañacocha, as happened at the time of the spill, affecting the people and their agricultural products, where there are some tourism ventures that depend on water, fishing and aquatic species, such as the morete, which is food for the people, fish, manatees, otters, etc; the ecosystem is full of organic matter, we are talking about 300 by 5 to 10 km wide of contaminated vegetation, if we do this we could deforest the area and that is what we should not do, and in other places for example, in the Michigan river, it is a much smaller river than the Napo, and 19,000 barrels of oil were spilled in July of last year.000 barrels of oil in July 2010, that was the worst oil spill in the United States, approximately 50 sections of the river were contaminated and it took them two years of intense management and closed to the public and then at the end of 4 years to finish the cleanup, this was directed by a Scientific Committee, in these cases I consider that we must act quickly with the appropriate technical knowledge and not take things lightly, we must protect the lives of the people and the conservation of biodiversity; Since we already had a collapse of the waterfall, we could foresee the worst, but I did not think that downstream it was going to be so strong and so I made a broad analysis of the erosion of the Coca river and its repercussions in the whole area. 6.12.-Testimony of Michael Hundoski; In Anthropology we work with communities and people, seeing their practices, we carry out scientific research and document the cultures and publish them, I have lived with the Kichwas of the Amazon, and the way of life in the world of the Kichwas has four spaces in their life: one is the huasi or the house, where they keep the food, they spend more time at night; another is the Chacra or orchard where they practice agriculture of yucca, plantain, fruit and other foods; the third is the Sacha or the jungle, where they practice hunting, collect medicinal plants, wood and guadua; the fourth is the Yaku or the river, where they practice fishing, wash clothes, it is a source of water, where children grow, bathe, play, go to the canoe and have an emotional connection with the river, the jungle and the river are important spaces for the worldview or spirituality, ie in the jungle live spirits like Sacha runa, Sacha warmi and the river Yacu runa, Yacu warmi, has the philosophy that the energy to grow well comes from the river, guayusa ritual. If the river suffers contamination like the spill, they lose a fundamental space for the functioning of the culture and the realization of daily activities, it produces a total rupture, because the children have nowhere to bathe, they have no water for chicha, recreational activity like bathing in the river, in addition, it produces a rupture in their cosmovision and their spirituality, because the spirits of the river no longer give fish, food and they feel that the spirits are angry. The whole society uses the river, the men to fish, the women to wash clothes and make chicha; and the children play, grow, have fun, so from their point of view, without the river there is no life, 6.7.-Testimony of Juan Morán Sáenz: As a geographer, I had knowledge of the geomorphology of the San Rafael waterfall and after two months that carried away the OPC pipes, I was very surprised by the explosion of the pipes, as I am a landscape specialist I know the bioclimatic and geomorphological dynamics, the climate, the bioclimate corresponds to a wonderful layer of vegetation that covers these regions and geomorphological of the basin of the Napo and Coca rivers, very high slope of volcanic regolithic material. In 1977, an eminence in Ecuadorian volcanology, Mimard Hall, already warned in his book of an affected area, where the Coca Codo company and the San Rafael waterfall are located, pointing out that it was an area extremely vulnerable to any modification of the sedimentary dynamics, they talked about the risk that the pipes of this region ran, not only in 1977; Carolina Bernal in 1999, in her thesis examines the hydro-sedimentary dynamics and defines all these issues and in 2004, she considers the geo-sedimentary dynamics, in the book Cuenca Oriente, Geología y Petróleo, edited by LRD and Petroecuador, in which Patrice Baby and Alain Araque examine the sedimentary dynamics of the Napo River, which is an extremely dynamic and violent basin to any infrastructure that may be installed in the area, and in 2004, in the book Cuenca Oriente, Geología y Petróleo, edited by LRD and Petroecuador, in which Patrice Baby and Alain Araque examine the sedimentary dynamics of the Napo River, which is an extremely dynamic and violent basin to any infrastructure that

may be installed in the area.

The whole scientific documentation spoke of the anthropogenic risks, which occurred in these regions, as had already occurred previously as in the case of Paute and La Carolina in 1993, when there was a huge impact on the Basin due to poor mining management, but also the enormous erosion of the Pastaza river in 1989, when a change in the course of the river affected the city of Puyo and was directly related to the Agoyán dam, which is upstream of that river, the Agoyán dam was altered and filled with sediments, the filling of sediments from the dams is something common and well known, because the dams modify the sedimentary dynamics of the rivers, either by withdrawing or contributing sediments at specific moments, This ends up making the recurrence periods of geomorphological events to be drastically reduced, and in this regard all the national, international and public Ecuadorian bibliography talks about how to adapt the infrastructures of any type that are settled in the relief events promoted by these rivers, here you can see an image where you can see the Reventador volcano, another image where you can see the main structure of the dam, another where you can see the San Rafael waterfall with the red symbol and where the pipes are located, you can also see the structure of the dam and where the Reventador river goes, where the pipes are located and where the waterfall is located, you can also see the situation of the San Rafael waterfall before its fall, the small basin of the Reventador and the structure of the pipes that are 50 meters away in a bend extremely vulnerable to any type of hydro-sedimentary modification and the San Rafael waterfall, and finally as you can see in the image, the pipes were practically cornered, you can also see the location that I was talking about the pipes 50 meters away from the river and with the waterfall between 200 to 300 meters, from this location, where you can see the pipes with that yellow line that corresponds to a cut that could have happened naturally and what happened, this waterfall is like a reservoir area in which the sediment is very abundant and accumulates, it is a volcanic crystalline rock, which has been in this region for hundreds of thousands of years, and as the river cannot cross it normally because it is a very hard material, what it does is to make a jump, to save the 150 meters that the waterfall had, and we have a zone of retreat which is a normal zone of erosion of the waterfall which is gradually retreating, and in the case of a natural event, there would have been a retreat of this region in the pool of the waterfall itself until the river would have obtained another profile, this would be the normal fluvial process, however with the intervention of the dam, the contribution of sediments is reduced, and in the case of a natural event, there would have been a retreat of this region in the pool of the waterfall itself, until in the set retreat of the rock, the river would have obtained another profile, Therefore, the sediments do not occupy this region and are being evacuated by the normal fluvial dynamics, which does not have so much sediment and is able to remove in this region the water carries the sediments and begins to produce erosion in this region and the final consequence is an explosive event that breaks all the dynamics and what it does is to cross below the arc that forms the crystalline water. The Coca Codo company modified the sedimentary and erosive dynamics of this region, it was evident that this was going to happen, there were two months in which those responsible for the pipeline had to carry out the removal of the pipes or a review of the pipes, they should have taken into account the person responsible for the infrastructure upstream and the sedimentary dynamics was modified by the dam, those responsible for the dam should have made the people responsible for the pipes, to take into account this new dynamic when carrying out their work to adapt the pipes to this new dynamic, even if this had not happened, the tremendous warning of the fall of the waterfall would have been enough for the pipe managers to carry out an emergency intervention, This is what is done in these cases, and go to the place and check that the pipes, because it was public and notorious that it was in a very inadequate place, and that no geomorphological process is completely natural in an intervened environment and none is when the seminal dynamics are intervened as in this case. First of all, the pipelines before any infrastructure were located in a very vulnerable area, an environmental impact study should have been done that not only finished its impact downstream, of the pipelines themselves, and should have taken into account the new dynamics of the dam, apparently they did not take into account, because in the end the waterfall fell and once the waterfall fell, the logical and normal thing to do and what is expected in a public company, when faced with a warning of that magnitude, is to remove the pipes from the area or at least to check and secure them, in an extreme way, the proof of what was not done is that it ends up breaking. Those infrastructures can be built, but for them the due examinations of the region must be done, specifically if we know that for 50 years that there are problems, now well these structures are not in a suitable place. The regressive erosion, which I know as remontant, will continue, the river will seek its equilibrium and there is nothing in this world that can prevent it and it will continue to do so until it reaches the higher populations; my thesis is on anthropic landscape modifications of the high Amazonian basins of the Ecuadorian Andean region on the Napo and Coca rivers, and I will have passed through this region 20 and 25 times; 6.13.- DOCUMENTARY EVIDENCE. The plaintiffs incorporate the following documentary evidence: a).- Document addressed to Pablo Arturo Proaño Andrade, dated April 29, 2020 to the Ministry of Environment, requesting information on the amount of oil and oil derivatives that have been spilled and what are the contingency and remediation plans approved or in process by the Ceibo Alliance Foundation, Ecumenical Commission for Human Rights, the Ecological Action Corporation, the Latin American Association for Alternative Development (Aldea), Alejandro Labaka Foundation, Center for Support and Protection of Human Rights Surkuna. b). MAE-2020-0352-0, dated May 9, 2020, that it does not know the amount of the oil spill in the Amazon on April 7, information that Petroecuador and OCP have, a copy of the technical inspection report is forwarded. c).- Ruling No. 001-DPE-DPORELL-101-101-DPE-DPORELL-1012-0, dated May 9, 2020, that it does not know the amount of the oil spill in the Amazon on April 7. 001-DPE-DPORELL-1011-2020, of the Orellana Provincial Ombudsman's Office, dated April 29, 2020 at 9:00 a.m., which acknowledges the petition presented for the alleged violation of the rights to environment, water, food, health and people. c).- Ruling 002-DPE-DPORELL-1011-2020-FL, of the Orellana Provincial Ombudsman's Office, dated April 29, 2020 at 9:00 a.m., which acknowledges the petition presented for the alleged violation of the rights to environment, water, food, health and people. c).

Date	Legal Proceedings
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Orellana Provincial Delegation of the Orellana Ombudsman's Office, dated May 6, 2020 at 12:15 p.m. d).- Oficio number MAE-SCA-2020-0447-O, dated April 8, 2020, on page 837, that the Ministry of Environment requested an emergency plan and specific information on the spill from Petroecuador and that soil and water monitoring be carried out; e).- Oficio MAE-SCA-2020-0448 addressed to OCP, dated April 8, at page 838, requesting OCP, the emergency plan for the spill and ordering soil and water monitoring in accordance with Ministerial Agreement No. 097A; f).- Oficio de DPE-DP-2020- 0195, dated April 9 sent by the Ombudsman's Office to Petroecuador, MAE, Water Secretariat and Ministry of Energy and Non-Renewable Resources, on page 839, requesting information on the damages caused to the pipelines, mitigation, remediation and integral repair plan and actions being carried out; g).- Oficio MAE-MAE-2020-0327-O, dated April 28 addressed to the Ombudsman's Office, on page 84, which shows evidence of protective barriers; h).- Oficio MAE-MAE- 2020-329-O, dated April 28 addressed to the Ombudsman's Office, regarding the remediation and integral reparation plan; i) Technical Report 211-UCAO-DPAO-MAE-2020, which refers to a follow-up and control of hydrocarbons, dated April 8, carried out by the MAE, page 870. j).- Official letter MAE-SCA-2020-0447-O, dated April 8, 2020, from the Ministry of Environment addressed to Carmen del Rocío Peralvo Guzmán, Deputy Manager of Safety, Health and Environment of Petroecuador, on page 839; k). DPE-DP-2020-195-0, dated April 9, 2020, from the Ombudsman's Office, regarding the Sote, OCP and polyduct spill, addressed to Mr. Pablo Antonio Flores Cueva, General Manager of Petroecuador and to Mr. Juan Sebastián Holguín, former Minister of the Environment; Eng. René Ortiz Durán, Minister of Energy and Non-Renewable Natural Resources, urging: 1. That the Ministry of Energy and Non-Renewable Natural Resources, in coordination with EP Petroecuador, the Ministry of the Environment and the Water Secretariat, inform the Ministry and the general public of the damages caused to the Sote pipeline, OCP and the Polyduct. That the Ministry of Energy and Non-Renewable Natural Resources, in coordination with Petroecuador, the Ministry of Environment and the Water Secretariat, inform the mitigation, remediation and integral reparation plan for human rights and nature; 3. Information on the actions being carried out to guarantee the constitutional rights of people and nature; l).- Official letter MAE-MAE-2020-0327-0, dated April 28, 2020, page 848; that verification rounds of possible environmental and water bodies affectation are carried out, where the official letter No. MAE-MAE-2020-0327-0, dated April 28, 2020, page 848; that verification rounds of possible environmental and water bodies affectation are carried out, where the official letter No. MAE-MAE-2020-0327-0 is found; m). MAE-MAE 2020-0329-0 of April 28, from the Ministry of Environment to the Ombudsman, the response according to the exposed antecedents and the legal regulations, cited according to the requirements sent to the Ministry of Environment by means of DPE-DP-2020-0195-0 of April 9, 2020, to report on the damages caused, the mitigation plan in the affected tributaries and communities, containment activities, stoppage of operations of the Sote and Poliducto, discharge of pressures in the pipelines, activation of Contingency Plans, field inspection to verify damages in the pipeline. And the detail of a series of actions related to the oil spill. 6.14. Social information gathering. Work teams were organized to gather information in the territory by means of specific information gathering tools for the event such as: Record of Affectations, Format: RSC.02.02.FO.02 (V01). Social Sheet (by owner and by community), Format: RSC.02.02.FO.01 (V01). Preliminary Report of Possible Affectations, Form: RSC.02.02.FO.06 (V01). Once this information is available, it will be systematized and qualitative research methodologies will be applied in order to prepare the social characterization of the area of influence of the spill, information that will be presented in the corresponding report. 6.15.- Request for authorizations. In order to obtain authorizations from landowners where impacts are identified or sampling is required, the corresponding authorizations shall be obtained and the landowners shall be informed of the environmental restoration activities to be carried out, in accordance with the "Community Relations Management" procedure: 6.16.- Determination of possible individual and collective impacts. In compliance with the Regulations to the Organic Environmental Code published in June 2019, which in Article 819, indicates the following actions: 6.16.1 Individual impacts. Once the impacts are identified and supported by the results of the sample analysis, the economic valuation report will be prepared in accordance with Interministerial Agreement 001 and internal procedures: Second level of applicability: compensation in the impact management stage (Interministerial Agreement 001). Compensation for the impact management stage, Code: RSC.02.02.PR.02 (Process: Community Relations Management) This report will be sent to the Environmental Authority for approval, and once it is approved in accordance with the aforementioned regulations, payment of compensation will be processed. 6.16.2.- Collective Impacts. Once the community impact is identified, if applicable, in coordination with local authorities, competent institutions and the affected population, social compensation shall be applied in order to implement a project to restore the services affected by the spill, for which the Community Relations Management process shall be applied: RSC.02.01 Planning of Social Compensation Projects. CSR.02.02 Preparation and signing of the Social Compensation Agreement. RSC.02.03 Execution and Monitoring of Social Compensation Agreements. 6.17.- Implementation of measures according to identified impacts, the last paragraph in order to avoid impacts to the environmental services of the populations identified as affected, the following immediate actions shall be carried out in the territory: Coordination with local authorities. Measures on possible shortage of water for human consumption, location map by zones of oil spill and accumulation, WHO document, published on May 11 in the WHO web page, and in the electronic address, where you can find recommendations for environmental public health measures during drought and water conservation, Covid-19 and recommendations for the public sector. Coordination of health, water and other relevant sectors to define and implement interventions, taking into account that on April 7 at 19h00, a spill of heavy crude oil due to land subsidence has occurred, and

The rupture of the OCP and Sote pipelines in the San Rafael sector, on the border between Sucumbíos and Napo where the tributary of the Coca River originates, which directly affects the communities of the San José de Guayusa parish, settled on the riverbanks, including La San Pedro del Río Coca, where the majority of the inhabitants use the water for human consumption and the country's sanitary emergency, have been solving the fishing in the river violating the right to live well, in a healthy environment, water, health, nature and respect for their existence, in addition to this report of this office that are attached satellite images of January, February, March and April, which are available at the email addresses, <https://gfw.global/2XCUGXg>, <https://gfw.global/2Xb1Hzu>, <https://gfw.global/36BUsZi>, <https://gfw.global/2X9dBtc>, are the satellite images of January, February, and March, which were referred to by Ab. Verónica Potes; also that public information be attached by the entities involved, in the first Twitter of April 10 OCP, reports having sent bottled water to the affected riverside communities Amarumesa, San Carlos and Parutuyacu, with a total of 2 thousand bales of water supplied to the affected communities mentioned above, and in another communiqué on April 10 EP. Petroecuador, distributes safe water to 42 communities settled on the banks of the Napo and Coca rivers, in coordination with Ocp, Armed Forces, Gad Orellana, Environment; on April 11, through its Twitter page, OCP, reports that it will deliver 74,880 liters of water to the affected communities, and says that the delivery of water has been carried out since yesterday. Each new visit will require the return of plastic containers by the population for recycling; Petroecuador's statement of April 11 Sote, in a coordinated effort between Petroecuador EP, OCP Ecuador, MAE Orellana, effective environmental remediation actions are carried out in the area of the spill, and the same day, on its Twitter page, Petroecuador EP reports having delivered 176 bottles of water to the Mushullacta community; EP Petroecuador personnel and Ocp Ecuador continue with the delivery of water in Orellana, 176 bottles are delivered to the Mushullacta community; on April 16 on its Facebook page or Twitter, OCP ECUADOR S.A., Facebook and Twitter, OCP Ecuador S.A. reports having reached 44 families with 1500 bottles of water and supplied more than 44 families; Update, water supply to communities located along the banks of the Coca River, a total of 1500 bottles of water of 6 liters each. More than 44 families benefited with the support of Carlos Jipa President of Fecunae; By April 17 through their Facebook page they announce that together with Petroecuador they are coordinating the cleaning and remediation of the area impacted by the event caused last April 8. And they also report having delivered up to that moment 250 thousand liters of water, they do not specify the communities covered, nor the number of people benefited with the same press release No. 7, national and international experts hired for environmental remediation Quito, April 17, 2020.- OCP Ecuador and Petroecuador coordinate cleaning and remediation of the area impacted by the force majeure event occurred this past April 8 in the vicinity of the old San Rafael waterfall that caused the rupture of the main oil pipelines of Ecuador. For this purpose, three of the main remediation companies in the country were hired, who have the necessary experience for this task. The companies will carry out the tasks divided territorially into three sections to ensure a more efficient and comprehensive progress, explained Santiago Sarasti, Safety, Health and Environment Manager of OCP Ecuador. The contracted companies are PECS, CORENA-LAMOR and ARCOIL. We are putting all the human and economic contingent so that the cleanup and remediation are carried out in a complete and efficient manner," said Sarasti. A remediation plan will be worked on to cover all the areas affected by the force majeure event. Initially, a large number of remediation points were established, around 45, which will be reduced as the cleanup and remediation activities progress. To date, some activities have already been carried out, such as taking water and soil samples, which totaled more than 145, throughout the affected area. Work has also been done to recover contaminated vegetation, stones and material with traces of crude oil at some points. The remediation includes community attention, for which we are working hand in hand with local authorities to meet the requirements of each affected population. To date, more than 250 thousand liters of water have been delivered. We are in conversations with the local authorities to attend to the requirements of all the affected places. The following document is dated April 19, 2020. On April 19 OCP through its official Facebook and Twitter page announces that in collaboration with Petroecuador, they distributed food to more than 5 thousand families but only 1200 food kits had been delivered. Press release 8 says that OCP Ecuador and Petroecuador distribute food to more than 5,000 families, Quito, April 19, 2020.- To alleviate the effects caused by the force majeure event of April 8, when a land subsidence caused the rupture of two oil pipelines and a polyduct in the country, OCP Ecuador, in coordination with EP Petroecuador, began the delivery of 1,200 food kits. SEVENTH - RESPONSE OF THE DEFENDANT - EP PETROECUADOR, MINISTRY OF ENERGY AND NON-RENEWABLE RESOURCES, MINISTRY OF THE ENVIRONMENT, MINISTRY OF HEALTH, AND THE STATE ATTORNEY'S OFFICE - PRIVATE COMPANY OLEDUCTOS DE CRUDO.

PESASDO DEL ECUADOR S.A., 7.1.- EP. PETROECUADOR through its legal attorney Dr./Ab. Geovanny Pontón Silva: I will demonstrate that no constitutional right has been violated and that it does not comply with the requirements of Art. 40 of the Organic Law of Jurisdictional Guarantees and Constitutional Control and incurs in four improprieties of Art. 42 of the same law; the purpose of a protection action is the direct and effective protection, before the possible violation of constitutional rights, in this case no constitutional right has been violated as it will be shown; in the testimonies presented, the remediation carried out by Petroecuador has been seen, that this event of April 7, 2020 could have been avoided, and that it was a case of force majeure or fortuitous event; who else but us would have wanted to avoid this event. As defendants we state that the requirements of Article 40 of the Organic Law of Jurisdictional Guarantees and Constitutional Control are not met, which states that three elements must concur; the first one is the violation of a constitutional right, here it has merely been

The presumption of violated rights has been announced, but the violation of these rights has not been determined with any proof, meanwhile we will demonstrate with clear and convincing proof that no constitutional right has been violated; it has been stated that the right to nature is violated in the lawsuit, and also vaguely in the intervention of the opposing party; we were told that for this right to be violated, the vital cycles of nature must be affected, but it has been demonstrated and accepted by the opposing party, that the vital cycles of nature have not been affected; For example, if we have a forest and half of the trees are cut down, they grow again, the vital cycle of the forest is not being affected; in the present case there is an affectation by force majeure or fortuitous event, that after the remediation, which is being carried out by Petroecuador with different companies as explained by our first witness, the places will return to the previous state, as determined in Art. 71 of the Constitution of the Republic of Ecuador, and has been referred to by the Constitutional Court in sentence No. 166-15-SEP-CC case No. 166-15-SEP-CC case No. 166-15-SEP-CC. 166-15-SEP-CC case number 507-12-EP which states, the right to nature refers then not to a pecuniary reparation in favor of the harmed persons, but to the restitutio in integrum, that is to say the full restitution of nature, by repairing the damages produced in the physical environment until returning as far as possible to the original ecosystem, that is to say the restoration must be directed towards the assurance that the natural system returns to enjoy conditions that allow the correct development in relation to its vital cycles, that is to say, if the vital cycle of nature returns to its natural or previous state or the ecosystems are regenerated, there is no violation of the rights to nature, in one of its claims the plaintiff accepts this by saying that it is asking for food until the cycles of the river are regenerated, then, it is already accepting that the vital cycles have not been affected, for this reason the right to nature is not violated. As a second point, the right to water has not been violated, here an event occurred due to force majeure or fortuitous event, we want to be clear, the Public Company of Hydrocarbons Ep Petroecuador, preventing that these cases could happen by paying the expenses, already made an alternative connection between the Payamino and Coca rivers, thus guaranteeing the right to water in this city, Likewise, the ancestral and river communities have been provided with sufficient water and food kit as determined by the documentary proof of delivery receipt, the presidents of the communities have stated that it has not been enough as well as the decentralized autonomous governments, so you can not argue otherwise because we act according to the truth. The right to food, as the second witness said, has been guaranteed with the delivery of food kits similar to those delivered by the Ministry of Economic and Social Inclusion, so it cannot be said that it does not meet the requirements, according to the documentary evidence. The right to life, we have to say that there could have been deaths, that without the studies and without taking the necessary measures the Public Company of Hydrocarbons Ep Petroecuador, would have entered machinery prior to the day of the event, sufficient studies have been carried out and has prevented the lives of all, likewise here they speak that life is a set of rights, because none of them has been violated. The right to health has not been violated either, both the Hydrocarbon Company and the OCP Company have participated with medical evaluations guaranteeing this right, I will not go into much depth on this since it corresponds to the Ministry of Health. Right to information, Art. 39 of the Organic Law of Jurisdictional Guarantees and Constitutional Control tells us that this action proceeds when it is not guaranteed by another jurisdictional guarantee, we have another jurisdictional guarantee, which is the access to public information, which is followed through another procedure, that is, if the plaintiffs are not satisfied with the information provided, they would have an action of access to public information and not an action of protection as they unduly try to do, which would violate legal certainty, because it has its own jurisdictional guarantee. Right to the territory, I am not going to go into detail because no one has been deprived of their territory, Petroecuador as well as the companies and all the defendants have respected all the rights of the plaintiffs. As a second requirement for a protection action to be fulfilled, we need an action or omission of public authority, that is to say an administrative act or failure to comply with an obligation, in this case there is no action or omission of public authority, because we did not issue an administrative act that causes the rupture of the pipeline, which we could not foresee that it was going to develop due to a force majeure or fortuitous event, then we did not omit any responsibility, that is to say here, there was no action or omission of public authority, what happened was a natural catastrophe, a case of force majeure or fortuitous event, which is also determined by the Organic Law of Jurisdictional Guarantees in its Final Provision, for whose analysis we have to go to the supplementary norm which is the Civil Code in Article 30, which tells us that: fortuitous event is a case of force majeure or fortuitous event. 30 tells us that: fortuitous event or force majeure is the unforeseen event that is not possible to resist, in this case a sinkhole that would provide a regressive erosion, which was not foreseen, therefore here the second element does not exist for this action of protection to be fulfilled, and as third element of the Art. 40 says that there is no other adequate way, here there is another adequate way, which is with one of the defendants, this is the Ministry of Environment, in case they are not satisfied with what is being developed by the Public Hydrocarbons Company Ep Petroecuador or OCP they can open an administrative file through the Ministry of Environment and, if they are not satisfied with what the Ministry of Environment is doing either, there is the administrative contentious way based on Art. 340 of the Administrative Organic Code, which talks about the contractual responsibility of the State, based on an administrative fact, that is to say there are other ways as the plaintiff himself has determined, because he has made complaints in the Ombudsman's Office and the Prosecutor's Office accepting that there are other ways, for which fiscal files have been opened for crimes against water; it is true that it does not have the residual character, but it cannot come to replace the ordinary way, because we would enter a world of legal insecurity, we would violate the juridical security. The claims of the plaintiffs is an economic compensation to those allegedly affected by the spill of April 7, 2020, the constitutional action for the right to nature and contamination is not based on the pecuniary restitution of those allegedly affected by the spill of April 7, 2020, the constitutional action for the right to nature and contamination is not based on the pecuniary restitution of those allegedly affected by the spill of April 7, 2020.

We cannot say why there was a case of force majeure or fortuitous event that deserves an economic compensation, which clearly in the lawsuit says that it is an exoneration of liability, for this reason there is no monetary compensation, especially since no constitutional right has been violated and we are acting immediately mitigating and repairing possible violations of rights. The second claim is the repair of water in the subsoil due to oil spills, we do not need a protection action sentence to comply with this obligation, for that there is the Ministry of the Environment, who is the organ that accepts or not what we do, as it could be evidenced from the witness and documents, here we are complying, we do not need a sentence against to comply and we will do it according to the indications of the Ministry of the Environment, which is the competent organ. The third claim is the provision of sufficient food for a period of 10 months, until the Coca River returns to normal, this is being done in conjunction with the GADS that act as interested third parties and some as plaintiffs and through the community representatives, as evidenced by the evidence presented. They want us to provide drinking water to the communities that do not have this service, the Organic Code of Territorial Organization, Autonomy and Decentralization grants this competence to the GADS who are suing us, they have this competence and for this they receive resources from the State. Petroecuador as a state oil company has other functions. In addition, this incurs in the inappropriateness of Art. 42 of the Organic Law of Guarantees, since they are requesting to declare a right that they did not have before the affectation, such as drinking water; which is not our responsibility to provide them with this service, for this reason this claim must also be rejected. We respect the communities and all Ecuadorians, but for this we need to be petroleum engineers and in land treatment, we cannot give this competence to the community members, which is also the declaration of a right, that before the supposed affectation, they did not have, therefore it is also a reason to be rejected. Art. 42 of the Organic Law of Jurisdictional Guarantees and Constitutional Control tells us that an action for protection must be rejected as inadmissible in the following cases: numeral 1 when from the facts there is no violation of constitutional right, and as has been demonstrated, no constitutional right has been violated, what has occurred is a case of force majeure or fortuitous event that could not have been avoided by Petroecuador, nor by man, that we have acted immediately mitigating the damages produced by natural cause; in numeral 3 when the claim, exclusively the unconstitutionality or legality of the act or omission that does not entail the violation of rights is not complied with, here you are asking me not to carry out a control of legality, because there are laws that contemplate this type of reparations, there is the Organic Environmental Code, and its Regulations; the Organic Administrative Code, and to conclude, the Constitutional Court in sentence No. 016-13-SP-CC of the Constitutional Court of Appeals of the Republic of Ecuador, in sentence No. 016-13-SP-CC of the Constitutional Court of Appeals of the Republic of Ecuador, and the Organic Administrative Code of the Republic of Ecuador. 016-13-SP-CC of May 16, 2013 says that all the violations to the legal order cannot go through protection action because it would violate the ordinary law, and also incurs in two additional improprieties, when the administrative act can be challenged in another way as the administrative contentious and they are also taking it in criminal jurisdiction, for this reason it is not a matter of a protection action and when of the claims numeral 5 tells us is the declaration of a right, they are claiming that rights that they did not have before April 7 are declared. I challenge the evidence of the opposing party; attorney Silvia Bonilla, said that she has the activation of the spill contingency plan obtained from an institutional mail of Petroecuador; she presented an internal Petroecuador mail as evidence that on April 7 we began to carry out direct actions, which by the evidentiary community became Petroecuador's evidence. The evidence called 1.4 Rulings 2001-DPE-DPORELL-1011-2020 and 02-DPE-DPOERLL-10-11-2020, where information is requested that is not the object of a protection action, which is another jurisdictional guarantee. As the opposing party has called it public information 2020-04-2020 and official letter No. MAE-MAE-2020-0352, since it is the competence of the MAE and of another institution, I will not refer to it. Of the one requested by attorney Luisa María Villacis, the one called MAE-CSA-2020-0047-O dated April 8, 2020, in which the Hydrocarbons Company EP Petroecuador is requested the emergency plan and the information on the spill, in this regard a timely response was given, that is, the following day the MAE approved the emergency plan for complying with all the necessary requirements, according to the legal regulations in force. The next one is the evidence called MAE-SCA-2020-0448 dated April 8, 2020, which being this OCP evidence, I will not refer to it. As fourth evidence, official letter DPE-DP-2020-0195 O, dated April 9, 2020. Ruling of Dr. Freddy Carrión Ombudsman where he requested Petroecuador information related to the fact of April 7, 2020, linked to the issue of access to public information and not to an action for protection. Challenges to the evidence provided by attorney Vivian Idrovo: the so-called Annex Emergency Plan, under the principle of community of evidence, we make it as evidence of Petroecuador because it shows the actions taken since April 7, when the spill occurred, therefore the responsibility with which Petroecuador acted is evidenced. The evidence named annex 6, remediation intervention zone map and we combine it with the evidence named crude oil accumulation map and river stain, as a community of the evidence to be considered on behalf of Petroecuador, because it fully identifies the affected areas that have been attended by Petroecuador. The evidence called spill report issued by the Delegate of the Ombudsman's Office is irrelevant because the issue of public information leads to another jurisdictional guarantee, not the action for protection and evidence that they are activating other avenues. With the evidence of attorney Luis Tenesaca, the so-called PETRO-PGG-2020-0277-O, dated April 18, that under the principle of the community of evidence, be taken into account on the part of Petroecuador that demonstrates that the requirements made by the Ombudsman's Office have been carried out in a timely manner: Evidence called the report 1 annex overflight, aerial report land Napo River, in the same way we make it our evidence, by

how much evidence that Petroecuador has traveled through the affected area in order to determine actions to be taken without leaving areas devoid of the contingent. The evidence practiced by the lawyer Lina María Espinosa, called body 1, annex page 3, constant on pages 3 and 4, we challenge it for lacking conduction, for not showing the date of elaboration, and with a date of discharge subsequent to the spill, so it cannot be said that it warned us in any way. The one called body I annexes page 4 Hungry Water: Effects of Dams and Gravel Mining on River Channels, because it is in another language and it is evidenced that it is from 1997, that is 23 years before, which has nothing to do with this case. In the body I annexes on page 27 it tells us about lists of communities affiliated to the Fecunae that points out as source of information to the Military Geographic Institute in the year 2013, that is to say 7 years before, because it lacks temporality and impertinence and conduciveness, for which reason it is challenged. We have the announced evidence called ecological action from page 49 to 53, we request the exclusion because it issues value criteria and requests environmental reparations and compensation and it should be noted that this corresponds to the Ministry of Environment, not to one of the plaintiffs, therefore it is impertinent, inconducive and useless to not having competence in environmental matters, which does have it in the Ministry of Environment. They have announced constant press notes from page 75 to 96, because they lack scientific evidence and are an opinion, it cannot serve as an evidentiary element, therefore it is useless, inconducive and improper, additionally because it was not practiced in the hearing, but it is annexed to the lawsuit and the lawyers have referred to it in their pleadings that tell us about the testimonies entered in writing, that according to the Final Provision of the Organic Law of Jurisdictional Guarantees and Constitutional Control, what is not contemplated in the lawsuit is not considered as evidence, what is not contemplated in this law, we have to go to the COGEP which establishes how the testimonies have to be received, but all of them were entered together with the lawsuit, so they lack effectiveness and evidentiary value, since we do not know if they really said that, or the lawyers adapted them to their benefit, for such reason they lack impartiality and would violate the practice of the testimonial evidence. We will challenge only one piece of evidence of attorney Yasmín Calva, the one called MAE-MAE-2020-0329-O and TECHNICAL REPORT -211-UCAO-DPAO-MAE-2020, which we do not want to refer to since it is within the competence of the MAE. .7.2.- OCP through Dr./Ab. Oyarte Martínez Rafael Arturo: We are granted the prudential term to legitimize our intervention, we present in 108 annexes, certified copies that I request to be incorporated as evidence in your favor. The lawsuit refers to a series of alleged omissions, without any precision and distinguish the defendants, an omission, implies not doing something having the legal obligation to do it, we know then that the omission implies incurring in default of performance, according to the occasion, it is not determined in the lawsuit that has acted OCP, PETROECUADOR, Ministry of Health, Ministry of Environment, Ministry of Energy, The accusation must always be clear, since article 14, paragraph one of the Law of Guarantees obliges the defendants to answer the basis of the action at the hearing, the complaint is rambling, disorderly, imprecise, which makes it difficult to contradict, the plaintiffs in their complaint, and interventions at the hearing recognize that the defendants have acted. It is said that there is an omission prior to the force majeure in the face of the backward erosion, that the defendants have omitted the duty of risk management in the pipelines, they say that something should have been done by SOTE and OCP, but they do not say what they should have done and what was omitted, that upon detection of the disaster due to the backward erosion OCP and SOTE suspended pumping at 17h30 on April 7, while the heavy crude oil pipeline broke in the early morning of April 8. OCP acted immediately, as will be documented, monitoring the integrity of the pipeline, inspecting its condition, as stated in the monitoring report, which contains the final report of December 2019, annual inspection plans are made, and when a seismic effect occurs, for example as occurred in January and March. OCP, has the susceptibility reports as the one made in April 2020, which prevented a greater tragedy; the defendants have not incurred omitted the fulfillment of our duty, there are no omissions prior, or subsequent to the rupture of the pipeline, this jumped directly and immediately as ordered by Art. 327 of the Constitution, activating measures of containment, mitigation, reparation, aid to those affected, as it is stated in the lawsuit where they say they know that containment barriers have been installed, in paragraph 14, that a census has been made to those affected, water and food rations have been delivered. In paragraphs 16, 21 and 22, an emergency committee was created; in paragraph 20, emergency rations have been delivered. The Environmental Code in its Art. 292 and its Regulations in Art. 507, indicates that an eminent threat to environmental damage, contingency and mitigation measures must be immediately established, which were complied with by the defendants among them OCP, when the erosion was detected, pumping was suspended at 17H33, April 7, as will be documented, as a preventive measure resulting from the inspection reports, they break the morning of the 8th when the pumping was already suspended, and the Ministry of Environment, required us the emergency plan, OCP requested to the companies ARCOIL CORENA and PECS, to transfer personnel to the site to attend the event, as will be proven documentarily; the suspension of OCP's operations was known by the COVID emergency operations committee, as documented; the defendants have and continue to comply with their obligations, an initial monitoring of soil, water, inspections, sampling, as evidenced in the minutes of activities as evidenced in the evidence; containment activities were carried out, the Ministry of Environment ordered OCP to coordinate with PETROECUADOR the containment, mitigation, correction, cleanup, remediation and compensation measures, as will be documented; OCP sent the emerging plan on April 13 to the MAE, who made observations on April 17, which were answered by OCP on April 22 with the corresponding guide of answers, with which we will document, that on May 11 the emerging plan was approved by the MAE, acts that have not been challenged, being before an action of protection by omission, reason for which those acts are not subject of this trial, as indicated in recent ruling of the Constitutional Court in sentence No. 1935-12-EP/19, which is the reason why the Constitutional Court has indicated in sentence No. 1935-12-EP/19, that the emerging plan was approved by the MAE, acts that have not been challenged, being before an action of protection by omission, reason for which those acts are not

Date **Legal Proceedings**

subject of this trial, as indicated in recent ruling of the Constitutional Court in sentence No. 1935-12-EP/19. 1935-12-EP/19, which

we cannot extend the resolution of the case to matters not expressly demanded; this is an action of protection by omission, where the defendants have carried out measures of containment, mitigation, correction, cleanup, remediation and compensation according to the daily reports that we will deliver, and that have also annexed ARCOIL CORENA and PECS, contracted companies that have carried out the cleanup and remediation activities and even with access restrictions such as the obligation to quarantine personnel by the special operations committee of Aguarico, We will document, carrying out remediation work coordinated with other public entities, inspection, control and monitoring by the Ministry of Environment, water sampling, agreements with the communities, agreeing to hire local labor, canoes, remediation work, provision of food, among others, in the communities of Añango, El Pinche, San Roque del Eden, El Eden, Lumocha, San Roque de Pañacocha, Añanbet Supaillaco; OCP, has provided bottled water, food rations and even medical attention; in fact with the community of San Pedro it was agreed to hire local labor, pay for food and even COVID tests, in the lawsuit it is said that the remediation and repair proposals have not been presented, the Constitution in its Art. 397 and the Environmental Code in Art. 292, orders immediate remediation, without the warning, OCP alerted the community, sent the emergency plan that was approved in which containment, mitigation, correction, cleanup and compensation activities are included with the corresponding chronogram that is accompanied with the response guide and if this emergency plan is not complied with, the people and communities may initiate legal actions, as ordered by Art. 296 of the Environmental Code, Art. 507 of its Regulations and Art. 76 of the Regulation of Hydrocarbon Operations, in that emerging plan it is established the duty to send biweekly reports to the environmental authority, as it was already done with the period from May 9 to May 15 as will be documented, when it is intended to indicate that a person or public entity has incurred in an omission, first it must have been required, in order to incur in default of performance, as traditionally indicated in our jurisprudence in Judgments Nos. 006-2013REA and 180-2013REA, in the lawsuit that it is said that there is no information and that the plans, projects, programs, measures are unknown as stated in paragraphs 14, 21, 17, 19, 47, and 41 of the lawsuit, if that public information is not delivered, which with the evidence added by the plaintiffs, indicates that public information is being requested, which is not a matter of resolution in an action of protection as indicated by the Constitutional Court in its ruling No. 00116-PJO-CC, which is the subject of an action for access to public information, and therefore no fundamental rights have been violated. According to Art. 42 numeral 1 of the Law of Guarantees, the reversal of the burden of proof that is alleged and that OCP is a private company, does not reveal in any fundamental case the violation of rights, when it is stated that the right to life has been violated, it is made clear that there is an emergency plan, there are measures of containment, mitigation, repair, cleanup, remediation. Regarding the right to water, the lawsuit makes impertinent references to reports from other countries and years, Venezuela 2001, Bolivia 2007, Ecuador 2003 and 1997, that is to say, information that is totally unrelated to the facts of the case that it is intended to point out, water has been provided and this will be documented and is admitted by the plaintiff himself, as it is clear that there are dialogues to install a compact plant, and works to make up for the deficit, to the damage of the water treatment plant, a matter that also corresponds to the municipalities according to Art. 264.4 of the Constitution, and, remarkably, the municipalities that should provide the public drinking water service are not sued. Regarding the violation of the right to food, food rations have been delivered as recognized in the lawsuit, in fact until the beginning of May approximately 4,000 rations had been delivered, as will be documented. The right to health is insisted on in the complaint and this is permanently insisted on in the plaintiffs' own statement, when it is pointed out that they have nearby health centers, as indicated in paragraph 29 of the complaint, and it has been documented on the medical assessment days. Right to a healthy environment and the right to nature, that planned projects are carried out together with a restoration plan agreed with the community, the Environmental Code in its Art. 118, indicates that to approve the guidelines and carry out the control of the implemented plans is the Ministry of the Environment, and not the health committee, and in fact insists on the emerging plan. The demand does not comply with the basic requirement of Art. 40 numeral 3 of the Law of Guarantees and Art. 42 numeral 4 of the same normative body, it has to be demonstrated with arguments that there are no other ways, that the action of protection is the only effective and adequate way to solve the issue to be decided, if the claims contained in paragraphs 209 and 210 of the claim and between paragraphs 213 and 217 of the claim are observed, as pointed out by PETROECUADOR's lawyer, a series of measures of reparation, restoration, etc. are required, The measures are in the emergent plan, and we already know what happens if the emergent plan is not complied with, but claiming civil reparations or claiming objective reparations for environmental damage, through a protection action, implies a frontal attempt of undue replacement, if the objective reparation for environmental damage is sought, there is an action for environmental damage according to articles 10 and 38 of the General Organic Code of Proceedings, if the emergent plan is improperly executed there are contentious-administrative actions, if it is to repair civil damages, there is a lawsuit for environmental damage according to article 302 of the Environmental Code, if reparations are sought from the State there is a lawsuit for objective responsibility according to article 326 numeral 4 literal c of the General Organic Code of Proceedings and it is true that the action of protection is not subsidiary, It is not residual, but the Constitutional Court in its jurisprudence has repeatedly indicated that the action for protection does not replace the judicial remedies because that is a violation of judicial independence, besides not only a matter of denaturalizing the action for protection but also of affecting judicial independence and has said so in several rulings such as No. 007-10-SEP-CC, 007-10-SEP-CC, 026-10-SEP-CC, 016-13-SEP-CC, 038-10-SEP-CC, among others, the lawsuit was inadmissible in terms of standing to sue, where it is stated that

several names about communities, organizations and plaintiffs, but finally who subscribes in name and representation of the plaintiffs is Monsignor José Adalberto Jiménez Mendoza is the only one who signs and says he does it in name and representation, I make present that erroneously the judgment No. 170-17-SEP-CC is invoked. 170-17-SEP-CC, has not eliminated the legitimization to the process, the only thing it did is to eliminate the part of the Law of Guarantee in its Article 9 that provided that the lawsuit is filed by its own rights indicating that this would be a popular action, the fact of activating a popular action does not imply that one is representing another one always sues by oneself, because that rule is still maintained in Art. 9 letter

a) of the Law of Guarantees, the lawsuit may be filed by any person, commune, town, nationality, by himself or through a representative or proxy, which is why the instrument of representation must always be attached, there must be the appointment of the representative or proxy, I cannot act on behalf of another in the understanding that there is a popular action of protection action, I cannot file a protection action saying that I am a representative of Marco Proaño Duran when I am not, the representation must be accredited, in addition to the intervention of affected persons by interposed person according to Arts. 9 and 11 of the Law of Guarantees, this is done precisely when an action is filed through a representative or attorney-in-fact, that is, if there is a representative or attorney-in-fact who files the lawsuit on behalf of another, that other may intervene in the lawsuit and even amend the lawsuit, but not when he is not represented; that is to say, here there has been a lack of active standing, not only that there has been an existing active litisconsorcio, when it is a single lawsuit, but also that whoever is suing does not have standing, and with respect to the passive standing, when you sue a private party you have to indicate on what grounds, if it is a concessionaire, a provider of public services, if it has caused serious damage, something has to be said in the lawsuit and this has been indicated by the Constitutional Court in recent decisions No. 357-13EP/20, this is what the Constitutional Court has indicated in recent decisions No. 357-13EP/20, that is to say, that there is a lack of legal standing in the lawsuit. 357-13EP/20, this is a matter that has been insisted, I make present, that in this case there is no reversal of the burden of proof with respect to OCP, with respect to the fact that if I have omitted, which has certainly not occurred, the burden of proof in this case corresponded to the plaintiffs, another thing is the inversion of the proof with respect to the consequences of the omission, which would be the damage, but those are the consequences, not the fact, the omission or the act that originates it, I ask then to reject as improper and inadmissible this claim, to apply also the sanctions established in Art. 27 of the Law of Guarantees, it is an action of protection that has been intentionally delayed not by the defendants, but by the plaintiffs, this is the fourth day in the afternoon in which we are just answering the lawsuit due to those deviant actions of the plaintiff, and that those who present themselves as affected and subsequent plaintiffs, I also request that the 108 annexes that I present on Tuesday of this week be added.

7.3.- OCP through Dr./Ab. Ismael Esteban Quintana Garzón: Challenges the evidence submitted by Dr. Luisa Villacis which includes six or seven maps, which are supposed to be overflights prepared by PETROECUADOR and which have to do with PETROECUADOR's safety suggestion, for being inconducive evidence, which does not have the value to demonstrate whether or not there has been a violation of the fundamental rights alleged in the lawsuit. Regarding the evidence submitted by Dr. Vivian Idrovo, she contests the evidence presented by Dr. Vivian Idrovo, we challenge the alleged publications in social networks on behalf of Oleoducto de Crudos Pesados del Ecuador, because they are screenshots, which are not formally dematerialized so that they can have the value of lawful evidence; we must apply by supplementation according to its Final Provision of the law of the matter, the rules of the General Organic Code of Processes; We challenge the evidence that they call it information update, where it contains several links, if one clicks, they take you to Facebook pages of news newspapers and in general because they have not been dematerialized therefore they are not lawful evidence nor announced in the lawsuit, therefore we request it to be dismissed, under Art. 10.8 of the Law of Jurisdictional Guarantees and Constitutional Control and Art. 159 of the General Organic Code of Proceedings. We challenge the evidence provided by Dr. Hidrovo, an alleged report issued by the Ombudsman's Office, within the Ombudsman process, which has no date, only recommendations that do not bind any of the public institutions involved, much less the OCP, and it is evidence that was neither announced nor attached to the lawsuit. The same with the exhort that accompanies Dr. Luis Solis supposedly issued by the Ombudsman, where a recommendation is sent to Petroecuador, Ministry of Environment, the disappeared SENAGUA, the Ministry of Energy and other institutions, for not being announced and not meeting the intrinsic requirement of the conduciveness of this evidence, a report containing exhort and recommendations is not useful in any way to prove the facts alleged in the lawsuit; I request that by community of evidence, the rest of the documentation that has been presented be taken into account in favor of OCP, which does nothing more than demonstrate that the omission alleged in the lawsuit for protective action does not exist.

7.4.- Ministry of Energy and Non-Renewable Natural Resources through Dr./Ab. César Oswaldo Zanafria Niquinga: Without prejudice to the fact that the answer was already sent to the mail indicated, and we have three concrete facts, there is a landslide caused by natural causes of force majeure or fortuitous event. Second, as a result of this natural event, there was an oil spill that caused environmental damage. Third, as a result of this environmental damage and consequently the protocols and remediations that should be taken for this damage; I have had this introduction and explanatory note, because this leads us to analyze that the claim of the plaintiffs in the form and substance is not the adequate way as already mentioned by those who have preceded us; in paragraph 45 on page 27; paragraph 129 on page 51; and, paragraph 131 on page 52, they clearly indicate that they intend with the action to point out an alleged violation of constitutional rights, which has the purpose of eliminating the impacts or mitigating them, so much so that they expressly determine that they are seeking remediation of the environmental damage, then it is necessary to take the appropriate actions for remediation, if they seek the repair of this environmental damage, then precisely to establish these protocols and the remediation of the damage, there is an investigation procedure by the environmental authority.

provided for in the Organic Environmental Code and its General Regulations which in Art. 809 mentions that after a due process said authority in compliance with its precept contained in Article 289 of the Organic Environmental Code must establish the damage and the responsibility for the same, even more so if the environmental damage is not determined, the same regulation empowers the plaintiffs to resort to suitable means in the ordinary justice system, as those who preceded me in the use of the word have already said, there are ways in the civil and criminal sphere that those who feel affected with these environmental damages can take action against those responsible, thus we have, if they want to claim environmental damage through the civil route they have to go to the contentious-administrative court, The claim is quite confusing and diffuse in some parts where they say that the right to life of the people has been violated, even though it has not been demonstrated that there are any deaths, if they believe that there has been any intentional affectation, with malice, then they have the jurisdictional channel before the Public Prosecutor's Office to claim through the Organic Integral Penal Code the damages to nature and against life, with this I want to say that when the active legitimized parties have filed this protection action they are not complying with the admissibility and procedural requirements established in the Organic Law of Jurisdictional Guarantees and Constitutional Control, it is clear what is stated in Article 42. 42.4, that it must be justified that there is no other suitable way to make this type of claims, and the legal entities have never justified that there are no other suitable ways to make the claims they are making, nor have they justified that they are inadequate or ineffective ways, by principle we start saying concretely that the way of the action of protection is not the adequate in this case to determine an environmental damage, they have to refer to what the norm of the matter establishes which is the Organic Code of Environment and related norms regarding the claims; regarding the accusations on alleged omissions prior and subsequent to the event that occurred on April 7, 2020 where there was the spill, it is clear and has been evidenced during these 4 days of hearing, the witnesses of the plaintiffs have been heard, interventions of their lawyers, there is no technical or scientific document that assures that the natural phenomenon of regressive erosion could have been predictable and much less that could facilitate that the state entities take action before this fact happens, therefore there is no type of previous omission since the state did not have any document with technical support to say that an event of nature will occur that will affect such infrastructure, which unfortunately with the landslide was affected on April 7; With respect to the subsequent omissions, they mention that there are some systematic violations of rights against those possibly affected; what they consider to be the right to a dignified life. From the interventions of the lawyers of the legalized active parties and witnesses, that in the exercise of these rights the defendants Petroecuador and OCP immediately after the fact have taken action and the State through the Ministries of Energy and Non Renewable Natural Resources, Health and Environment, have taken action in each of their fields, and from the presentations that have been made, It is known that the companies have delivered food and water rations to the affected communities and people to cover their basic needs, while the problems caused by the environmental damage are being solved. PETROECUADOR has already provided OCP figures, as it will demonstrate that all these food and water needs have been met in the basic and necessary for the population to be able to subsist while this emergency situation lasts; With respect to the water issue, it is clear that the State, fulfilling its obligation of coordination between State institutions, has requested collaboration from other entities that are not even involved in the problem, such as PETROAMAZONAS, which, through PETROECUADOR, provided a pump to the Francisco de Orellana GAD to reestablish the drinking water service that had been interrupted by the spill, so I believe that I have sufficiently demonstrated and evidenced that the State in this case has guaranteed the right to food and water. Regarding the health issue, we have spoken, seen and heard that the plaintiffs have recognized that there are medical brigades that have visited them giving them medicines and medical attention; and that the Ministry of Health will show all the medical centers that they have at their disposal; If in the witnesses there is any health affectation, it is due to ignorance or negligence as was heard, as the mother of a minor sprayed gasoline on him to remove the stain he had when he came out of the river, this does not imply that this type of actions are omissions of the State that is providing the required collaboration and help, It was mentioned that there are ladies who fainted because they were pregnant or had not eaten properly, and in these situations how can we respond if we do not know if the person has eaten well, to carry out their daily activities, we have tried to surprise everyone. Likewise, if they feel affected in their right to a healthy and ecologically balanced environment and nature, it is obvious that they have to resort to the pertinent administrative or judicial channel, so that these affectations are recognized, since the action of protection is not the adequate and effective channel, as already mentioned, but rather to follow the precepts of the Organic Code of Environment, with its governing body the Ministry of Environment and beyond the administrative channel, the ordinary justice if those affected believe they are not satisfied in the administrative channel. We must be clear regarding the claims of the plaintiffs, they are diffuse, they mention that their right to information has been injured, however based on official information, the next day April 7, 2020 they were already giving interviews exposing this problem in social networks, with official data the Minister of Energy and Mines went out to the public media to mention what the problem was, and if they felt that their right to information was not being duly attended, they could exercise their petition through the corresponding channel, which is not the action of protection, but an action of access to public information, as established in Art. 46 of the Organic Law of Jurisdictional Guarantees and Constitutional Control, that unfortunately the active legitimized parties have denaturalized and prostituted this process, because they have sought the way to cut the way, so to speak, to obtain some kind of benefit, without respecting the due process; also

the plaintiffs have mentioned ad nauseam that Ecuador does not observe international instruments related to the rights violated in this case; we must be clear, if what they seek is the application of international instruments related to the violation of alleged rights, Art. 52 of the Organic Law of Jurisdictional Guarantees and Constitutional Control, establishes that an action of non-compliance can be exercised in case they want to guarantee the application of that sentence, decisions, report of international organizations for the protection of human rights, it is really worrying the fact that they want to surprise the administration of justice and that they go to these extremes. Regarding the precautionary measures requested in the lawsuit, in accordance with the provisions of Articles 13, paragraph 5 and 29 of the Organic Law of Jurisdictional Guarantees and Constitutional Control, we consider that the stage for ordering precautionary measures has concluded and therefore they should not be granted, in addition to the fact that it has already been evidenced that the State and OCP are guaranteeing the compliance and protection of the allegedly affected rights.

7.5.- Ministry of Energy and Non-Revocable Natural Resources through Dr./Ab. Héctor Darío Borja Taco: First of all I would like to refer to the evidence provided by attorney Lina María, this has some elements that from my point of view correspond to omission, but really to actions that have been developed by the State as established in the official letter No. MAE-MAE-2020-0-0. MAE-MAE-2020-0329-O April 2020 where important elements are collected that I am going to reproduce one of them, based on the principle of community of evidence that is also part of this portfolio of state, the Ministry of Energy and Non-Renewable Natural Resources, says a catalog of actions taken by the State the Ministry of Environment and water there it says that it follows up the work in the Coca River and provides to reinforce and improvise the work of removal of contaminated plant species in the water intake and in the affected surroundings, Let us remember that the object of this action for protection, according to the plaintiffs, is for omission and definitely this proof cannot be constituted as proof of omission. Regarding the official letter presented by attorney Lina Maria, which is a response to a request made by the Ombudsman's Office in official letter DEP-DNCA -2020-00007-O, the MAE responds to another series of activities that have been carried out by the State, the nature of these activities means action, not omission, in this sense I request, based on the principle of community of evidence, to take it as on the part of the State because it implies actions, not omissions; In the same evidence of attorney Lina María, a text in English is presented, referring to a study carried out by the University of California regarding water and sediments that cannot be proof of anything, first, because it is not exempt from following the constant formalities in the legal bodies supplementary to the Organic Law of Jurisdictional Guarantees, second, because it is in English, for the above mentioned, then there is a text whose title states impacts of the April 7 spill on the diversity and systems of protected areas, this is a text that does not have a responsible author to have some validity, remember that they cannot be exempt from meeting the minimum requirements to have evidentiary validity; this is a pseudo study carried out after the spill with which they want to justify an omission, which should have been carried out before and not after, if what they want to justify is an omission prior to what happened in the oil spill on April 7, we request that it not be considered, first because it does not meet the requirements of proof and second because it does not have an author or responsible person; another text further on whose title has comments of ecological action, environmental studies, it has no date of elaboration, since it refers to April 7, we assume that it was made later, we consider that it does not have evidential relevance to prove an omission, even more when in these comments of ecological action there are no omissions of the State but rather chemical issues etc. or consequences of the mixture of water and oil and not omissions of the State, the evidence has to focus on the omission of the State, in the same body of evidence the lawyer Lina Maria there is a letter from the Academy of Sciences of Ecuador addressed to Minister Rene Ortiz which is an offer of technical assistance, but the State has technicians, I do not understand why this technical assistance has been offered, since the State has technicians in specialized organizations to solve any type of technical need, it is not proof of any omission, we cannot think that it is an obligation of the State to accept it; there is another text, called ecological action of April 13, in which the State is urged to change the economic model, to stop depending on hydrocarbon and mineral resources, which has nothing to do with an omission, which could have been generated prior to the oil spill and another omission after the spill, I request that it not be taken into account either because it does not meet the essential requirements set forth in the COGEP for evidence to be valid, within what attorney Lina Maria submitted, there are press releases published all around the April 7 catastrophe, first they are not evidence of anything, because the press is subject to modify the content of its publications, to be replicated and also they do not denote the State's inaction, but action, therefore, if we are going to say that there is inaction, we cannot transmit what the State is doing, here it is about categorizing and saying that it is doing wrong, but at the end of the day it is doing it is action, not omission. Secondly, I would like to refer to the evidence of attorney Vivian Hidrovo, I believe that the same considerations that have been stated by the lawyers that have preceded me are applicable, one of these links, when we click on it, forwards us to some considerations in PDF regarding the treatment of the COVID, I do not understand what the relation is with what we are hearing in this protection action, it has no evidential relevance and it does not comply with the principles of dematerialization, the requirements of the evidence had to be complied with; We were sent an interactive map, which also has nothing to do with omission, nor relevance to determine omissions of the State, likewise a series of maps were delivered that have the seal of the Public Company Petroecuador, one for example establishes the points where there is a concentration of hydrocarbons in the affected stretch of the river, so it is not an inaction, it is determined that there is an investigation, with all this it was determined that Petroecuador is doing its work and with that result it has been identified where the crude oil is that

requires cleaning, it is a proof of action, not inaction; there is a report from the Ombudsman's Office in which it requests to establish the reasons why the phenomenon of regressive erosion and subsequent sinkhole occurred in the section where the crude oil pipeline passes, the same lawsuit has referred that the phenomenon of regressive erosion when there is a hydroelectric plant at the edge of the river, as they call does not produce this phenomenon, at least in theory so they have stated, then ask for a justification that is impossible to meet, if it had been predictable, but it was impossible to prevent, there is an information update attached to the lawsuit in which there is a series of facts whose title is information update, and it includes a series of publications on Facebook and other social networks, which need to comply with the legal requirements to be valid as evidence, so they have to be excluded, they should have been dematerialized through a notary public, beyond the fact that they do not denote omissions, but actions and obviously certain people are dissatisfied with those actions; There is a document that includes publications of Petroecuador and OCP in which it is clearly observed that they had sufficient information, while here it has been stated several times that they have not had information, when the whole protection action is based on information issued by State institutions and individuals such as OCP, then it cannot be said that they do not have information and on the other hand they build a whole argument based on information beyond the fact that such information does not show omissions, but actions and that they are dissatisfied with such actions. En tercer lugar la prueba aportada por el abogado Luis Javier Solis de la Fundación Alejandro Labaka, quien entrega un informe técnico No. 211-UCAO-DPAO-MAE of 2020, which denotes an action by the MAE, cannot be considered as evidence of an omission, so it is important to understand that the intention is not to declare an omission, but a disagreement with the action, which has another way, which is also attached by Mr. Javier Solis, which is in the trans-Ecuadorian system of the Shushufindi project of Petroecuador, it is a response to a request DP-DP-2020-0195-O and official letter MERNNN-MERNNNR-2020-0333-O that in order to attend the communities affected by this event the head of social responsibility and community relations, have launched a whole operation to identify and assist the affected communities, mainly in their right to access to water, this is another action, it is not an omission, further on it points out the official letter No. MDG-GORE-2020-0262, that in order to attend the communities affected by this event the head of social responsibility and community relations, have launched a whole operation to identify and attend the affected communities, mainly in their right to access to water, this is another action, it is not an omission, further on it points out the official letter No. MDG-GORE-2020-0262, from the Governorate of Orellana that points out actions of April 8, 2020, the event is coordinated at the level of the immediate superior from SENAGUA, GAD Municipal de Orellana, MAE and accompaniment of FECUNAE realize that they move in a boat for the inspection and evaluation of surface water at risk, take samples for water analysis that by the geographical and administrative situation, the laboratory delivers the results in three days, that is to say, this document from the Alejandro Labaka Foundation denotes an action carried out on April 8, the phenomenon occurred at midnight on April 7, this is immediately the water samples were taken with representatives of FECUNAE and here the representatives of the indigenous organizations have come to say that they had no knowledge of not being able to take water from the river, Therefore, it cannot be considered as proof of omission, since it is an action. Further on, there are several aerial tour reports attached by the representative of the Alejandro Labaka Foundation, which consists of the planning for the remediation of the southern zone carried out by PECS ambiente, which is a company that carries out remediation plans, Dr. Pontón has already referred to this remediation company, which in fact has won some awards on these remediation issues, it cannot be pretended that remediation takes place the day after the catastrophe occurred, this evidence shows that there is a remediation plan that is being executed, it is not evidence of an omission either. The evidence provided by attorney Luisa María Villacis, suffers the same defects of all the evidence presented by the plaintiffs, it establishes six maps of allegedly affected areas, which have no relevance to prove an omission on the part of the State, but will never constitute proof of an omission; the official letter No. MAE-SCA-2020-0047, which is not relevant to prove an omission on the part of the State, but will never constitute proof of an omission; the official letter No. MAE-SCA-2020-0047, which is not relevant to prove an omission. MAE-SCA-2020-0047 of April 8, 2020, once again includes actions carried out by the State, which cannot be assumed as omissions, but it does denote that there is non-conformity with the actions, but not omission; there is a report with official communication MAE-SCA-2020-0448 of April 8, 2020, official communication DP-DP-2020-0195 of April 9, 2020 and official communication No. MAE-MAE-2020-0448 of April 8, 2020, official communication DP-DP-2020-0195 of April 9, 2020 and official communication No. MAE-MAE-2020-0448 of April 8, 2020, and official communication No. DP-DP-2020-0195 of April 9, 2020. MAE-MAE-2020-0327-O of April 8, 2020, all these evidence collect state actions of insistence by the Ombudsman's Office, which collects actions and requests, they cannot be considered as omissions, so he requests that they are not considered as evidence of omissions, but as evidence of actions; It is a pity that the defendants have not understood that when claiming omission, they have to justify the inaction, that is, demonstrate what has not been done; it is said that the right to water has been violated and in the same lawsuit it is said that they are providing water; On the other hand, with testimony they say that the bottled water that they are being given is not good for cooking, so the problem that they are not satisfied with the water that is being given to them, according to all the documentary evidence regarding the information generated in the public institutions and the response to the Ombudsman's Office, should be considered as evidence in favor of the State, and finally, all the evidence presented has the background of demonstrating the disagreement with respect to the actions taken, It does not correspond to this route, even more so when this nonconformity, according to the plaintiffs, is satisfied by applying international human rights legal instruments, this is the solution that has been proposed, in other words, they want to be satisfied in this right, according to the international standard established in this report issued by the Commission on Human Rights; the right to food, to water, they want it to be satisfied in relation to the international standard, in short, if they want a right to be satisfied in accordance with an international standard and

Date **Legal Proceedings**

not with the possibilities and actions that the State is carrying out, then an action for protection does not correspond, an action for non-compliance would correspond, as Dr. Cesar has already mentioned, he requested that an action for non-compliance not be considered. Cesar, requested that none of this evidence be considered to justify the omission, but that the action on the part of the State entities be justified. 7.6.- From the Ministry of the Environment through Dr./Ab. Darío Fernando Cueva Valdez: There is an adequate way, as Dr. Oyarte has already mentioned, it is foreseen in Art. 10 and 38 of the

General Organic Code of Proceedings, which determines when a constitutional judge must act, states in Art. 38 which states: nature must be represented by any natural or juridical person or collective or by the Ombudsman, who may also act on his own initiative, that is to say not with amicus as he has done now, directly in an action in an ordinary way, it also tells us that it may not be sued in trial, nor counterclaimed, that the actions for environmental damage and the one produced to people or their patrimony, How is it that the plaintiffs can say that there is no adequate way, when it is clearly established in the General Organic Code of Processes, which also tells us that: "the remedial, restorative, and restorative measures, as well as the environmental damage, shall be exercised separately and independently: the remedial, restorative and reparatory measures for environmental damages, that their implementation will be subject to the approval of the national authority that must approve those measures and when this fails, the same norm establishes the solution that the judge will order them in ordinary proceedings, and speaking of opportunity let us remember that the actions for environmental damages according to Art. 396 of the Constitution are imprescriptible, the actions to prosecute or sanction the environmental damage and it speaks of a way, that is to say they can claim it at any time even when the COVID passes, this is the adequate way that exists and is foreseen in Arts. 38 and 39 the General Organic Code of Processes, this in the judicial way, and in the administrative way, the environmental authority in Art. 294 and following establishes that the Ministry of the Environment is the authority that has to approve the integral reparation, the environmental authority must determine which is the adequate integral reparation not only for the physical, biotic but also social component, which has been so much talked about in this hearing. We must take seriously what the Constitutional Court has said in Ruling No. 0001-16- PJO-CC. 0001-16- PJO-CC, case 53010-PJ, of March 22, 2016, which has told us very clearly, that this is not the means to discuss a question of legality, in those cases where the violation falls on another immersion of law, i.e. the legal, the Ecuadorian legal system has enshrined other jurisdictional avenues in the ordinary justice that constitute authentic ways to protect the rights of individuals, in suitable and adequate procedures to protect the right of the aggrieved, Here, as the Constitutional Court itself has already mentioned, an attempt is being made to denaturalize the constitutional process, that is to say, to bring a discussion of legality to the constitutional process, and make it an ordinary process, thus replacing even the competence of the ordinary justice system, and it is in this way that in judgment No. 041-13-SEP-CC. 041-13-SEP-CC, case 470-12-EP, clearly establishes that the action for protection does not constitute a mechanism of superposition or replacement of the ordinary judicial instances, since this would cause the disregard of the state jurisdictional structure established by the Constitution, it does not replace all the other judicial means because in such case the constitutional justice would assume powers that do not correspond to it, affecting the legal security of the citizens and distorting the jurisdictional structure of the state and ignoring the institutional guarantee that justice represents the judicial function, this case has to go through a legal channel, which is the ordinary channel that cannot be replaced by the constitutional justice, as it has been demonstrated, the ordinary channel exists which is the appropriate one and, as established in Art. 40 of the Organic Law of Jurisdictional Guarantees and Constitutional Control, when it tells us the inexistence of another adequate and effective defense mechanism to protect the violated right, which means, as it has been demonstrated in this hearing, there is an adequate and effective way is the one provided in the General Organic Code of Proceedings. Now let's see what has happened in this hearing, it is important to establish what is the alleged violation of rights, let us remember what Art. 39 of the Organic Law of Jurisdictional Guarantees and Constitutional Control tells us, the purpose of the action of protection will be the direct and effective protection of the rights recognized in the Constitution and international treaties on human rights that are not protected by actions of habeas Corpus, access to public information, habeas data, for breach, extraordinary of protection and extraordinary of protection against decisions of indigenous justice. First of all, there are other requests that have been said in this hearing, that there has been no or lack of information, that the Ministry of Environment has not answered, that it has sent biased information, that it does not have the links, that is material for another discussion that we are not going to debate here, because it is clearly established in Art. 39 there is the action of access to public information, so that both the plaintiffs, the affected parties and their lawyers can claim, which establishes that there must be a violation of constitutional rights, it has been said that there is a violation of constitutional rights to nature, but they did not forget what is established in Art. 72 of the Constitution, which speaks of the right to the restoration of nature, will be independent of the obligation of the State and natural or legal persons to compensate individuals or collectives that depend on affected natural systems in case of serious permanent environmental impact, including those caused by the exploitation of non-renewable resources, the state will establish the most efficient mechanisms to achieve the restoration, it will adopt the adequate measures to eliminate and mitigate the harmful environmental consequences, that is to say, the right of restoration exists, why did not the defendants and affected parties mention it, it is simple because they wanted to make it look like a violation of the rights of nature as such to its vital cycles, but they forgot about the right of restoration that is the one that applies in this hearing, because it must be claimed as established by the General Organic Code of Processes, apart from that, there was the fact, such as the spills of 2009, 2013, 2016, the fact is concrete to which they have referred, it is the omission in front of the spill of April 7, 2020, from there we are going to start to see what supposedly the Ministry of Environment did not do, because an omission translates into the failure to do when one has the legal obligation, however the plaintiffs have not even mentioned that the Ministry of Environment, has omitted such thing, that it did not stop the spill, but what does the law say regarding this type of emergency events, the first action as established in Art. 291 of the Organic Environmental Code, the first action as established in Art. 291 of the Organic Environmental Code, obligation of

The environmental authority must be notified within 24 hours of the occurrence or existence of environmental damage within their areas of operation. Which is what the operators did independently communicated within 24 hours and thus it is said that there is omission, what exists is the strict compliance with the norm, because it was notified within 24 hours of the spill; the RAO in its Art. 76 in accordance with Art. 507 of the RCOA or Regulation to the Organic Code of the Environment, that once this incident is foreseen, it has to notify and present its emergency plan within 48h00 and within two days the operator presented it as we are going to demonstrate with the emergency plan, however, At. 507 of the Regulation to the Organic Code of the Environment states that once this incident is foreseen, it has to notify and present its emergency plan within 48h00 and within two days the operator presented it as we are going to demonstrate with the emergency plan. 507 of the Regulations of the Organic Code of the Environment in its final paragraph says: "emerging plan is the set of actions determined to mitigate or reduce the environmental impacts produced by an emergency not contemplated in the approved environmental management plan for non-regulated activities, which must be submitted by the operator within two days of the event, the competent environmental authority will approve, observe or reject the emerging plan in a maximum term of 10 days, what else does it say? without prejudice to the provisions of the preceding paragraph, if necessary the operator shall opt for the contingency, mitigation and correction measures immediately, once the emergency has occurred, what does this mean, what or independently of the approval of the acceptance of the emergency plan which is what the operator had to do, adopt the mitigation measures, correction but not only that, because likewise Art. 292 of the Organic Code of the Environment, establishes the obligation of the operators and clearly states that in addition to the contingency measures, they must also take the necessary measures to mitigate and correct the situation: In addition to the contingency, mitigation and correction measures, remediation and restoration, compensation and indemnification, monitoring and evaluation measures will be adopted, and here there has been no non-compliance with this catastrophe; The Ministry of the Environment, upon presentation of the emergency plan, observed each of the activities that were contemplated and established parameters to be complied with and for the protection of the physical, biotic and social components, that is to say, it complied with its obligation, it did not remain unmoved and in addition to these measures, it asked the operators for a daily report to see compliance with the measures adopted, independently of the approval of the plan, that is to say, the Ministry of the Environment did not fail to comply with any of the obligations established, I will be able to demonstrate this with the information at the appropriate time; the social compensation measures, which will not only be given at the end, but there are also temporary measures adopted, i.e. delivery of water and food to those affected, as we will demonstrate that the Ministry of Environment has repeatedly requested the adoption of temporary social compensation measures with citizen participation, which have to be adopted after the determination of the damage, we have seen how supposed experts, without a minimum of study, without technical knowledge have come to say that this cannot be done by the State, that due process must be respected, for this there is a constitutional guarantee that tells us, when people's rights are discussed as such, due process must be respected, you cannot speak lightly and say if you are responsible, you have to keep in mind Art. 76 numeral 2 which clearly establishes the principle of innocence, we as a State could not violate the principle of innocence, first we would have to determine, both the affectations to the physical, biotic, and social component, to establish a sanction and proceed with the integral reparation plan, As it is stated in the regulation and this will be done because it is our obligation and we will not fall into this type of immissions, be assured that we will comply with the regulation in each of its points and obligations, for all of the above I request the rejection of this improper action because the regulation establishes the appropriate mechanism to establish the environmental damage as the reparation. 7.7.- The Ministry of Environment through Dr./Ab. Nathalie Estefanía Bedón Estrella: The first evidence of the mails sent by PETROECUADOR, as well as maps; in this regard it is clear that these will already be sent by the competent entity and also more than does not demonstrate the activity that PETROECUADOR carried out in this regard and more than anything, that it was done on time, as it has been well said, the operators complied with the provisions of the law. As for the official letters referring to the Ministry of Energy and Natural Resources, since they were not issued by an environmental authority, I am not going to refer to them. The requests of the Ombudsman's Office; In this hearing it has been said that the entities involved have never sent information, that they have not complied with the requests of the Ombudsman's Office, however it is clear that in the Memorandum MAE-MAE-352 of May 9, 2020, they are complying with the requests made by the Ombudsman's Office, then this evidence demonstrates how the respondent entities have complied with their obligation to submit the information that the Ombudsman's Office within its powers has requested us regarding the update of information annexed in demand reported through social networks from April 7 to May 22, evidence that is improper in an action for protection, because we cannot accept comments on Twitter, Screen of screens since we cannot even certify that they are the accounts of the entities, a presentation of OCP is not something that as Dr. Oyarte rightly said OCP has done, therefore, it is considered inadmissible, because it is based on a link on Twitter in information that lacks authenticity. Regarding the evidence of attorney María Lina Espinoza, in body 1 of the annexes, in the first place she points out some maps that do not establish the author, date, or anything of the sort, so they lack evidentiary value; As for the conclusions of annex 2 of the study of erosion in the Coca River prepared by the National Polytechnic School, it is a web page, without publication date, it is not a study, it is simply a publication that appears on the web page of the National Polytechnic School, it is not based on a study in the area that has a scientific endorsement; on the other hand, annex 3 of Hungry Water: Effects of Dams and Gravel Mining on River Channels, as Petroecuador and other entities have said, in addition to being a study conducted in 1997 which is not valid, it is not a study conducted in Ecuador and in the area, moreover we do not have the translation to be accurate; as for the press articles cited, they are simply not comments of

Date	Legal Proceedings
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As for the Sucumbíos radio interview with Daniela Alvarado and Cesar Andy, they belong to another community, therefore we do not know if the transcription is reliable, there is no signature of the author. Annex 7, again there is no author, source, signature of responsibility, I simply consider it inappropriate. Annex 8 impact of the April 7, 2020 spill on the diversity of the protected areas system of the Napo River basin, again there is no author, date, i.e. no authenticity. Annex 9 communities affected on the banks of the Coca and Napo River by the rupture of the Sote, OCP, Poliducto of April 7, its authenticity is also not verified since there is no signature, nor author: Annex 10 the statutes of CONFENAE and FECUNAIE, which shows that they can participate in this process, perhaps this should not even be considered, it should be considered in the issue of active legitimacy. Annex 11 which is the green alert, this is important, since we are referring to the environmental license that was granted to OCP in 2001 that is in force, which was for the construction of the pipeline, which today is in operations and has another environmental license, which will be reproduced as evidence in our favor that also speaks of the 2001 environmental plan, and its last environmental management plan is from 2014, Annex 12 which is the monitoring of April 8, 9, 13, 16 and 17, 2003, it refers to a report to a spill that happened in Pichincha in 2003. The letter from the Academy of Sciences of Ecuador, addressed to Minister Rene Ortiz, as the representative of this institution has said, it is clear that it is up to this authority to accept or not, the help of technicians, having in the same institutions technicians that work permanently in the institutions. Regarding Mrs. Lidia's evidence, she talks about some official letters No. MAE-MAE-2020- 0327-O referring to the urgent response regarding the SOTE oil spill in the province of Orellana, addressed to the National Director of the Mechanism for the Promotion and Advancement of People in a Situation of Human Mobility, that is, once again it is demonstrated that the Ministry of Environment was responding to the actions it has taken as my colleague has explained to all the institutions that requested it; Official Letter No. MAEMAE-2020-00329, addressed to the National Director of the Mechanism for the Promotion and Advancement of People in a Situation of Human Mobility, that is, once again it is demonstrated that the Ministry of Environment was responding to the actions it has taken, as my colleague has explained to all the institutions that requested it. MAEMAE-2020-00329-O which is addressed to the Ombudsman in attention to the official letter DP-DP-2020-0195-O of April 9, 2020 i.e. it further demonstrates that despite the fact that this is not an action of access to public information, the Ministry of Environment has been giving immediate response to all the entities that have requested it, as for the technical report No. 211-UCAO-DPAO-MAE-2020 signed by the Provincial Directorate of the Environment of Orellana, it is clear that the actions that have been taken with the communities themselves have been established, issuing this first technical report, which is made in accordance with current environmental legal regulations, which shows that the operators conducted overflights and made the approach with the communities to see who was affected, I do not understand what the affected parties are trying to prove, what is more, the only thing it shows is that the Ministry of the Environment made several observations to the operator, in order to comply with all the environmental regulations, which they have shown that they have complied with, which demonstrates the effective action of our institution. Finally, regarding the evidence of attorney Solís, he mentions again the same report that I have already referred to, and he also exposes several exhortations made by the Ombudsman's Office, one of those is the official letter No. DP-DP-2020-0195-O of April 9, 2020, which shows the response of the Ministry of the Environment, the plan, the planning of the remediation of the southern zone, demonstrates that we comply with the law, evidence that rather works in our favor. As for the testimonial evidence, it was more than evident that they were branded as impertinent and improper, since the technicians had supposedly never made studies of the area, in the spill accompanying the communities, so they could not speak of the conditions in which the communities are currently, they were simply acting in reference to studies made by other experts, never by them, so we mean that it was simply a collection of the bibliography that at some point they read and therefore they were branded as improper, even one of the witnesses of the community forgot when he had a meeting with the operating companies, where the only thing he requested was that they hire local labor, he forgot to tell him that they needed maybe a little water, more food, when from the minutes presented as our evidence it shows that he had meetings with the OCP and he never referred that he needed more water, and more food, the only thing he wanted was some type of economic compensation, such as hiring people from his community and which Petroecuador said that they already did. 7.8.- Ministry of Public Health, through Dr./Ab. Luis Marcelo Ocaña García in his capacity as Judicial Attorney of the Ministry of Public Health states: If we review Art. 88 and 33 of the Constitution we will come to the conclusion that the action of protection will have as its effect the direct and effective protection of the rights recognized in the Constitution and may be filed when there is a violation of constitutional rights in acts or omissions of any non-judicial public authority, the plaintiffs' claim as already mentioned is extensive, dispersed, confused and contradictory, It begins by referring to events of 1972, 2004, 2009 and when it refers to the events of April of this year, when it tries to justify and find grounds for the alleged omission of the State, it points out that the causes for the drying up of the waterfall would be associated with a phenomenon of regressive erosion; I would like to refer to what is called force majeure or fortuitous event, the unforeseen, which is not possible to resist, such as a shipwreck, an earthquake, acts of authority exercised by public officials, etc., in this way, the fortuitous event must be unimputable, that is to say that it comes from a cause entirely beyond the will of the parties, unpredictable, that is to say that it could not have been foreseen, within the ordinary calculations and irresistible, that it could not have been avoided, not even in the event of opposing it with the suitable defenses to achieve some objective, this is that the fortuitous event and the force majeure has two fundamental elements, the external fact and the inevitability, however both in the claim and at the time they practiced the test, it was affirmed a witness, who qualified himself as an expert and concluded that based on his scientific evidence that he did not develop it, and he could not explain it, limiting himself exclusively to say that this scientific evidence had been shared by his scientific colleagues, but he went so far as to affirm that the fortuitous event, that natural disasters can and should be

avoided, this conclusion, besides calling our attention, that without having the evidence, could be avoided.

However, throughout the lawsuit contradictory facts are mentioned, which on the contrary, it is evident that the plaintiffs themselves recognize the action taken by the State, I want to insist, that they did not manage to demonstrate the omission that the State or OCP would have incurred, as can be seen from the press releases of the scientists and witnesses who have appeared at this proceeding. One of the witnesses affirmed that their purpose is to vindicate the cause of the defense of nature, and did not provide a single element in favor of the action, and was unable to answer the cross-examination. The Ministry of Public Health, pursuant to the provisions of Arts. 33, 37, 359, 360, 362 and 366 is in charge of guaranteeing access to health for all the inhabitants of the country through a medical hospital infrastructure throughout the country, the zonal coordinator will technically explain how she provides these services and none of the parties entitled to bring the action, nor witnesses have been able to demonstrate or even accuse the Ministry of Public Health of having incurred in an omission or of having failed to provide health services; The complaint was the nonconformity to the health services in the worst health crisis facing the country, which before, during and after have not been and will not be neglected, for that there are three active districts that cover services for 130,000,000 people, so that there are three active districts that cover services for 130,000,000 people, in such a way that the Ministry of Public Health has not been able to prove that it has failed to provide health services. The Ministry of Public Health, as soon as it learned of this event, activated an integral health plan, which has been executed and will continue for at least 120 days, and this was also understood by Monsignor Adalberto Mendoza who recognized the effort made by the Ministry of Health in the midst of limitations and great threats to the health of the personnel, there is not a single evidence that the sectors have been neglected, however it has been said that we should have avoided the disaster of April 7 and on the other hand they question the remediation plan activated by OCP and the institutions of the public sector, On June 23, 2012, the Inter-American Court of Human Rights issued a sentence in the case of the Sarayaku indigenous peoples against Ecuador and in the pertinent part it formulated the following reasoning: "It is clear that a state cannot be forced to do the impossible: it is clear that a state cannot be responsible for any situation of risk to the right to life, taking into account the difficulties involved in the planning and adoption of public policies and operational choices that must be made based on priorities and resources, the positive obligations of the State must be interpreted in a way that does not impose an impossible or disproportionate burden on the authorities, for this positive obligation to arise it must be established that at the time of the facts the authorities knew or should have known of a situation of real and immediate risk to the life of an individual, This reasoning constitutes a true jurisprudence of the Inter-American Court and the lawyers that preceded me in the use of the word, in a documented manner, managed to demonstrate that they are not responsible for any omission and that on the contrary they acted with due diligence, to mitigate the consequences of this case of force majeure or fortuitous event, in the specific case of the Ministry of Public Health; They have all recognized the efforts in such a way that they have not been able to demonstrate, neither the omission, nor the action, therefore they have not channeled the present lawsuit in accordance with the Organic Law of Jurisdictional Guarantees and Constitutional Control, evidently what corresponds is to reject the present action for protection, will continue, as I have mentioned, to comply with its obligations because we are talking about constitutional obligations in the midst of a limitation derived from COVID 19, the inhabitants themselves have recognized that both children and adults received preferential treatment, we fully respect the disagreement, because we are also aware that the health services in any condition are insufficient, we do not want to hide that, nor can we hide the effort made by the State, and it cannot be forced to do the impossible, as the Inter-American Court of Human Rights has said, I reiterate the request that for all the allegations presented, this action for protection be rejected. With respect to the evidence presented by the legal defendants, none of these is mentioned to the Ministry of Public Health, only criticizing the non-conformity of the health service, which are respectable opinions but do not constitute evidence; I would like to request the intervention of Dr. Mercy Almeida, Zonal Coordinator 2 of the Ministry of Public Health, who will present the health plan executed and to be executed in order to have a better illustration. 7.9.- The State Attorney General's Office through Dr./Ab. Marco Antonio Proaño Durán: According to Articles 235 and 237 of the Constitution, the State Attorney General's Office is a technical legal body whose functions include the judicial representation and sponsorship of the State and its institutions, there is talk of several plaintiffs, when one of them subscribes it, in a hearing where they became witnesses and experts for the plaintiffs, in addition to the fact that they have wanted to transform this action of protection into an action of access to public information, it has gone from being something inspirational to something aspirational, Both the State and OCP, in which it has to be defined and resolved based on the evidence, whether or not there is a violation of constitutional rights, and therefore we cannot accept that there is a violation of constitutional rights with the simple invocation of a statement established in the constitutional norm, without the factual assumption that links the fact to the invoked norm, this does not constitute a violation of rights, as the plaintiffs erroneously pretend as the lawyers of the defendant have already said very well, there is Art. 40 of the Organic Law of Jurisdictional Guarantees and Constitutional Control, which clearly establishes the three requirements to file an action for protection, the first one, that there is a violation of constitutional rights, as we have stated, it is not only a matter of mentioning, invoking or enumerating several rights.

The allegedly violated constitutional rights must be proven, it must be defined how, when and where this alleged violation of rights has occurred and from the facts contained in the lawsuit that the plaintiffs have caused the alleged violation of the rights to health, to water, to sovereignty, to a healthy and ecologically balanced environment, to territory and to nature, but as has already been mentioned, where the plaintiffs have held the State and its institutions responsible for the fortuitous event and force majeure, which occurred on April 8, not on April 7 as they erroneously point out in their lawsuit, that is why this lawsuit is based on speculations and whimsical interpretations, regarding this unpredictable natural phenomenon, called progressive erosion, the jurisprudence when speaking of the fortuitous event or force majeure, speaks of two elements. The first one refers to an event or an unforeseeable fact, the debtor's ability to anticipate the damaging event that prevents the performance of the obligation. The second element, which is the constituent of the force majeure or fortuitous event, is that the fact must be irresistible, it is an unavoidable fact, i.e. the material insufficiency of the individual to prevent the production of a harmful event and that is what has happened, there is no doubt that this occurred due to an erosion, There is no doubt that this was caused by erosion, which is not the responsibility of the State entities and at this point the Constitution and infra-constitutional norms foresee that in the face of an unpredictable event like this, in order to protect the environment and nature, the State must adopt, as it has done, the measures to conserve, recover, remedy, any negative impact produced by these events as indicated in Arts. 14, 72, 313, 396 and 397 of the Constitution of the Republic, in addition the Organic Code of the Environment foresees determined actions to address this responsibility in Arts. 304 and following of the Organic Code of the Environment, as well as the COGEP indicates in its Arts. 10 and 38 the possibility of initiating this responsibility. 10 and 38 the possibility of initiating this type of actions with respect to nature, hence the exercise of their faculties of the obligations of the entities involved, which have demonstrated to have acted at all times in strict compliance with the constitutional and infra-constitutional norms, guaranteeing the rights of the plaintiffs and of all the inhabitants of the sector, For this it is enough to review the protocols of action in environmental matters, which have been activated by the Ministries of Environment, as well as the permanent supervision of the Ministry of Energy and everything that OCP has done and then what are the alleged violated rights such as health, water, food sovereignty, it has been alleged that the oil spill has produced effects on health, food, and territory, but at the same time it has been alleged that the oil spill has produced effects on health, food, and territory, but at the same time it has been alleged that the oil spill has produced effects on health, food, and territory, At the same time, it has been pointed out that immediately after the event, actions were taken by the defendants to attend to the crisis and provide medical attention, as it has been acknowledged in this hearing that there was provision of water and food, which makes the claim contradictory and undermines the alleged violation of the allegedly violated rights, Nevertheless, it is important to emphasize that care for the environment has been and is of vital importance for the State as public policy and has progressively issued regulations aimed at protecting the environment and the Organic Environmental Code, thus the Inter-American Court of Human Rights in its advisory opinion number 23 states the following: that these specific obligations of the States include the duties to regulate, supervise, oversee, require and approve environmental impact studies, establish a contingency plan and mitigate in cases of occurrence of environmental damage, which are obligations that have been fulfilled to the satisfaction of the Ecuadorian State, together with the principle of precaution and cooperation, by virtue of which the State has not incurred in any omission, otherwise, it would be leaving to the discretion of the plaintiffs' attorneys a power that is exclusive to the State, which could result in actions detrimental to nature, as stated in the lawsuit in points 209 and 210, The State attaches vital importance to the enjoyment of the highest possible level of health, which is one of the allegedly violated rights. Thus, the Constitutional Court has pointed out that the State's action in defense of rights is carried out through three guarantees, when the State refrains from carrying out any act that could undermine the rights through the guarantee of protection, when it guarantees the non-interference of third parties in the exercise of rights, without leaving aside the constitutional guarantees whose objective is to make the effectiveness of rights viable through the justiciability of these when they have been violated, this is an opinion of the Constitutional Court in sentence No. 2014-12-EP. 2014- 12-EP states that the state fulfills its role of guaranteeing universal access to the right to health and conditions of equity, taking special care of people in vulnerable situations and for this it is essential that the administration of justice and public and private entities avoid the denaturalization of these jurisdictional guarantees through the issuance of unenforceable judgments, in its jurisprudential line, the Constitutional Court has recognized the importance of the strategic sectors and natural resources, and it is unquestionable that the state has the control of the strategic sectors, a situation that contradicts the nature of this action of protection, it is necessary to remember what the Constitutional Court says in the sentence of case 1-20-CP with respect to legal certainty, consequently this Court sentences in a general way to raise a consultation with respect to the automatic cancellation of concessions granted by the State, entails a retroactive effect that being indeterminate affects the constitutional right of legal certainty, This is important to remember because it must be emphasized that they confuse and want to confuse the right to environmental consultation with the right to prior, free and informed consultation, as the lawsuit states in point 208, these are the contingency, mitigation, correction, remediation, restoration, follow-up and evaluation tasks that have been carried out by the legitimized facets. The second requirement of an action of protection according to Art. 40 is the action or omission of a public authority, here it must be emphasized that this action of protection is aimed at providing protection to people directly and effectively against acts or omissions of non-judicial public authority, so the above we must indicate that the work of a constitutional judge, is aimed at examining whether the actions of public entities and in these cases also of the OCP performed observance of the forms of each

The action seeks that contrary to the set of measures adopted by the State to protect the rights of the environment, nature and health, the principle of legal certainty is violated, and consequently this action of protection is denaturalized. The third element is the inexistence of other adequate and effective defense mechanisms, and it is necessary then to be clear that the constitutional judge is not called to resolve issues of mere legality, from what can be deduced in this case is that the jurisdictional guarantees are misused when it is intended to analyze issues of legality, susceptible of knowledge and resolution in ordinary proceedings, according to what is indicated in section 304 and following of the Organic Code of the Environment and sections 10 and 38 of the General Organic Code of Proceedings, by virtue of all this, section 42 of the Organic Law of Guarantees of the Environment, and section 42 of the Organic Law of the Protection of the Environment. 42 of the Organic Law of Jurisdictional Guarantees and Constitutional Control indicates the inadmissibility of the action of protection that does not proceed in this case according to numerals 1, 4 and 5 of Art. 42, numeral 1 when from the facts it is not clear that there is a violation of constitutional rights and absolutely nothing has been said, with respect to a reliable proof that the State entities and OCP have violated constitutional rights; numeral 4 when the administrative act can be challenged in judicial proceedings unless it is demonstrated that the proceedings are not adequate and effective and in this case there is the proceedings of Art. 304 and following of the Organic Code of the Environment and Arts. 10 and 38 of the COGEP and finally; number 5 when the claimant's pretension is the declaration of a right and this has happened, a declaration of a right has been requested in the present case, then finally the action for protection is inadmissible given that from what has been acted by the passive legitimized parties it has been verified that no constitutional right has been violated and that the claimants are obliged to demonstrate when, how and where the constitutional rights have allegedly been violated, beyond the mere speculations on which the present action for protection is based, since there is no technical, solid detail and evidentiary means that allow a logical, coherent, concordant and sufficient inference between the allegedly violated act and the norms that are allegedly violated, with these terms I request, in accordance with the Organic Law of Jurisdictional Guarantees and Constitutional Control, that at the end of the hearing, a decision be issued rejecting the present action for protection and declaring it inadmissible. 7.10.- The State Attorney General's Office through Dr./Ab. Alexandra Mogrovejo: The State institutions such as OCP have made specific references on the evidence provided by the plaintiffs, so we will only make the following comments, first we request that the challenges and observations made by the State institutions and OCP be accepted and this evidence be dismissed, because we are faced with evidence that does not meet the requirements set forth in Art. 161 of the COGEP on the usefulness, relevance and conductivity, we have heard that the entities that have provided maps, screenshots, links without being dematerialized, publications in social networks and the most serious studies conducted in other countries, languages and from previous years, to the event that has us in discussion of this protective action, the evidence in the protective actions has or enjoys certain informality, evidentiary value, which should comply with certain formalities, Therefore, we request that it be dismissed as requested by the entities and OCP. On the other hand, there is also within the evidence imputed by the plaintiffs, documents in which they basically request the entities involved, which demonstrate that the actions of the entities have been immediate in the face of the emergency of the spill occurred on April 8, 2020, due to the principle of community of evidence, we request that this evidence be accepted in favor of the State entities and OCP; regarding the witnesses we want to make the following reflection, the disagreement with the delivery of water, food kits and medical care does not constitute an omission of the entities involved, thus OCP on the contrary this particular only leads us to the conclusion that the entities executed the necessary actions before the emergency produced by the spill, we want this particular to be observed at the time of resolving that the plaintiffs issued their disagreement, they never said that they were not delivered, they simply said it was not enough, but there was delivery and there was an express recognition in that sense, for all the above we request in a global manner that the evidence that has been objected to be dismissed, by community of evidence, be accepted for the benefit of the State and prove that there is no violation of the alleged rights. EIGHTH. EVIDENCE OF THE DEFENDANTS: - 8.1.-Testimony of Luis Alberto Villacrés Carvajal: The reason for my intervention is to describe the actions that PETROECUADOR EP carried out together with the companies that operate in the area, until now and to indicate the reversibility of the physical-chemical activities of the water condition, after this force majeure event of the rupture of the 3 lines, it has to activate an emergency and contingency plan, it made the communications to the Ministry of Environment, it activated a series of inter-institutional agreements to attend this event, it carried out overflights and inspections in order to determine and evaluate in an initial way the affectation; I want to point out that this event due to the location, with a very large slope, very high, difficult to access and with unfavorable weather conditions, complicated the issue of making contingency at the point, I want to show you the image of the area where the spill occurred, the Reventador river and the pipes and position of the river, since 2011, after the event in the photograph there is an undermining at the mouth of the Reventador and Quijos rivers, since 1972 that the SOTE works 48 years ago no similar phenomenon of erosion has been registered and how you see in the photograph of 2011, about 10 years the area has maintained its stability, another important additional data that can help to understand the situation is the profile of the Quijos river in a stretch of 45 km, and the Coca from 40 to 45 kilometers changes its height more than 600 meters and with a high average flow of at least 300 meters per second, with a rainfall of approximately 10. With a high average flow of at least 300 meters per second, with rainfall of approximately 10,000 millimeters per year, Petroecuador immediately made the energy change, activated the environmental issue, activated the institutional cooperation between Petroecuador and OCP, made the initial assessment and prepared the initial emergency plan on

This plan was submitted and presented to the Ministry of the Environment, which made observations and was later approved. By having an approved emergency plan, the inter-institutional cooperation activities are reported daily to the authority, which made it possible to contract with 3 companies with the most experience in the country in spill situations, and also to obtain external advice from renowned institutions such as the National Spill Control School, the University of Texas at Corpus Christi, the USGS, which is from the American Geology Agency, NOAA, the NRT, which is the National Response Team, the highest authority in this type of emergency, The USGS, which is the American Geological Survey, the NOAA, the NRT, which is the National Response Team, the highest authority in emergencies of this type, overflights were carried out and several sites were identified which needed to be attended, but no large stains were identified which could be affected beyond the country's border; We have located communities and sites of attention as we call them from the beginning by means of an overflight, by means of a trip by river and accessibility by land we determined the points in which we had to attend jointly with OCP, and then we carried out the physical-chemical characterization to know where we started from and where we are going; An evidence of a scientific issue in which there are hypotheses is a test report from a laboratory that should be accredited, then we start from more permissible limit parameters established by the MAE and we want to get there because it is the objective, from the remediation to the reconstitution of the physical-chemical characteristics, especially the compliance with the maximum permissible established; I want to indicate that this situation is marked with a red circle, that there is a transition of the environmental regulation; The PPH is an indicator of hydrocarbons in soils, in the previous environmental regulation, but in this transition we have more demanding parameters, in the red circle of the following table is the issue of suspended solids, I put it in red because currently with the amount of sediments resulting from this event that could not be foreseen, which is a force majeure, the amount of sediments that the river has dragged and continues to drag is high, in this line here I want to show you the sites in which about 180 to 200 samples have been taken, which have been representative in all the sites, as you can see the points in green are one and another parameter that is within the limit, and the points in red would be exceeding it, also a biotic characterization was made in 2 senses to know what is the effect in the short, medium and long term, once a biotic characterization was made in 2 senses to know what is the effect in the short, medium and long term, once a biotic characterization was made in 2 senses to know what is the effect in the short, medium and long term, Once the remediation activities are completed, at the control points that were activated in an inter-company manner to try to address this contingency, the 360 to 380 km stretch of the river was divided into 3 parts, Central Zone, North Zone and South Zone, for remediation and logistical purposes to be able to establish a better activity, Each company was assigned a different section, the first section consists of 70 km, from the rupture site to Puerto Madero and continuing from this point to Puerto Providencia more or less 117 km, and the next from Providencia to Nuevo Rocafuerte border with Peru about 176 km, we have the images of the activities that are being done involving remediation, among these: cleaning and collection of weeds, treatment of waste which is collected and taken to treatment sites; washing of river banks, removal of hydrocarbon material where it is found; treatment of contaminated soil in situ; evaluation of contamination through laboratory monitoring of the current state of control parameters and when appropriate, conformation of the areas, data that so far there are 181 points of intervention and 80 pending, 51 already resolved, 36 in the process of attention; 14 points that have been considered due to natural characterization and difficulty of access due to the risk involved, in total it could be said that the progress of the remediation work is close to 30%, however it could vary because in the route there are sites that deserve to be considered due to the accumulated debris, there are already about 100 tons of vegetal material that has been collected, we have about 600 people working, 551 are directly from the affected community, that is to say that we have foreseen an option for the community which is collaborating with us, we have also performed 682 COVID tests, In the following tables the division by company and section of the points attended and the resources implemented, we have the images of the remediation activities, collection of weeds, washing of stones, indicating or making parenthesis of the resources implemented, and we have the images of the remediation activities, collection of weeds, washing of stones, indicating or bracketing that no chemical dispersants are being used in the washing of stones, or banks, to safeguard the ecosystem and I also want to finally draw attention to the issue of what would be a reversibility of conditions, physical-chemical conditions are the basis for the regression of biotic conditions and I bring up the activities or results of the year 2013, that a similar event occurred, monitoring was established and the results are the sampling carried out by the LABSU Laboratory, Vicariate of Aguarico, which as an external entity was recommended by the COE at that time, these analyses determined that approximately 2 months after the event, in practice all the samples were within the parameters, Similarly, through external laboratories, the water catchment of the Coca river was monitored every 2 hours for the city of Orellana, and we know that later the catchment was changed to the Payamino river with the collaboration of Petroecuador, OCP, and Petroamazonas and obviously the results of the catchment after 2 months of the event, were within parameters, then as a conclusion basically it has been that Petroecuador in company of the companies with which it has been possible to establish cooperation agreements have intervened through an emergency contingency plan, The Ministry of the Environment has been in continuous conversation and approval, overflights have been carried out, characterization, and we want to reach a remediation that complies with the parameters required by law and finally I am confident that the site can be reconstituted, from the aggressiveness of the possible current state to the parameters of compliance with the normal environmental standards. To Petroecuador's questions through Dr./Ab. Geovanny Pontón Silva: what was the water quality of the Coca River and Napo River prior to the April 7 spill R. The water quality is characteristic of these types of rivers, the Coca River and Quijos River sections have a high conductivity due to the fact that they hit rocks and the Napo River, being of more jungle origin, has a high organic load.

Q. According to your expertise, do you consider that after the remediation the Coca and Napo rivers will return to their previous state after the spill? A. As I had explained with laboratory results in a previous experience, they returned to those parameters and this time I believe that they will return to those parameters. Questions from Dr./Ab. Sylvia Fernanda Bonilla Bolaños: If you know or know the definition of force majeure R. Of course it is established in the Civil Code, it is when an event cannot be stopped, for example an earthquake, a fire; If you know what measures were taken from February 2 of the collapse of the San Rafael waterfall until April 7, as preventive measures R. My intervention refers to the facts from the moment of the spill and physical-chemical; You have made reference to the remediation actions that have been taken in the face of the oil spill of April 7, do you know how long these remediation actions will take, up to now there is an advance of 27 to 28%, if we mathematically transfer this elapsed time, we could have the answer, however it is something physical-chemical-biological, which also has to do with the communities; If you know at what moment the river water stopped having quality, at the moment when a laboratory analysis reflected in a report determines that its parameters are not complying with a specific use of the water; Do you know the date of these studies. The sampling, as I indicated to know where we start from and where we want to go, carried out in the first week after the sampling event. What event are you referring to when you mention that tests were taken, In the presentation I mentioned the 2 events that laboratory tests were taken and demonstrated that the water quality can be reconstituted on an initial and on a target basis. To clarify the date of these 2 events, the first one occurred in 2013 on March 30 and the second one on May 7 of this year; Witness clarifications: You make reference that we talk about the water system, biodiversity of the sector of the spill that is going to return to reach its optimum level, that I want you to clarify and explain, in the presentation I referred the same among other things to 2 specific issues, the one issue has to do with water quality, it has been demonstrated and it is my experience in issues of environmental monitoring of water, that the river water would return to its initial characteristic, because there has already been evidence that this happens, the river is a system that renews the water that runs; the other issue in the biotic part that I referred to is that apart from making the characterization, that is, the part from where we start with the physical-chemical part, we have to make a biotic characterization, in two ways, the first one through indicator species because obviously we cannot make a global and complete study, we use indicator species that are susceptible to altering their community or their population number, In function of the effect then a study is being made to determine the short term impact, that is to say which species are or may be impacted and then obviously as in the case of water, when one says it is clean, the authority will come and order a sampling in the same way in the biotic part, a characterization will be made to see in the time lapse of the remediation how the species have reacted, that is what I was referring to. You mentioned an event referring to the central issue of the protection action on the pipeline rupture, about that event you are talking about for this remediation that Petroecuador is carrying out, Yes, perhaps it was just confusion because I brought up another event in 2013 which promoted a regeneration of the quality that existed, but of course I am referring in these last comments to the current event of the oil spill. Can you indicate what has been done so far by the company in which you work, if as I had mentioned based on interagency agreements with OCP after the initial assessment, ie the characterization of an overflight, first it was determined that focal points need more attention, An inventory of 220 points was made, through the agreement 3 remediation companies were hired, the most experienced in the country, such as Corena, Arcoil, Pecs, which even won the blue planet award for its remediation in Josefina, when the sediments that covered the dam at that time were released, Corena, an international company with high standards, was divided into 3 sections of 360 km, divided according to its geography into sections A, B, C, North, Central and South, Petroecuador and OCP are directly supervising the work together with a company that does the inspection, there are other additional companies that do, for example, the biotic characterization in charge of Carno entris and another the social part, So all the resources are involved in trying to deal with this event and achieve remediation, also more than 80% of the labor force is from the Kichwa Napo Runa community that lives along the riverbanks; Also the issue of industrial safety standards are being taken in the most serious and committed way to achieve the objective of remediation, which is to return to the characteristics required by the Ministry of Environment. Questions from Dr./Ab. Pablo Estenio Fajardo Mendoza; Do you know the difference between environmental restoration and environmental remediation, they are two totally different things depending on the level; Q. In all your lecture you talked about environmental remediation? A. That is right; Q. Do you know that some hydrocarbon compounds or components are heavier than water? A. Oil has more than 20,000 compounds; Q. Tell me yes or no, if you know that there are heavy elements that are heavier than water? A. No, heavy metals are not heavier than water, they are called heavy metals because of their atomic weight, they are not heavier than water; Q. Are there elements that obviously weigh more than water, do you or do you not know that? A. Oil has several types of compounds, light compounds that evaporate in the first 4 hours, compounds that could precipitate depending on the weathering that they can produce; Q.

Do you know or do you not know that there are compounds of hydrocarbons that go or not to the sediment of rivers, estuaries or marshes? A. The hydrocarbon when oil is released, when it is released in the first 4 to 6 hours its most volatile components evaporate and are lost, this volatilization or evaporation process is part of a larger process called weathering or meteorization, from the first release everything is a process that works depending on the areas of the conditions that may exist, for example, if there is a hot sun, a sun that may cause a greater evaporation, then there will be a greater evaporation, for example, if there is a hot sun, a sun that may cause a greater evaporation, then there will be a greater evaporation of the hydrocarbon.

evaporation, if there is a large amount of organic matter in a river that oil will tend to stick to that organic matter, if for example there is a lot of turbulence, then that oil will tend to form some kind of emulsion, In the same way, once the light part of the oil evaporates, it is possible that the heavier components remain and it is possible that those components may reach a sediment, it is possible, however I remark the following as the oil becomes weathered, the toxicity of the tanker decreases, that is to say, the lighter components and those that are lost first are susceptible to evaporate and then they are the most susceptible to bioremediation and then we have the heavier compounds whose solubility in water and therefore a possible bioavailability is practically null, therefore it is possible that certain compounds may reach the sediment by dragging by sedimentation because it is a natural phenomenon, however the toxicity as the lighter compounds are lost, and the heavier compounds decrease; P. When there is the emulsion, this emulsion let's say between sediment or mud and oil, that makes the remediation or restoration much more complex, tell me yes or no? R. No, an emulsion breaks and is formed in different ways, the easiest emulsion is the one produced between oil and water, that emulsion could be formed by the same tapping of the water, but obviously the difference in viscosity and density between the 2 compounds when the compounds that are more soluble and retain less vapor evaporate, that same difference in density causes them to separate again, that is the principle that for example one uses in water treatments when using aqueous mixtures, which with oil are called tank bottoms for example, it is simply based on the rest in adding an emulsifying agent achieving that there are two layers, the hydrocarbon layer is recovered and then the water is treated; P. Yes, but I was referring to the emulsion of the oil with the sediment, not with the water? A. Already with the sediment an emulsion is not formed, what happens is that the solid in suspension that is in the water column especially if it is clay, generally when it is clay it has a wide capacity that is called absorption surface, that is why clay is even used to absorb compounds for water treatment that clay has an absorption capacity, then it tends to stick with hydrocarbons this in a given moment obviously depending on the areas and conditions could tilt and could fall downstream.

8.2.-Testimony of Bolivar Javier Plúas Ortega: The actions that have been carried out community relations with Petroecuador jointly with the company OCP Ecuador within the actions carried out has been precisely to coordinate between the 2 companies to attend in this case in the Social issue on the event occurred on April 7, is so OCP, Petroecuador, in some way maintained communication approach with different institutions, also GADS, political headquarters, These institutions also coordinated activities to meet some of the needs of the communities. Thus, OCP and Petroecuador allocated resources to address this emergency, including the purchase of water, food kits and medical care in different communities, which are on the banks of the Coca and Napo rivers, including the delivery of water, currently, as of May 15, 820,000 liters of water have been delivered. It is important to mention that part of the coordination with the communities has been mainly the community leaders and also institutions or organizations in this case the organization that initially worked with us for the coordination of the water deliveries, In this case, the president of the Fecunaie, Mr. Carlos Jipa, was or is the president of the Fecunaie, within these activities it has always been done in coordination mainly with the local communities in this case, the presidents of the parish GADS and the Government, also with the leaders of each of the communities, to start and try to optimize the remediation work was done with the leaders of the communities in this way they have been able to provide a list of the people who in some way in community consensus have been able to provide a list of people, That is the summary of the activities that we, as Petroecuador and OCP, have carried out in the social area to attend to the emergency that occurred on April 7, Those have been the reasons that have limited the companies to have a direct approach with the communities, thus limiting our work and our activities, both meetings and deliveries, which in general have always been made to the leaders or presidents of the GADS so that they in turn make the respective deliveries to each of the families in each community, that is a summary of the activities that we have carried out jointly with OCP and Petroecuador.

Questions from Petroecuador through Dr./Ab. Geovanny Pontón Silva: Q. Based on what you tell me was that Covid has affected the communities to whom the kits have been delivered? A. Actually the delivery of kits has made the delivery difficult, but that does not mean that they have not been delivered, what has been done in this case is to carry out through the representatives, in this case the presidents of the parish GADS together with the local authorities such as personnel from the Governor's Office, political lieutenants and in this case the leader of the community, where it has not been possible to go directly to the community, in this case it has been delivered to the president of the parish council. Could you tell us then if there has been coordination or not in the different parish GADS guaranteeing the community? A. Yes indeed, all the deliveries have been coordinated with the presidents of the parish GADS, because they as authority know the inhabitants of the parish, and moreover they have provided us with information in relation in this case to the existing families in the communities.

Do they deliver the number of kits, where do they get the data of the number of families? A. In this case based on information provided by leaders and presidents of the parish GADS; Questions from Dr./Ab. Ana Cristina Vera Sánchez: Q. Can you name the communities to which the aids you mentioned have been delivered? A. I do not have the list because there are several communities but I can name the ones I remember if you wish; Q. Please, the ones you remember? R. We started with the sector of Gonzalo Pizarro, commune of Dashino, Panduyacu, which has several sectors as smaller communities, commune San Salvador, Puerto Madero, Sardinias, San Pablo, San Pablo Norte and Sur, we have the parish Guayusa with several communities such as Lumucha, San Pedro del Río Coca, Minas de Huataraco, Asociación Juntos Lucharemos, From Coca down the Napo River we have Amaran Mesa, Indillama, El Edén, Sani Isla, San Roque, Pañacocha, we have several from the Aguarico canton, which in some way have not been able to enter directly, but we have still delivered food kits, these are the ones I have in mind, but we have a higher number than what I have indicated here; P. Could you indicate approximately how many communities since you do not remember the names of all of them? A. The exact number I could not tell you at this moment; Q. Can you tell us what was the content of these kits? R. The contents of the kits are basically according to the characteristics of the kits delivered by the Ministry of Economic and Social Inclusion, which basically have rice, lentils or beans, noodles, tuna, sardines, sugar, salt, that is what I remember in the ones we have and even in the initial part of these, and we are already training for the second time, we are increasing the delivery of antibacterial gel due to the fact that the people in the communities asked us to include soaps due to the sanitary emergency, these things have been requested by the communities and this is currently being done, I can indicate that the kits that are being delivered contain these products, soaps, antibacterial gel; P. Can you specify the amount of food that each kit contained? A. Well, each kit usually contains 8 pounds of rice, two bags of noodles, a kilo of sugar I think, and also a sardine, and in many occasions there was a tuna fish kit; Q. How often is this kit delivered to the community? A. It is planned as a minimum and an average of every 15 days, logically this sometimes depends on the situation of the suppliers, we must also understand the economic issue, it is also an important part here and even of the suppliers, they do not have all the products, something important also in this issue we as OCP and Petroecuador are acquiring these food kits, in the communities where they have stores and this case is boosting the economy in several of the cantons and parishes; Q. Can you tell us how many times you have delivered the kit per family during all this time since April 7? A. We are currently carrying out the second delivery in the sector of Orellana and we are doing it in the course of these days we will continue along the waterway; Q. Was the content of this kit defined jointly with the communities? A. Well, initially it was not done and it was done basically, because of the emergency we have not had the opportunity to meet with the community, to have the opportunity to have those ideas from the community and there have not been those occasions as before because of the sanitary emergency, unfortunately it limits us to be able to meet and suddenly ideas arise from the communities and to be able to carry it out as it is estimated. Questions from Dr./Ab. Lina María Espinosa Villegas: Q. Could you please inform me what are the responsibilities of your position, your functions? A. Among my functions is the coordination activity in the area here in the East; Q. Can you detail what are the actions that you coordinate? A. In this case, agreements, social compensation, attention to communities, these are the main ones. Questions from Dr./Ab. Michelle Alexandra Erazo Cárdenas: Q. You have referred that you have made an approach with the GADS, what date was that first approach? A. The first contact was made on April 7 with the Municipal Government of Orellana; Q. You have mentioned that this team works with indigenous communities, how many people in your team speak the Kichwa language? A. None; Q. What was the date of the first visit to indigenous communities? A. Since the 8th the visits were made to the different communities, river areas in this case of the Coca and Napo rivers; Q. Was it informed that these communities would not be able to consume water? A. Within the approach is that it has been done mainly with the presidents of the municipal or parochial GADS, they already knew in this case of the event and that logically they could not use the water; Q. Do you know how many people have been treated in the communities in terms of health? A. I do not have the exact data but as of May 15 there were approximately 1910 attendances to the inhabitants and they have been attended. 8.3.-Testimony of Eng. Llumiquinga Revelo Rodrigo Efrén: Within the activities that I am responsible for, which is precisely to maintain the operation of the pipeline, as far as maintenance is concerned, the support, part of the health of the pipe, let's say so, for this we have a contingent such as the Army Corps of Engineers, among them a team is made to carry out the activities of the route of what is effectively repairs if we have any problem with the normal development of the operation, In addition to this contingent of the Army Corps of Engineers, we have a tool to know in what state the pipeline is in the internal part, that is an operation of technical inspection of the pipe, in which an inspection is made with ultrasounds and it is determined the zones where we can have some internal or external problem if it is the case, if there is any natural problem that could put the pipeline at risk, with the equipment we identify it in a timely manner and we assemble the equipment to go and solve the problem, as I was saying we have an ultrasound operation, we determine the sites of internal or external correction that may be required, I am telling you all this because the activities that we perform in this type of maintenance of the right of way, So for the event of April 7 we had already made tours prior to the event, as we always do maintenance we always make maintenance tours with the personnel to determine specific areas that may have affected the pipeline, and that is why we had gone through the sector on April 3, notwithstanding we already knew about it from the

event occurred in February, due to the waterfall, but this event is more or less 2 km away from the right of way shared by OCP, Poliducto and Sote, in this sector the accesses are by trail through walks, there is no access by car, and when maintenance is needed, a lot of equipment is provided, in order to lower them with cables and winches, and it is a complicated operation, then we have knowledge about it and by information from neighboring people who also told us that there were problems, that the erosion problem was advancing, We went down to verify the matter and determined that the risk was not for the pipes, but obviously due to the geological level we cannot know the speed of erosion that the phenomenon could reach, that will depend practically on the resistance of the soil and to find areas of high volcanic resistance that could support the river bed, so we cannot foresee that, we can not foresee it, so we went down we made an inspection and the pipe was not at any risk, we informed the Chief of Maintenance of the Eastern Sector, the engineer Castillo and through him to the Superintendence, of which they put together an overflight of the pipe, and we informed them that the erosion was advancing, we informed the Chief of Maintenance of the Eastern Sector, the engineer Castillo and through him to the Superintendence, These are the immediate actions that we carried out since April 5, in the middle of the sanitary emergency, and it took a little time to assemble the team, since the people were in quarantine, and could not move anywhere due to the emergency, we did the inspection, we reported the news and the equipment was assembled and the inspection planned for Wednesday, April 8, an overflight with the physical security people, obviously all this in coordination with our authorities and the Maintenance Chief and also the Maintenance Superintendence, on April 7 in the morning we had an emergency in the area of sector 152, that is further ahead of Chaco, there was also a landslide due to the high rainfall that had occurred, we went and attended and made a tour of the area and determined that there was no damage to the pipeline, In the afternoon we were notified over the radio that there was a problem, the suction of station 3 had dropped abruptly, through my boss I was informed and we went to verify this event, also in the evening and at 19:25 pm, we assembled the equipment and we went to the station:25 pm, we armed the equipment since the people were at home, and once we did that we went out to the site, to determine the event, as I was saying, to reach the site at km. 74, we have as a reference that we have to go down on foot, because it is by the trail, because there is no access, and given the circumstances of the weather, that it was raining and the night, however we went down to see if we could see anything, and determine the event, going to see that implies a very big risk because we heard the sound of the landslides and we did not know in which direction they were, however something, something that we could observe is that the pipe had already collapsed, so due to the high risk of the night, the rain and the landslide that could cause a major accident, with the people who were there we immediately left the site to inform the corresponding people about the situation, at that moment it cannot be determined that machinery should be lowered, At that moment we could not determine that we should lower the machinery, the personnel or do something else, because, and more people because it implies a lot of risk because one cannot determine, and because the direction can be lowered, if we did that action we would have put at risk the lives of the people who were there, and of the equipment as well and for nothing because the event was already there and it cannot be fixed from one moment to the next, The next day we went down to determine the magnitude of the problem and we observed that there were ruptures at least 50 meters deep in the river.

NINTH.- ALLEGATIONS OF THE PLAINTIFFS. 9.1.- Dr./Ab Sylvia Fernanda Bonilla Bolaños: To begin with, I am going to make reference to a comment that the company does not have to prove anything, however, I would like to open this exposition by stating who has to prove within a constitutional trial; Article 16 of the Organic Law of Jurisdictional Guarantees and Constitutional Control is very clear when referring that the facts of the claim are presumed to be true when the defendant entity does not prove the contrary or does not provide the requested information, then the burden of proof falls on the plaintiff and therefore the responsibility of proving the facts alleged when it is a matter of constitutional justice, This burden of proof is reversed for state entities that are defendants, but when the defendants are individuals as in the case of OCP, the facts are presumed to be true when they are discrimination or violations of the rights of the environment and nature. In this sense it is important to say that also when referring to environmental damages, article 396 of the Constitution has said that in case of doubt about the environmental impact or when there is not enough scientific evidence to determine the damage, the State, in this case its institutions have to generate effective and opportune protective measures, this means that the responsibility for environmental damages is objective, therefore any damage to the environment and the consequences derived from the damage to the environment, besides having the corresponding sanctions implies an obligation to restore, but this also implies that the proof is inverted within the constitutional processes, because it is a previous rule, it is a clear and public rule that is established as a general rule in the performance of judicial processes and that obliges it not to issue anticipated comments as it has done. I only want to leave two sentences No. 299-15-SEP-CC of September 9, 2015, where the reversal of the evidentiary burden is very evident and sentence 234-18-SEP-CC of June 27, 2018, when in addition the Constitutional Court makes fall into account that due to the constitutional transcendence that implies the violations of the rights of the environment and nature immediate action is needed, therefore effective facts and protection guardianship. I would like to refer to a second point, which is, what is the difference between the taking of evidence and the evaluation of evidence and why it is important to distinguish this, because the taking of evidence is related to the sound criticism of the judge and the operators of justice, while the taking of evidence has to do with the right to defense and therefore has to do with the manner in which it was taken, if it is unconstitutional or impertinent evidence, but with respect to the evaluation of evidence, article 14 of the Organic Law of Jurisdictional Guarantees and Control of the Judiciary and the Judges of the Supreme Court of Justice, states that it is important to distinguish between the two, because the taking of evidence has to do with the right to defense and therefore has to do with the manner in which it was taken, if it is unconstitutional or impertinent evidence, and the evaluation of evidence.

Constitutional Law, clearly establishes that the hearing can only end when the judge forms a criterion that determines if there is a violation of rights, only then can the hearing end, linking the sound criticism to the formation of the criterion of the constitutional judge. In respect to the principle of contradiction, all the evidentiary elements that are collected and incorporated in the process must respect these basic guarantees established in the Constitution. In order to guarantee the principle of contradiction, there is also the principle of immediacy, by which the procedural parties are in equal conditions to present the necessary elements to provide the judge with sufficient information to resolve the case. This is the basis of the right to defense as a guarantee of due process and it is not only a right that must be respected by the players only, but it is an effective means of due process and access to justice that must be applied in a mandatory manner and that moves the judge away from this simple subjectivity of evaluating the evidence, but also drives him to constitute a basic rule of judicial procedure. On the right to defense, the Constitutional Court has already said that this is a fundamental principle of procedural equality, hence it corresponds to the authorities to guarantee the exercise in balance of the parties within a litigation, I make this clear because in the evidence that has been sent evidence contained in opposition not only to its mandate, not only to the order of June 4, but also to the principles of contradiction, to the defense, to the moment that has allowed us to act as proof of what has happened in these two months that the constitutional justice has not worked, it has violated our rights to defend and to sustain arguments in an adequate manner through the official means of proof and doctrinally speaking one of the axes of the procedural rights is the equality of the parties before the law, even more so in the case of constitutional justice. Therefore, in the course of the process the parties must enjoy equal opportunities for their defense, this is equivalent to the equality of the parties before the law, since we understand that there are subjective and objective procedural rights of the parties and not only that, but the right to defense obliges the State to treat the individual as a true subject of the process and not only as a procedural object, Let us remember that we are deciding on the life of the communities, peoples, indigenous populations, life of nature, therefore as a subject of rights he has the right to intervene in the process, from these principles of procedural equality as guarantees of due process. This sound criticism for you to form criteria and the way this evidence should be evaluated has to have as a purpose the impartiality of the operators of justice, which means that the people who judge can have a role of guarantors of the rights between parties in conflict or when it is even more about violations of rights and therefore the rules, the preprocedural practices, all must be designed to allow the judge to keep this role of guarantor. Constitutional justice acts as a guarantor only against institutions that have violated rights, justice is allowed to correct those violations and order the reparation and restoration of their rights that have been violated, therefore, its duty is to guarantee them and the breach of this duty entails national and international responsibilities. I only give an example, how the entities involved have acted inadequately, erroneously and even in bad faith, it is understood that as part of the emerging plan of the entities involved they have to hire workers that are part of the communities for the remediation plans and beyond two or three minutes that refer to agreements with the communities to hire people, not all the work contracts of the people have been attached, this implies that within a violation of rights there may be several and multiple violations of rights. Therefore, it is up to you to judge not only the evidence that is in the process and not that which has been omitted erroneously and in bad faith. Of all those facts that have not been proven by the defendant entities because it was their obligation to prove that there are no violations of rights and the responsibility not only of the State institutions, but also the responsibility of the companies, in this case of the workers, it is also your obligation to declare the violation of all the other rights that have also been violated in the present case. 9.2.- Dr./Ab Lina María Espinosa Villegas: All the facts that we have incorporated in the lawsuit are presumed and that it is up to the defendant entities to demonstrate that they are not so, those facts are violations to life in terms of life with dignity, water, food, health, environment and nature, but also in a fundamental and transversal manner we have referred to the fact that these events cannot be catalogued as fortuitous or force majeure, because they were duly predictable and avoidable events, therefore it constitutes an omission, both of the State and of the oil operators, not to have acted in a timely manner and therefore to have favored or not avoided the violation of rights. The evidence that has been presented is mostly erroneous and acted in bad faith, because it does not succeed in any way to show that these rights have not been violated, I will allow myself to refer to some of this evidence, insisting that the amount of documentation does not imply neither quality, nor sufficient and necessary inputs, it would seem that the amount of information is simply an intention to flood the process, I insist with sterile and unnecessary evidence. Regarding the evidence of the State Attorney General's Office, two documents presented, both impertinent or useless, one on the Huaorani nationality, which is a document that refers to a proceeding of precautionary measures that was filed in another court for which there is a firm sentence of communities that are not affected or agreed by this spill, and that does not contribute at all. Two, a document, a protocol that has been elaborated for the delivery of minimum food in risk situations that has not been elaborated specifically for this eventuality and that demonstrates that it does not have a single component of nutritional relevance, nor of cultural relevance, nor does it adjust to the needs nor to the standards that we have demonstrated in the lawsuit that have been violated in the lawsuit against the communities and nationalities. The evidence of the Ministry of Public Health, extemporaneous and impertinent, the only thing it shows is a series of activities carried out by the health activities to provide primary health care that does not refer to specific attention of affectations derived

The evidence provided by the Ministry of Resources simply refers to the minutes of the four documents that refer to the installation of a meeting that was held with the Environment of Orellana, which reminds the defendants of several obligations that to date have not been fulfilled by the Ministry of Resources, which is simply a record of the four documents that refers to the installation of a meeting that was held with the Environment of Orellana, which reminds the defendants of several obligations that to date have been fulfilled by the Ministry of Resources. The evidence provided by the Ministry of Resources is simply a record of the four documents that refers to the installation of a meeting held with the Environment of Orellana that reminds the defendants of several obligations that up to April 11 had not been fulfilled and that would have to do with the contingency plans, Among them, that on that day a number of affected people had not been identified in order to develop humanitarian and emergency attention plans, which shows that to date there is no census and a socio-environmental baseline that could show the number of people affected, nor the comprehensiveness of the State's response. Regarding the evidence provided by OCP number 3 annex 11, which refers to a labor inspection report and in the relevant part indicates that since at least April 5 the regressive process and the instability of the margins has already been evidenced by the OCP inspectors and measures were already recommended, Among them the temporary suspension of the pipeline operation, evidently measures that were not considered because the suspensions took place on April 7, which is demonstrated by their own reports, since this was a foreseeable act that could have been avoided and it was not. First, the environmental license of OCP and Petroecuador, which was before the Organic Environmental Code, obliges them to permanently update their emergency or contingency plans, plans that were not updated on April 7, so the plan is made after the events occurred and therefore the contingency is untimely and insufficient. In addition to this plan, corrective elements should have been considered, the only corrective element contemplated is the change of the pipeline route variant, however there are no elements that foresee risks or timely attention to the communities, nor is the community included in the environmental monitoring processes and neither is what OCP and Petroecuador are doing included, annexes that are fundamental at the time of understanding and analyzing the evidence, for example, laboratory analyses are not included, baseline guidelines are not included, socio-environmental baselines are not included, so that the evidence becomes an endless number of documents that the entities involved send to the operators and that the operators answer, denying us the possibility of comprehensively contradicting the evidence. I also refer to evidence number 10 of Petroecuador which is also a report of the event up to April 30, that report recognizes that food kits have not been delivered, that is to say that for at least 23 days the communities were forced to remain without any type of support and food assistance that would guarantee their vital minimums and from that day on there are no clear reports of the deliveries, beyond the number of kits, it is not established if they were delivered in an efficient manner, It is also not possible to establish the quality of the kits, given that in some minutes the communities were obliged to deliver kits of up to 20 dollars and others of up to 10 dollars, without detailing their contents, evidently understanding that a family of at least five to seven people cannot survive long periods of time with 20 dollars of food supply, even less so when their main source of protein is severely affected and they cannot have it. Likewise, this report does not include environmental and social baselines with which it is impossible to know what the situation of the communities was prior to the occurrence of the spill and what their situation should be after the alleged remediation and repair activities. I also refer to Exhibit 18 of Petroecuador that speaks of the containment activities, being clear that these activities began on April 8, being clear also that they are also directed in a fundamental way to warn the mayor of El Coca about the non-collection of river water, that is to say that there is a discrimination against the indigenous population which is not warned and not informed, there is not a single evidence along the useless attached pages, It can be shown that the community was not alerted neither on April 7 nor in subsequent events because on June 18 and June 23 there were two other events of presence of crude oil and fuel that were not warned, nor contained, nor mitigated until today, all the events that continue to put the infrastructure at risk and that are duly recognized by OCP and Petroecuador are not being informed or alerted either. The extensive amount of documents that have been provided are useless, because none of them can prove that no rights have been violated and on the contrary, the few that are useful, are useful in our favor to demonstrate that the only thing that has happened since April 7 is that there has been a sum of disconcerted, uncoordinated, impertinent and useless activities and that the risk to life persists and it is your obligation to declare and protect it. Dr./Ab Verónica Potes: Nothing presented by the operators, control entities, Ministry of the Environment, does not show what they should, nor what they could do to prevent the spill from reaching the rivers, they insist on events of force majeure, which makes that with that phrase they confuse three moments that it is essential to distinguish in this case. The three cases in this situation are: a landslide, the rupture of pipes that causes this landslide and the spill that occurs after the rupture of the pipes, because the pipes were not empty and these distinctions of the three moments are indispensable. There is a landslide and there is a sinkhole at the confluence of the Reventador river with the Coca river, caused by the regressive erosion of the Coca river, which broke the Sote and the pipeline pipes and that rupture ended in the spill of the contents of those pipes which are crude oil in the case of the Sote and base gasoline in the case of the pipeline, all this happened in the span of 5 hours, It is important to say because OCP insists that it happened on the 8th and not on the 7th, but this happened within 5 hours between one event and the others, because according to OCP its spill occurred 30 minutes after the 8th, in any case the polyduct and the Sote lose 100 meters of pipeline, the Sote loses 7000 barrels of its content which is crude oil, the polyduct loses 7000 barrels of its content which is crude oil, the Sote loses 7000 barrels of its content which is crude oil, the polyduct loses 100 meters of pipeline, the Sote loses 7000 barrels of its content which is crude oil.

1,245 around base gasoline, OCP loses 160 m of pipeline and 8,900 barrels, that is recognized in Petroecuador's consolidated report of April 7 which is Petroecuador's Exhibit 10, paragraph 1.2. In the emerging OCP plan of April 2020 that is submitted by MAE, as Exhibit 21 this is on page 19. The story of the spill does not start on April 7 with the first broken pipeline, it starts on February 2, even earlier according to experts say when the San Rafael waterfall collapses, a kilometer and a half downstream by then the risks of all the bills including these three pipes become evident. By March the erosion was not only a kilometer and a half away but 700 m from the place where the other pipelines spilled on the 7th, in an area that under regular circumstances is already known to have a high incidence of landslides and landslides that could break the pipes, Those pipes could end up broken and would cause a spill and that is the first thing we want to highlight. Did the operators and the control entities and the entities that could have known what was going to happen and what a spill could cause the rupture of the pipes with respect to those spills? The answer is no, neither Petroecuador nor OCP did, neither did the Ministry of Energy nor the Ministry of the Environment, which had the obligation to control something that was known to be happening. Petroecuador and OCP had the obligation to prepare a special contingency plan to deal with this problem and this particular risk, so that in the event that there was a rupture that was very likely to occur, it would not end in a spill. Are there or are there not measures to prevent the rupture from ending in a spill? Yes there are, that is why we insisted that the spill was avoidable, even if the landslide was not, because it was due to the erosion of the river. What can be done? We can put trays, we can have drainage pools or what happens when nothing can be done, we close the valves and drain the contents in such a way that if the pipes break, what falls into the environment are only empty pipes. If that day empty pipes had fallen without anything we would not be here, Petroecuador and OCP did nothing to avoid the spill that could occur and that they knew would occur if they did not take the necessary measures in the face of the phenomenon of regressive erosion that announced these landslides, the Ministry of Environment and the Ministry of Energy did not take seriously the obligation to control and did not demand at the time, that is to say in the 65 days between the fall of San Rafael and the spill of April 7, they did nothing to tell you gentlemen of Petroecuador and OCP do not have a contingency plan, then at this moment they close my pipes, they drain my pipes and you will see what you do, because we cannot have nature and the people downstream at this risk, not only did they not have that plan, they all acted with negligence as their own evidence shows, on April 6 a park ranger of the Cayambe Coca park, warned of the landslides near the area that endangered the pipes. In the document in Exhibit 37.3, which is document MAE-DNSA-202-00612-O of April 23, MAE reveals this alert and neither MAE nor the operators of the tubes did anything. While we have a park ranger who notices something that endangers some pipes, it turns out that on the other side we have two oil companies with very high risk activities, which are supposed to always tell us that they work under high standards, of information, technology resources and necessary personnel, it shows that they have not acted with due attention to the tremendous risk that was known that these pipes were passing through. The issue is that there was a very high risk and that once the collapse started they could not do anything, the same OCP acknowledges in the information to the MAE that at 5:30 in the afternoon of April 7:30 in the afternoon of April 7, they closed valves and that even if it is true at that time closing valves was already an ineffective measure against the spill, because closing valves does not mean draining and while the valves are closed and the pipes are broken everything inside goes, without those devices, without the trays, without the drainage pools, the only thing they could have done to avoid this spill, was to close the valves well in advance and remove what was inside the pipes and they did not do that, In the case of OCP 9000 barrels were spilled, but there are other additional situations that reveal in this case the undue poor attention to the announced spill, in Exhibit 15, Petroecuador indicates as an excuse that at the time of the Sote and polyduct spill they were operating with minimum personnel due to the sanitary emergency, this is outrageous for any Ecuadorian not only for those who have suffered directly, this reveals that in the face of a serious problem and risk they work with less workers or necessary personnel in regular conditions. If the Ministry of the Environment knew that they were operating with limited personnel, then they should have told them that since they are not going to be able to face this risk nor face the damages of this risk, then they better stop operating, because we Ecuadorians subjected to that does not happen and what happened. Another evidence that shows us this lack of attention, OCP indicates as a containment measure the suspension of pumping at 5:30 a.m. page 21 is emergent, but it is already known that it is useless because it will spill what was left inside so ineffective is that it spills twice as much as what Sote spills. What effective measures did they take to stop the advance of the crude stain since the spill occurred, what did they do to recover as much as possible from the spill so that the contamination is less? Petroecuador acknowledges it, paragraph 1.6 of the consolidated report, that they did not recover anything because the planned containment activities were for the following day, but it turns out that the following day in less than 24 hours when they started their overflight over the spill, the slick was already there and the highest concentration was in San Sebastian and Pompeya, in an oil spill you have to run, you do not have to wait for the following day. OCP does not indicate what they did either, which makes us think that they did not recover anything even though the Ministry of the Environment asked them about it. The Ministry of Energy is even worse in this situation, it has not even bothered to offer evidence that they exercised any control function, the evidence is limited to a record of April 11 in which they say that the number of people affected is approximately 50 people, that 4 days after the worst oil spill in recent years in the country. In Exhibit 2 of a report dated May 6, Ministry of Energy says that the landslide produced erosion and land subsidence. So none of what they have presented here is proof of having attended with the necessary diligence to attend to a horrible risk that has us at this moment with people and entire communities in need of assistance.

health, food and water problems. Dr./Ab Julio Marcelo Prieto Méndez: In the Hearing that was suspended when I dared to state that the proof that the defendants were going to present would be official reports and other documents that the Ministries prepare to try to demonstrate that they have complied with the law, but that with this they could hardly demonstrate that constitutional rights have not been violated, mainly to respect the rights of nature. I was saying that the lawyers of the State will come to show us these reports, official documents and they jumped to say that I cannot anticipate what they are going to do, but that is exactly what happened, what was announced, they began to fill us with official documents as my colleagues who preceded me have already anticipated, trying to demonstrate that each one complied with their obligations, however, this does not guarantee that there are no violations to the constitutional rights. In the case of the rights of nature, more important than what the defendants said is what they did not say, that is, their omissions, because none of the defendants considered defending themselves with proof of the accused violations of the rights of nature, that is, in the file there is no proof that refers to the rights of nature, some will be within the field of environmental law, even going so far as to pretend to take as a baseline a river that is already polluted, but this in relation to the rights of nature is total nonsense. A baseline would have to look for a river with the same characteristics that is not contaminated where we can find similar characteristics to those of the Coca River before the spill, however, in this case the defendants have preferred to ignore the criteria of the right of nature, of integral restoration, which is a constitutional right enshrined in Article 72 of the Constitution, which means that all these reports and documents that have been presented to us as evidence are simply ignoring the rights of nature that have been claimed as part of this ruling. In this context we must consider the rulings of the Constitutional Court, such as the one referred to in the Shrimp Farms case and another one referred to the Biodigestores case, in the Shrimp Farms case the judges of Esmeralda were severely reprimanded, for resolving an action where they did not consider the rights of nature in an express manner, likewise with the Biodigestores, these two cases speak specifically of the duty they have to pronounce in this respect, that is to say even if the defendants have ignored in their evidence any reference to the rights of nature, you cannot, what would we do then with the rights guaranteed in article 72, that is to say what we want in the absence of presentation of evidence on the violation of rights of nature, it is the judge who has the obligation to assume and declare the existence of this violation, in strict application of the principles of in dubio pro natura and reversal of the burden of proof, which affects all the defendants and I have already explained that none has presented evidence. No one has presented evidence that refers to the cycles of nature, vital processes, structures, they are simply trying to demonstrate that they are complying with environmental regulations. Then consider that the Piatúa case, was clear in establishing that these environmental reports are not adequate to establish violations of rights to nature, this case is right now in the process of review by the Constitutional Court on its way to become binding jurisprudence, so that this sentence will surely end up in that office as well. Some of the lawyers of the defendants have mentioned that the restoration of the damages caused by this spill can be a natural restoration, that is to say that nature itself will take care of its own natural processes to restore itself, it is necessary to clarify that when there is soil degradation, especially if it is hydrocarbon contamination, we are in a process of severe degradation that requires human intervention, in this case it is necessary to consider the different types of disturbance and degradation that occur in the different biotic components. None of the tests we have carried out, thousands of pages, nothing refers to this subject, that is to say, the slight affirmation that the restoration resorts in a natural way is correct, but only in cases where we find ourselves in minor disturbances such as the fall of a tree, a fire of small proportions or some other focused incidents, but not before a spill of 15,000 barrels of hydrocarbons that affects two rivers on which thousands of families depend. Here we cannot talk about a natural restoration, here we can apply article 72 regarding an integral reparation of the rights of nature, of this there is no proof, therefore, we are obliged to declare this violation. It is clear that the oil spill that impacts two of the largest rivers is far from being a disturbance that admits a natural restoration and even less one of those cosmetic remediations such as the one we have seen, such as those that the defendants have documented, but unfortunately it is the judge who must make the final decision in application of these two principles, which is in the absence of proof that the defendants have not presented.

9.5.- Jorge Acero González: Regarding the evaluation of the evidence I will start with a general evaluation and that is that he will have to review an immense amount of documents with which the defendants want to demonstrate the fulfillment of obligations, which in no case they achieve, on the contrary, the violation of the right or rights, in this case neither the adequate fulfillment of the constitutional obligations is based on the amount of kilos of paper or digital that is presented before the judge, when in this case they do not demonstrate anything about the guarantee, protection and violation of the rights, including the restoration in this case. Furthermore, you will realize that most of the documents will have to be rejected, they cannot be considered, they do not have signatures, dates, they are loose documents with no relation to what is being discussed in this hearing, they are documents without the indicated attachments or annexes, which could prove any truthfulness about the allegations contained therein. In addition, those that exist and that can be verified prove that the regressive erosion was foreseeable according to their own official documents, even that the risk was personally warned on April 6 by the Ministry of the Environment. With respect to nature, numerous official letters from companies and the Ministry of the Environment itself are acknowledged, on the one hand, the serious impact on rivers and ecosystems, including protected areas, thus recognizing the violation of the law and even holding the Ministry of the Environment and the companies responsible for their lack of adequate response, especially in the

first days. In addition, in order to approve the emergency plans, the Ministry of the Environment requests a previous baseline, which the companies say they do not have and that they do not exist, and the MAE accepts this as good, However, none of these observations are included in the emerging plans, which are limited to restoration activities such as revegetation and biotic monitoring, and thus the emerging plans of both Petroecuador and OCP are approved. In addition, it expressly recognizes that the riverbeds receive pollutants from the documents presented by them, however, they do not establish and throughout the thousands of documents presented there is no evidence of any type of action to remedy that fact and therefore there is no proof that rights have not been violated, rather it is recognized and they cannot prove what ecosystems existed before because they do not have the baseline survey prior to the spill, nor do they prove any specific restoration measures to mitigate or repair the damages. With respect to the evidence that I make mine, I refer to Petroecuador's Exhibit 20 where it says textually, it is to be highlighted that the riverbed at the time of the rupture contained sufficient energy to disappear the largest amount of hydrocarbons spilled on the water flow, this makes difficult or impossible the recovery of hydrocarbons, since as mentioned the stain mixed with a large amount of sediment and organic material, something that the experts referred to in this hearing. Petroecuador's Exhibit 14, document 277 of April 18, shows that the water resource has been seriously impacted by the construction of the hydrocarbon in the Quijos River and its mobilization towards the Coca and Napo Rivers. Document 93 from Petroecuador to the MAE, indicates that the activities to be carried out will be biotic monitoring, the objective of the textual monitoring being to determine the incidence of the oil spill on the biotic communities, as well as the state of recovery of the ecosystem, and adds that it is important that biotic monitoring constitutes a periodic evaluation of ecosystems that may be affected. Exhibit 12 MAE's letter 478 to PETROAMAZONAS, approval of the emergency plan by the Ministry of Environment. Exhibit 18 contingency plan states that the cleanup and remediation and environmental restoration activities are post-spill biotic baseline monitoring and that the restoration, once the cleanup and remediation activities in the affected area are completed, will evaluate the areas impacted by the removal of vegetation in order to proceed with revegetation, this is the measure established in the restoration plan. OCP Exhibit 22 is the observations directed by the MAE to the emerging plan initially submitted, there the MAE says in great detail that the biotic component must be incorporated with protocols for species identification with ecological aspects analysis on conservation status, a series of detailed information, including salt licks and drinking troughs of all existing species. In addition, it is told that it must start from the last biotic monitoring that was carried out prior to the spill, compared to the last 5 years, the OCP company responds with official letter 318 that they do not have this information, because this is not their work area and therefore there is no previous baseline, this was considered good by the MAE to approve the emergency plan. It also agrees that these observations are not incorporated and biotic monitoring is limited. On the other hand OCP to those observations to the MAE they say Ministry what you require me in the office 318 of April 22 should be contained in a comprehensive reparation plan that OCP will present until May 15, 2020, however in the office of OCP No. 322 of April 24 to the MAE and says that those observations presented and talk about the reparation plan, the MAE requested a meeting with OCP officials where they exposed criteria and arguments for not preparing a comprehensive reparation program and that is complemented as a small scope to the emerging plan presented.

9.6.- Dr./Ab. Luis Xavier Solís Tenesaca: I want to mention some documents that the defendant has presented and mainly those presented by the State Attorney General's Office do not comply with the requirements of the Organic Law of Jurisdictional Guarantees and Constitutional Control, much less the documents of the Ministry of Energy and Non-Renewable Resources and even worse the Ministry of Health that confuses processes of jurisdictional guarantees, they are documents that deal with other jurisdictional guarantees that are the Huaorani indigenous people. Regarding the documents of the Ministry of Environment, I would like to mention that the document dated April 8, 2020 issued by the Ministry of Environment where the Minister of Environment of that time signs and where he creates an emergency and contingency committee to attend to what happened in the San Rafael waterfall, about this I would like to say that this emergency committee created by the Minister has no legal basis, for the creation of this committee refers to article 19 of the Regulation of the Organic Code of the Environment, however article 19 of the Code of the Environment talks about the National Committee of Environmental Quality. Besides, your Honor, you will notice that throughout this hearing not a single document has been presented that states which were the actions of this emergency and contingencies committee to deal with what happened in the San Rafael waterfall, there is not a single document, more than just this communiqué from the Minister. I want to refer to the technical report 211 dated April 8, 2020 made by the biologist William Guerrero, I want to emphasize this for the following reason, it is an official public document that says that the Ministry of Environment of Orellana found out about the rupture of the pipelines through social networks, through photographs and videos, knowledge is taken about the alleged act of contamination by oil spill in the sector of San Rafael, Coca River and a monitoring is verified, in the monitoring what it says is that a survey is made by a LABSA laboratory, but it also notes in this report that this LABSA laboratory belongs to Petroecuador, that is to say there is no impartiality of a sampling these first days. Then, in the conclusions of this report, it is noted that the late action of the contingency plan by the operator Petroecuador and OCP was observed, mainly in the province of Orellana, evidencing crude oil along the Coca and Napo rivers. Likewise, it states in its conclusions that there was a total absence of

Petroecuador in the contingency activities regarding the containment, advance and cleaning of crude oil along the Coca and Napo rivers. In addition, it says that there is evidence of the impact on the water catchment for the communities that are settled along the banks of the Coca and Napo rivers, considering that some of them do not have access to safe water resources, it is a public document, it makes a recommendation that says in addition, it is recommended to inform the Legal Advisory Unit of the Provincial Directorate of Environment of Orellana. In all the evidence presented by the institutions there is not a single document that refers that an administrative sanctioning process has been initiated as required by law within the oil spill of April 7, 2020. I would also like to refer to the official letter MAE-SCA-2020-00447 dated April 8, 2020, where the Undersecretary of Environmental Quality tells Petroecuador to submit within two days, among them the emergency plan, however, they do not submit immediately and also through official letter MAESCA-2020-00448 dated April 8, also the Undersecretary of Environmental Quality requests OCP in the same way that in 2 days they submit the emergency plan for the event that occurred on April 7. I also want to make part of this evidence the memorandum MAEDPAO- 2020-00353 dated April 9, 2020 signed by the Provincial Director of Environmental of Orellana, who says in the same official memorandum that they found out about the spill through social networks, not through an email, no notice as the law, the Regulation of the Environmental Code mandates. In the same way the technical report 340-UKO-DPAO-MAE-2020 dated April 10, 2020 signed by the biologist William Guerrero, in the observation part says that on April 10 contingency barrier is evidenced in four points, it should be properly verified since there are points in which they should be corrected and points out the points San Sebastian del Coca, water catchment plant, Pompeya, Limoncocha. In addition, Petroecuador and OCP do not inform or communicate the cleaning actions implemented in the territory, that is to say, there was a lack of information to the Ministry of Environment itself. In addition, he says that on April 9 and 10 there was a partial presence of Petroecuador and OCP in the province of Orellana, due to which the presence of crude oil along the Coca and Napo rivers is maintained. In the same way I want to make as our proof the official letter of MAE-SCA-2020-00450 dated April 11, 2020 addressed to the Heavy Crude Oil Pipeline, which also demonstrates what we are mentioning. In addition to that I want to make our technical report 341UCAO issued by the technician in mention dated April 12, 2020, where he notes the following, the mayor of Coca requests that the municipality be kept informed, since it is responsible for communicating to the population about the actions of the operators and the quality committee created, a resolution is issued with those present leaving a record on several points, Among the most important, the operators provide a pump for the habilitation of the water collection plant over the city of Coca because it is operating at 75% urgently, that is to say, it shows the affectation to the city of Coca and says that the provision of safe water to the affected population and that it is directed in a timely manner in the necessary quantities that a person needs and it was also announced the conformation of the Environmental Quality Committee. I would also like to share the technical report 342 of the Orellana Environment dated April 12, 2020, which states that the Yasuní National Park Headquarters received reports on April 10 and 11 requesting that the Yasuní National Park Headquarters receive reports on the rupture of the SOTE pipeline, and that the protected area has identified possible areas that could be affected by the rupture of the SOTE pipeline, and that the protected area has identified possible areas that could be affected by the rupture of the SOTE pipeline, The protected area has identified possible areas that could be affected by the spill, especially in the mouths of the river tributaries that connect to the Napo River. The park rangers have asked the Ministry of the Environment to provide absorbent control barriers for the hydrocarbon and the park rangers are the ones requesting that the companies carry out these contingencies in Yasuní National Park, a protected area also recognized by UNESCO. The other thing that the same report says is that there is no evidence of adequate information flow and communication from the operators; they do not inform the Ministry of Environment as they have said in this process. In addition, it says that the influx of crude oil into the protected area of Yasuní National Park must be urgently addressed by the operators Petroecuador and OCP in order to immediately apply remediation and cleanup actions. There are several official letters and it is really very little time that we are being granted compared to the amount of information that has been issued and I would like to emphasize that all of them clearly demonstrate the negligence, the lack of respect for the precautionary principle, the lack of respect for the principle of prevention with which Petroecuador and OCP have been operating after the spill, However, in spite of this, they have tried to say that they have acted in a timely manner, that they have acted immediately when the same reports of the Ministry of Environment show that it has not been that way, that the plans were not applied correctly and much less the rights of the peoples and communities around the Coca River and the Napo River were respected. 9.7.- Dr./Ab. Pablo Estenio Fajardo Mendoza: I want to emphasize two things, first the obligation that the opposing party, the defendant as a whole has to demonstrate that the facts for which they are being accused are not true, which obviously they have not done, they are not found for example, there is not a single piece of evidence that demonstrates that the indigenous communities settled on the banks of the Coca and Napo rivers were informed in any way about the facts that were happening or about the oil coming down on the river, There is not a single piece of evidence that proves this fact, consequently it can be confirmed that there was never any information to the indigenous communities, but there is also the evidence that they present that basically confirms the arguments that the plaintiffs have presented. I would like to refer that more than the area reports that they make, there are also the photographs that are part of the daily reports. For example, in the MAE 164 and 175 reports in the photographs it can be clearly observed that there are workers using hoses with pressurized water to remove the hydrocarbon that is impregnated on the banks, what does this mean your Honor, this evidence is saying that there is indeed damage when observing these photographs you will realize that there is no containment barrier, therefore this oil comes off the stones and goes directly to the river and

It is a continuous spill, it is the spill that did not stop on April 7, the spill has continued and continues to this date, because sediments continue to be removed, it is a continuous spill and therefore rights have continued to be violated during all this time that is supposedly being remediated. Nowhere in these daily reports do they say what the final destination of all this contaminated material is, where this contaminated material is going, nor does it say anywhere in the evidence of discharge and the amount of oil that was recovered and the amount of oil that was not recovered. Consequently, it is evident to see the amount of oil that is still being spread on the banks of the rivers, especially the sediments. There is a very interesting note in the document or in the evidence presented by the MAE in the inspection report 4004 I would like to read, beach in front of the Añangu community, in this sector the approximate area of the inspection corresponds to 7500 square meters previously washing works were being carried out but having detected the presence of sediments with traces of crude oil at a depth of +-1.20 m the company has opted to bring in machinery and in the photographs accompanying the aforementioned report backhoes are seen removing at a depth of at least 1.20 m deep. We had argued at the time that the heavy hydrocarbon material goes to the sediment and in that site they remove up to 1.20 m deep, what happens in the rest of the river, I insist that the spill continues causing effects, therefore, it continues removing sediments, that oil continues in the Coca and Napo rivers, therefore, the spill has not stopped. The violation of rights is still in force up to this moment and will continue for a long time because they have never or at least up to now not demonstrated how to remediate, clean and separate the water and those sediments. So the evidence of the MAE demonstrates the arguments put forward by the plaintiffs. One fact is that it is not possible to separate to know which is Petroecuador's oil and which is OCP's oil, so no one can wash their hands and say that my pipeline broke later, no, Judge, it is only one fact as such and both had the obligation to prevent this from happening in advance, but none of them did it. The other fact, as I said before, is that the supposed remediation that is being applied today constitutes an aggravation of the violation of the rights of the indigenous communities and their rivers. Just look at the attached photos presented by MAE, which are the evidence that prove these facts. 9.8.- Dr./Ab. Vivian Isabel Idrovo Mora: As we have seen in the previous presentations regarding the evidence presented by OCP, by Petroecuador and the accused entities, they have tried to demonstrate that they comply with an environmental regulation, but that has not been demonstrated with the evidence presented, as an example of this, one more as my colleagues have already mentioned I make and highlight the MAE-SCA-2020-0450-O official letter dated April 11, 2020, signed by Edwin Santiago Sarasti Sánchez, Manager of Environmental Safety addressed to OCP and Petroecuador, in this official letter he asks the two operators to report on compliance with the emergency plan, what they are asking for among several components, the fourth and fifth component, to show or report volumes of crude oil recovered and in the fifth component to report volumes of waste and its management, OCP in the thousands of pages it has sent does not indicate any amount of crude oil or waste management and Petroecuador in the evidence number 17 in its reports throughout the month of April, the amount of waste it reports to have collected is 9.9 cubic meters of waste in a month, that is what Petroecuador reports and in view of this we have not seen any sanction, not even in the inspection reports which are millions and which contribute, there is no control or inspection in this respect, there is not even compliance with these minimum standards, 15,000 barrels of oil are contaminating the river, contaminating the soil, there are no quantities of oil recovered, it is not reported. This oil has contaminated the lives of 27,000 people, approximately 5,000 families and, as shown in the MAE test, 109 communities have been affected. What this enormous volume of crude oil has meant for the lives of the people, it has meant violations of rights, absence of safe water, food, health, access to their territory, among other violated rights. What have the companies and the entities sued proven, what they have proven is that they did not do what they should have done and they have proven the facts that we had stated are true, how have they proven, as I mentioned Petroecuador presents in its proof 17 compliance reports, in those reports they refer to the community of Toluca in the reports of April 11, April 15, April 22, April 29, it is stated that they have delivered a total of 1,016 gallons of water to the community of Toyuca for five weeks, this means that they have delivered a total of 1,016 gallons of water to the community of Toyuca for five weeks, this means that they have not done what they should have done. 016 gallons of water, this is approximately 6,096 liters of water for 60 families and not 50 as Petroecuador says 60 families according to the proof of MAE number 90, where already on April 11 it is known that Toyuca has 60 families, however the companies deliver water for 50 families. This has been demonstrated thanks to the evidence presented by the companies themselves in this process. So what is the result, that the community of Toyuca received 20 liters of water per week, that means 3 liters per day when the Inter-American Court in the case of Samo Axe against Paraguay, states 7.5 liters per person per day and the WHO in times of Covid says 15 liters per day per person, OCP and Petroecuador have delivered to Toyuca 3 liters of water per family per week, that has been proven with the own evidence submitted by the entities sued. Likewise, we have said that they have not delivered culturally appropriate food despite having taken away their resources with more than 15,000 barrels of oil. They have not done so, Your Honor, they were used to eating fish every three days, 25 fish that supplied them for three days and what they were given, in the same Petroecuador report in evidence number 17, the first delivery of a food kit was made on April 24, but even this is not clear because the Ministry of Energy Resources and Non-Renewable Resources in their proof mentions that the first delivery was made on May 9, contradictory proof, in any case, your Honor, they were delivered more than two or three weeks after the incident occurred. But what did they deliver, did they deliver a proper kit? No, they were given a kit that is insufficient, that does not even have the basic protein rations and is

The Attorney General's Office itself acknowledged that in the evidence attached to the contents of the kit, which ratifies what they have said, the Attorney General's Office ratifies in the evidence attached to the contents of the kit, which ratifies the testimonies of the people you heard, your Honor, that the kit contained a bag of rice, noodles, a can of tuna, oil, chocolate powder, lentils, a bag of iodized salt and sweet cookies, This was for the communities that were deprived of all their food in the river and the Attorney General's Office presents the contents of the kit, which ratifies the undignified way in which the people have been treated, this has been given to them in a period of three to four weeks, the companies involved have not been able to demonstrate the frequency and even less the compliance with the minimum standards in relation to human rights. In relation to health, the multiple evidence presented by OCP and Petroecuador, lists full of erasures and erasures, lists that seem to be taken in haste, that do not have signatures of responsibility and that do not have seals, the only thing that demonstrates is the poor health care that the communities received or the lack of health care. Furthermore, they refer to care that does not cover the universe of all the people affected or 25% of the people affected. But, most importantly, your Honor, they do not cover precisely the acute effects of the spill, they do not specifically attend to this emergency, they speak in a generic way throughout the time, all the people on the list were treated identically, there is no differentiation between the affected people who present acute effects and those who do not, nor is there any proof that the health situation has been evaluated in relation to the chronic effects on their health. In this sense, what the companies and the entities involved have done is to present lists and lists of information that do not lead to demonstrate that they have acted in accordance with Human Rights standards. On the other hand, your Honor, let us not forget that the one who causes the damage must pay, that is the principle that is in our Constitution and in all secondary legislation, it is unacceptable to hear that they do not know what obligation they have to comply with. Here the obligation that they have to comply with is to repair the damages, not charity as we have heard the representative of the Environment saying that here they come to complain, here they do not come to complain, here they come to demand constitutional rights in accordance with international standards of Human Rights, because as the lawyer of the Ministry of Non-Renewable Resources said, wrongly showing an enormous ignorance of the lack of knowledge in the field, wrongly showing an enormous ignorance within an action of protection that you are not obliged to comply with international standards, here the international standards join the block of constitutionality and you, Mr. judge, are obliged to those international standards to value the actions and to value the omissions that have had the entities sued and that is demonstrated in all the evidence that we make ours. In addition, I emphasize the minutes of delivery-reception of water, here OCP tells the communities to receive their water that they renounce to later claims, this shows an undignified treatment and demonstrates the bad faith with which they act by deceiving the people, communities, because as you and I know that the rights are inalienable, your Honor. I conclude by saying that we challenge all the publicity videos that Petroecuador has presented, at this moment this goes beyond the formality that this process should have, it does not have the minimum guarantee nor the veracity of the content of the objectivity, it cannot be that I make propaganda in my favor and I present it here without supporting documents. 9.9.- From Mr. Mazabanda Calles Carlos Santiago: I am going to refer to remediation and restoration issues, with this we make our own the evidence presented by OCP and MAE through official letter 332-2020 of April 4, 2020, in this official letter it is shown that a meeting was held between officials of the National Directorate of environmental control where the people of MAE put criteria and arguments that it is not necessary to carry out comprehensive remediation programs but to send a scope to the emerging plan that had been presented in previous letters to the Ministry of the Environment, However, these notes to the original remediation plan were never made, they were never done and among these, in Annex 21, biotic aspects are also requested to be included; however, it is stated that at some point in the future, biotic monitoring will be proposed. On the subject of remediation and restoration, it is stated textually that the areas where there is damage should be searched and cleaning should be carried out and in the area where it is physically possible to carry out these works. In addition, section 8 of the monitoring states that a diagnosis of the affected areas will be carried out once the cleanup activities have been completed. This shows that none of the companies, neither OCP nor Petroecuador were looking to carry out a reliable remediation, restoration and based on what was previously mentioned, where is the baseline to determine what the state was at the time of the oil spill in the Coca River and the Napo River. We have proof from the Environment in the letter from PETRO-CSA-2020 093, to the MAE dated April 25, it is again reminded how OCP did it that the baseline should be the one it had prior to the spill and Petroecuador maintains in the response that it does not have it and is limited to detailing that it is going to perform what effects the spill had, which will allow a biotic monitoring. Again there is a new example of how they are leaving for the future some repair measures, monitoring, what should be done in relation to the activities of the spill, the Ministry of Environment has submitted a report 389 of June 2, it is said that sand is being lifted because there may be contamination up to 1.20 m deep at a specific point. This shows that it is contradictory to what was pointed out during the days of the hearing where, on the one hand, the percentage of progress has been indicated, and it was even stated that the cleaning of the river has been completed, But what has not been taken into account is what was happening under the river through the Amicus presented, and this is what could only be verified if there was an adequate baseline and if at the moment there was a permanent monitoring of the situation in the area where it is being carried out as shown and how they have wanted to sustain it here, the cleanings have been superficial in the videos that have been presented are propagandistic and not a cleaning that is going to deal with a situation of sediments. Report 342 of April 13 states that there is a presence of crude oil in the protected area of Yasuní National Park and report 344 identifies a possible impact in the internal zone of the Yasuní National Protected Area.

presumes an affectation to the fauna. At the hearing, the Ministry of the Environment did not report absolutely nothing about this in order to inform you so that you can make a proper judgment on the matter. It is necessary to take into account that the defendants have not first made a baseline that could define what is really the cause of the alleged remediation they were doing and have not done, they have not had those documents to be able to establish the repair and comprehensive remediation they have done to the damage they have done to nature, to the biotic and abiotic environments due to the contamination caused by this spill. 9.10.- From Dr./Ab. Luisa María Villacís Carrillo: My intervention is in relation to the documents of evidence number 1 of the Ministry of Energy and Non-Renewable Resources, in that sense in page number 2.2 in relation to the report of the current situation to the dangerous event it is highlighted in this way, that the survey of the information of the families of the province of Orellana affected by the company OCP and Petroecuador is being carried out. For the survey of the information of the affected families, there is no mention of the consultation processes or the cooperation of the indigenous populations affected by the situation, in the same sense, there is a lack of information regarding the indigenous populations on the Ministry's action plan. In relation to the same exhibit number 1 on page 2, it is expressly specified that the Ministry of Non-Renewable Resources estimates that the number of people affected is approximately 50 people, which corresponds to the impact of the spill on the communities settled on the banks of the Coca and Napo rivers, 0 injured and 0 victims. In this sense, Your Honor, it is important to emphasize that the population suffering the consequences of the spill amounts to 118,617 people who suffer from high poverty rates and very limited health coverage; in this sense, the Ministry of Non-Renewable Resources underestimates the number of people affected. In addition, the Ministry does not consider the risk to the health and life of the indigenous populations, first, the risk of getting sick is very high because several studies have proven the effect of water contamination by oil on health; second, the health situation of indigenous peoples and rural communities is already serious due to the lack of prevalence of introduced infectious diseases and chronic non-communicable diseases, economic and socio-environmental conditions, and the deficient health service. Regarding pages 2, 3, 4 and 5 in paragraph 4, the Ministry of Non-Renewable Resources highlights several humanitarian actions carried out and programmed to sectors and communities to localities, in that sense it points out the following, the installation of an energy variator by Petroecuador that would allow normalizing the supply in the city of Coca from 24 hours by 60%. It also notes that 6,240 bottles of safe water were delivered to the affected communities in the canton of Francisco de Orellana, supplying approximately 1,560 families. In this regard, it is important to note that the delivery of water is insufficient because many people lack water to meet their needs. Many testimonies show the lack of help from the government and according to testimonies of local residents the water delivered is 2 gallons of 5 liters, to each one every 5 days and in some food rations are not sufficient or culturally suitable. In addition, the measures taken by the government are insufficient considering that they only cover the urban sector and not the rural and indigenous communities. Regarding page 3.4 paragraph 6, with respect to immediate action, the MAE indicates that it will request protocols that are contemplated in the contingency plan for these events by the responsible company. Regarding wildlife management, if there are no protocols for these events, it is recommended that an information sheet be created to record the affected fauna. It is essential to take into account the lack of wildlife management protocols for this incident, as this is a clear violation of rights, which is identified in a breach of the precautionary principle, thus violating the rights of nature. It is also important to highlight that the alteration of life cycles affecting all the ecosystems of the river basins is not sufficiently valued. There is abundant literature that refers to the effects of oil pollution on plants, amphibians, invertebrates, fish, so it is important to highlight the biodiversity that requires more protection and the Napo River basin, which is known as the most diverse in the world. Regarding page 3.6 paragraph 4, MAE, FECUNAE and the GAD point out that in several parts of the Coca and Napo Rivers, the presence of stains on the river surfaces shows the presence of a large amount of crude oil in the mentioned bodies of water, which only reinforces the knowledge of the seriousness of the situation. On page 3.8 and 3.10, Petroecuador, OCP and allied companies committed to execute the emergency contingency response plan for the containment, cleaning and subsequent treatment of waste and other waste generated by the event; however, it does not specify specifically what restoration and repair measures the Ministry will take, nor does it clearly establish measures and objectives. It is necessary to consider the selection of a reference ecosystem, the definition of a temporal and spatial scale, as well as the identification of restoration thresholds, the determination of the sample distribution, the selection of monitoring parameters and the use of restoration indicator criteria. In the same sense Mr. judge I take the liberty to challenge the evidence of document 2 and the evidence of document 4, in this evidence the state response of implementation of the remediation measures does not meet the requirements of efficiency and celerity, the response is proportionate to the gravity of the situation and thus all available means should be used to bring solutions to all people deprived of water and food. While the current situation of Covid-19 is an additional difficulty to proceed with the cleanup and remediation of the sanitary emergency situation, it also imposes an additional obligation in a context of serious danger to health, it is even more important for the State to ensure each of its inhabitants access to healthy and safe drinking water. In this sense, the authorities of the different State portfolios cannot simply excuse themselves from this type of obligation. 9.11.- Dr./Ab. Ana Cristina Vera Sánchez: I want to emphasize the existence of the inversion of the burden of proof, the defendants are the ones who have to prove that they did not

have violated human rights and I would like to point out that both the state institutions and the companies OCP and Petroecuador have to prove this in a constitutional process. I would also like to emphasize that I make the evidence and the interventions presented by my fellow plaintiffs my own because I consider them to be of relevance and in order not to be reiterative by repeating each one of the proofs that have already been mentioned, I believe that they have been good enough in doing so. The amount of documentation presented does not prove absolutely nothing about the lack of violation of human rights of the plaintiffs, this evidence is disconnected, insufficient, impertinent and inadequate, none of the evidence despite the fact that there are reports and official letters includes annexes and lists and that when it includes these lists and annexes they are not adequate, for example OCP in its evidence 12, 13 and 14 includes a series of lists but they have erasures, erasures, there are two dates, the signatures are not well seen and the signatures are cut in the images, this cannot be considered an annex that has probative value. It is important to point out that these omissions, which I also believe are omissions that are based on a will to deny what happened, because although the emergency action plans or repair plans are presented, since the annexes are not presented, it is insufficient to verify that repairs have been made. Many of the times this evidence only refers to the official reports that have been made or to plans, but not to concrete results that allow us to prove that the human rights of the people that we have denounced as having been violated in this action for protection have been effectively protected. None of the evidence contains the exact report of the amount of crude oil spilled so we cannot evaluate how the remediation or cleanup has been done. Most of the evidence indicates that these remediations have been superficial and that they have been of the stains that can be seen, without an integral cleaning of the rivers, which has to do not only with adequate water quality but also with the relationship that the communities and indigenous peoples have with the rivers as a source of food but also as a source of spirituality, there has been no integral reparation in this sense, much less a rehabilitation measure that takes into account the participation of the communities to say how they can be repaired and how these affectations that happen in the river can be repaired. There are also no censuses of the affected population, aggregated with data variables or disability status. In Petroecuador's Exhibit 4, Annex 21, which is the emergency plan, there is not even mention of a diagnosis or how many communities and the vulnerability of the population is indicated, so I make this my own proof, because in spite of knowing the vulnerability of the people because they depend on the river for their food, for their health, they do not take effective measures and in a pertinent, adequate and timely manner. None of the emerging plans, neither OCP's nor Petroecuador's, contain adequate cultural measures or parameters, this is important because when we talk about the rights of indigenous peoples and nationalities, all national and international standards establish their right to participation and the need for these plans to contain these cultural parameters to guarantee their traditional food and the maintenance of their culture, none of this evidence contains them and this is very important to make it clear. As for the first evidence presented by the Procuraduría, I challenge it because it is evidence that has nothing to do with this process. As for the evidence that is the guide and protocol for the assistance of humanitarian kits, it is important because it allows us to see what type of kit was given to the population and it can be verified that there are no adequate measures of reparation and the cultural needs were never taken into account, not even the nutritional needs of the population that are being given to the people affected by a spill of this magnitude that affects their entire quality of life, affects all their sources of food and water, they are being given their leftovers, this is important when we talk about the violation of the right to a dignified life of the population. Regarding the evidence of the Ministry of Health, we have received a presentation and a report that are out of time, the report is dated August 6 and the presentation is dated August 10, and they state a series of uncoordinated, inadequate actions that do not allow us to know what has been the attention given to the population, they do not have any annex that would allow us to see that such people were effectively attended on such days with confirmed dates, It is only a report of activities that should not be considered adequately, but even if this evidence were considered and valued, it should be noted that none of these actions has been comprehensive and does not allow to look at the long-term damage to the health of people and would never comply with national and international standards in terms of reparation when the right of people is violated. Regarding the evidence of the Ministry of Energy and Non-Renewable Resources, the first evidence is the minutes of a session of the Environmental Committee of Orellana that only describes the actions that have to be taken and nothing is said about what has actually been done, this does not serve to prove that there are no violations of rights, what it does allow us to see is that in these meetings the population has participated, all the authorities are present and the population is never included, which does not meet the appropriate criteria precisely in this type of disasters and acts where the population has to participate. Furthermore, this report indicates that up to April 11 there has been no certain identification of the people affected, three to four days after the spill there is no census to verify how many people are affected and therefore there are no efficient actions to be able to plan in an adequate manner. In the evidence there is also a report called management and coordination of actions to facilitate environmental remediation work in the affected sectors on the banks of the Napo River and Aguarico canton, this report states that remediation activities will begin on April 15, In other words, the population had to spend more than eight days living with all this contamination and they use Covid as an excuse, when my colleague who preceded me has already said that there is a reinforced obligation in these pandemic contexts, where vulnerability is heightened and where they should have acted in a more timely manner, this shows that the action has not been timely and it is important that it is taken into account. Regarding the OCP test, from the test that goes from wing 1 to 16, in the test 3 annex 11 I would like to point out that it is indicated that the regressive process and the instability were known, preventive measures were never taken, I also make this test my own because this spill

could have been prevented and all the human rights violations could have been prevented and were not prevented. I also take as my evidence exhibit number 4 annex 1 where the vulnerability of the population is detailed, this interests us to prove how the rights in this situation can be violated, because there is a double or triple vulnerability, it has to take into account to analyze the violation of rights according to national and international standards on human rights and it is also seen how this follows a plan, where there are no concrete results of how the population has been satisfied with their rights. Evidence 22, which are the observations of the MFA to the emerging plan where we can determine everything that the MFA asks OCP to do and effectively this is not done. I would like to point out as evidence on my part the official letter OCP-332-2020 dated April 24, 2020 where it says that they had a meeting between the MAE and OCP on April 23 and from that meeting it is authorized not to carry out a comprehensive reparation plan, in other words, from a meeting between officials the regulations and laws can be violated, and that a couple of paragraphs are included in the emerging plan, this is absolutely violating rights and the law states that there must be this comprehensive reparation plan and they do not exist. I want to refer to Exhibit 43 which is the emerging plan that includes reparation activities and a methodology for the calculation of the compensation, I want to point out that what we have to use is our Constitution, the integral reparation has to do with returning people to the previous place before the human rights were violated, with compensating the damages caused, there is no calculation for compensation of immaterial damages, there is no mention of rehabilitation, there is no mention of satisfaction measures. None of this evidence has allowed us to prove that there was no violation of human rights and therefore we make them ours to prove these violations of human rights and that these actions have been insufficient, both to repair and effectively to compensate these violations to nature, people and communities. 9.12.- Dr./Ab. Ernesto Rodríguez Gaibor: Your Honor, the fellow lawyers who have spoken before me with respect to the regulations as well as the proof made by the defendants, are proofs that serve the plaintiffs in each of their points, clearly it has been possible to determine that there has been a violation of rights at the moment that the heavy crude oil pipe of the OCP of SOTE was broken, and this amount of crude oil contaminated both the Coca River and the Napo River and that there was an alleged remediation at the time of trying to clean up rivers, but in reality it was not possible because clearly with the reports that have been presented it can be verified that up to approximately 1.20 m above the level of the river these residues were found and on the banks, so that with the same evidence the violation of rights presented by the plaintiffs is supported. In the same way it has been possible to foresee that there has not been a census of all the affected people of the communities that live or are settled on the banks of the Coca River from where this spill occurred, this is how they have tried to supply the needs after the spill approximately on April 16 they begin the compensations, in these seven days and eight days of what they lived. It is put into consideration that water is vital for these people who are on the banks of the river, taking into account that their farms were also contaminated with the pipeline and all that nature, they could not eat any food, this has been a clear violation with the evidence presented by the State institutions that support the petition of the plaintiffs. I make my own all the evidence with respect to the official documents where it is determined that they knew about the April 6 warnings by a forest ranger, with respect to a collapse of the mountains that could already foresee the sinkhole that took place in the San Rafael waterfall, it was known since February 2 that this was going to happen, however, the oil companies that are in those places did not do anything. Likewise, the State institutions did not have an immediate contingency plan, so much so that since midnight of April 7 they acted on April 8 when they saw the oil slick that was already reaching San Carlos, there was not the necessary immediacy to protect the life of the people and the life of nature, therefore, I accept all the evidence presented by the defendants. 9.13.- EP Petroecuador through Dr./Ab. Orlando Patricio Meza Campos: In the present action no direct or effective protection of constitutional rights is applicable, since there is no violation of any of them. In this hearing it has been demonstrated with the evidence submitted and practiced by my client, that in spite of the existence of an event of force majeure or fortuitous event, my client has acted immediately mitigating and repairing the damages that had occurred. In this sense, the requirements for the protection action to proceed have not been met, the same requirements that are found in article 40 of the Organic Law of Jurisdictional Guarantees and Constitutional Control, regarding the alleged violation of a constitutional right, the plaintiff has argued in this hearing erroneously that a right of nature has been violated, this is completely false, the plaintiff himself in his lawsuit establishes that for there to be a violation of the rights of nature, its vital cycles must be affected, what is a vital cycle? It is the capacity for regeneration. If it returns to its original state as it was before the affectation, its vital cycle is not affected. In this specific case, there is an affectation due to force majeure or fortuitous event that contaminated the Coca River, but the vital cycles were not violated or affected, because after the restoration and mitigation that my client is currently carrying out together with OCP, this river is regenerating. In this regard, the Constitutional Court, in its judgment No. 0566- 15-SEPCC, in its pertinent part has indicated that the reparation of the right to nature does not refer to a pecuniary reparation to the injured persons, but to the restitutio in integrum, that is to say to the full restoration of nature and the repair of the damages produced until returning as far as possible to the original system, that is to say the restoration directed towards the assurance that the natural system returns to the conditions that allow the correct development in relation to its vital cycles, structure, functions and evolutionary processes. The right to nature, the right to live in a healthy and ecologically balanced environment, has not been violated. Regarding the right to water, this constitutional right was never violated because after this natural event of affectation occurred, the right to water of the whole community is guaranteed, because

Immediately after the event and in accordance with the contingency plans, we coordinated with the mayor the closure of the Coca River water intake, the provision of water for the citizens and then began work to reactivate the alternative source that feeds the Payamino River, which was installed by my representative EP Petroecuador in 2013. At the same time and as prevention measures, containment barriers and absorbents were placed to prevent the hydrocarbon from entering the Coca River water plant. To date, the Payamino catchment system is functioning and supplying drinking water. In addition, OCP and EP Petroecuador have jointly delivered more than 95,000 jerry cans to the communities near the Coca River, and these water deliveries continue to this date. As can be seen from the evidence provided by EP Petroecuador, the right to water has been guaranteed for all the communities that have been affected. Regarding the right to food, in no aspect has it been violated, because after this unfortunate event by nature, EP Petroecuador delivered more than 1,551 food kits, deliveries that have been made both by river or land and with the logistical support of the Ecuadorian army, government institutions and the respective coordination with the authorities and leaders of the communities, these deliveries continue to be made to date and until the remediation is completed. Regarding the right to information, this right was never violated since it was previously indicated to the control entity once the natural catastrophe was known and as evidenced in the evidence of my client, we worked and continue to work, always keeping the community informed, as the different State portfolios. Regarding the second requirement for a protection action to proceed, referring to the action or omission of a public authority or a private individual, in accordance with Article 40 of the Organic Law of Jurisdictional Guarantees and Constitutional Control, it can be evidenced that in the present case there was never an action or omission of a public authority or a private individual, since this is the result of an act of nature, it was a fortuitous event and force majeure. Both the Organic Administrative Code and the Organic Environmental Code establish that environmental damage caused by an event of force majeure or fortuitous event will be exempt from liability. With respect to the third requirement contemplated in the regulations on the admissibility of an action of protection regarding the inexistence of another mechanism or adequate judicial defense to protect violated rights, the State, when acting both in the administrative sphere and in the environmental sphere, is exempt from liability. The State, when acting both in the public and private sphere, when it violates rights and causes damages to individuals who are obliged to respond to the effect of public charges, generates an effect. In compensating the citizen under the figure called State liability, which the current legal regulations have developed an adequate and clear treatment, as well as the terms of reparation for the damages caused, by stating that the affected person is entitled to propose his claim through administrative channels within 90 days from the day following the day after the action or omission. In this sense, the Organic Environmental Code establishes that the national environmental authority is exercised by the Ministry of the Environment, which is the governing, coordinating and regulating authority in the national system, without prejudice of the attributions within the scope of its competences that are regulated or exercised by other State institutions. The procedure developed in the application of the integral policy of environmental damages will be governed by the dispositions and instructions dictated by the national environmental authority being in this case the MAE. The regulation of application of the infra-constitutional norm establishes that with the purpose of sanctioning the threat or environmental damage and protecting the rights of nature, any natural person, community, people, nationality, individually or collectively may request the competent environmental authority such as the MAE, to dictate the provisional and preventive measures contemplated for the effect, without prejudice that the corresponding provisional measure is dictated ex officio and consequently the opening of the sanctioning administrative file by the competent authority to determine and sanction the environmental affections committed, as well as to determine if there is or not an affectation and if it is the case to order the corresponding measures of integral reparation that may be warranted. In our legal system in the extra-contractual liability, the adequate procedure for claiming environmental damages which would entail demanding the determination of the extra-contractual liability of a right that can be asserted through a procedure that is duly established and consequently, obeying an interpretation of ordinary justice but not one of a constitutional nature. Regarding the corresponding procedure, this constitutes and allows compliance with the rules, plus the due process and promotes legal certainty, so that trying to remedy the violation of constitutional rights with procedures alien to the nature of the constitutional action brings legal insecurity, but above all causes the denaturalization of the action for protection by pretending that this is resolved within the constitutional sphere matters on which the ordinary jurisdiction has established the respective procedure. It has been demonstrated that there is another adequate and effective way, so that the action for protection does not comply with the requirements established in the legal regulations in force, the Constitutional Court in its decision NO. 016-2003-SEP-CC, dated May 16, 2003, in its pertinent part points out that not all legal violations necessarily have a place for debate in the constitutional sphere, since for conflicts in matters of legality there are adequate and effective ways in the ordinary courts. The present lawsuit for protection action constitutes an abuse of the right, in the present case the defendant has incurred in this error, that is to say, a use of the right in an unnecessary, excessive and inadequate way. Although it is true that the action for protection does not require the exhaustion of ordinary justice, nevertheless, the action for protection has a clearly subsidiary character, since it is conditioned to the violation of constitutional rights, establishing that the constitutional jurisdiction does not resolve issues strictly of legality when there is another adequate and effective mechanism, establishing that these solutions correspond exclusively to the ordinary jurisdiction. Therefore, it is not possible to claim the action of protection as a replacement of the ordinary remedy. Since there is no violation of rights

We request that all the claims of the plaintiffs be rejected by means of a judgment and that the present action for protection be declared inadmissible and ordered to be filed, since it does not comply with the requirements of Article 40 of the Organic Law of Jurisdictional Guarantees and Constitutional Control, as it incurs in the inadmissibility of paragraphs 1, 2, 3 and 4 of Article 42 of the aforementioned Law. 9.14.- OCP through Dr./Ab. Rafael Arturo Oyarte Martínez: We have listened to 4 hours of interventions of the plaintiffs at the hearing of replication and challenge of evidence, in the phase of challenge of evidence they made allegations, the evidence was not challenged, it was not explained which is the inconducive, impertinent or useless evidence with the purpose of excluding it, which means that there is no useless evidence. Dr. Vera has indicated that exhibits 12, 13 and 14 are with stains and without signatures, exhibit 12 is the letter sent by MAE to OCP asking for the emergency plan; exhibits 13 and 14 are the letters sent by OCP to ARCOIL, PECS, to carry out the cleaning and remediation works, on the morning of April 8 when the fortuitous event occurred. Perhaps you are referring to emails 12, 13 and 14 that have uncontested evidence, so if I am going to challenge an evidence I have to say which one, the OCP evidence is duly numbered and applied. Repeatedly today reference has been made to the circumstances that occurred after the suspension of the hearing of May 29th of this year, we point out that what had been done after May 26th, we presented evidence before our intervention with the answer and of course we were told by the plaintiffs that this was new evidence. The events that occurred in the months of June, July and August are subsequent and with respect to them, according to the Constitution, I have the right to contradict, regardless of the burden of proof, because it is impossible to present evidence in these months, it is a malicious action. It has also been said that we have not submitted as evidence the work contracts, but that is not the claim that has been presented, that would be impertinent evidence. Regarding Exhibit 11, it shows that OCP acted specifically before the occurrence of the breakage and therefore there is no violation. The lawsuit accuses of omissions prior and subsequent to the fortuitous event, acts, not facts that are intended to be related today. Regarding the alleged non-existent prior omission of the process of regressive erosion, OCP has acted, maintains the pipeline and monitors the alterations of the terrain, that is why the first evidence presented was the monitoring of the integrity of the pipeline, evidence not contested. The system operation reports, exhibit 3, the annual field examinations of the pipeline are performed, exhibits 4 and 5, the reports in case of seismic events, exhibits 6 and 7, the reports of seismic events. The defendant has not omitted, neither previously nor subsequently, the duties imposed by the legal system, that is why the Constitution orders that in these cases it must act directly and immediately according to article 397 with mitigation and containment measures, which the plaintiff knows because they appear in its claim in paragraphs 14, 19, 20, 20, 21 and 22. Article 292 of the Organic Environmental Code and article 507 of its regulations, establish that before these imminent threats, immediate action must be taken with containment, contingency and remediation measures. When erosion was detected, pumping was suspended on April 7 at 5:30 p.m., Exhibit 9. The pumping stop was a preventive measure against erosion Exhibit 10, and this was the result of the inspection report Exhibit 11. The pipeline ruptures on April 8 when pumping was suspended and that was reported to the MAE and according to Exhibit 12. On April 8 in the early morning OCP requests ARCOIL, PECS and CORENA, an accredited company to carry out the work, attending the event, tests 13 and 14, and the emergency processes committee is informed, test 16, the integral monitoring of soil and water is carried out through inspections and tours, samples taken by an accredited laboratory, test 17 and 18, containment measures were carried out, test 18. The MAE orders OCP to coordinate with Petroecuador the containment, mitigation and correction measures, Exhibit 19, OCP submitted the contingency plan, Exhibits 20, 21 and 22, OCP answered, Exhibits 23 and 24, the contingency plan was approved, Exhibit 25. The Constitutional Court in its ruling 1935-12-19, points out on the remediation, mitigation, cleanup and remediation measures as are the daily reports, exhibits 26 and 28 and in exhibits 29 to 46 and 104 106, the remediation work was coordinated with public entities, exhibit 47. Control and monitoring activities were carried out by the MAE, Exhibits 48 to 53. Agreements with the communities, evidence 55 to 63, which establish the provision of food, drinking water, evidence 74 to 77, emergency food rations evidence 84, this evidence is about the facts until May and medical attention evidence 95 to 100. They say that no remediation and repair proposals have been presented, article 397 of the Constitution orders immediate action and article 292 of the Organic Environmental Code, orders that their measures are without fear and without the need for warning and must be communicated to the environmental authority as has been done. If these means are not complied with, as it is apparently intended to be seen here, the people, communities and nationalities can take legal action in accordance with Article 296 of the Organic Environmental Code and Articles 506 and 507 of its Regulations. In the emerging plan is included the environmental diagnosis of those affected, the reparation and restoration measures, the obligation of the reports, which in fact later were daily reports that the Ministry of the Environment obliged us to submit. What is sought in this lawsuit is strict liability for environmental damage, civil and economic reparation for damages, and strict reparation for environmental damage. The environmental damage is claimed in an ordinary action according to article 298 of the General Organic Code of Proceedings. There is talk of inadequate execution of the emerging plan, for which there is recourse in the administrative litigation. If the claim is for civil damage, there is a claim for environmental damage according to article 302 of the Environmental Code, articles 10 and 38 of the General Organic Code of Proceedings. If the claim is for full reparation, there is a claim for strict liability of the State, pursuant to article 326 paragraph 4 letter b) of the General Organic Code of Proceedings. The constitutional judges are not ordinary judges, the actions for protection do not replace other processes, the constitutional actions are in cases of omissions, which here the omission has not been demonstrated because there is no omission by the State.

by the defendant public entities or by private parties such as OCP. We have presented evidence to demonstrate that the alleged omission does not exist and therefore there is no violation of fundamental rights and that the claim of the plaintiffs and their written demand should be conducted through other channels. Therefore, we request that this action be rejected as improper and inadmissible. 9.15.- Ministry of Energy and Non-Renewable Natural Resources through Dr./Ab. César Oswaldo Zanafria Niquinga: I would like to begin by recalling what one of the amicus curiae stated that state entities and oil operators should not spend their resources on hiring lawyers but rather technicians. But after having listened to the interventions of the opposing lawyers, I have come to the conclusion that the amicus curiae ante is wrong, that what corresponds in this case is to be clear about the law, to know that the constitutional remedy does not replace the ordinary remedy, nor does one have to abuse the constitutional remedy by filing an action such as this one and even so, knowing that your Honor was ill for Covid, they have filed again five constitutional actions for precautionary measures that were rejected, many of the lawyers of the opposing party are the ones who signed these precautionary measures that were inadmissible as inadmissible. By abusing their rights, they are trying to use this constitutional means to replace the ordinary justice system, which also leads us to think that the technical defense must be serious and coherent. In these days of hearing we have heard that the lawyers of the opposing party confuse an action of non-compliance, the right of repetition and what is a constitutional action properly speaking, what is an action of precautionary measures and an endless number of issues that even they themselves are not clear about, this has to be taken into account. Furthermore, Your Honor, it is the duty of the technical defense to point out that lawsuits are not won on social networks, they are won before the judge by presenting their arguments of fact and law, practicing the evidence, it is not on Twitter where a judicial process is won, it is not on Twitter where the judge is judged or where the defendant entities are condemned. In that sense, lawyers have to be consistent with what they are advising their clients. But having observed a procedure in the ordinary justice that can be proposed as the only way to recognize all the environmental damage that could be caused by an act of God, that is established in the law, both in the Organic Code of the Environment and the General Organic Code of Processes, In this case, if there is non-compliance on the part of the State, it is possible to take administrative and judicial action, so that the State complies with its obligations and it is not the constitutional route, because this route does not replace the guarantees established in the law and even in the administrative route. It must be made clear that this is a fortuitous event, it cannot be possible that the plaintiffs throughout the hearing have mentioned that the State is responsible for natural events. We must not forget that Ecuador is located on the Pacific Ring of Fire, it is a territory surrounded by volcanoes, susceptible to earthquakes and floods and other natural phenomena. This does not mean that the State is going to have the obligation to respond for each one of them, these are circumstances that the plaintiffs are imagining that the State has to be responsible for every natural disaster. We are not denying or hiding as the plaintiffs mentioned, there was a spill, there was an impact, here what is being discussed is the way in which these impacts happened and how to comply with the remediation with the citizens. The State wants to comply, but there are people who are acting as amicus curiae such as the Municipal Government of Aguatico, which did not allow the State to enter to remediate the environmental damage that they are alleging, adopting decisions far from what was indicated by the National COE, with respect to the quarantine and the state of immobilization at that time. They did not allow the technicians to enter at the time, but now in the hearing they argue that the State did not respond at that time. It has been clearly seen in the development of the hearing that the state entities and operators have complied with their role, each one within the scope of their competences. The operators in this case have delivered food and water kits, and there is evidence of this through the signing of the delivery and reception minutes, which many of the people who are acting as plaintiffs in the lawsuit have signed. Likewise, there are minutes where it is evidenced that there is medical attention and it is mentioned that this has been insufficient and not adequate, nothing could be further from the truth because the State itself is suffering a situation of calamity, and within the possibilities of the State, all citizens are being attended equally, there is no discrimination, there are no people here who could die. This is something that the plaintiffs are trying to make the plaintiffs see in order to victimize themselves in this situation, because it is convenient to say that people are dying if they are not suffering this circumstance in their own flesh. Also, when the witnesses, experts and technical experts that the plaintiffs requested to intervene participated, most of them were not even at the site and if they were there, they were there 5 or more years ago. So, how can they now make their voices heard on these issues that they do not know first hand. It is evident that this action for protection has neither feet nor head, first because it does not comply with the requirements determined by the Organic Law of Jurisdictional Guarantees and Constitutional Control, in terms of admissibility and procedure. This action for protection comprises an abuse of the right because they want to shorten paths and seek alternative methods to be able to obtain the reparation of allegedly violated rights that have not been proven. On the contrary, the state entities have demonstrated with abundant proof that the rights of the communities and people living on the banks of the Napo River have not been violated. For the foregoing reasons, I request that taking into account the evidence provided by the Ministry of Energy and Non-Renewable Natural Resources, the inadmissibility of this action be declared and that it be ordered and ordered to be filed. 9.16.- Intervention of the Ministry of the Environment through Dr./Ab. Nathalie Estefanía Bedón Estrella: I would like to express my great sorrow for the great effort made by the entities involved to comply with what they said the plaintiffs could not access our evidence, we digitalized, but it seems to me that in the presentation the plaintiffs did not even take the time to review the evidence, detail and specify whether the evidence was inconducive, improper or useless, using

terms that are not even in the law, which however referred to all the evidence in general, the respondent institutions referred to each of the evidence detailing why it was improper. Furthermore, they even told us that our evidence was not even useful because it did not comply with the formalities of the case when what they presented were copies of Twitter. What we should be demonstrating is that we complied with our constitutional and legal obligations. At the beginning, the plaintiffs said that all the rights have been omitted and there is talk of an omission, but if they had proof to demonstrate and since the doctrine tells us that there is a reversal of the burden of proof, we must be careful, since it does not mean only the burden of proof of the party that has acted, since the party that acts is obliged to demonstrate the violation of a right, which is different from not having to prove anything, practically that is what we have been told in this hearing, I take this from Enrique Mármol Balda and Mariela Zunino Delgado, quoted by Jorge Zavala Egas, on the comments to the Organic Law of Jurisdictional Guarantees and Constitutional Control, however, it seems to me that throughout the hearing the institutions that have been sued today have fully demonstrated with our evidence, remembering that the State acts in a subsidiary manner, article 397 clearly tells us that in cases of environmental damage, immediate action must be taken for the conservation and restoration of the issue. In this case there are two operators that are complying with all their obligations, in this sense we refer to the Environmental Regulation of Hydrocarbons Activities, which states that when there are cases of force majeure or fortuitous event, it is the duty of the operators to inform and it has been demonstrated with the evidence that they notified within 24 hours, with the evidence provided and notifications by Petroecuador, which are from 5 to 7 o'clock. We have explained the reasons for which the emergency plan was approved, which was not without complying with the observations as the plaintiffs would have us believe, however, it is clear that they did not review the evidence presented by the Ministry of the Environment, which, although it is extensive, because it is already clear that it has been complied with. In this hearing the plaintiffs have said that they have never been provided with water, food, or that remediation activities have not even begun, but throughout the hearing the plaintiffs told us that they have been provided with water, food and that remediation is being carried out, but it is clear that this would not be the appropriate way, it would be the appropriate and effective way if during all this time there would be no emergency plan or remediation activities. I submitted all the reports updated as of August 3, OCP and Petroecuador, which show the remediation activities that the entities involved are carrying out, but unfortunately the plaintiff has not reviewed the evidence, because it is evidence that they are interested in, because they are the ones who are alleging violations of rights. It is clear that both the operators and the State institutions have complied with the provisions of the law. The remediation has advanced by 80% and this month this process would be culminating, so if the plaintiffs consider that there is environmental damage as Dr. Oyarte says, when there are adequate means in terms of all the claims, which would be the most essential part of all this action for protection that has neither head nor tail, they are complying with the provision of water and food. Likewise, on the nature issue we made an Environmental Quality Committee, we are complying with the remediation because after that we continue with the reparation, which is the compensation issue that the plaintiff is interested in. The environmental and social remediation program has already been submitted, the Undersecretary of Environmental Quality is reviewing it to see if it complies with all the parameters established in the Law, so that it can be approved and continue to be complied with. For all these reasons, in this case there is no violation of constitutional rights, nor has there been any omission on the part of the defendant entities, and since there is an adequate means, it is clear that this action would be inadmissible, so it is mandatory to reject it since all the claims have been fulfilled. It is important to point out that the Ministry of the Environment, in spite of all the restrictions that existed in this issue of the pandemic, has complied with the daily inspections and constant reports in Exhibit 378. It should also be taken into account that these are people who could also be sick, but nevertheless they have fully complied with their responsibilities. Also regarding the hiring of local labor, in the daily reports of the operators this is clearly stated. In almost all the reports that you will be able to review there is hiring of local labor, therefore, all the claims of the plaintiff have been fulfilled. Therefore, this would no longer be the appropriate way to claim the alleged rights due to omissions. 9.17.- Ministry of Public Health through Dr./Ab. Luis Marcelo Ocaña García: Throughout this process associated with the action for protection we have heard countless claims that have caused deep confusion. The State has been accused of being responsible for the omission of the natural disaster, and today, repeatedly, the parties entitled to take legal action have pointed out that acts of God and force majeure are a historical setback, and that they should no longer be considered. I can accept to believe that legislation is dynamic and responds to a social reality, what I cannot accept is that legal institutions, legal concepts, can be annulled under the novelty, the legal framework of the institution of fortuitous event or force majeure can never disappear, because under this concept we would like to point out that Covid-19 is not a fortuitous event or force majeure, because under the concept of the lawyers, the Ministry of Public Health should also claim that the Covid pandemic should have been preventable and avoidable, nothing more wrong and far from reality. What do they intend with an action of protection with real fallacies that, in addition to indicating a procedural disloyalty, lack the intellectual honesty that should be a characteristic of lawyers. To permanently question the lack of action of the State in the specific case of the Ministry of Health, to point out that it was present, but that it is treating this crisis with paracetamol, nothing could be further from the truth and disrespectful because the health workers have paid for this health task, even exposing their lives. The Ministry of Public Health, as soon as it became aware of this event, activated through the Zonal Coordination 2, a systematic and sustained health plan in force until today. One of the lawyers stated that the Ministry of Health

The presentation was limited to the presentation of slides, and the presentation was not understood through this methodology, there it was explained which are the scenarios within which this health plan is executed, with this we are convinced that the evidence has not been reviewed in the specific case of the Ministry of Public Health and of the other passive legitimized parties. Throughout all these days, we have heard many derogatory and untrue descriptions of the Ministry of Health, in an erroneous and impertinent manner, saying that activating a health plan that has been in place for a long time, is out of time and also questioning the lack of action by the Ministry of Health. In the worst case scenario, the actions of the health system in this country are insufficient, if only we had the resources, we would not even have to face the pandemic. As they have run out of arguments during the stage of allegation of evidence, they proceeded to use objectification to the actions of the State, they have pretended to judge the management of you, Mr. Judge, when they have pointed out that you are deliberately and unjustifiably denying action and justice. It is also evident that they have not been able to demonstrate that the health plan of the Ministry of Public Health has not been real and that, on the contrary, it has been effective, with exhausting working hours for doctors and health workers. Only one of the lawyers, in a derogatory manner, qualified the Ministry of Health's proof as improper, we would have liked there to be at least one statement regarding this health plan, pointing out the ineffectiveness of this plan, since this plan is not. The affected people themselves pointed out and have recognized the management of the Ministry of Public Health, supported by photographic and documentary evidence, it is precisely the affected people who recognize the management of the Ministry of Health. We have proven that the Ministry of Public Health, neither by action or omission, is responsible for the violation of any constitutional guarantee. The right to health was guaranteed from beginning to end. For all these antecedents and once we have demonstrated as Ministry of Health not to have violated any constitutional guarantee and that the present action of protection does not comply with numeral 1 of article 42 of the Organic Law of Jurisdictional Guarantees and Constitutional Control, I request that the action of protection be rejected. 9.18.- State Attorney General's Office through Dr./Ab. Proaño Durán Marco Antonio: While you were sick for Covid, 5 precautionary measures have been presented for this same issue, that is an abuse of the right and the Constitutional Court in its sentence 10-19-CN/19, points out that even judges are obliged to sanction the abuse of the right when people like the plaintiffs have dedicated themselves to present precautionary measures when you were recovering. Too much has been heard this hearing and what is clear to all is that the spill is the product of force majeure, because it was unpredictable. In accordance with the law, the State entities have immediately attended to guarantee the right to nature, the right to live a dignified life, to the environment, food and health. It has been heard that OCP and Petroecuador have used containment methods, and the plaintiffs have even tried to prove that the rivers are contaminated; the defendants have not denied this fact, the important thing is to determine whether it is an act of God or force majeure because the case was unforeseeable. On the contrary, it has been demonstrated that urgent attention was given in areas to prevent, contain and mitigate what has happened, the natural disaster cannot be denied, but the entities took immediate actions, including your Honor, the plaintiffs in this hearing have spoken of disagreements regarding the delivery of food kits and water, which have been delivered to the tuna communities, which shows that there has been no omission on the part of the State, on the contrary, the entities executed the necessary actions to address the emergency generated by the spill. Regarding the evidence, the plaintiffs only argued that it would not be legal, but they never said if this evidence complied with the requirements of pertinence, relevance and usefulness, it seems that they did not review well the evidence provided by the State entities and on the contrary they provided by the plaintiffs, screenshots, links without dematerialization, notes from social networks, studies conducted in other countries, in other languages and previous years. With the evidence provided by the Attorney General's Office, we have indicated that one of the Amicus Curiae, Mrs. Inés Nenquino, jointly with other people as president of Conconawep, signed an official letter to the Prefect of Orellana, indicating what the needs are and what is the basic food basket that is needed, there is rice, lentils, noodles, eggs, among others, was provided as evidence by the Attorney General's Office. It has not been proven at all, neither has it been proven that constitutional rights have been violated and this action for protection wants to be used as a way to replace the ordinary one established in the Environmental Code. Finally, Mr. Judge, I insist that the authority has been criticized and threatened as to how to rule, I only believe that you are clear and with what you have contributed as State, you are clear that this is force majeure and that the State entities have attended to it urgently. Your Honor, you must reject this action of protection as inadmissible because it does not comply with Article 42 paragraphs 1 and 4 of the Organic Law of Jurisdictional Guarantees and Constitutional Control, paragraph 1, when the facts do not indicate a violation of constitutional rights and paragraph 4, when the administrative act can be challenged through the courts, unless it is demonstrated that the avenue was not adequate or effective. REPLY OF THE PLAINTIFFS. 9.19.- Dr./Ab. Sylvia Fernanda Bonilla Bolaños: I am going to refer to three points, in the first place to the content of Art. 40 of the Organic Law of Jurisdictional Guarantees and Constitutional Control on the procedural requirements, we have heard the entities being sued how they have established on the one hand that we are the ones who must establish the damage and liability, in fact I quote the Ministry of Non-Renewable Natural Resources and it says that there is no document that assures that the regressive erosion was predictable, I mean under article 396 of the Constitution if there is no document that was predictable that the event would occur but not unpredictable, the burden of proof must be applied and the entities sued must demonstrate that this was not foreseeable. On the other hand, Article 11.9 of the Constitution states that the duty of the State is to respect and enforce and guarantee the rights established in the Constitution, therefore, it is not only the State but also its delegates and concessionaires, in the case of OCP and

all persons exercising public authority have the obligation to repair the damage to human rights. I would also like to make express reference to the fact that the defendants have repeatedly said that we have not proven that there is a violation of constitutional rights, expressly contravening the provisions of the Constitution and the law, when it is the defendants who must prove, this shows that this is why they have not taken the necessary time to prove that there is no violation of rights. When we talk about violation of rights and why it is the constitutional way to establish the violation of rights, we have to ask ourselves the question: Is this the right way or not? The entities being sued have made reference to the administrative or even the criminal route. When it comes to constitutional rights, as it has already been said in the present jurisprudential 00916-SEP-CC of January 6, 2016, we must consider that all rights under the principle of equal hierarchy, all rights have a double dimension or are multidimensional, this means that all rights have a dimension that is in the constitutional level and that is in the legal level. How is this multidimensionality of rights differentiated has to do with the intervention of the rights to dignity or human dignity? The entities involved have referred to the fact that the right to water is not declared a violation of rights because previously the communities did not have access to drinking water, I refer to this to make this example, we do not require that the entities involved have to guarantee this right only because the right to water is a fundamental right, if they take away all the water supply that I have access to, that means the river, at this moment the essential nucleus of the right is being affected. The same happens with food, if in this essential nucleus of the right, all my possibility of accessing the right to food is violated, because I do not have a river, because I do not have access to food, because in the middle of a sanitary pandemic, a global sanitary emergency, I do not have access to food either, we are not asking to declare it as a right of a feeder, I have to prove that I have the quality of a child of a feeder. The right to food, the right to water or the right to nature to be restored, that is part of the essential nucleus of the right, that is what determines the appropriate route which is the constitutional one, when from this analysis that the constitutional justice has to do and you as an operator of justice, establish that this constitutional dimension has been touched this or essential content of the rights and therefore, establish that it has had to do with the very dignity of people, they are not declaratory actions of rights because all people have the right to water, it is a fundamental right, all people have the right to food and that they take away and snatch this right from us is a violation in a constitutional sense. On the other hand, the requirement of article 42, paragraph 4, establishes that it must be demonstrated that this is the adequate and effective way, but this also gives the judge the responsibility to make this analysis, whether or not it is the adequate way. Therefore, it is the obligation of the judge to explain the reasons why he/she would think that the ordinary way is the suitable and effective way to solve the present case. Otherwise, if it is not possible to sustain in a reasoned way, in a substantiated way, which is the way and why another way is the effective way, the appropriate way is the constitutional way, I have already said this binding jurisprudence that has clearly stated that the competence of the judges in the contentious administrative jurisdiction cannot be ignored, but what must be made clear is that when we are talking about the essential content of rights, the constitutional way is the only appropriate way. Therefore, the protection action has the nature that it is not subsidiary and that it is not residual, this also has to be stated in a motivated sentence, but the last precedent of the Constitutional Court of 2020, sentence 1679-12-EP, of this year establishes that in front of factual situations where it is demonstrated that the ordinary way does not have absolute maturity because even within labor trials, even against civil lawsuits, it has to be considered which rights cannot be protected by this means and in effect the rights of the restoration of the rights of nature, these rights of life in dignity of people, these material conditions of dignified life so that people can reproduce their lives in adequate conditions have to do with the constitutional dimension of rights. Therefore, it is inadequate that the institutions being challenged have established that it is the administrative route or that they have even dared to say that to justify omissions we had to make a prior claim. This cannot be possible, even more so when the responsibility is objective in relation to the rights of nature and therefore it has to be demonstrated in this particular case in a coherent, adequate manner under very clear arguments that constitutional justice is the only way to guarantee the rights, because it is the way that immediately guarantees the rights, not only the protection action has this character to declare the violation of rights, but it also has a reparatory character that obliges it to establish adequate and clear measures of reparation, only the suspension of the hearing, which is 72 days, adds up to more than 100 days, and not even this way has proven to be the adequate way, even less so other administrative channels, under the principles of immediacy, the principle of celerity, there is a presupposition that the constitutional judge has the obligation, not only to repair the rights, but also to cease the effects that may produce the violation of rights, we have seen that in 100 days they have not pronounced themselves in spite of our multiple insistence on the precautionary measures when the law expressly obliges them to pronounce themselves in favor or against the precautionary measures, but in the first ruling, the only thing they have demonstrated is a lack of diligence in the present case. Therefore, it is your obligation at this moment, under penalty of all the responsibilities for unjustified delay, to resolve the case in accordance with the international human rights standards that must be expressly applied, even above the law, above the provisions, above the resolutions taken in closed meetings between the operators and between the State. It is necessary to declare the violation of rights because that is the only way to repair them, we have seen how the emerging plans have been completely ineffective all this time, the evidence has shown that it does exist.

violation of rights. All the decisions that have been taken over the lives of people, over the rights of nature, over the very life of nature, have been ineffective, have been taken disproportionately to guarantee rights. It is the role of constitutional justice at this moment to weigh these equivocal actions of the State and guarantee a real materialization of rights through reparation measures and this is the only way to guarantee access to real justice for these populations and nature. 9.20.- Dr./Ab. Verónica Potes: The April 7 spill was predictable, it was avoidable, since February 2 nature announced that the San Rafael area, which is already known as an unstable zone and subject to landslides, landslides, the presence of an active volcano, was subject to a special aggressive process of regressive erosion. In view of this, we have the legal obligation of the operators of these pipes, Petroecuador and OCP, to take all the necessary, sufficient and effective measures so that this process of erosion does not end in a spill, does not end in a horrendous contamination of the rivers and soils with the consequent affectation to life, health, food, safe water, and the dignity of the people downstream. Your obligation, Mr. Judge, is correlative to the privilege of these companies that carry out a very high risk activity for any person. These companies carry out activities through their license granted by the Ecuadorian State to operate, but precisely because of the risk they pose, they present a high degree of care, as the CRE states. To transport oil, to transport fuel is not just anything, that is quite clear because we have seen the incalculable and immeasurable damages caused by the spills we are experiencing. That risk has a correlative duty, especially careful, it has to prevent the damages that are known and avoidable, that is why I insist that we must extinguish the event of the spill with the damage of a spill, a spill may or may not cause damages if a corner of a hill is spilled and nobody was walking around there is no problem, This is a possibility that does not fit in an oil spill, it always causes damage and does damage depending on the magnitude of the spill, but the damage will always be so the law and the Constitution obliges us that when there is certainty that damage is occurring we have to take all the necessary measures to avoid it. It may be that we do not know when the landslide is going to occur, it is true and we are seeing that since February 2 when the waterfall was one kilometer away, it turns out that in half a month it is 700 meters away, then they cannot wait because they cannot guess it and that may be true except that the same Constitution imposes that we must act with precaution, it imposes us that although we do not have scientific evidence of when it is going to occur, I insist here on effectiveness and timeliness because none of that happened in this case, neither the operators of Petroecuador and OCP, nor the State through its control agencies took effective and timely measures to avoid the damage that was known to occur although it was not known when exactly it would occur. This is a contradiction of the contemporary right to peaceful coexistence and diversity as imposed by the Constitution, they are the constitutional and legal mechanisms that we have now to put an end to what a friend of the Court said this week, the history of impunity of oil spills in the northern Amazon has to end, and you can be instrumental for that. Constitutional law also imposes strict environmental liability for those who caused environmental damage, the polluter is liable and responds to the obligation to fully restore the damaged ecosystem and compensate the people and communities affected, that is part of Article 396 of the Constitution of the Republic of Ecuador, in accordance with the Environmental Code in Article 307, which confirms the strict liability and only exempts from administrative sanction and only in cases where it is demonstrated that damage could not be reasonably prevented or that having been able to prevent it was also unavoidable. Neither of the two conditions is fulfilled in this case, but in the very hypothetical case that it is fulfilled, the only thing that is exonerated is the administrative sanction, it does not exonerate the constitutional liability for damages and violation of Human Rights. So, as it is not the case here, there is damage that was predictable, that was avoidable and the operators have not bothered to demonstrate the contrary, the only thing they do is to repeat that it is an event of force majeure, invoking an outdated figure of civil law that is no longer in force here in Ecuador and at least in these cases because constitutional law and environmental law have surpassed it, that damage that is serious, that is serious, that is immeasurable, That damage is serious, it is serious, it is immeasurable, it is very difficult to repair and that is why it should be avoided and we should not even be discussing the repair, we are discussing whether or not they should have avoided the avoidable, it was foreseeable, it was announced, it was known what would happen and they did nothing, that damage was avoidable and the measures exist, barriers can be placed to withstand the spill in case it occurs so that the substance does not reach the environmental element. The pipes had to be drained in case they did not have time to put the barriers, to put the trays and to put these pools, it has been done, Judge, yes, you know when they did it, one month later, in June when the layout was taken to another side of the river, they did not anticipate that the other Montana river was also going to enter into an erosion process, when they realized that the same thing was going to happen to them, they closed valves and drained pipes, because the empty pipe does not spill and finally the only thing that would cause us a landscape affectation, but that did not happen here, they caused a serious and serious damage, I insist immeasurable damage that could have been avoided and it is a damage that was done not only to a riverbed, The same one that is protected in Ecuador because nature, those rivers are the source of life of the Kichwa communities in a unique relationship, a particular and irreplaceable relationship that neither you nor I have because we are not from those cultures, but in those cultures it is a problem, that is why the people of Coca say to the city of Coca, stay calm, I will make sure that the water that enters your catchment will not be contaminated, that is why the people of Coca say it is fine when they do not realize that they are living with a contaminated river because they do not need the water from the river, but the communities that do depend on the river, we are talking about their life, we are not only talking about a legal distinction of whether or not there was force majeure in this case. 9.21.- Jorge Acero González: I would like to point out and remember that in the last year and a half judges of first instance and

Provincial courts of Azuay, Sucumbíos, Pastaza and Imbabura have unanimously said when ruling in constitutional actions in very similar cases of violations of rights and violations of nature that this is the appropriate route, even the MAE in its pleading alleged to the sentence 0016 of the Constitutional Court regarding the inappropriate route, I want to remember what that sentence establishes as binding jurisprudence textually, the constitutional judges only when they do not find any violation of constitutional rights and they state the reasons in their sentence may determine that the ordinary justice is the appropriate and effective way, with respect to another allegation mentioned by the colleagues who preceded me on the regressive erosion as a non-predictable fact, the defendants have almost unanimously based themselves on this non-predictability, and I would like to remind you of several things, one of which is that it goes against the law, according to the Dictionary of the Royal Academy of Language, which means that it cannot be seen in advance or even conjectured with indications. Remember that even the Provincial Directorate of the MAE of Sucumbíos on March 9 published on its official Facebook page that it was evidencing the advance of landslides and the increase of the sinkhole in the area, that is to say a month before, it is evident that this serious omission caused serious violations of human rights and also shows that the constitutional principles of prevention and precaution have not been respected or guaranteed. Now I would like to refer to the allegations of the defendants and some of the evidence practiced by the witnesses and Amicus, the lawyers of the defendants say that when the rupture occurred they adopted protocols and presented emergency plans that were also approved by the latter and as they have stated they contemplate remediation, they never spoke of integral reparation especially with respect to nature and when they spoke they confused it with the meaning of remediation, demonstrating the ignorance of the existence of the great difference between remediation and restoration or integral reparation and what this implies, this has been argued in making our evidence in this sense and in making ours a great part of the evidence of the defendants, even in their allegations they mention article 71 as rights to nature and restitution and sentence 176 of case 507 of the Constitutional Court, of which I would like to recall something, it says verbatim, this Constitutional Court has been emphatic in pointing out the importance of the rights of nature that derive in the obligation of the state and its officials to encourage, promote and guarantee respect for all the elements that are part of an ecosystem and the right to respect nature in its entirety as subjects of rights. On the part of the witnesses, I would like to remind Petroecuador's witness, the engineer Villacreses, who says textually that he recognized that the contamination reached Peru and detailed the activities that he has carried out in the remediation, the collection of weeds, cleaning of rocks, removal of hydrocarbons when found, which coincides with the evidence, this is the cleaning and remediation that they have carried out. He also responds textually that remediation is not the same as repair or that he knows the differences that exist between both processes He also informs that a biotic characterization will be made with some indicator species that will be after the remediation, adding that there are species that are being affected, he also states that he is hopeful that the area can be recovered, but speaking that it is by itself and finally he informs or ratifies that part of the crude compounds and its density will reach the sediments and the river beds by several factors, by dragging, sedimentation and others..., that for different reasons will be detached and go downstream. Regarding the Amicus experts and witnesses, several coincidences, existence of damages at different levels of the rivers and nature, in animal and plant beings of the existing ecosystems, which are intimately interrelated from the microscopic to the large vertebrates of the area. There is talk of remediation plans, not of repair or restoration, recognizing that all of them are essentially different in both actions, as the MAE answered, but that no such repair plan was made and the MAE also stated that they should not be made. There are no previous characterizations of the existing ecosystems, not even about possible species in the area that have been or may have been affected, despite the fact that all agree on the very serious impact that is assumed, also recalling that several protected areas of invaluable natural wealth have been affected and that animal species on the red list that are in danger of extinction have also been affected. It is unanimously agreed that part of the spill has also been deposited and absorbed in the sediments and river beds and that with time it will be detached and dragged along the river, that is to say, it is recognized in current damages in the medium and long term as well. The Ministry of the Environment alleged, said textually based on article 76 that recognizes and establishes the right to restoration of nature, saying that it has respected it, it also alleges that it has complied with its obligations, indeed 72 establishes that nature has the right to restoration, but adds that the State will establish the most effective mechanisms to achieve restoration, which it has not done. The MAE, as the national authority, should have established these mechanisms and ensure compliance and guarantee of this right, which it has not done either, as is also proven by evidence. In this sense, Article 397 of the Constitution of the Republic of Ecuador establishes that in case of environmental damages the State will act immediately to guarantee the restoration of the ecosystems, in addition to establishing the intangibility of protected areas. In this sense, the same Environmental Code establishes in numerous articles obligations and responsibilities of the MAE in case of environmental damages and to guarantee the restoration, which has not been done consciously and voluntarily in this case. For example, Article 3 establishes the obligation of the Ministry of the Environment to prevent, control, avoid impacts, as well as to establish reparation and restoration measures, but it has not prevented damages nor has it established restoration measures, and other articles of the Environmental Code such as 5, 28, 4, 289, 292, is a long list. Regarding the right to restoration, the violation of the rights to nature has not been questioned by any of the defendants, they recognize the existence of a serious impact, they speak of a catastrophe that affects the rivers, that affects the species and also the populations and communities, it is not discussed, it has not been discussed and it has been evidenced the violation of the rights to nature.

It is evident that all ecosystems, including natural reserves and endangered species, have been affected, and once Article 71 has been violated, restoration is required, as established in Article 72. In this regard it is important to note and remember that full reparation is an obligation of the State, whose main purpose is to return to the situation prior to the violation of the right, and has been emphatic to the Constitutional Court, stating that such reparation is an effective and efficient means to repair the violation, states that it is the cornerstone of our system of rights and justice in judgment 4-13 or 4-SIS of the Constitutional Court In the same sense the Inter-American Court has also ruled on the full restitution returning to the time prior to the violation of the right, Velásquez Rodríguez vs Honduras case. Regarding the specific issue of nature, the Constitutional Court has also ruled in judgment 218-15, the Court identified the violation of the rights of nature and determined that it has the right to restoration and that this implies that the judge must ensure that the affected area is restored. The sentence 176-15 which textually states, the recognition of nature as a subject of rights includes the right of nature to restoration referred to the restitutivo in integrum, that is to say, the full restoration of nature through the repair of the damages produced in the physical environment, that is to say, the restoration must be directed so that the natural ecosystem returns to enjoy conditions that allow the development in relation to its vital cycles, structure, functions and evolutionary processes. Furthermore, with respect to natural areas, it states that they must be preserved unaltered, constituting an inalienable and imprescriptible patrimony of the State and the citizens, constantly the defendants, especially the Ministry of the Environment, have talked about cleaning and remediation already in progress but have not talked about restoration and remembering as established in the Regulation to the Environmental Code in its glossary that to remediate is to eliminate the polluting agent, but to restore is to reestablish and regenerate vital cycles. In this case there was not and there should have been a previous analysis of the ecosystems, animal and plant species that the defendants have recognized that there are not, that they do not have and that they do not exist to be able to determine what was the real damage produced and how to return establishing the adequate measures to that previous situation, as restoration says that it is to take all the necessary measures to return to the environment its functions, leave it exactly as it was the Constitution says it in Article 72 and Article 396 of the Environmental Code has countless articles such as 289 and there are two judgments of provincial courts that are the judgment of the Piatúa case of September 5, 2019, where the Provincial Court of Pastaza established the violation of rights and forced condemned the MAE for the violation of this right, because specific measures had not been established to protect endangered species. Here not only endangered species, but all, there are no restoration measures, or the sentence of the Cedros Protected Forest of June 19, 2019, which states that any action that may lead to the destruction of an ecosystem or the alteration of natural cycles should be considered a violation of the rights of nature, that is to say it is clear your Honor that you have to pronounce the same as the Colombian Constitutional Court has done to the river subject of rights or the Supreme Court of Colombia that declared the Amazon as subject of rights. The Coca and Napo rivers should be considered subjects of rights, the affected nature as well and in this case, since there are ecosystems, there is no doubt that they have been violated and serious measures of integral restoration should be established, which has not occurred as established in article 18 of the Organic Law of Jurisdictional Guarantees. 9.22.- Dr./Ab. Luis Xavier Solís Tenesaca: I would like to start by saying that this process is a historical process that perhaps because of the delay that this process has suffered, therefore the sentence should be immediate, we cannot wait 70 more days for the indigenous communes, for the city of Coca to be repaired, if we only quantify the daily loss of oil that the Ministry of Energy and Non-Renewable Resources said, we only make a proportion of the time that this action of protection and precautionary measures has been delayed, we would be talking about a loss of 1000 million dollars and they calculate per month it would be 3000 million dollars. We are talking about something much more important than money, we are talking about constitutional rights and human rights. The companies OCP and Petroecuador and the ministries have made a esprit de corps and have said that it is due to a case of force majeure, their own reports, the reports of the park rangers, the reports have physical tell them from the beginning, even in cases prior to 2015. But neither can force majeure be understood at this time in the XXI century, this would be understood in the year 70 when the Coca Codo Sinclair dam was made but now in the 21st century the photos show the process of regressive erosion of the coca river since February 2 had seen scientists and there is all the technology available that is not justification. Force majeure could be understood at the beginning of the Civil Code, but not in 2020 I want to refer to the Amicus Professor Manuela Pic, and emphasize what the International Criminal Court mentioned, a few years ago it elevated environmental pollution to a crime against humanity, this situation is very important, because here it has happened to equate to the standards declared by the International Criminal Court. In addition, the facts are not new, these facts come years from 2009, in that year the spill was caused by OCP about 14,000 barrels of oil and a compensation of about USD. 12'000,000 that had to be paid to the municipality of Francisco de Orellana, this happened again in 2013, where Petroecuador spilled about 11,000 barrels of oil, but nevertheless in this period the public institutions did esprit de corps and Petroecuador did not pay any compensation, nor was it the result of any judicial process. Your Honor, these situations cannot be repeated and the technology exists, the standards exist, the administrative constitutional facts exist that support us. The Ministry of the Environment in the process points out that it has not made any control, there are only back and forth offices, reports that are not complied with, there is no proof that the governing body of the environment and water in Ecuador has guaranteed these rights, rather there has been a vehement defense of the oil companies. This would be unimportant, your Honor, if life were not at stake.

of about 25,000 people and if we add the people of Francisco de Orellana, we would be talking about 100,000 people. In the same way the Ministry of Public Health has demonstrated that it is in a different hearing than this one by presenting its evidence and besides presenting slides, it has not proven anything in this hearing, the Ministry of Energy and Non-Renewable Resources has demonstrated its total omission as the national entity of energy and non-renewable resources. Petroecuador and OCP have had contradictions, Petroecuador mentions that around 5:00 p.m. the SOTE was broken and more or less at 9:00 p.m. the polyduct was broken, OCP says that in the early morning of April 8 the pipeline was broken, but nevertheless according to the same reports of the Ministry of Environment, they start to make coordinated actions on April 7 and remediation actions at the same time, it is very difficult to believe this situation. In addition, as we have mentioned, there are subsequent omissions by both Petroecuador and OCP, we are talking about 15,000 barrels of oil that cannot be hidden as has been pretended in this hearing. The right to the environment is guaranteed in the Constitution in articles 14 and 66, the right of the communes and nationalities to live in a healthy and balanced environment has been totally violated. I want to emphasize the principle that the polluter pays, because they had the obligation to avoid and carry out the necessary measures to prevent and reduce this environmental impact. The polluter is obliged to make full reparation and compensate the injured parties, to adopt compensation measures for the affected persons and the respective payments, sanctions, etc. But to whom can it fit that a reparation measure is to deliver 3 liters of water per week, or to deliver food rations that are not culturally appropriate for the people. There has been a violation of the right to information, to participation, to justice in environmental matters, the indigenous people have demonstrated in the process that they were the last to find out, if not for a child Bayron Jipa appears bathed in oil, the impact was not proportional to the idea of the indigenous communes. In the same way they violated two basic environmental principles, the precautionary principle, this principle is when there is no scientific certainty, in this case if there had not been these scientific alerts, if there had not been the satellite photos and the park ranger alarm, this principle should have been applied immediately, but there was all that, therefore, there was a violation of the precautionary principle because there was a scientific certainty of what was going to happen and there had been several alerts about what was going to happen. Therefore, another of the principles that environmental law guarantees is integral reparation, it is the set of actions that the companies must carry out, which have to be culturally adequate, there has not been a reparation of the right to a healthy environment, clearly it has been violated in this case the Inter-American Court says that the indigenous peoples are particularly vulnerable to environmental degradation due to their spiritual and cultural ties or their territories, this has to be valued in the sentence. This vulnerability is to economically withhold environmental resources, this is what has happened in the communes in the context of the Covid-19 pandemic, they have not had the right to water, food, fish. Their territories have been violated, their ecosystems have been violated and the Yasuní National Park. Your Honor, the violated rights are very clear, here there is a violation of the right to the environment but it would be necessary to know if there is constitutional justice in this process.

9.23.- Dr./Ab. Pablo Estenio Fajardo Mendoza: The right to information, in our initial allegation we have indicated that no indigenous community was informed by any means about the event that had occurred on the Coca River. None of the defendants have demonstrated that it did exist, consequently, this right to information, which is contemplated in article 18 of the Constitution, is confirmed that it was violated. We have heard from the opposing party that it is a fortuitous event, that it is a case of force majeure, it is not true, it is not a fortuitous event, nor a case of force majeure. What is the fact? In the country we are frequent witnesses that when there is a landslide or landslide in any city of the country, either the Risk Secretariat or the local Municipality, what they do is to warn the population and evacuate the population of that neighborhood or sector and to remove their goods, because in the end if the hillside collapsed, the impact is less and there is no loss of human lives or material losses. Here it is clear that at the beginning of February the regressive erosion of the San Rafael waterfall was evidenced, they had two months to evacuate, to take precautions, to apply the precautionary principle and they did not do it, that is absolute negligence, that is acting with very bad faith. In the country we are witnesses that frequently entire neighborhoods, entire sectors are evacuated to prevent major disasters, here they knew it was happening, going a little further, the operating companies OCP Petroecuador, Petroamazonas and others, have the legal obligation to prepare and apply the environmental impact plan and the environmental management plan which are prevention measures and in those legal instruments that our regulations control, what they do is to define concrete actions to avoid impacts and if they occur, to achieve that the impact is less, that is to say that the norms exist, I insist that the principle of prevention was not applied by any means, the problem was not prevented at all. In the evidence provided by the entities involved, they refer to remediation, but never to the restoration that applies in this case, so complying with legality does not mean complying with the constitutional framework. There is imminent damage to the indigenous communities settled on the banks of the river, we said at the beginning that the river means the life of the indigenous peoples where they fish. To contaminate the river is to destroy the life, the heart, the soul of the indigenous peoples, but here the river is destroyed, the soul of the south is destroyed and the defendant has not been able to demonstrate that there is no damage, there is a real imminent damage to the farms, to the orchards of the different indigenous communities. The alleged act of remediation carried out by the companies confirms this fact, the contamination with these aromatic hydrocarbons, which are easily spread and irrigated in the water. We also have the heavy metals that by logic weigh more than the water, it goes to the sediment, in previous reports we have said that the oil has advanced at least up to 1.20m deep, it is in direct connection with the mud, with the water, then it implies the supposed remediation that is to remove the feeling in certain parts that it is not in all, it means that they are prolonging the spill, it means that they are causing a fact so that oil

The spill did not end on April 7 or 8, the spill continues until now and every day that they remove the sediment in one part they are causing these hydrocarbons to continue advancing in the river further downstream, causing damage and harm to lives. The delivery of food kits is not a reparation, it is a gift that is given to the communities to try to silence their voices, but it is not reparation, much less restoration, consequently, your Honor, we see the violation of rights. The three pipes were broken as such toxic material was spilled over the river, there is no way to separate that responsibility, the State of course was never able to demand an adequate prevention, much less an adequate action, the precautionary principle and under that logic even the total suspension. It is entirely possible, your Honor, to order the suspension of all oil production in the area until it ceases, until spills are not guaranteed and the rivers are not contaminated. 9.24.- Mazabanda Calles Carlos Santiago: This is a historical process beyond the circumstances that occurred due to the importance of the facts that may be established from the sentence that you, constitutional judge, are going to give. Since here on the one hand you have to recognize and judge on an event that could have been predictable, you have to judge on the collective rights that were affected by this spill and how the rights of nature were also affected. Undoubtedly, in your hands is a historical judgment that will provide arguments for new cases and that situations as serious as those that have been presented here will not be repeated. I was referring to the fact that I wanted to be simple, because it seems that here the defendants have forgotten the constitutional framework in which we are, it is a constitutional framework of the most advanced in the world of the guarantees of rights that recognizes the Ecuadorian State as an intercultural and plurinational constitutional State, because if you look and review the hundreds of pages that have been provided as evidence, there this intercultural and plurinational element does not appear anywhere, This is very serious, because when the State has this opportunity to show its real will to accept the violation of collective rights, it always takes a defensive position as if these constitutional rights did not exist and finally they were gifts or because the indigenous peoples come here with the pleasure of complaining, that is, we come here to spend hours because we like to complain, when they are constitutional rights. Your Honor, you will remember that in the testimonies that were given on April 24, some of them very profound, they talked about the benefits that the river offers to the Kichwa populations. In the interventions they pointed out how beautiful our river is, how they used to work, how they could fish, how they bathed, all these activities have a cultural component and that they recognize that unfortunately with the three spills that have occurred, Mr. Juan Elías Licuy, said that we no longer do these cultural acts that he did not relate to the river because with each spill the relationship with the river is being lost, evidently they can no longer fish that river has stopped being the beautiful thing it was and by culture we have already lost it, he mentioned. So, as there are many people affected and members of the indigenous peoples, we are talking about 27,000 people in more than 100 communities, we cannot fail to analyze also the territorial dimension, as you already mentioned, they recognize in official documents that it is a catastrophe that affects the relationship of the indigenous peoples with these territories, which is a right recognized in international law and in Ecuadorian law and in the Constitution in article 57 that recognizes and guarantees the indigenous communities and peoples in accordance with the Constitution and the covenants, conventions, declarations and other international instruments, collective rights, within this numeral 1, to maintain and freely develop a sense of belonging, rights to the territory, to the culture, so if they are recognized in the Constitution and are recognized in international instruments. In this sense we must remember that the Inter-American Court of Human Rights has repeatedly demonstrated the relationship that land and territory is not merely a matter of possession and protection, but a natural and spiritual element that indigenous peoples must fully enjoy, including to preserve their cultural legacy. This is important because if we affect their territory and the indigenous communities cease to have that relationship with their territory, they cease to be an indigenous population, we transform their culture. Ecuador is a signatory of Convention 169, which recognizes the rights of indigenous peoples and therefore Ecuador must guarantee them. Another important issue related to the relevance to the territory is the issue of how they use the natural resources that are within that territory and here it has been demonstrated with public documents that the State has given us that the protection and remediation measures after the spill in the area have not been immediate or timely, The Coca and Napo rivers were contaminated, they mentioned that this is happening again in a very complicated situation for Covid, where the use of water was essential as a prevention mechanism, which makes the situation more dramatic when the indigenous communities that live on the banks of this river have this river as a source of supply, thus affecting their right to water. The subsequent rains caused the contamination to spill over the banks of the river, flooding these areas of farms and crops and also affecting their food sources. With this spill we have affected their constitutional rights to freely develop and strengthen their ancestral activities such as hunting, fishing, cultural activities with the river and also their right to food sovereignty, which was widely explained what is the difference between having food sovereignty and food security, because food security with kits of USD. 20.00 is not guaranteed, we are talking about food sovereignty, what the river provides me, the conditions, what the farm provides me without contamination, and on the other hand living in a healthy environment, not for nothing is recognized in the Constitution, it is recognized as Sumak Kawsay which is a word specifically from the Kichwa nationality, it is related to a new citizen coexistence in diversity and in harmony with nature as it is in Article 275 of the Constitution. Thus, the oil spill caused by the rupture of the pipeline has affected the right to a healthy environment and with it also a series of other primordial rights that are recognized in the Constitution.

the present lawsuit. The right to health, the right to water, the right to food, these indigenous nationalities cannot be separated from their territory. I request your Honor that at the end of this hearing you can give us a response to the precautionary actions that we had requested at the beginning and that have not yet been issued a response, that you take full consideration of the transversality that implies all the rights that have been presented here and that have been widely discussed in this hearing; 9.25.- Dr./Ab. Yasmín Karina Calva González: According to the evidence that has been provided as well as the legal standing, including the evidence provided by the defendants, you should have no doubt that the human and constitutional rights to water, food and health have been violated and that therefore it constitutes a very serious violation of a dignified life. In this sense, your Honor, it is important that you remember and take note of what is expressed in article 397 of the Constitution in its second paragraph and it tells us that it must be established that each one of the actors and of the processes of production, distribution, commercialization and use of goods or services, will assume the direct responsibility of preventing any environmental impact, of mitigating, of repairing the damages caused and above all of maintaining a permanent environmental control system, which clearly, your Honor, we have not seen what has happened, much less that the passive legitimacy has approved it. Now, your Honor, in relation to the right to water, we insist that this right is not exclusive, it does not only refer to the consumption of drinking water, but to all those forms in which not having access to water prevents, for example, having access to irrigation or to the production that takes place in the farms of the communities, to water for the life of the fish, to water and its relation with the indigenous communities. Therefore, the right to water must be guaranteed according to constitutional regulations, but also to international standards, and I cite observation number 15 of the Committee on Economic, Social and Cultural Rights, which has told us that the quantity must be sufficient for consumption, for the personal use of the family and that the center or supply must be close and easily accessible, evidently these standards have not been guaranteed, that is why your Honor, the delivery of 3 to 6 liters of water per week to each family is equivalent to a person living with less than one liter of water per day. These acts are not only violations of human rights or collective rights, they are degrading acts for human life and contradict every standard that we have repeatedly pointed out. It is important, Your Honor, that you take as an example the issue of the indigenous communities Members of the Association Vs. Argentina, paragraphs 226 to 230 that say the human right to water is a right of everyone to have sufficient water, the affected communities have had sufficient water, not acceptable, accessible and for personal and domestic use, that is to say that water is not only required for drinking or for hydration, but also for bathing, in addition, the adequate supply of safe water is necessary to avoid death by dehydration, to reduce the risk of water-related diseases and to meet the needs of consumption and kitchen supplies and the needs that I already said of personal hygiene. In this sense, your Honor, the Court, following the guidelines of the Committee on ESCR, has expressed that access to water includes consumption, sanitation, washing, food preparation and personal and domestic hygiene, as well as for some individuals, the resources must also be additional in relation to health, climate and working conditions, evidently it is very clear that the defendant institutions did not guarantee standards of availability, accessibility and quantity, which are standards that you are obliged to develop and therefore to declare the violation of the human right to water. Furthermore, your Honor, it is not only about these standards but also about how these facts have violated the intrinsic relationship that the Kichwa communities have with their rivers, since the rivers are much more than a resource to live well, for example, the river is not only a space for the mestizo people to bathe, in no way, but they are spaces of living places for the communities, they are living beings, there is no doubt about that. Regarding the right to food, it is important to remember what Mr. Abel Jipa, father of one of the children who had one of the greatest impacts in life, was submerged in the river and his skin got stuck to the oil and that same crude oil that stuck to his body is now in his food, in such a way that it alters the life of his entire community, of all the people who are forced to continue consuming contaminated fish, as you have heard in this hearing, including the testimonies of the expert witnesses and several amicus curiae. Furthermore, Your Honor, with the evidence presented by Petroecuador and OCP, it has been said that even kits similar to those delivered by the MIES have been guaranteed and that protection has been prevented and guaranteed, it is very clear that these kits, beyond not complying with human rights standards, have also been kits that have been limited because none of these companies have guaranteed periodicity or frequency, that is, with a kit that is delivered every month it is possible for the families to live, in no way. According to international standards, the United Nations Special Rapporteur on the right to food tells us that this includes and what it means for indigenous peoples and that it is obviously much more complex than a simple analysis of statistics on hunger, indigenous people have their own particular conceptions of what food is, of what hunger and subsistence are, that is why we have reiterated that these food kits have not been adequate, have not had the relevance required, much less have they been agreed or coordinated from the beginning with the indigenous authorities. We clearly see that none of the institutions or the companies have demonstrated that the provision of food, as I have already said, is neither culturally nor pertinently adequate; moreover, at least the diet of the communities has not been considered in order to provide these kits and they have not been sufficiently delivered to the entire affected population. The right to food imposes three types or levels of obligation on the states which consist of the obligation to respect, protect and guarantee, however we have seen that the actions and omissions of the defendant institutions have caused the right to food and the right to water to be affected by an oil spill that has caused the communities to be unable to have their own food under the

standards of availability in sufficient quantity and quality to satisfy the food needs and even worse, the little they obtain is found with harmful substances. Finally, your Honor, you should clearly remember the testimonies that we incorporated and that are included in the lawsuit, such as that of Andy Gabina Coquinche, who says that this oil kills us and only kills the yucca plantain, that smell that it carries and the people here, as they consume the water, they bathe and we can no longer bathe, scabies come out, the children are sick and where are we going to drink water, that water that they send us three little tachitos that runs out in 15 minutes and we have many little children. Finally, your Honor, today you are able to do justice, as is your mandate, by accepting this action for protection and therefore declaring the violation of constitutional and human rights such as water, health, food, dignified life, and above all, immediately ordering full reparation. 9.26.- Dr./Ab. Vivian Isabel Idrovo Mora: We must remember that the victims have been waiting 105 days for protection and justice, that their right to life is guaranteed because their lives are in danger, the violation has been demonstrated throughout this hearing and has been aggravated in these days by the lack of effective judicial protection, we believe that the precautionary measures must be given since the same facts of April 7 continue to exist, they have worsened and as you have heard the state response has been insufficient and inadequate, culturally isolated and inappropriate. There have been no warnings, there have been no mechanisms, there has been no agreement, there have been no suitable mechanisms to repair the damage caused. The entities and operators have demonstrated in the hearing that they do not know human rights and they do not know which peoples we are talking about, we are talking about Kichwa peoples, the Attorney General's Office has referred to the Huaorani nationality, which is not a plaintiff in this action. Then how can they guarantee something that they do not know, your Honor, they want to give administrative treatment to the violation of constitutional rights when there is reiterated jurisprudence that this is the adequate way and that only if the constitutional judge reasonably demonstrates that there is no violation of constitutional rights, this way would not be adequate, but in this case we have shown that there is a violation of constitutional rights. It should not be forgotten the MAE's official letter to which we have referred on April 11, where it appears that both OCP and Petroecuador acted jointly in the actions taken as from the spill. We have heard both from the lawyers of the entities involved as well as from the State entities, that this is not the way, but this is the way because there is a violation of constitutional rights, the territory of the Kichwa communities and the river on which their subsistence depends were affected, that even the emerging plans are recognized and the collective rights and article 57 of the Constitution have also been violated. The representatives of the State have been heard that the right to life has not been affected because no one has died, this is an aberration that ignores decades of jurisprudence of the Inter-American Court in relation to the concept of development of a dignified life, as well as the Constitution itself, which not only guarantees the right to exist, to breathe, to be, to live, it guarantees the right to a dignified life as established in Article 66 of the Constitution. This ignorance made by the lawyers of the defendant entities is necessary to be observed, because they point out that there is no omission because they have delivered water, food kits and medical actions have been made, everything that has been done has been insufficient and inadequate, they have omitted to comply with international standards that they intend to ignore in this hearing, this allegation was made by the representative of the Ministry of Energy and Non Renewable Natural Resources, this should not be accepted because a representative of the State cannot say that international standards of human rights can be omitted, it is a step backwards to constitutionalism. The right to health, being without water and food, there is a recurrent violation recalling that health should not be understood only as the absence of diseases and illnesses, but also as a complete state of physical, mental and social well-being, linked to a state of life that allows people to achieve an integral balance. The hurried visits of 2 people for 2 hours each to communities of more than 50 families with around 7 members, without medicines, do not comply with the minimum standards of availability, accessibility, quality and with what is established in article 32 of the Constitution, this has not been refuted by the entities involved with any documentary or testimonial evidence, nor in the pleadings. They talk about delivering actions, but the only thing they deliver is a list full of erasures, erasures without signatures of responsibility, therefore, they have not proven comprehensive health care. The Inter-American Court and the Constitutional Court in Ruling No. 016-16-SEP-CC, that the general obligation translates into the State's duty to ensure access to essential health services, guaranteeing quality medical care, as well as to promote the improvement of the health conditions of the population. Unfortunately, the defendants have caused damage to both the physical and psychological health of the community, for which it is necessary to refer to the scientific literature that for decades has studied the impacts of crude oil on the health of individuals and communities. In the Gonzales Lluy vs. Ecuador case, it is stated that the acceptability of all establishments, goods and services must be respectful of medical ethics and culturally appropriate, that is, respectful of the culture of individuals, minorities, peoples and communities, along with the requirements of respect for gender and life cycles. Regarding quality, it states that in addition to being acceptable, health facilities, goods and services must be appropriate from the medical scientific point of view, they require, among other things, trained medical personnel, medicines, scientifically approved hospital equipment, clean and potable water in adequate sanitary conditions; none of this has been demonstrated by the entities being sued. It must be emphasized that not only the water is contaminated with the oil spill but also the fish and other animals, consequently, complementary rights are violated, because the rights are interdependent and indivisible, remembering that the indigenous peoples have a spiritual relationship with their territory. In the case of Comunidades Indígenas Miembros de la Asociación Lhaka Honhat (Nuestra Tierra) v. Argentina, paragraph 230 states: "The Court agrees with the Committee on Economic, Social and Cultural Rights that, in complying with their obligations regarding the right to water, States "must

pay special attention to individuals and groups of individuals who have traditionally had difficulties in exercising this right", including, among others, "indigenous peoples". In this regard, they must ensure that "[t]he access of indigenous peoples to water resources on their ancestral lands is protected from unlawful encroachment and pollution" and "provide resources for indigenous peoples to plan, exercise and control their access to water", as well as that "[t]he nomadic communities [...] have access to safe drinking water in their traditional camping sites". President Roldós when he recovered democracy in 1979 said that people are thirsty for water and justice, today 40 years later the Kichwa communities of the Coca and Napo rivers for more than 105 days are still thirsty for water and justice, it is time for a historic sentence that declares the violation of rights and orders a comprehensive reparation in the terms of our lawsuit; 9.27.- Dr./Ab. Luisa María Villacís Carrillo: In April 2003, SOTE spills 13,000 barrels of oil and other derivatives in the Cayambe Coca reserve that reached Papallacta according to Petroecuador, 6 years later in 2009 OCP spills 14,000 barrels of oil in the Santana, Quijos and Coca rivers, Ocp recognizes 11.000, 4 years later in 2013, SOTE again spills 10,000 barrels of oil in the Coca river which reached the Napo river and 7 years later on April 7, 2020, SOTE, OCP and the polyduct spill approximately 15,800 barrels of crude oil and other derivatives in the Coca, Napo and Quijos rivers. What happened on April 7, 2020 constituted a clear violation of the rights of people, communities, collective rights and nature. I will focus on the issue of comprehensive reparation, which is not only a figure embodied in the law without importance, but a right that must be guaranteed when an event such as the oil spill and other derivatives that affected 27,000 people and hundreds of communities occurs. The interventions of OCP and Petroecuador and the lawyers of the different State portfolios in this hearing have been transformed into second lawyers of the oil companies, they have emphasized the cleanup and remediation work, confusing these actions of remediation of nature and reparation to the communities. It is important to identify the difference between remediation and restoration, while remediation measures are actions aimed at eliminating the polluting or damaging agent, restoration measures are actions aimed at reestablishing, recovering and regenerating the vital cycles, structure, functions and evolutionary processes of nature, ensuring its functioning, which is applied at the ecosystem scale and includes actions such as the reformation of the local topography, something that we have not heard at any time in this hearing, reestablishment of local connectivity, which has not been heard either, revegetation, reforestation and recovery of the natural conditions of the water bodies, both concepts present in the Organic Environmental Code Regulations. In this sense, the allegations made by OCP regarding their cleanup activities in Annexes 26, 27 and 28, have not taken into consideration international parameters, have not taken into account the communities, have not been agreed upon with the indigenous authorities and once again have taken away their voice. They have assured that they have complied with the State's obligations, but if it were if the people were not consuming rainwater, they would not be catching 3 fish as opposed to the 25 that they used to. The cleanup and remediation activities are not being integral, not to be confused, they do not allude to any type of management of fauna, flora or specific actions to be carried out jointly with the communities, given that the contamination left serious environmental, social and even cultural damage. An integral restoration of the damage comprises a set of actions, processes and measures that applied integrally tend to revert damages and environmental liabilities, which depend on the quality, dynamics and ecological balance of the vital cycles, as well as measures and actions that facilitate the restitution of the affected persons and communities, economic compensations, rehabilitation issues of the affected persons, measures and actions that assure the non-repetition of the facts and that dignify the affected communities and persons. The integral reparation according to article 18 of the Organic Law of Jurisdictional Guarantees and Constitutional Control, establishes parameters that not only include a material reparation, but also an immaterial reparation, regarding the restoration of rights, economic and patrimonial compensation, rehabilitation, satisfaction, guarantees that the event will not be repeated, the implication of appealing to the competent authority to investigate and sanction, measures of recognition, public apologies for all the nonsense we have heard in this hearing, the provision of public services, the provision of health care. In that sense, within the integral reparation in the case of Pacheco v. Honduras, the Inter-American Court has already pronounced on this and has pointed out that in cases in which a recurrent pattern is configured as already mentioned, the guarantees of non-repetition acquire greater relevance as a measure of reparation, so that similar events do not happen again and contribute to prevention. In this sense, the State must prevent the recurrence of human rights violations and, therefore, must adopt all legal, administrative and other measures necessary to enforce the exercise of these rights. It is important to emphasize that these measures must be planned and executed jointly with the indigenous communities, in consultation and with the consent of the plaintiffs, and must also comply with the objective of eliminating the impacts caused by the spill in any of the structural units of the environment, where it is not possible to eliminate the impacts, it will be sought to mitigate them with forms of compensation. Your Honor, you have the opportunity to demonstrate that there is justice for the indigenous communities that have suffered for more than 105 days, because they should live in dignity just like all of us. The communities demand the guarantee of their rights through this constitutional action, as well as the integral and immaterial reparation; j) - Intervention of Dr./Ab. Ana Cristina Vera Sánchez: We have heard from the lawyers of the defendants that the Human Rights of the communities have not been violated, that in spite of the fact that there has been a spill that has contaminated the rivers, has damaged the source of life, of water for consumption of the population, there has been no violation of Human Rights, however in this reply I am going to reverse what has been said because the evidence provided even by the defendants themselves, has not been violated.

The right to life with dignity of the population has been violated and they have been treated in an undignified manner because they have been given insufficient water and health controls that do not correspond to the framework of human rights and international standards. It has not been considered that the impact on the indigenous peoples is not only on their individual rights, but also on their collective rights, the rights of nature, the environment and their relationship with the river. The river for the indigenous peoples, besides being the place where they obtain natural resources, is also a spiritual place where they resume their cosmovision, none of this has been considered, violating all the human rights of the indigenous peoples and nationalities, mainly their right to a dignified life, they have been provided with water in very poor quantities as it has been demonstrated without any respect to their dignity as people, likewise the food kits were not built together with them, they do not have culturally adequate criteria, they do not meet the basic nutritional needs, they do not consider that they are vulnerable populations. With this we can show that the violation is effective, although this violation comes from long before the spill occurs, because despite knowing both OCP and Petroecuador of the possibility of risk of this spill due to the regressive erosion, they did not act in a timely manner with preventive measures, this has also been demonstrated with their own evidence because they allowed this spill to occur, therefore they are responsible for all the human rights violations that occurred due to the spill. These communities live 105 days without access to water, food, health and without a dignified life, that is why this action for protection is the appropriate one to claim these constitutional rights that were violated and continue to be violated to this day. The communities deserve access to a dignified life, and in accordance with all national and international human rights standards that indicate that when there is a violation of a right, the comprehensive reparation must achieve that people return to the previous state and if that is not possible, it has to come as close as possible to return to this previous state, this is precisely what has not been done because we see absolutely disconnected, inopportune and superficial actions that do not respect the dignified life of the population, that discriminate them for being indigenous, they were not even informed in a timely manner of what happened with the spill, there is not a single evidence that shows the access to information by the communities. That is why it is important to know how reparation will be made to the indigenous communities that have been violated, since this reparation should be comprehensive and not be reduced only to economic compensation. Therefore, we request that there be guarantees of non-repetition of these acts, that there be measures and alerts, action plans, that the polyduct not be built again in the same place, we need public apologies, that the people be effectively included in the plans that are supposedly made to repair them, that there be plans so that the people can participate and make their human rights effective, to be heard and to be part of these decisions. We need rehabilitation measures that not only go and give them paracetamol or that they only go to the communities for two hours, so we ask for integral reparation measures, that they go to the communities to investigate the chronic illnesses that occur now or in the long term, they also have to act to see how the mental health of the populations has been affected since these people live close to the environment and require effective reparation measures. It is also important that there is an integral reparation in nature since the rights of nature are fundamental and have to be repaired with real measures that allow this river to be fully usable, we want actions that restore the good living of the people, we demand justice, reparation and truth; 9.28.- Dr./Ab. Ana Cristina Vera Sánchez: Today marks the 170th day of a series of events, omissions and actions that make it evident that there are lives of indigenous peoples that can be sacrificed, it would seem that above the interests of oil and the State itself, these lives can be discarded. Everything that happened on April 7 was foreseeable and avoidable, OCP and Petroecuador potentially knew what was going to happen, they had sufficient elements and their obligation was to take precautions and protect, they did not act in an effective and efficient manner, neither to avoid the events nor once they occurred. Those events of April 7, which are the ones that motivated all the communities to file this action for protection with precautionary measures, continue, persist and generate serious and irreparable impacts on their intimate lives. Throughout this hearing and its unjustified and unmotivated delay, it has been sufficiently evidenced in the testimonies of the victims, in the technical and legal arguments that each and every one of the rights that we claim in the lawsuit has been violated and continues to be violated. One of the arguments of the respondent entities is that there was no violation because there are no deaths, it is very likely that all the people affected in their health after 2 years will develop acute illnesses derived from the contamination. There are no deaths, but possibly they will come, that argument is not to avoid responsibility and even less when the Constitutional Court in its judgment 000-615 of 2015, has said that it is not enough as a reduced interpretation of the right, the right to life is the guarantee of being able to live with dignity and that this requires the deployment of a set of activities at all levels, so not only to preserve life but to preserve it in quality and that quality today impacted and there is no guarantee that this quality will be recovered at least not in the short term. That right to a dignified life, which is recognized in the American Convention on Human Rights and international instruments that are immediately applicable, that dignified life has an intrinsic relationship with other rights that we have alleged have been violated, if there is no water there is no life, it is impossible. From how many of you have said you have suffered from Covid, I suppose you understand the fact that there is no water to wash your hands, which is the minimum basis for self-care and protection. When you have no guarantees to eat properly and recover from a serious health condition and when you have no guarantees even if you are not sick, because you have to break those conditions of isolation, which have also been imposed by the State as an effect of self-care. A spill in times of normality is irreversible and in times of Covid the impacts are irreparable and immeasurable.

entities have not been able to demonstrate that it has transversalized its actions based on this context. 105 days ago, 27,000 people are still waiting for better conditions and these events that occurred on April 7 have been repeated during all this time. On May 15, the operators had to change the bypass because there were insufficient and inadequate technical criteria for the route that is still at risk today. On June 18 the pipeline broke again and there was a fuel spill, to this day there has been no transparency as to how much was spilled at that time, we do not have any serious analysis of the impacts that this generated. On June 22 at least 30 communities indicated that traces of oil were still flowing down the river and the explanation given to us by the oil companies was that they were remnants in places where remediation had not been possible, if it could not be done before, can remediation be done now? Are those traces of oil going to continue appearing? Yes, because last week the communities kept sending photographs of oil traces that continue to appear on the shores after supposedly 97% of the remediation has been completed. On June 10, 14, 18 and 21 and July 21, landslides and plugging again put the oil infrastructure at risk and put at severe risk of flooding and displacement. The lives of these 27. The only way to do so is by declaring that their rights are violated and ordering immediate integral reparation processes based on intercultural criteria because one element that has been proven is that those affected are members of an indigenous people who have a different worldview, a different way of thinking and a different way of life, and that they require special and concrete protection from the State and that any administrative regulation that affects or impacts the life of the peoples must be consulted and agreed upon. Up to this point, the only thing that has been demonstrated is that the entities have carried out a series of administrative activities in accordance with norms inferior to the Constitution and whose only purpose is to say that they have complied with these norms and that they have complied with the minimum standards established by the MAE, which acts clearly in defense of corporate interests. None of the events of April 7 or the subsequent events of May, June and July were alerted in an early, prompt and adequate manner for the population, the only one who was alerted was the Mayor of Coca due to the need to change the water catchment area, there is discrimination against the indigenous population, there are lives that can be sacrificed, the communities found out when the events occurred. To this day there is no clear procedure in any of the supposed contingency plans so that in case a spill occurs again, there is no early warning, there are no clear procedures on how to act in case of risk and there are no clear procedures to know how to provide sufficient quality water and to provide adequate, relevant and accessible health care, there is none. In none of the contingency plans alleged by the entities involved there is any real measure that means reparation and restoration, this shows that the violated rights are still at risk and that potentially new events are going to occur and about which you are assuming the same attitude of the events of April 7, omitting the obligation and you cannot ignore it, you are duly warned in your capacity as judge of the risk to life that already exists and that will continue to occur and you cannot omit the obligation you have to protect those rights. All the populations that are located next to the contaminated rivers will continue to suffer the effects over time, the same companies and the expert witnesses that they brought ended up recognizing that much of the oil will be sedimented and will be in the food chain, that is to say that the fish that over time and the communities will be forced to consume as part of their diet, because a kit of USD. 10.00 kit does not solve anyone's life and even less in these contexts. So, the effect that they have today is the one that extends over time in a significant and worrying way. Finally, these are the facts that justify a constitutional action, since an action does not proceed when the acts have been revoked or declared extinguished and all the acts that we allege persist, besides, most of them are susceptible to repair, so this action is the only possible way and is the only possible response to protect the rights of these 27,000 people. It is also important to point out that all these facts constitute an affront to human dignity. In closing: 1.- I ratify my intervention; 2.- I request that you declare the violation of the rights to a dignified life, water, health, reparation, the right to live in a healthy and ecologically balanced environment and the rights of nature; 3.- I ratify everything requested in the action for protection and you must make an analysis on new protection measures and measures of non-repetition of the violated rights and fundamentally those that are at risk; 4.- I ratify the request for precautionary measures made with the action for protection, given that the risk is permanent and threatens the integrity of life and everything that is decided on indigenous peoples must be decided with the indigenous peoples, therefore, any measure taken, whether administrative or regulatory, must be consulted and agreed upon, and must take into account the state's obligation regarding their physical and cultural survival. This is the only way to guarantee the reparation of violated rights and the rights that are still at risk. 9.29.- Darwin Orlando Camacho García: In representation of the San José de Guayusa parish and as a person who was there step by step watching how the water deliveries and the medical brigades were being carried out, I want to state that I am very concerned that the companies and the Ministries have presented justification in terms of health care for the families, it must be said that nobody denies it, that they did come and were present. But what we say is that they were not properly attended as they deserved, one thing is to arrive and give them medicine and the treatment they deserved and another is to tell the families that those who need attention, sit down, ask them what they have and make them sign, thank you, and when they had a little more, give them a few pills and some ointment, that is all, I am not inventing it because I saw it. In one of the tests they said that in the Guayusa parish they attended more than 200 families, which is false because if I am not mistaken, in the Guayusa parish, they did not attend to more than 200 families, which is false.

They only attended to 20 families. What they were looking for was signatures to justify and once again violate these claims. On the issue of water, they gave a bale with 4 bottles of 6 liters for 8 days, in our parish they delivered it to the families every Friday, they left it to each president to deliver it to each family. They also presented the unskilled labor as proof, they signed some minutes of commitment with the communities, and in this part it must be said that they have been hired, but they have not been paid. Also, the transportation service is still owed for the months of June and July. I do not understand why they say that there is no violation of the rights to nature, I understand that when the rivers are contaminated, the death of the fish and aquatic animals does constitute contamination of nature because the oil contaminates the water, and the families use it for consumption, to wash their clothes, so there is a violation of the right to water. When these events happened, it was so strong that some people fainted because of these things. We must remember that these people who were affected live in extreme poverty, so at this time the Ministry of Health should have provided more comprehensive health care to these people in order to be able to solve a little of the food violation that these families had. The event that occurred was foreseeable because before the collapse of the waterfall they had two months and they knew that it was going to be at risk and they had the obligation to provide for this situation, therefore it is clear to me that it could have been prevented knowing that the pipeline was at risk, as well as these pipelines of the companies, both OCP and Petroecuador. For this reason we ask that justice be done, I with my 84 years living in this community I was born and I have known how it has been violated and the poverty, that is why it is necessary to be united to fight for these constitutional rights that the Constitution and the law give us. Dr./Ab. Sylvia Fernanda Bonilla Bolaños: I am going to refer to certain comments in the last intervention by the lawyers of the State and the companies. Petroecuador has argued that we are in a positivist legal system, and I remind you that since the 2008 Constitution, Ecuador is a constitutional State of rights and justice, therefore, it is a system that guarantees rights. This kind of statements are not surprising because they are coherent and congruent with the inadequate, undue and inefficient performance of the State, when it comes to the rights of people and the rights of nature. On the other hand, it seems to confuse the non-residual nature with the subsidiary nature of the action for protection. The residual nature of the action for protection has to do specifically with the fact that it does not supplant the constitutional remedy of the ordinary remedy or when there are constitutional rights that have to be protected in the constitutional remedy. On the other hand, the subsidiary nature is a guarantee that at any time when the ordinary remedy is ineffective, it is possible to propose constitutional actions, when subsequently the ineffectiveness of this ordinary remedy has been demonstrated. On the other hand, they have repeatedly argued that we have not proven the violation of rights, in that sense I have nothing more to say regarding the burden of proof, we have reviewed the evidence and we have contradicted it and as their proof has helped our arguments to sustain that the violations have been and are permanent and their defects continue to occur in the life of the people and nature, so much so that we have never denied that water, food and medical attention have been provided. I was in the community of Sardinas when the health brigade composed of 3 people arrived, they delivered an antifungal and a line of Paracetamol pills, so I know what kind of medical attention they provide in these health brigades, a non-specialized attention to what is needed in the face of an oil spill, The people were treated in the street, as a gift they were given pills that had absolutely nothing to do with anything, they were not tested, they were not asked anything, it was like giving away candy, this is an irresponsible attitude and violates their rights. On the other hand, OCP's attorney, attorney Oyarte, has maintained that when the erosion was detected, the pumping of crude oil was stopped, then the confusion that exists between what happened on February 2 and what happened on April 7 is very clear, the beginning of the erosion occurred on February 2 with the fall of the San Rafael waterfall and not on April 7, this confusion that seems to be very comfortable just to say and mention, has fundamental relevance for the case and the establishment of the facts. Finally, the defendants have been reiterative in their assertions that the communities, the people are not satisfied with the water they are receiving, with the medical attention and with the food, as if they were gifts from the State, as if the State did not have express responsibilities in terms of respect, protection and guarantees. They speak of force majeure as if it were a synonym of impunity, they have only made a parade of statements without proving absolutely nothing. Your Honor, if you consider it pertinent, you should refer specifically to the evidence provided and there are some that have not been provided, such as the park ranger's statement, the baselines have not been attached, the results of the physical-chemical samplings, the indispensable evidence of what has been done and if this action has been effective on the part of the operators has not been provided. The Ministry of Energy has also confused equality in the law, knowing that vulnerable populations have a greater guarantee of protection of rights. The victims cannot be re-victimized, it cannot be said that it is their fault that they have entered the river, it cannot be said that it is their fault that their rights have been violated, when it is evident that their rights have been violated. This action by the State is not only regrettable, but also dastardly; this is an inadmissible response. 9.31.- Jorge Acero González: Petroecuador says that there was no violation of nature's rights and that this is false, which to my understanding implies serious confusion between articles 71 and 72 of the Constitution and the rights contained therein, remembering that article 71 states that nature is where life is produced and has the right to full respect for its existence and maintenance of its vital cycles, structure, functions and evolutionary processes; and article 72 establishes that nature has the right to restoration. Petroecuador claims that with the cleanup and remediation activities nature is regenerating, but there is no evidence to prove this, as it does not exist. Later it says that the regeneration must be aimed at recovering the vital cycles as they were before, without

However, it states that there is no effect on vital cycles, but at the same time that with the restoration it is regenerating, these are contradictions and it is clear that it is not known what the state of nature was prior to the spill, it ratifies what was said by its expert witness who trusts and hopes that nature will recover because evidently they are not going to establish any restoration measures. On the other hand, OCP does not mention any measure applied or contained in plans to restore nature, even though it recognizes that the damage exists, as does the Ministry of Energy, it does not refer to any type of restitution measure to be developed, because it does not exist. The Ministry of the Environment has made interesting statements, it says textually that it is necessary to demonstrate some damage to rights, which has not been done, however, it must be reminded that all the institutions in their allegations spoke of catastrophe, they said that the rivers and ecosystems have been affected, therefore, it is not worth valuing this statement. The Attorney General's Office in this same reply has said that the natural disaster cannot be denied. Then it has talked about the subsidiary responsibility of the Ministry of Environment. What we explained in the reply, the obligations of the MAE, established in the Constitution and the Environmental Code, are direct and principal to guarantee the rights of nature, the establishment of measures and actions necessary to guarantee the right to the restitution of the violated rights. Regarding the restoration, it has textually said that it is complying with the remediation and reparation, it has said that there is economic compensation which is what the plaintiffs are interested in, it does not even mention the restoration of nature in this preparatory phase, that is why it seems that the Ministry of the Environment does not care about complying with its obligations and responsibilities regarding the environment and nature. How can they make this statement if they do not know what was there, they did not know what ecosystems existed and interacted, how can the MAE consider planting trees and monitoring the evolution of contamination in some fish as restoration. We said before what is restoration and definitely that is not, if they do not know they have to do an investigation as the COA says, with external support. Regarding the protected areas we have to remember the special obligation of the MAE regarding that protection, when it is said by the companies that they have not been affected, however, the MAE in Exhibits 75 to 77 incorporates maps of the spill area evidencing 5 affected areas. Who protects the rights of nature if the obligor forgets and denies its responsibility, ignores concepts of basic guarantees regarding those rights. It seems that nature, rivers and indigenous peoples are not relevant, as a colleague said, there are lives to be sacrificed. We who live in the provinces of Napo and Sucumbios know the history of impunity, so we request adequate restoration measures for this case. 9.32.- Dr./Ab. Luis Xavier Solís Tenesaca: I would like to make reference to some of the situations that have been mentioned, among them it was mentioned by OCP about the immediate response, we at the time of observing the evidence of the Ministry of Environment we found the reports that mention that there was no immediate response from OCP and Petroecuador, that is what report 340 of April 10 says, which in the pertinent part indicates that there is no information or communication of the cleaning actions in the territory, that there is a lack of coordination and also that the response has not been immediate, that is also stated within the reports such as 211 of April 8, where the Ministry of Environment of Orellana says that the collapse of the pipelines is reported through social networks. Then the Ministry of Environment will have to say what these contradictions of their lawyer are due to. I would also like to emphasize what the State Attorney General's Office has mentioned about the Huaorani case, saying that CONPENAWA has requested food, provisions, that is another case where the attention of the Ministry of Health was called, so it is not pertinent. What the Ministry of Health has said about the fortuitous case or force majeure, this is an issue that is already in the national regulations. Regarding the special protection of people in case of disasters, Eduardo Valencia Ospina in several reports has ratified that force majeure can no longer be considered as it was years ago and this is due to the advances in technology. In this case it is much more obvious where the alert has been seen since February 2, so it seems to me that it is important to review it. Also there is no relation in what the lawyer of the Ministry of the Environment says between Civil 19 and what has happened, these are opposite situations that are not relevant. 9.33.- Dr./Ab. Pablo Estenio Fajardo Mendoza: The defendant companies have tried to convince you and everyone, perhaps that this was a fortuitous event or force majeure based basically on that. It was said at the beginning that the regressive erosion in the river that started on February 2 when the San Rafael waterfall fell could be considered as an act of God or force majeure, but it can never be considered as such, the rupture of the pipeline and the oil pipeline spill, they had 2 months and 5 days to apply all the precautionary and preventive measures, but they did not do it, so it is not an act of God. Perhaps they could tell us that erosion is a case of natural disaster, but they knew that the pipelines were close to the regressive erosion, they knew about those facts and they did not take precautions, that is pure and absolute negligence, not only of the operators, but also of the State that has the obligation to demand the compliance of the environmental management plan, that is to say, to demand all the prevention measures, which in this case they have not done. Consequently, under no circumstances can it be admitted that it is a fortuitous event or force majeure. Let us not fall into the confusion between the remediation established in the Environmental Regulation with the restoration ordered by the constitutional framework, it is important to point this out, because the arguments of the Ministry of the Environment are based on the environmental remediation of this legality, but not on the compliance and respect for the constitutional framework, which is the object of this action of protection. In terms of parameters, it has never been informed how many barrels have been recovered and how many barrels were not recovered, how many are still present in the sediments, in the water or in the soil, in the Napo and Coca rivers or in their surrounding areas. Nor has it been proven how this environmental remediation has been done and where the level of toxicity that exists in the soil and water has been reduced, what is being used to comply with the Constitution that obliges this integral restitution to return the rivers to the state they were in before this disaster. We demand a restoration as ordered by our Constitution. 9.34.- Dr./Ab. Vivian Isabel Idrovo Mora: I have had the opportunity of coming to the

communities of Coca and I am a direct witness of what is happening in these communities. Regarding the statement made by Petroecuador's lawyer, that so far they have delivered 2,551 food kits, it means that in relation to the MAE's proof 22, where 3,478 families are recognized, a little more than half a Kit has been delivered to each family in this period. Likewise, he says that he has been informed about the report that is delivered to the municipal authorities of the urban population of the province of Orellana, but there is no proof that this information was delivered to the communities for the use or not of the water that had been contaminated in the rivers by the spills. Regarding what was stated by OCP, regarding the fact that the proof that they have presented has not been challenged, but that proof serves us to demonstrate that they have not acted as they should have, with respect and guarantee of human rights as in effect happens, as an example the compliance reports and in none of them are reported volumes of crude oil recovered, in none of them are reported amounts of waste management, therefore we make that proof our own. Regarding what was stated by the lawyer of the Ministry of Health, where the victim and affected person who preceded us already told us how the health care was, that is why I am going to refer to the report from January to August, in phase 1 it indicates that only 33 comprehensive care were provided. Regarding what the State Attorney General's Office has stated about non-conformities, we are not talking about that, here we are talking about non-compliance with international human rights standards, which are mandatory for the State authorities, for you as judge and for all the people, which unfortunately here we have seen that they are ignored by the State authorities, by the OCP operators, who did not act in time as they mention. They say that they acted immediately, but in Exhibit 17, Petroecuador mentions only on April 22 that they delivered the food kits, that is not immediate when they have delivered the food two weeks later.

9.35.- Dr./Ab. Yasmin Karina Calva González: The context of Covid-19 and the spill have evidenced the fragile protection of the environment and nature, to such an extent that in this context this foreseeable oil spill aggravated the critical situation of the Kichwa communities. Both you, your Honor, and I have been infected by Covid, which is why we have been able to realize the existing inequalities, for example, that there are bodies that matter to the State and others that do not, such as the Kichwa communities that have been affected. The right to water has been violated and it has not even been possible to comply with WHO recommendations to control and mitigate the spread of Covid, such as simple activities like washing hands because the affected communities do not have access to this resource, they have to wait for the companies to deliver them 4 jerry cans of water every month. OCP has said that we have not reviewed the evidence, but the evidence in Annex 13 I refer to the minutes of food delivery, but what OCP does not say is that right in those minutes there are clauses in which the person who receives is forced to renounce to claim. These food kits are neither sufficient nor culturally appropriate. Finally, it is no coincidence that the areas where oil has been spread today are the areas where there has been no specialized attention, but on the contrary, where their situation is critical and exacerbated.

9.36.- Dr./Ab. Luisa María Villacís Carrillo: PETROECUADOR points out that there is no violation of the right to water because they immediately gave notice to change the water catchment of the Coca River and opened a catchment system of the Payamino River to supply water to the city. But what was the urgent measure taken by Petroecuador to supply water to the indigenous populations? And Petroecuador's response was, we delivered 95 jerry cans of water, they were supposed to have delivered this amount to 27,000 people for a period of 105 days. They also make an allegation that the right to food has not been violated because 2,551 food kits have been delivered for 27,000 people for 105 days. On the other hand, that they have not failed to comply with the issue of information since they have immediately communicated to the communities about the incident that occurred on April 7, however, I refer to exhibit number 15, where Petroecuador makes an official letter with the issue of notification of the incident dated April 9. Regarding the statement made by the Ministry of Energy and Non-Renewable Natural Resources, in which it excuses itself by pointing out that there was a quarantine and that there were also non-mobilization orders and emphasis is made on this issue in exhibit number 1 on page 3, which says limitation of mobility by river transport, limitation of mobility between cantons due to the sanitary emergency, lack of compliance with biosafety protocols due to the sanitary emergency. Although the limited resources of the government are recognized, it cannot claim that in this situation they have some kind of omission. The obligation to guarantee in any situation the minimum level of access to water and adequate food. It is important to remember what Mr. Darwin Camacho said, that from your desks you do not know the reality, the lawyers of the defendants do not know the reality of extreme poverty, the lack of water, the lack of health and the level of repercussions that nature has had. We have gone to the territory and talked to the people. Regarding what the lawyer Marco Proaño says in that we have presented evidence such as screenshots and questions from social networks, but the lawyer did not listen to the testimonies of those affected and their insistence for justice.

9.37.- Dr./Ab. Ana Cristina Vera Sánchez: The attorneys for the defendant have referred to this event as unfortunate and force majeure. In this hearing it has been demonstrated that since February they knew about the phenomenon of regressive erosion, the park rangers had already informed and warned that there was a risk on the oil pipeline, which was not treated in an integral and adequate manner, the human rights of the population living there were not safeguarded. This spill was totally foreseeable and avoidable. It has also been said that the rights to water, food and health have not been violated, here we have demonstrated that the water supplies, the delivery of the very poor food kits and these health controls, 33 in total during this time, therefore, do not correspond to any international standard in terms of human rights to guarantee a dignified life, because there are lives that matter and others that do not, clearly the life of the Kichwa people and of the communities that live on the riverside, is not a life that matters to the State. It has also been said that the right to life has not been violated.

information because they warned the GAD of Orellana of the spill and the communities and the children that in this hearing were affected by the oil and the people that ate the contaminated fish? Those are again lives and bodies that do not matter, they did not have to be notified, they had no obligations to them. Nathalie Bedón, about compensation, here we have never talked about compensation, here what we have requested is integral reparation, which corresponds to the international standards of human rights, that they look at how human rights have been affected and that they be integrally repaired, with measures of satisfaction, we have talked about the need for the restoration of nature, we have talked about guaranteeing the dignity of the people, to return them to their place. At this moment we have talked about the restoration of rights, not compensation, therefore to say that we should follow the civil route for civil damages, is absolutely absurd, the integral reparation is a constitutional right for the justiciable when human rights have been violated and even more when the rights of the communities have been violated as in this process. I want each one of the testimonies given here by those affected to be taken into account. Also, that the evidence that has not been delivered be taken into account, that each one of the evidence of the accused entities be reviewed and that we see if any of them proves an action that guarantees human rights in a comprehensive manner in accordance with international human rights standards. I request truth and justice for the people who have suffered this spill and who continue to suffer in a pandemic context where the protection of the State is important and necessary. There has also been an attempt here to compare what happened with the spill with what happened with Covid, if that was avoidable, because the State could have taken measures not to be where we are.

9.38.- Dr./Ab. Lina María Espinosa Villegas: I want to ask for reparation for 27,000 indigenous people whose lives were sacrificed, but this is the request of our action of protection in its entirety of those sacrificable lives, which has been absolutely clear with the interventions of each one of the entities and the operators claiming justice regardless of the fact that some of the entities have the interest of ignoring that we are in a State that guarantees rights, where the obligations established in the constitutional order and in the International Instruments of direct and immediate application take precedence over any administrative act or any inferior norm. It has been heard that they continue to try to justify themselves with countless administrative actions to apologize, to try to argue that they did not violate rights, but it has become absolutely clear that the violations of rights, that these violated rights exist and persist and include life, health, water and food. These rights violations put at risk today the physical and cultural integrity of 27,000 people who in a pandemic context were subjected to omission, ineffective, inadequate, extemporaneous and non-permanent action due to lack of water, lack of health and lack of food. These communities continue to live today in permanent fear that a new event of the same characteristics will be repeated and irreparably compromise their lives, that is why this action for protection makes sense and why the precautionary measure makes sense, because the risks derived from the omission and the lack of compliance with state obligations persist. Regarding the evidence, I regret the selective listening that some lawyers of the entities have decided to have, I clearly challenged it as impertinent, improper and useless, I have challenged all of it, except Petro's 10, 18 and 23, OCP's 11, 14 and 10, and 1 of Recursos, that is why I make them mine, because they show that there is a violation of rights, that it was not force majeure or fortuitous, because the spill was foreseeable and avoidable. We have not tried to hold the State responsible for the erosion, we have said that it is a natural act accelerated by human activity, but that is another discussion. What we have said is that you are responsible, because you could have prevented a spill that you knew was going to happen, you did not prevent it, when it already happened, your action was already ineffective and late. Then, when you had to take care of the victims from whom you took away the water, safe food, you confused obligations with favors and you believed that taking a kit of USD. 10.00 or x amount of water or 3 Paracetamol, fulfilled the restitution of violated rights, that is the responsibility of your acts and omissions. This has been sufficiently proven in the testimonies of the people who gave their word in the lawsuit and told you what they are experiencing and it was also demonstrated with the testimonies of the experts and of people, who like you, being in their homes, are unaware of certain facts. At no time is it considered that you as lawyers, being at home, do not have enough elements to defend your clients, with which the expert witnesses could be anywhere and your expertise does not depend on it and then it has been proven that in all the technical legal discussion that we have had in this long-suffering and lengthy hearing and I also ratify it. The victims' right to effective judicial protection has been violated because a justice system cannot be condemned to stop or freeze because one of its officials has a health condition, that official, in this case you, your Honor, has and had every right to receive comprehensive and timely health care. The judicial system had the obligation to respond by placing another judge, generating the proper protocols and procedures and it did not do so. Clearly, the rights we have demanded are still in place and there is also a risk that the events of April 7 may happen again and become irreparable events against the full life of these 27,000 people who today continue to demand that their rights be guaranteed. We are not asking favors to some company or some entity to give away markets and water, because this is not an emergency, it is a violation that you caused and you have the obligation to repair and it is not repaired by doing favors, it is repaired in a comprehensive and sufficient manner. The 27,000 people are still waiting for justice because they still go to bed every night with the fear that what happened on April 7 will happen again and will be irreparable.

AMICUS CURIAE.- 9.39.- Ombudsman's Office through Dr./Ab. Marco Fabricio Dávila Carrión: In accordance with Art. 215 of the Constitution of the Republic of Ecuador, Organic Law of the Ombudsman's Office, Art. 12 of the Organic Law of Jurisdictional Guarantees and Constitutional Control we appear as

Third parties, Amicus Curiae to the present action of protection, to let you know that precisely because of the event that occurred on April 7 of this year in the community of San Rafael, limit between Sucumbíos and Napo, where the Sote, OCP, pipeline broke, we have opened an administrative process and we have made an on-site visit to all the places that correspond to the province of Orellana, from the Guayusa parish along the Coca River and the Napo River to the Aguarico canton. According to the documentation presented, we can see that there is irresponsibility on the part of OCP and Petroecuador, since there are several documents in which specialists have verified and made it known that the variants of this pipeline should be changed because they were on the edge of a ravine and the former San Rafael waterfall, which was already causing many problems, as this area is of high seismicity and that is why it had been proposed that the variants should be changed. All of us who are involved in these processes know that this is already the fourth spill that has occurred and the most affected has been this province of Orellana. Apart from that, you know that as I was saying, the San Rafael waterfall has already had this problem, a phenomenon that everyone has been talking about, which is the regressive erosion that is not only causing problems for the pipeline. Within the documents that are and that we have collected in our process is that the parish council of Gonzalo Pizarro in the month of December 2019 and January 2020 made it known that with this regressive erosion there were going to be problems with the pipeline that passes through that place and that there was going to be a new rupture and a new spill, despite this was not taken into account by these institutions. So this also lets us know that this spill could have been avoided by changing this pipe that is present in the place. We have verified during the on-site visit to these places that they are around

90,000 people have been affected. As citizens of the canton of Francisco de Orellana we are left without drinking water, that is why the municipality of Francisco de Orellana had to change the river where the water is taken from in order to provide the service to all of us. There are about 150 communities among indigenous Kichwa, Huaorani and mestizos who have had the problem, because they live from the river water, their food. Also, in this visit that we have made for several days and that this report is attached to this process, we have been able to realize that there were several children with their skin still oily from the fuel and from the oil that had spilled, because at the time of the spill absolutely nothing of the contingency plan in our province was activated, the corresponding communication was not made to each of these communities so that they do not enter the river, so that they do not drink the water, which affected them a lot. We have found children, a pregnant woman with symptoms that were not typical of her pregnancy, but rather of the strong odor emitted by the river due to the oil spill. We would also like to inform your Honor that in the MAE report No. 201 dated April 8, 2020, as well as the SENAGUA report and the Petroecuador Sote 2, Sote 19 and Sote 20 report, many situations that have been mentioned here should be taken into account, since they speak of the late action of the contingency plan. What is the contingency plan and what is the remediation plan? The contingency plan is the emergency plan that is carried out immediately and that is included in the environmental license that is provided to the institutions so that they can carry out oil exploitation or any activity and this contingency plan may have been activated in the place of the spill, but in this province that has been affected there was never a contingency plan and here are the reports that on April 8, 2020, there was no contingency plan, there was absolutely nothing within our province of Orellana to try to contain the oil slick and the contamination. These reports have been submitted and are in the file. Also, apart from the violated rights that have been made known here such as the right to water, to live in an ecologically balanced environment, we must also take into account human rights and collective rights which is really what is being raised and the violation of these rights, because there are communities that are on the banks of the Coca and Napo rivers, which have been contaminated and on which their food depends and the whole process that comes from the river with the water has been affected and must be taken into account, We as the Ombudsman's Office, what we have is that according to what we have experienced and verified with the in situ visit and the report presented, is to recommend to the constitutional judge of the present protection action, that the violation of the rights that are being presented in this protection action be declared, that the Petroecuador and OCP companies be pointed out as the responsible parties and their subsidiaries such as the different Ministries that have been raised here against them. Also, in accordance with Art. 18 of the Organic Law of Jurisdictional Guarantees and Constitutional Control, we order the integral reparation to nature and the affected persons, including among others the following measures, such as the payment of compensation that may be due according to the resolution that you give. The reparation of the social, cultural and environmental damages caused, and which have been raised by the plaintiffs. The delivery of the corresponding apologies from these institutions to the province of Orellana and those organizations and communities that have been affected. Request that all evidence be taken into account at the time of the resolution and also that the rights of us as citizens in the province of Orellana be respected. 9.40.- PETROAMAZONAS EP through Dr./Ab. Juan Sebastián Calero: The intervention of PETROAMAZONAS will also be provided with a video that will be made at the end. Pursuant to Article 12 of the Organic Law of Jurisdictional Guarantees and Constitutional Control, as well as Article 2 paragraph 3 of the Rules of Procedure of the Inter-American Court of Human Rights, as well as the judgment of the Constitutional Court of Ecuador, the Amicus Curiae has no other purpose but to provide information as a third party outside the dispute in order to adopt the decision that corresponds to the law. In this sense, PETROAMAZONAS EP is a public company created by Decree No. 314 published in the Official Gazette of April 14, 2020, whose main mission is none other than to be in charge of exploration and exploitation activities in certain sectors of the Amazon district, for example in Block 43, Block 12, Block 13, among others. It is in this context that PETROAMAZONAS EP

in attention to the Constitutional mandate foreseen in Art. 226 of the Constitution of the Republic of Ecuador, which is not only adopted in the principle of legality, but also in the duty of coordination between the different institutions and entities of the State, not only at a technical professional level, but also at a practical level, for such purpose and according to the written document in the file, PETROAMAZONAS employed activities in conjunction with Petroecuador and also in coordination with the Municipal Decentralized Autonomous Government of Coca, which as already mentioned in my previous interventions, PETROAMAZONAS provided said Autonomous Government with a high performance pump for the purification of water and thus guarantee the supply to the citizens. It carried out and has carried out tours within the areas alluded to by the plaintiffs as affected by the fortuitous event as has already been stated in excess in this jurisdictional guarantee. In this sense, together with Petroecuador, it established control points in order to prevent an event from occurring within the Limoncocha reserve area, and also placed absorbent sausages and barriers in order to prevent the event from affecting other areas. It is in this way that PETROAMAZONAS EP, together with the exploration and exploitation activities that it carries out, tends to the general interest of the nation and in this way to guarantee the effective enforcement of constitutional rights and even more of those that are alleged to be violated. The coordinated action of my client intends to provide more elements of judgment for the purpose of visualizing that the state entity or the different institutions carried out all those actions tending to guarantee the due exercise of the Constitutional rights alleged as violated. The intervention of PETROAMAZONAS EP can be reviewed in the documentation included in the file. Next, I will allow myself, with your permission, to project the video referred to at the beginning of my intervention. PETROAMAZONAS EP, considers that the present jurisdictional guarantee is inadmissible since no constitutional right has been violated, and even more so when from the evidentiary elements that have taken place in this proceeding, there is evidence of a coordinated action aimed at guaranteeing the effective enforcement of constitutional rights.

9.41.- Fundación Pro-Defensa de la Naturaleza y sus Derechos through Bravo Elizabeth: PHD in biology of microorganisms, I am going to talk about microorganisms and how oil spills affect these microorganisms, I am presenting my amicus on the subject of microorganisms due to the complexity that these organisms have and the very important roles that they have in nature, if we think that the Amazon rainforest is the most complex on the planet, we must also consider that the microbiological communities reflect this complexity. As background, I would like to say that our Constitution and international law recognize the precautionary principle, that is to say that even if there is no conclusive evidence or there is no scientific consensus, but there is a seriousness, the precautionary principle must be applied to take the necessary measures to protect, in this case, the rights of nature and also remember that our Constitution recognizes the *in dubio pro natura*. How does an oil spill like the one we are analyzing in this hearing violate the rights of nature? The Constitution says that nature has the right to its existence, in this sense I would like to say that for example an oil spill eliminates a great number of species of microorganisms, that is to say, not only certain species but also certain very important taxonomic groups that, as we will see later, play very important roles in the balance of the ecosystems, are disappearing. The fact that several species are being lost also affects the structure of the microbiological communities, which is called the rhizosphere, which is a layer where microorganisms, bacteria, fungi, micro vertebrates, plant roots, leaf litter and all the products that are going to be decomposed by microorganisms, trunks, branches, etc. coexist. And the oil spill at the moment that species are eliminated will also change the structures of these communities, for example, the species that are tolerant to hydrocarbons, which are very few, are damaged and a large number of beneficial microorganisms are eliminated. Microorganisms occupy different ecological niches, some for example are in the upper part of the rhizosphere and others are in the most anterior part of the soil, both are affected in some cases by heavy crude oil and in other cases by light crude oil, because light crude oil infiltrates in the innermost layers of the soil and all these microorganisms are affected. The effect on the maintenance of the infrastructure of the rhizosphere also affects the maintenance of the functions, which is another of the rights recognized in our Constitution. What are these functions performed by microorganisms? They are fundamental to ensure life in the forest in the tropical case. One of the most important functions of microorganisms is decomposition. If microorganisms did not exist, for example, the Amazon forest would be completely full of tree trunks, animal corpses and soil fertility would be minimal. Microorganisms are the ones that through decomposition return to the soil the organic material it needs to continue the flow and dynamics of the forest. It is said that the richness of the forest really lies in the microorganisms and in what is called the biomass, i.e. all the trees found on the ground. Without the nutrient cycle and decomposition, it would not be possible for plant roots to absorb nutrients and ensure the immense diversity and complexity that are first of all plants, then animals and finally human beings. When there are oil spills, for example in the rhizosphere, as I said before, some microbiological and microinvertebrate communities disappear, and at the same time also at root level, these are impregnated with crude oil, the roots stop breathing, the roots play fundamental roles in the life of plants, many plants lose vitality, other plants die and if we do not go a little beyond nature and think about human beings, this fact will affect the crops that are the basis of food sovereignty. At this moment I would like to clarify the difference between food sovereignty and food security, food security is the fact that if there is an oil spill, the State companies deliver food supplies, food sovereignty is a right recognized in our Constitution that says that the communities must have food sovereignty.

the right to produce food autonomously. When, for example, crops lose fertility, communities lose food sovereignty because they are not able to produce their own food, that is to say, we see how nature and human communities are extremely related and how an oil spill can intervene in all this complexity of interactions. Finally, our Constitution says that nature has the right to the maintenance of biological cycles and in the case of microorganisms I must say that microorganisms are responsible for the most important biological cycles, for example, the carbon cycle through decomposition, the carbon that is in the leaves is transformed into carbon directly available for plants to continue with their cycle. But there are other cycles such as the nitrogen cycle through nitrifying bacteria that stick to the roots of plants or free living bacteria the nitrogen that is in the air in the atmosphere which is the most widely present element in the atmosphere, but that plants are not able to assimilate, it is the bacteria that make these nutrients biologically available. There are many studies that you can find in the amicus, bibliographic references that show that pollutants affect in a special way these beneficial microorganisms, such as nitrifying bacteria, also mycorrhizal fungi, which are associated with the roots of plants and help in the cycle of phosphorus and other elements that are scarce that are the Amazonian. Without the mycorrhizal fungi it would not be possible to continue the cycle of nutrients that play very important roles in the metabolism of plants. There are also studies that show that pollution affects these fungi and there are other bacteria that act in other cycles of other vital elements. So what we can see here is that an oil spill is going to affect nature and us humans as part of nature. It is important to think about these impacts in the most complex and mega diverse forest of the planet, we can say then that oil spills violate the rights of nature considered in the Constitution, I hope your Honor that justice will be done with nature and with the communities that depend on it. 9.42.- Inés Viviana Nemquimo Coordinator of the Coordination Council of the Huaorani Nationality of Pastaza through Dr./Ab. María Fernanda Poveda Sánchez: The subject on which my amicus is going to be based is the relationship that exists between the peoples and nationalities with their territory, however, prior to entering into what is already the subject of my amicus it is important to establish in order to clarify that the facts that are being litigated at this moment, in this action for protection, are based on an omission in which the passive legitimization has incurred that has generated damages. These damages must be directed to the victims who must also be clearly identifiable, in this case belonging to the Kichwa nationality, so it is important to have a broad knowledge of the territory and to verify which nationalities and peoples live there in order to determine these damages. It is also important to establish that based on the provisions of Art. 1 of the Constitution of the Republic of Ecuador, we are a constitutional State of intercultural and plurinational rights and justice, therefore, the decisions to be taken must be expressed under these fundamental mandates. My amicus is basically going to be developed based on two aspects, the first one is what the Inter-American System for the Protection of Human Rights says regarding the relationship that exists between peoples and nationalities with their territory and what the national jurisdiction has already resolved based on this. We have a long list of conventions, of national instruments for the protection of human rights that, based on a constitutional block, have the same rank as the Constitution and when they are more favorable, they even surpass it. It is important to establish that from the Declaration of the Rights of Man, to advanced mechanisms of conventions that have been concluded by Ecuador, we have Convention 169 of the OIP Organization of Indigenous Peoples and Nationalities and the recent United Nations Declaration on Peoples and Nationalities, then it is important to establish that the Inter-American Court of Human Rights in application of these conventions to which the Ecuadorian State has subscribed, has analyzed two important resolutions and has made a decision on this relationship in the case of Mayagna Sumo vs. Nicaragua, from 2001, which I will read in its pertinent part: for the members of these communities the harmony with the environment is expressed by the spiritual action they have with the land, the way of managing the resources with deep respect to nature, that is to say, it already gives us a first approximation of what this immaterial relationship implies because if it is true that what is verified is the damage to the territory, what is not tangible but what does exist is the damage to the rights suffered by the nationality or the people that is affected. For this reason, later the same Court in the case Nuestra Tierra VS. Argentina of 2020 maintains its basic standards but makes an advance in saying that this immaterial relationship exists and that the States are the main ones in which they must guarantee this full exercise of the right that would even incur in an obligation to recognize these territories in a formal way that allows it, that is to say, leaving aside the traditional conception of what property implies to give an advance in these human rights that are progressive and clarify that this relationship exists. It is important to establish that with respect to the second aspect that I was talking about, there are two national resolutions that are of utmost importance and that I think it is convenient to review to better resolve, the first is from 2018 in which the Cofán people already identify an illegal mining activity in their territory and file a protection action, in which the competent authority is signed under number 21333- 2018-00266 which already talks about the peoples and this cosmovision. Returning to the international standards of which I had already expressed myself, which in its relevant part says, it is established that the worldview of indigenous peoples on the earth, incurs that the earth is the only source of life there is no other known. In this sense the nature called in our Constitution as the Pacha Mama, is a living organism and the human being is its creature to which it has to feed so the human being is intimately linked to all the phenomena of nature, instead in nature affects the human being and a regular change generated by the human brings negative and irreversible consequences on the surface. The second resolution to which I will refer is the one involving nationality.

Huaorani for not having been consulted by the Ecuadorian State in the eleventh oil round of Block 22, for its exploitation, were affected in the right to free and informed prior consultation and also makes a reflection of the competent authority with respect to what this relationship of the territory implies, which I will allow myself to read and it is Resolution No. 16171201900001 in which the competent authority establishes the following way: all this action consequently limited the right of the population because they were deprived of the possibility to make decisions in their territory, which implies affecting the right of the population to make decisions in their territory. 16171201900001 in which the competent authority establishes the following: all this action consequently limited the right of the population because they were deprived of the possibility of making decisions in their territory, which implies an impact on their life plan as a collective according to their worldview centered on their cultural identity. Although it is true that this resolution talks about the rights that I had mentioned, it is important to consider that they are binding to the cause because we are talking about Indigenous Peoples and Nationalities that share this worldview that must be observed because we are an intercultural and plurinational State. This intangible connection that in its application must be a progressivity based on all the guarantees that are consigned in the Constitution and also in the International Instruments. Therefore, I request your authority to consider the arguments presented in our amicus and unfortunately in relation to the time we cannot extend it much more, but these standards have already been consigned in the brief that has been presented. There is a violation, the procedural parties will be in charge of demonstrating it, they are situations that were predictable and that affected the peoples and nationalities that I think it is important to establish that they are groups of attention and they are vulnerable more than anything else, in the context of a pandemic much more and because of the delay that this case has had. Therefore, I request the acceptance of the action filed on the part of the active legitimacy to analyze these elements and order the integral reparation of the indigenous peoples and nationalities that cannot continue to be subject to violations that are perpetuated in time.

11.5.- Intervention of Kohn Edward Otto: I began by giving my words in Kichwa to remind that there is a whole world here, there is a whole worldview, there is a whole way of living with the forest that many times we forget. I am an anthropologist, I teach at the University of Madrid and in Canada, I am also a professor affiliated with Flacso in Ecuador, I am the author of two books on the Kichwa ecological cosmovision of the Amazon, including the book *How the Forests Think*, whose original English version has been translated into nine languages. The oil spill of April 7 that contaminated the Coca and Napo rivers, in whose provinces there are at least 150 indigenous communities, mostly Kichwa, puts at risk the food and health sovereignty of these communities, has poisoned the fish that is the main source of protein in this area, the forests that are the source of hunting and also the crops in this area. It must also be understood that the crops are often concentrated along the river banks to take advantage of and rejuvenate the soil thanks to the frequent flooding in the rainy season, as this area has experienced in recent months. The Covid-19 pandemic makes this situation even more serious in the face of a contagious disease, causing the Kichwas who have the habit of retreating to their isolated settlements. Now that the spill has taken away their food and health sovereignty and they no longer have the possibility of practicing this ancestral form of social distancing, efforts to distribute food and medicine only worsen the situation by increasing the risk of infection. The spill not only threatens the material since the forest and rivers are more than a mere resource, it also puts at risk the spiritual life that sustains the Sumak Kawsay living in harmony with them, the forests and rivers are living, that is to say that they are composed of beings that the Kichwa describe as people. All activity in these spaces is mediated by their spiritual guardians, which is why the impact of the spill cannot only be addressed with monetary metrics, for this reason, reparation, remediation and non-repetition are urgent, and precautionary measures are requested.

9.43.- Manuela Lavinás Picq: I am a professor of International Relations and Political Ecology at the Universidad San Francisco de Quito, author of 4 books on the role of Kichwa women in international politics. I am a little terrified about this case that they have not closed the pipes because this spill is predictable, if I have a problem with the pipes in my house, first I close the valve and then I fix the pipe so that the house is not flooded, and they did the complete opposite. It was foreseeable because we know that hydroelectric plants worldwide, not only equatorial, generate sediments in this regressive erosion of which we have spoken a lot. So this spill is the result of incompetence or discrimination for not valuing the indigenous and plant life of the region, if not also an attempt to eliminate the beings that live there. This carelessness with this spill is even more criminal because it comes to accumulate to three previous spills, it is a repeated contamination and at a time of sanitary crisis of Covid, in which we know that the most important thing is to have access to water to survive, clean and potable water. I want to focus on one of the six issues that I have presented in my amicus brief, and that is the issue of genocide, particularly in the aspect of dispossession, which is one of the indicators of genocide and ecocide. The contamination that we have seen of water, air and land after the spill is a form of dispossession in the Amazon. First, it is a dispossession of water that can be done by water grabbing such as hydroelectric plants, diversion of physical rivers or contamination, which was the case we are talking about. The indigenous communities, as we have seen in different testimonies, found crude oil floating in their waters from one day to the next, crude oil in their plantations. So they had no water to drink, they could no longer use their plantations, wash, they lost the ability to survive in their territories and that is a form of dispossession, all of this was given by external actors. At the international level, dispossession is recognized as a form of genocide and with that I come to the second point, which is ecocide, there is a legal nexus recognized in the International Criminal Court and many other multiple international norms that it brings together, which associates ecocide with genocide.

How to differentiate the destruction of the ecosystem with the destruction of the people living in this ecosystem? If ecocide results in the description of the survival of a people, it clearly results in genocide. So the International Criminal Court which has the power to try individuals for crimes of genocide under the Rome Statute already recognizes ecological destruction as a potential act of genocide, this since 2016. Now the Court has broadened its mandate to recognize that in the

definition of genocide is not considering in environmental terms that are increasingly urgent to consider then I want to read you the new text that the International Criminal Court has since 2016, it says: The office of the prosecutor shall pay special attention to the prosecution of crimes under the Rome Statute committed through the destruction of the environment, illegal exploitation of natural resources or illegal dispossession of land, among other things. This is to say that the International Criminal Court now does consider ecocide as a subcategory of genocide, so perhaps it does not matter to the Ecuadorian State, to the oil companies, to the public oil pipeline companies in Ecuador unfortunately, but at the international level there is already jurisdiction, it is not the State that is going to Court, it is the individuals who have not responded for these crimes and who should be brought to trial. In conclusion, I want to emphasize that now that the Covid crisis we have seen worldwide that no one has been impacted more than the indigenous peoples, they are the ones who have been most infected and who have died more proportionally in this pandemic. We have studied many academics because there are many analyses, it is clear after several reports including one that was published in the academic journal this August by the University of California that says that there are two main factors for the lethality of Covid for these indigenous communities, one is the lack of clean drinking water and the second is the lack of information. 9.44.- Natalia Andrea Grene López: Vice President of SEDEGMA and member of the Committee for the Rights and Alliance of Nature. In this case I am presenting an amicus curiae for the rights of nature. First of all, the arguments that we have presented a protection action is based on the constitutional rights that have been violated due to the omissions on the part of the defendants, that is, the omission to take corrective measures on the part of the State and the companies sued for the spill. As well as the omission of the duty of protection that the State has to guarantee the enjoyment and exercise of constitutional rights after the oil spill. The State knew of the risk and failed to take measures in the face of the obstruction of the flow of water from the San Rafael waterfall and in the face of the experts' warning. We are very concerned about the diversity of the area. This is an area of high ideal habitat diversity, the Cayambe Coca National Park, the Coca River on the banks of the Sumaco Napo Galeras National Park, which contains the ecological reserve of Limoncocha, the Napo River basin known as the most diverse in the world, the fauna for a basin of this size where more than 470 species of fish have been named. It is the buffer zone of the Yasuni National Park. This amicus is based on a new environmental paradigm that is considered in the Constitution of the Republic and is based on differentiating the traditional environmental law from the right to a healthy and ecologically balanced environment, the right to an emerging environment, the rights to nature that are enshrined in our Constitution, It is worth mentioning and I also make public an observatory that we have made according to the rights of nature in which you could consult and through the judge we have cited this tool so that the judge can see several tools and sentences that exist as legal precedents for the advancement of the rights of nature, in which Ecuador already has more than 33 cases of rights of nature. Among these tools for the operators of justice as we have already said is the legal observatory that we leave the address here, derechos.de.la.naturaleza.org.com.ec and mainly we call attention so that you can review the ruling in which it acts and the ruling of the Pilatúa river and the ruling in Colombia that sets a very interesting jurisprudence on the issue regarding the rights of nature. We also leave for consideration and we can also deliver this presentation if it would be useful. The direction of the alliance of the rights of nature and the International Tribunal for the Rights of Nature has also sought to establish jurisprudence on this subject. The Constitution that was issued in 2008 presents two facets, one of the traditional environmental law where the right to a healthy environment is guaranteed in favor of human beings and other related rights, and the second the recognition of the quality of the subject with the rights of nature. Traditional environmental law is that which protects the right of people to live in a healthy and ecologically balanced environment and works on the basis of the issuance of administrative authorizations prior to the realization of any work, project or activity and therefore under this optic the environment is only a means to satisfy human needs regulated under the perspective of permits. That is to say, it is an object of law, however nature is recognized as a subject of rights and the human being constitutes one more element that makes up the Pacha Mama that constantly interacts with other living beings. What is the difference then between these rights? They should not be confused or equated, oil entities are within a framework of legality as long as they have the permission to do so, but a spill and its implications to the rights of nature should be analyzed from another perspective. Regulations such as contingency plans, remediation and management plans were developed within the framework of the right to a healthy environment. The rights of nature represent an innovation in terms of environmental protection, which are rights under construction, and it is up to the constitutional judge to make up for the normative vacuum of the rights of nature, which may be confused with the right to a healthy environment. It is emphasized that the rights to nature cannot function under the same scheme of administrative authorizations in which the right to a healthy environment is developed, otherwise they would be equated and the rights of nature would have no reason to exist. The rights considered in our Constitution and which propose the integral respect for the existence, maintenance and regeneration of vital signs, structure and function of evolutionary processes and the right to restoration, which is key and which I am going to develop in this amicus. It is very different to talk about remediation, reparation and restoration, it is necessary to mitigate the affectations to nature and this has the right to be restored, a fact that is independent of the obligation to compensate the persons who have been affected by this event, always the obligation of the constitutional judge to adopt the measures of

The remediation is not enough to guarantee the rights of nature; the vital signs that have been altered must be fully repaired, especially the water cycle, and the ecosystem must be fully restored. Remedying is not enough to guarantee the rights to nature, but it is necessary to fully repair the vital signs that have been altered, especially the water cycle and fully restore the ecosystem. What is the challenge for the judges of Ecuador? A proper interpretation of the rights to nature in the context of an oil spill as occurred on April 7. Especially a spill that could have been prevented since the collapse of the San Rafael waterfall occurred on February 2, 2020, therefore, the operator of justice must determine in this case if the oil spill caused by the rupture of pipelines, has affected in any way the functions of the ecosystem, its structure, its vital functions of the evolutionary processes. We, the amicus, are here to provide analysis and tools for this issue, for which it is essential to rely on strategic data to clarify whether some of these elements were affected by the oil spill, so the judge should rely on the criteria of qualified experts in the field, which is one of our recommendations. What are the effects on the river system? The oil spills, as well as the sources that I mention here, contaminate the river and water sources with high levels of mercury, cadmium and lead that affect the environment and are consumed by fish, the hydrocarbons are retained in the sediments of the rivers and this affectation has not been considered in the repair programs, Oil and its derivatives affect the aquatic, vertebrate and invertebrate fauna due to their toxicity and imminently in their oxygen level in the water, they die immediately, but other organisms that consume fish such as birds, alligators and mammals are also affected. As stated in Article 73 of our Constitution of the Republic, the State must take restriction measures, activities that may lead to the extinction of species, the permanent affectation of vital cycles, the destruction of ecosystems, a detail that cannot go unnoticed by the judge. Polycyclic aromatic hydrocarbons affect sediments and bodies of water, affecting the food chain from the smallest fish to the final consumer, which is the human being. It also damages the reproductive feeding system of all organisms in the ecosystem. What are our recommendations? To protect both rights, i.e. the right to a healthy environment and the rights of nature. It is not enough to give bottles, which were not enough, which also generate waste such as plastic that remain in the communities and pollute, since this is not sustainable, the only renewable source of sustainable water is the ecosystem, the river itself, so the integral repair of this is the only thing that can guarantee the healthy environment and the guarantee of the rights of nature. These damages could have been avoided by using the precautionary principle, what we have heard this in previous hearings and today by the accused party are remediation measures and the word restoration has been used erroneously. In order to guarantee the rights of nature, remediation must be demanded and mainly the integral restoration including sediments. Then one of the recommendations is also to recognize the rights of the Coca River, the Napo and its tributaries, as the right to aquatic ecosystems that not only has been given in Ecuador in our Constitution, but also with several experiences at the international level that have been highly successful as the example of Biotract of New Zealand. Therefore, there is a series of experiences that should be taken into consideration and that we recommend to be considered, especially in the difference between environmental law and the right to nature, it is our responsibility amicus, to give these elements, to give more elements such as web pages so that they can continue to be consulted. But the recommendation is that we can move forward with this trial in the development of this issue and that a great difference can be made not only in this issue of rights to nature and rights to a healthy environment, but especially between the difference between remediation, reparation and integral restoration, thank you very much your Honor. 9.45.- The Pan-Amazonian Ecclesial Network REPAM and the Bishop of the Apostolic Vicariate of Puyo through Dr./Ab. Francis Andrade: Our amicus intends to contribute to their healthy criticism, based specifically on the proximity and work with Amazonian indigenous communities, especially being aware of the historical socio-environmental impacts that indigenous communities receive from extractive companies. The current oil spill that occurred on April 7 is not an isolated environmental disaster whose environmental and social impacts are unknown, it is not a new fact, it must be very clear that this fact cannot be justified by the lack of emergency protocols and efficient containment measures. On the contrary, this fact responds to a systematic violence of human rights, it is worth clarifying that the Amazon region has always been susceptible to this type of disasters, where the affectations are diverse, of great magnitude and that has placed the indigenous population, Amazonian peasants and specifically now the Kichwa indigenous population, in a situation of risk, against which the attitude of the State has always been of normalization of this type of violence with the impacts that it has caused. In this regard, I would like to cite as background, two events that correspond to oil spills prior to April 7, 2020, among them the oil spill that occurred in 2009 due to the rupture of the heavy crude oil pipeline of the OCP company, which caused the spill of 14,000 barrels of crude oil. The oil spill in 2013 that produced 11,480 barrels of oil in the Coca River, this was due to the rupture of the SOTE trans-Ecuadorian pipeline system. The question we are asking ourselves now in this hearing is: What happened with the remediation, what happened with the integral reparation of the people, of the nature that suffered these oil spills? The answer is very latent in the events of April 7. What happened with that remediation is that it was null, nothing has happened because otherwise if they had responded with true responsibility, if they had repaired nature, if they had perceived the principles of nature and intercultural reparation we would not be facing this occasion, on the contrary, that remediation or that integral reparation was omitted, it was not taken into account and therefore a new event with this great magnitude of natural disaster has occurred again and the oil spills have not been taken into account.

also for the indigenous populations of the area. From the close experience, from the pastoral work of the church we can testify all the actions of these spills, which reconfigure the social and cultural context from direct and indirect causes influencing the respective socioeconomic and cultural component in the families that are impacted by this event. The information we are providing corresponds to a socio-environmental diagnosis and due to time constraints I will only refer to some notions of this diagnosis, but we hope that it will also be taken into account so that it can be incorporated for its corresponding analysis. This socio-environmental diagnosis is a synthesis of statistical and graphic information that has been worked on with the indigenous communities, not since April 7, it was the work that began before with a clear work from the principle of integral ecology that the Catholic Church has with the indigenous peoples of the Amazon. The technical analysis is based on key indicators to work together with the population and measure the socio-environmental impacts and especially territorial dynamics that arise from this type of conflict. From the information gathered from several vicariates, I am going to mention in advance two of them that are represented through the bishops who are in this hearing and who are part of the plaintiffs. These vicariates have expressed how the main problems are, the impacts of administrative activities mainly timber, oil and mining, and how fundamental rights have not been guaranteed by the state, especially the right of access to health is limited for the inhabitants of the rural area, there is no infrastructure to ensure access to health. There are also the economic, social and cultural rights, the right to water, in which the only direct and safe source is the rivers and which face conflicts when they are polluted. Access to basic services is also a constraint in the Amazon region. With this I want to put in context all this lack that indigenous communities face in the face of the State's failure to guarantee access to human rights, to create infrastructure or mechanisms to guarantee them. With this socio-environmental diagnosis you will be able to review it in detail, review the amicus, where it reflects the consequences of oil extraction and I emphasize the abandonment of the State regarding social public policies, with this the rights of the indigenous communities are guaranteed. We consider important to take these references to measure the socio-environmental impacts of the current spill, but taking into account all this historical relationship of the State's omission that configures systematic violations of human rights, these violations are systematic because they are maintained over time which has conditioned the population to live below the minimum standards of dignity. The Inter-American Court of Human Rights, in its case *Masacres de lugares aledaños vs El Salvador*. It has been considered that a systematic violation of human rights appears when there is first of all a lack of obligation to investigate by the State, this becomes a fundamental element because it not only guarantees due process measures, but also ensures that facts or acts that trigger human rights violations do not happen again. Faced with the seriousness of those committed, as in the case of serious violations of the rights of nature and of indigenous peoples, the lack of obligation of the State, the lack of investigation since 2009 marks an attitude tolerated by the State, as if these human rights violations are not important and they do not want to be recognized as such. This obviously triggers the State's duty to make reparations. This lack of reparation is very evident due to the lack of application of measures of non-repetition if this had been applied, so to speak, taking into account the reference of the background that you have exposed in 2009, this means that a spill in 2013 would not have occurred and a spill in 2020 with this magnitude would not have occurred either, that is to say, there have been no reparation measures because all the acts have fallen into impunity and this non-observance can stop. Your Honor, you now have a great opportunity to break this chain of impunity and non-compliance in the face of the constant violation of human rights. With this we also want to expose the importance of restitution as a form of reparation. The state of the land has to be in optimal conditions so that indigenous peoples can develop their lives with dignity, which is why the mere assistance of delivering liters of water or food does not really guarantee a dignified life for people. The State also has the obligation to encourage and work on the issue of food sovereignty, empowering communities to their self-sustainability. Finally, we request that this claim of the plaintiffs be met and declare the violation of fundamental constitutional rights that have been reiterated several times in this hearing, which are the right to life, the right to water, to food, to health, to have a healthy environment that is ecologically balanced with the rights of nature. We ask that these contributions, these criteria be taken into account to better understand this problem, that you can also refer to it from a historical, social and political context, this is not an isolated case. The interests of the extractive companies cannot be above the good of the whole Amazon and all of humanity, we are all responsible for conserving the space we have to live in dignity, above all to guarantee the rights of the indigenous peoples. 9.46.- Bayon Jiménez Manuel: First of all, as part of this amicus we want to say that we have been analyzing and mapping oil spills for 9 years and that without a doubt it has been the worst that has happened in Ecuador and in the Ecuadorian Amazon. My amicus has two parts, one that focuses on the fact that the spills are immeasurable, which means that the damage produced cannot be measured in an exact way and cannot be totally remedied, this because in the trial we have heard the version of the experts including the oil companies mentioning that part of the residues remain at the bottom of the rivers. In the case of the Napo River, it is very sandy and its seabed is continuously moving, in a few months the course of the waves changes. So this means that the whole bottom of the river is continuously moving, once the remediation techniques are carried out by the oil company and once the bed returns to its course, once they have supposedly remediated all those oil residues that remain at the bottom are being removed, that is what we explained in the amicus,

This is a kind of spill, that is to say that oil residues that have already solidified at the bottom of the seabed move again, therefore they are again ready to contaminate fisheries, fish and also to surface. So these spills and in particular the Napo River and its characteristics cause that the spill can no longer be measured only in the time it occurs, that is to say that there are a series of damages that are not only visible to the eye, they are not only on the banks, in the stained plants or the estuaries, but being at the bottom of the river are continuously producing spills that take many years for nature to return to its previous state. That is why it is very important what they have been saying in many of the amicus briefs that in view of their importance that this type of spills do not happen again in the future. That we should not consider that when we stop seeing oil and the communities are no longer damaged, all these are residues that exist at the bottom of the river and will continue to act long after. The second part of my amicus is around the fact that the risk is not something that is given by nature in a simple way, but that it is built tropically and I want to explain this issue because I believe that it has been one of the elements that have been very present throughout the trial and I have listened attentively is that the spill is considered as a fortuitous event, as an inevitable event produced by nature. In addition to being a geographer and specializing in human rights, I also have a master's degree in Urban Studies and that allows me to compare the current situation that has occurred in the Ecuadorian Amazon with those situations that occur when the State has a subsidiary responsibility in the planning it carries out. Placing an oil pipeline in the middle of tectonic faults at the foot of a volcano on top of a dam are human decisions and decisions made by the State, they are not events that nature has chosen, but are circumstances that society and the State itself have been placing along these fragile places. The infrastructure in the case of urban development would be very clear, if the State considers an area that is floodable for development and then there is some damage, it floods because it is floodable, then there would be a subsidiary responsibility of the State, in this case it is exactly the same, the State is putting some pipes in tectonic faults under the Reventador volcano, one of the most active volcanoes. In addition, if that were not enough, it placed a dam kilometers above that has been eroding the whole area and caused the spill, so I want that as part of the amicus that I have presented from the beginning, it should be taken into account that risk is not something that happens by chance, but that societies choose what risk we assume. In the case of the Sote pipeline, OCP and the pipelines that have broken and have caused this great spill, the companies and the State were the ones that decided to place them in those places, so it is very important that the State can assume this responsibility and the precautionary measures presented is a single motion to tell the State that it has to be responsible with the risks it assumes and that the risks are not assumed by those of us who live in Quito, but by those who are downstream and who are now contaminated. So these two issues are part of my amicus and very kindly I would like to ask you to take into account this issue that the spills are immeasurable and that they continue to occur once they are no longer seen and that the risk is built in an anthropic way and that there is a subsidiary responsibility that we cannot forget. 9.47.- Intervention of the Municipality of Aguarico through Dr./Ab. Mercy Villegas Bazantes, Syndic Attorney: As we are affected by the oil spill, we appear with this amicus curiae. The Aguarico canton has an area of 11,480 square kilometers with a total population of approximately 10,000 people and an approximate population of 6,063 inhabitants, most of whom belong to the Kichwa and Huaorani nationalities, the latter with precautionary measures issued by the IACHR. Our amicus curiae has the purpose of evidencing that the people have been affected by the terrible event that took place on April 7, which resulted in an erosion of the Coca and Napo rivers, causing a rupture in the OCP pipeline between the provinces of Napo and Sucumbios as part of the oil and oil pumping suspended from 5:00 p.m. yesterday until April 7, 2020. The corresponding authorities have been notified to this force majeure event, OCP personnel mobilized to attend the emergency that as soon as there is information will be communicated. They are media that was verified through twitters, likewise we are part of the people who live within this canton and we verify that the inhabitants of this canton do not have this means of communication to have the information of this fact. Therefore, we request that you allow us to share the screen to let you know the evidence that has been verified within our canton. As you are observing, the evidence obviously exists, the heavy crude oil in the sediment bushes and there is also affectation at the base of all the banks in the Aguarico canton. Based on the supplementary way of the Organic Law of Jurisdictional Guarantees and Constitutional Control, in article 173 numeral 3, the facts are notorious and publicly evidenced, we are observing the terrible affectation on the banks of the Napo River and the people directly affected. Thus, we have presented the evidence by e-mail of the sworn statements of the presidents of the communes of Alta Florencia dated July 2, 2020, the sworn statement made by Mr. José Celso Muñoz Saldarriaga, as president of the Association of Producers of Marketers. Among the evidence presented by the Aguarico Canton, there is also the sworn statement made by Mr. Luis Alberto Saldarriaga as President of the Autonomous Decentralized Rural Parochial Government of Yasuní, dated July 4, 2020; the sworn statement made by Mr. Augusto Daniel Coquinche Urbina, as President of the Kichwa Martinica Commune dated July 4, 2020; the sworn statement made by Mr. Wilmer Patricio Torres LLori, as President of the Kichwa Santa Teresita Commune dated July 7, 2020; the sworn statement made by Mr. José Ramiro Otavalo Condo, as president of the commune Kichwa Santa Rosa dated July 8, 2020; the sworn statement made by Mrs. Targelia Soledad Siquigua Grefa, as president of the commune Kichwa Panochita dated July 9, 2020; the sworn statement made by Mrs. Rosa Eugenia Grefa Papa, as president of the commune Kichwa

Vicente Salazar dated July 15, 2020; and, the sworn statement made by Mr. Miguel Andrés Cerda Grefa, as president of the commune Kichwa Martinica dated July 20, 2020. Thus, the presidents who made the sworn statement obviously feel directly affected by the right guaranteed by the Constitution of the Republic of Ecuador in Article 66 paragraph 2, the right to water established in Article 12 of the Constitution of the Republic of Ecuador, the violation of the right to food guaranteed by Article 13 of the Constitution of the Republic of Ecuador, the right to health and water established in Article 32 of the Constitution of the Republic of Ecuador and the right to a healthy and balanced environment guaranteed in Article 11 of the Constitution of the Republic of Ecuador. Likewise, the right of indigenous peoples and nationalities to their territory, guaranteed in Articles 57 and 71 of the Constitution of the Republic of Ecuador and the right to information established in Article 18 of the same Constitution are also violated. Thus, our specific petition in view of the background and legal basis set forth above, we, as the Decentralized Autonomous Government, have filed the present amicus curiae, with the purpose of having it accepted and in a sentence it will serve to accept the claim for protection action declaring the violation of the rights set forth and ordering the full material and non-material reparation of all damages caused in accordance with Article 18 of the Organic Law of Constitutional Guarantees and Constitutional Oversight.

9.48.- Intervention of Priest José Miguel Goldaraz Olaechea: I live in Francisco de Orellana, I have worked for 48 years in the communities of the Napo, Coca, Payamino and Tiputini rivers with the Kichwa communities and I arrived in Coca a year before oil, that is why I have witnessed all the things related to the Napo River and oil. At that time the State was absent and was represented by the oil companies and the military and that is still the way it is today when we do some relaxation around there. In these 48 years one of the things that caught my attention from the beginning was that the oil companies and the military were the judge and the cause, that is to say they had the word, that means impunity and it is one of the characteristics that can be seen in this long history of contamination of the Napo River, that is why it calls my attention that they only refer to three spills 2008, 2012 and this one, but I have witnessed two tremendous spills since the 80s, the first one reached Peru, it was denounced and nothing was done, it remained in impunity, it happened in the San Carlos commune. The second spill a few years later occurred in the Quinchayacu ravine in the Descanso commune, the same thing happened in the oil tanker spill that reached Peru and was also denounced, but it remained in silence, in impunity. After these two spills, the fauna, animals, birds and fish were destroyed in the Napo River, and so it has continued, the water was contaminated and so it has continued until now with thousands and thousands of spills that have occurred in the Napo River during these 50 years. Then came the thousands of spills that occurred along the 400 kilometer oil road from Lago Agrio to the Auca road and all of this has ended in impunity. This gave rise to the famous Chevron Texaco trial precisely because of the accumulation of spills that had caused so many diseases, especially cancer in the population and that trial was won but Chevron does not want to pay, that is to say, once again it is in impunity, it seems that the national and international oil companies have a kind of license to pollute in the Napo River and nobody is putting a solution to all this. That is why we have to have a little common sense, that is to say, we have to see with our eyes, verify everything that the communities have said and be coherent with what we have established in the Constitution and all these things, that is to say, this is where coherence comes in, the ethics of conduct, it is not about being wise in jurisprudence or in the church or in anything, but to be coherent with what we see and feel. This lawsuit is a human rights lawsuit, the lawyers must be careful that it is a human rights lawsuit, it is not a lawsuit to show off by dictating articles, the few articles that deal with the constitutional protection to which we have taken refuge in the lawsuit, supposes that we have to remedy, repair, replace and reward, if we do not follow those elements that the law gives us and we let ourselves be carried away by the power or by the interests of certain companies, persons or institutions of the State above all, we do not comply with the legal term of impartiality and therefore everything ends up in impunity. There is another word that also appears in the law which is that of prevention, in these constitutional rights prevention is very important and it seems that this word to prevent does not exist in the agendas of PETROAMAZONAS and of any oil company in Ecuador, there are a number of drills, for example, drills to prevent a tsunami, an earthquake, a bomb, but in this thing that is happening all the time, the oil spills that are as bad as a tsunami and earthquake, there is no prevention. There is a memo that says that God always forgives, men forgive from time to time and nature never forgives, it has already done its thing, it has warned us and we did not pay attention to it as many of the analysts here in the amicus curiae have said, many have said how these things were not prevented, then nature never forgives. There is a problem in the national and international oil companies that it seems that we have to forgive them everything, they ask forgiveness to God, to nature, to the communities and everyone forgives them, this is a bad habit of the oil companies to have always been forgiven without having complied with their constitutional commitment. So following this amicus, a little advice that the oil companies must have good technicians in remediation, in community promotion, that they pay very expensive lawyers who think they are defending the indefensible, they must pay technicians, not lawyers, because good lawyers owe the company. One thing that the law tells us that you have to prevent, one of the things contaminated now is the water and in the prevention that they have offered us so many times, which is to have piped water, they have told us many times we are going to put drinking water in the communities, maybe it is not possible, but piped water is possible and up to now we are waiting for piped water and they have been giving us bottles about twice a month, I do not know how a person can stand five days or five weeks with a liter of water, it is impossible. In any case, they have said that Petroecuador has complied perfectly with the water issue, because of those bottles of water, because of the water that has been contaminated and that can be remedied, they have promised us many times and they have not yet complied. Another prevention is that of the

The people here depend on the river for everything for food for fish, animals and birds that feed themselves and it is also very easy to prevent food or water wells for fish for family, community or school consumption and for everyone to have food when these things happen, but it seems that they have also promised many times that it did not even occur to them. There used to be a good health project called Sandi Yura, with its promoters, first aid kits, stock of medicine, but the oil companies' community relations officers, who are formed by lawyers, sociologists, anthropologists and doctors, were not interested in having good medicine in the communities and they made sure that the first aid kits disappeared, there is no first aid kit or supplier now. Another prevention they have to do is territorial, they have to return to the communities the territories that have been occupied by the oil companies, the communities are legal and have title to their lands, that is to say, it corresponds to them, let an oil company tell me that it has done for example the previous consultation, but well done as God commands, then it is necessary to return to the communities also the territoriality. This prevention that is done all over the world has not been prevented in these circumstances of this terrible and current flood of oil in all the communities. In conclusion I would ask the lawyer to consider this sad story of contamination and here I would not speak of contamination but of impunity, I know that oil is slippery, if you step on an area with oil you slip and fall. Your Honor, do not step on the oil because you will fall and we would not want you to fall in the eternal history of impunity, in the eternal history of being judge and party of certain companies. Then also the indemnification and compensation requested by the Constitution have been given halfway, but they have been achieved through strikes and protests, even with the intervention of the army and the police, but the communities protested and in this way they have achieved something. In any case, the agreement with the Eden commune 20 years ago has still not been fulfilled. Therefore, I present these ideas from the experiences of so many years that I have spent here trying to defeat some oil company, but I cannot, I say that I lose all the battles, but I plan to win this war to see if it helps me.

9.49.- Government Advisor for Amazonian Affairs of the Presidency of the Republic, Mr. Alex Cristóbal Hurtado Borbua: With the intention of providing more criteria to place in context what has been the essence of the development of the Amazon. In 1861 the province of Oriente was created in the government of García Moreno, in 1897 it was changed to Eastern Region and our process began and in 1989 a law was enacted for the first time in favor of the development of the east at that time, the Special Law of Oriente, which was in force until 1984 when it was repealed. As a result of these laws, mechanisms had to be sought to promote development, the first development agency that was created here in the east at that time was called the General Directorate of the East in 1919 and in 1920 this distinguished man from La Rioja, Juan Pío Alvarado, was appointed as General Director of the East and there was applied the policy on how to develop the Eastern Region. Later we have the JUNO, the National Board of Oriente, another development agency, 25 years passed between one and the other and later in 1974 the former INCRAE was created, an institute oriented to promote development, not an orderly colonization and designed for the Amazon and look that at that time the law was contradictory, the law stated that to be awarded a plot of land had to prove that they had cut down or intervened 50%, that is, by law we were obliged to cut down our forest. Subsequently, this was the result of the INCRAE applied since 1964 when the agrarian reform was promoted in the country and arrived here in the Amazon. Subsequently in 1992 the Law for the Eco Development of the Amazon Region was enacted, which we know as Law 010 and it was in force for 25 years and that was the first time that we were generating a fund to promote eco development or development for the Amazon, after they changed our name from Eastern Region to Amazon Region and now since 2018 we are a special Amazon territorial district as defined in Article 250 of our Constitution. Here in this law clearly establishes the creation of these two funds, one is the Sustainable Development Fund and the other is the Common Fund. Before entering into the matter to go into more detail and give an explanation, I want to mention which have been these consequences, which have been the problems that we have maintained here in the Amazon for decades, this is not a problem of now, it is a structural problem that also starts from the vision, from the Ecuadorian State regarding what the Amazon is, we occupy 48% of the national territory, we are almost half of the territory, but we are almost half of the territory, but we are not the only ones who have been in the Amazon for decades, We occupy 48% of the national territory, we are almost half of the territory, but what happens is that this territory in this vast area is divided administratively and politically in parishes, cantons and provinces, including the last Amazonian province of Orellana, that when I had the privilege of being mayor of the canton Tena, we helped, we gave a good part of the territory so that the province of Orellana could be created. Then there are also some supra territories that are still in force in the Amazon, we have oil and mining concessions that are still in force, the territories of the vicariates were extended, also in the Armed Forces through battalions, brigades and military units. Subsequently, with the aim of creating natural reserves, there is a current system of protected areas, another of the territory of peoples and nationalities and we have the privilege that in our Amazon we also have this very important group of uncontacted peoples of the Taromenames and Tagaeris, this gives it a magnitude so that taking into consideration all these actions only in terms of territory and this great division that is given. Then we have now the investments that are made in the Amazon, also come from three sources, one from the public sector, the central government, the GADS, etc.; two through private investments, oil, mining, logging, tourism, etc.; and third comes from international cooperation, we have a large number of organizations that give support, support to the development of our Amazon. All this when it is discussed within the assembly that it was necessary to order all these activities, then the creation of this new law that we have now that was enacted on May 21, 2018, is promoted, this law establishes with

The responsibility has to be given in generating an Integral Amazonian Plan, this is the great umbrella that we have in the Amazon so that this disorder of investments, of territories, we have to order it in a much more adequate way, this in terms of the subject of planning, But the legislators did not remain only in the theoretical, in the vision of all that is planning and coordination in the long, medium and short term, but they created these two funds which I am going to refer to, one is the Fund for Sustainable Development which is a result of the Law for Ecodevelopment, that is why we call it Law 010, because it was created with 10 cents and now this law after having passed according to the legal and juridical dispositions, it went from two dollars, now it is 4% for each barrel produced, these resources are directly destined to the accounts of the provincial councils, municipalities and parish councils, these resources approximately in these two years has reached approximately 450 million dollars in these two years from 2018 until the cut of the account that we had in the month of July that informs us the Central Bank of Ecuador, because that does not go through the general budget of the State, does not go through the Ministry of Finance, but directly passes the account, PETROECUADOR deposits in a special account in the Central Bank and is distributed to each of the GADS. The other is the Common Fund, this common fund is nourished by the profits of 12% of the oil and hydrocarbon activity, mining royalties, hydroelectric utilities and there is also another set of resources that must be fulfilled in order to nourish this Fund. Article 65 of the Amazon Law clearly establishes how the projects must be presented and through what mechanisms we have to channel them, and Article 66 speaks clearly about the destination and prioritization. With this background we, within the Planning Council, have been complying with what the law says regarding the percentages and investment priorities that have to be given here and how to order each of these actions, of course I tell you that one of the aspects that has concerned us a lot has been this issue of the historical spills that have occurred, because the Amazon Law clearly tells us about the responsibilities and also the Organic Environmental Code also establishes them. So what we need is that we Amazonians know in depth and dimension what is the scope of our Law regarding our rights, but also regarding our duties, because we also have to take care of the environment, our rivers, look today only a very brief comment, yesterday there was the Summit of Presidents of the Amazon Basin in the framework of the Pact of Leticia, one of the proposals that I made there to this Summit and Mr. President Lenin Moreno, He mentioned that here in the Amazon basin most of the human settlements are in the foothills of the mountain range and this is where all the watersheds are nourished, but look who of us are concerned about the issue of wastewater treatment, garbage, all this is part of this set and these agents that are generating so much pollution here in our Amazon. That is why I want to tell you that this law is so kind and allows us also in a very comprehensive way, or as they say, we should not only see the tree, we have to see the forest to give this whole environment a very large and generalized support. I remember that some years ago, on the initiative of the previous government, it was proposed on the subject of Yasuní that the oil would remain underground and that we would obtain billions of dollars, I said what is the purpose of this, it is only proposed to protect this paradise, but it is hell, this environment that has been contaminating our rivers for years and we continue contaminating and the most serious of all in these aspects is that we are decreasing the flow of our rivers and the population is increasing and the question is how many more years will we have clean water here in the Amazon, safe water? So this is a co-responsibility of all of us and there has to be a very clear sense that public policy has to be precisely oriented to articulate all these actions and there within the Planning Council, which is the highest authority in charge of promoting the development of the Amazon, the Ministers of Environment, of Energy and Non-Renewable Resources, of Agriculture, the Secretary of Planning and myself as delegate of the Ministry of Environment, of Energy and Non-Renewable Resources, of Agriculture, and the Secretary of Planning, I am Amazonian because the law establishes that from the Amazon there must be six representatives, that is to say, we are the majority in the council, one representative for the prefects, one for the mayors, one for the parish councils, one for the productive sector, one for the Peoples and Nationalities and one for higher education, six Amazonians plus myself seven, we are the majority. So, in these two years we have tried to organize, there is still a lot to do, I consider that in these actions it is not a matter of continuing with this type of improvisations, we need to have a short, medium and long term proposal, sustained in time. I had asked for this change in the order, because I was in an appearance in the Biodiversity Commission presided by Assemblyman Alberto Zambrano and we commented on these issues, we are all concerned. On my part, I would like to mention that we, from the Planning Council, are delivering these resources and in these two years I am telling you there have been 450 million, a little more to the GADS through the Sustainable Development Fund and from the Common Fund, In these two years it has generated close to 100 million dollars so we are talking about 500 million dollars that we have had in these two years and of course the question is the rest of the resources that are invested from the public sector and also from international cooperation and why are we still poor, so we have to organize ourselves, organize ourselves and in this way seek the wellbeing of all the inhabitants of the Amazon. 9.50.- Sonia Oleas Ferreras: from Caritas Española, participates in this lawsuit for precautionary measures, for violation of fundamental rights, Caritas Españolas has been accompanying the reality of the populations in the Ecuadorian Amazon for more than 40 or 50 years, both indigenous and riparians and what we intend to do today is to make a contribution to your Honor regarding international human rights law. We believe that there are two very important issues, one of them already Father José has already

We have insisted several times on the issue of prevention and the other in relation to human rights, now we will explain it more clearly during the amicus curiae brief, but it does seem fundamental to us when we talk about human rights standards at the international level and the determination of human rights in the United Nations, these are two aspects that are very often not taken into account because they are generally blocked in the first case in the interrelation of rights, it is blocked by the right that is the most damaged, We have been listening to the actions that occur when some economic interests take precedence over the interests of people, communities and nature. On the other hand, the issue of prevention, which is also very often made invisible, disappears because the violation that causes so much damage, we often attend, as is logical, to the guarantee of the violated right when the States, in their full range of support and defense of human rights, must be very attentive to the violation and in many cases to prevention, and not being attentive to prevention is just as much a human rights violator as it can be later when the erosion itself takes place. We are fortunate that the human rights legislation of the State of Ecuador is one of the most innovative and modern in the world, which allows all of us to watch over the human rights of people and communities, to also watch over the rights of nature and, as we said at the beginning, for Caritas Españolas, to be there is an obligation for us because it is an obligation for us to be there, because we have a duty to protect the rights of nature, to be there is an obligation for us because we always accompany the processes of people from their every day to live with more dignity and happiness as their Constitution says and also when the moments come when we have to guarantee and have to pressure and have to be there when these human rights are violated. There are very clear standards in international law that have constantly spoken of these rights in your Constitution, which together with the Bolivian Constitution are the most advanced in the world when it comes to defending all human rights, expanded and seen from many different points of view, something that in Europe we still have a lot to learn and well, it has been supported by all of you in many interventions, but now we want to place these standards at the level of international law, There are also many Treaties ratified by the Ecuadorian State and therefore, as its Constitution, Organic Code of the Judicial Function and Organic Law of Jurisdictional Guarantees and Constitutional Control, make the direct application of this international law of those Treaties that are binding, even more so when the Ecuadorian State has ratified especially the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, which in most of the rights that we will try to narrate very quickly, have been violated. Rights that we have approached more closely with a microscope are the right to water and to a healthy and adequate environment, to habitat and housing, as the expert geographer commented earlier, which entails the whole environment that has been damaged, and to health, as another speaker also said, which is not only the procurement of medication, but many other things as we will see now, that is the microscope that is approaching, but now we would not have time and in the amicus curiae, we would not be allowed this enormous space that would be to move away this microscope to see how the thirty rights of the Universal Declaration of Human Rights that have been violated in this chain of interrelation that all the rights have, such as the right to participation, labor rights, economic rights, etc., which are the daily rights of the communities. There is a very specific general observation number 15 of the Covenant on Economic, Social and Cultural Rights, there are resolutions of the General Assembly, a Special Rapporteur for sanitation has been created due to the great importance that the violation of the right to water is taking in so many places. Very quickly that phrase we have down there where it tells us that when pollution is excessive it is the result of State action, action that is also when it does not control when it does not prevent the damage that can be done by third parties that can be private, and that is obviously the duty of the State as a subject of guarantee that human rights are not violated. The human right to an adequate environment has been repeated on many occasions during these days that we have had the trial, you have all that list of international human rights law where it is considered as a human right, as it is understood that we are talking about the welfare of people, the good living of dignity and that the States are obliged to promote and guarantee its protection, adopting effective measures to guarantee the conservation and sustainable use of ecosystems and biological diversity. States cannot be spectators of what the private sector does, the state is an essential actor in the guarantee of human rights. The human right to habitat and housing, we are not only talking about physical housing, we are talking about a space where I have social welfare, where I have health, where I have education, where I have economy, where I have access to infrastructures, where I can carry out my local economy, agriculture, environment, rural development. An inadequate, unhealthy and polluted habitat that is not the object of structural public policies with this approach to the human right to habitat and housing, as has been said many times by the former rapporteur Lilita Nizarval and the current rapporteur, causes the direct violation of this right, we repeat the State is not a spectator of what happens between the private, but has to be a protagonist actor of these public policies. Finally, the human right to health, as in the other cases, we have the articles of the Covenant ratified by the Ecuadorian State, we have the Optional Protocol, we have that final observation in this case number 14 and multiple reports of the Special Rapporteur, on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, the phrase, the title of the United Nations Health Rapporteur is very clear, we are not only talking about arriving afterwards, which is very important, but of course to remedy the impact that could have affected the physical health of the victims, but also the right of the victims to the highest attainable standard of health.

We have heard anthropologists say how this mental health has been damaged, the reality of the right of all people to enjoy the highest possible level of health. We have some characteristics that we suppose we have to put a check on now we would not put on many of them given the situation that all the communities are living in the rivers, in the waters where the spills have occurred. Access to drinking water, access to adequate sanitary conditions, there is a whole list that would include being able to say that this right has been clearly violated, I repeat again because I think it is important, physical health but also mental health, we insist on this, remediation and reparation, my colleagues have insisted a lot, I am not going to insist on it anymore, it has become evident that when human rights are violated, it is not enough just to repair, but it is necessary to remedy deeply, as we would say here in the Spanish state, it is necessary to scratch, it is not necessary to stay on the surface, it is necessary to go deeper, that has been evidenced, but we insist once again that public policies are the ones that can prevent the violation of human rights from happening and here evidently the Ecuadorian State in its territorial divisions are actors, they are not spectators, they are actors and they are the subjects that will guarantee through public policies that all persons, all communities have access to those thirty human rights that the Universal Declaration tells us. Therefore, we request to take into account the argumentation that we have said with respect to the standards of international human rights law, that what our colleagues have said for so many hours, the terrible situation that thousands of people, entire families are living on the banks, are living in the rivers contaminated by the spill, it is evident the environmental and humanitarian emergency that they are suffering, that they are still suffering so many weeks later. We request that the plaintiffs' claim be taken into account and that the violation of these constitutional and international rights be declared, as we have expressed and have included in this amicus brief, the right to life, to water, to food, to health, to a healthy environment, to adequate habitat and housing. We again state as so many compañeros and compañeras have done in these directly affected areas, that assistance to the affected communities is urgent and that steps must be taken immediately to address the ongoing violations that continue to occur every day of fundamental human rights including the right to life. Individuals and their communities must be provided with effective remedies consistent with the international human rights law described throughout this amicus brief. Caritas Españolas has been seeing these images for a long time, and many of our colleagues have already expressed it, it is not the first time, but evidently we believe that this is an opportunity and that is why we are here before your Honor, we believe that this is an opportunity that we have today to be able to change a little bit the course of what has been the recent history in the guarantee of these human rights that have been violated once again in the Ecuadorian Amazon. 9.51.- Amazonian Center of Anthropology of Practical Application of Peru through Mr. Segundo Herrera Mejía: The Amazonian Center of Anthropology of Practical Application is a civil association created more than 40 years ago by the bishops of the Peruvian jungle for the protection and dissemination of human rights of indigenous peoples. On this occasion we are grateful for the opportunity to reach your judiciary and our amicus is going to share the Peruvian experience regarding the treatment of justice that has been given to problems related to oil spills. As we know, this is a problem that has been arising more frequently in recent years and in the Peruvian experience we have accompanied several indigenous organizations also affected by oil spills and we have had a very interesting experience with respect to the right to health since in the processes we have had the Peruvian Environmental Control Agency, which is an entity in the State, has been able to verify with all its technicians, specialists and biologists that effectively in the communities of the Amazon region where there was the oil spill in 2016, it has been able to find and verify that there is real damage, rather than potential damage to the health of the people who are on the banks of the rivers, in this case of the Chiriaco Marañón River which is of the region. The OEFA, which is the Environmental Oversight Agency, has fined Petroperu, which is the company in charge of maintaining the Norperuano oil pipeline, a fine of more than 25 million dollars for not complying, not maintaining the pipeline, and as a result of this, oil has spilled, which the company initially said was due to cracks caused by the natives themselves, when in fact it has been determined that this was not the case. The state and all the organizations have had to defend themselves as they have been doing in this process arguing that the Ministry of Health has deployed a whole action, a whole plan to mitigate the consequences of the oil spill, however, as it has already happened in the Peruvian experience, but the years go by and we as a civil organization seeing that the population existed, We decided to randomly take hair, blood and urine samples, first randomly from 24 people, including minors who participated in the collection of crude oil when the company was even paying 150 nuevos soles in Peru for each barrel collected. So these people who were exposed not only for having collected, but for having consumed food from the river banks, for having consumed the fish that were in the rivers, these 24 tests were positive for the presence in their blood of lead, barium, cadmium, even mercury, so this action led us to resort to a constitutional court to ask for protection and medical attention for the people, and there is already not only in this case, There is already, not only in this case, but in two others, a legal pronouncement to order both the Ministry of Health and the company to design together a public health plan with an intercultural approach, because if we only design a health action plan that only responds to what the Ministry of Health, which has its headquarters in Lima, says, this was not important because most of the communities do not speak Spanish, so our contribution is that a state organism should effectively design a public health plan with an intercultural approach.

Beyond all the doubts that may exist, it determined in Peru that the oil spill and the contact with people produce real damage to health, not even in a potential way, that is why, as I repeat, the Regulatory Agency has imposed a sanction that has already been confirmed in the second instance. It seems important to us that the OEFA has stated that when oil is spilled it will come into contact not only with those who are able to touch it directly, but also with the food and water that is consumed and monitoring and studies have been carried out on the water sources in the area and despite the fact that over the years there are still oil samples in the subsoil that continue to contaminate. What has happened in Ecuador is not alien to our reality because we have common denominators, what has happened is that these tributaries of the rivers that with the rains are a product of nature are going to give in the tributaries of the largest rivers such as the Marañón, a tributary of the Amazon that ended up heavily polluted. So, from our Peruvian experience, we ratify our work to continue in this aspect since there are very few judicial resolutions that actually speak about this subject, but we consider that the petition of the plaintiffs is extremely important because we should not let much time pass for the presence of heavy metals in the blood and in the organism of human beings to cause new health episodes later on, I say this because we have lived it in our own flesh. Studies also indicate that the presence of lead in the blood of people can develop in the future some cancer problem, because at the beginning the symptomatology is not so fast, it is only evidenced with small spots, small allergies, with small headaches, But with time this will become more acute as we have been demanding it here where effectively the Peruvian judiciary has ordered the Ministry of Health to carry out a general screening, because it is not only the affected community, because there are many communities along the riverbanks that have consumed contaminated water, have consumed contaminated fish and therefore their health has also been affected. We believe from this space that it deserves the attention of your judiciary to declare founded this request for precautionary measures in favor of the people so that the health of the people is attended promptly and to avoid in the future that this health deteriorates and goes against all the International Treaties and Conventions that protect health and we also know that the Ecuadorian State has part and should be organized on this basis the health of those who have already been affected because now we talk about affected because we do not know who they are, we are talking about a group but it would be interesting to determine if the environment, water, water resources and the health of the people have been affected in order for these precautionary measures to be founded, Mr. Magistrate, based on our experience that we have shared today. 9.52.- Centro de Derechos Humanos de Pontificia Universidad Católica de Ecuador through Dr./Ab Víctor Espinosa Mogrovejo: Basically I will refer in a clear and precise manner, why this event has occurred, what is the regulation that must necessarily be observed and that is effective to resolve it and evidently the violation of rights. What happened? Basically, on April 7 the pipes and pipelines that transported oil broke due to the progressive accelerated erosion that on February 2 caused the collapse of the San Rafael waterfall, it was already known that the San Rafael waterfall collapsed, it was known that reports were presented, including the 1985 report on the risk of this waterfall, nothing was done. It is very important to mention that one of the points in the Litis of the present event is that it is alleged that it could have been prevented, the risk of the area was known and the pipes were not closed so that the oil could not be transported and this problem could have been fixed, it was known so it could have been prevented. Months after the San Rafael waterfall collapsed, it reached the pipelines and evidently it was destroyed when it was already known. It is also necessary to state that beyond the fact that the defendants mention what has been done after the oil spill, it is necessary that they state what they have done according to the reversal of the burden of proof, what they did to prevent this. Evidently the most sensible thing to do when the high risk was known, the logical thing to do would have been to close the oil pipeline, but this was not done. Now, as determined by the regulations and the standards that must be observed in this case, the Constitution as well as the Organic Environmental Code establishes due diligence to prevent damage to the environment, environmental impacts, it also establishes strict liability, that is to say, it must be restored and compensated regardless of whether the lack of due diligence is demonstrated or not to the affected persons and the environment. Art. 12 of the Constitution states the right to water as fundamental and inalienable or Art. 35, which is also necessary to observe in the present case, since it establishes that specialized and priority attention must be given to people at high risk, such as the communities affected by the oil spill and even more so when they are in a context of double vulnerability due to the current pandemic, for which there are no plans established for the indigenous communities either, which is also discriminatory. Article 57 of the Organic Law of Water Resources expressly states that contamination must be avoided and the purity of water reserves must be guaranteed, that is to say, there are regulations that state that this type of act must be prevented so that it does not occur, which has happened, evidently the Organic Environmental Code must be applied, since in Article 1 its objective is to guarantee a healthy environment and the rights of nature and its objectives include regulating activities that generate environmental impact and prevent, avoid and control environmental impacts. Likewise, given the arguments of the defendant alleging that it has been a case of force majeure or fortuitous event, Art. 307 of the Organic Environmental Code states that the operator of the activity will only be exonerated from administrative actions or decisions of the MAE as environmental authority, only if it demonstrates that the event could not be prevented, from any other sanction it is exonerated and in the principles found in Art. 9, such as integral responsibility, the principle as clear as the polluter pays, which has to do with the principle of objective responsibility, in dubio pro natura, precaution and prevention that requires taking the necessary measures to avoid and mitigate damages. The integral reparation that implies reverting environmental impacts and the subsidiarity that the private party that does not assume the responsibility must necessarily do it the State.

under which the present situation must be addressed. Likewise, in terms of standards, there is a report called "The defense of human rights of the Inter-American State" of 2019 prepared by the special rapporteur on economic, social, cultural and environmental rights where she establishes once again the due diligence not only for the State, but also for the companies to prevent any damage that may cause the violation of rights, which has not occurred in the present case either. Another necessary case that should be observed is the case of October last year where the permits were taken away from a hydroelectric plant because it was going to be installed on the Pedua River and was going to take the entire water course causing environmental damage, water rights in the present case and there it has been established that the States have the obligation to prevent significant environmental damage, for which they must regulate, supervise and oversee the activities under their jurisdiction that may cause significant damage to the environment, as well as the environmental impact. Once again, the obligation is established in a given case to prevent significant damage and even more so when it has been known at least since 1985 as has been stated. Another important issue is that this is not an isolated case, there have been at least 72 spills of SOTE alone since 1972. Systematically there are spills and this is an opportunity to give a message that these systematic attitudes that violate rights, evidently the lack of prevention generates the violation of rights such as the right to water, health and food. To talk about this, I have referred to General Comment No. 15 of the International Covenant on Economic, Social and Cultural Rights. 15 of the International Covenant on Economic, Social and Cultural Rights, which is responsible for interpreting the content and scope of the International Covenant on Economic, Social and Cultural Rights, ratified by Ecuador and therefore is obliged to obey, states that water is a fundamental public good that is indispensable for a dignified life, which is a precondition for the issuance of other rights and that everyone must have free access to sufficient, safe, acceptable and enforceable water, The Constitution and the Organic Law of Water Resources establish that the social content of the right to water must be available, it must arrive continuously and sufficiently, the water must be of quality, evidently if oil is spilled in the river which is the main source of water, that water is no longer salubrious, it is already harmful, there are diseases, the cattle are dying. In addition, it is not accessible either physically or economically because cooking in other places implies greater expenses, without discrimination and it should also be accessible in terms of information on the right to water. It is important to state that the communities were not informed of the spill, so once the case is presented, observations are made on the violated rights and it is evident that in their norm they are very clear and the violations are evident. Therefore, Mr. Judge, it is in your hands to do justice in this case. 9.53.- Economist, Alberto Acosta Espinosa: The Coronavirus pandemic that has not been solved and which caused the rupture of the oil pipeline on April 7, more than 120 days that in fact this oil pandemic has already lasted several years. I make my intervention in this amicus curiae from my personal experience, from my relationship with the Amazon that I knew when I was a child in 1954 or 1955. I was also one of the people who was excited when the discovery of oil in the Amazon was announced in February 1. I studied energy economics in the 70's and I was an official of the Ecuadorian State Oil Corporation (CPE) in many functions, but above all as manager of sub-commercialization. I had the opportunity to be Minister of Energy and Mines and I have worked as a consultant on energy and oil issues, During that time I learned something that is fundamental, oil was not the solution to our problems in many ways and especially for the Amazon is a real curse and I speak also from the experience of president of the Constituent Assembly of Montecristi in 2007-2008 but above all as a committed citizen who wonders how long we will tolerate so many problems in the Amazon caused by oil extractivism and now mining extractivism? In August, 48 years ago, the Texaco tanker sailed with the first shipment of crude oil and I ask myself: What has this left in the Amazon? What is the reality of the Amazon? The reality is that in the Amazon, especially in the oil region, the basic characteristic is the destruction of the soil, air and water. The contamination that through time has caused the disappearance of two entire peoples such as the Petetes and the Sansahuaris. Cancer, for example, has levels that exceed 30 or 31% in the oil-producing Amazon, when the national average is 11 to 12%, the Amazon continues to be the area of greatest poverty in Ecuador, especially in the oil-producing provinces, we can and must learn what the trial against the Chevron-Texaco company meant, which should be extended to all oil extractivist activity, where we established a fundamental point and I am going to focus my attention exclusively on that fundamental point, the precautionary principle, a foundation of the Constitution of Montecristi that marks a before and after, there is established the concern to protect the environment, the Pacha Mama, as it is read in the preamble of the Constitution of Montecristi, the Pacha Mama, of which we are part and which is vital for our existence. This is a very important matter, it has an undeniable transcendence, it is enough to read Art. 396 of our Constitution to understand what we are talking about, it says there and I will read two paragraphs with your authorization, it says there: "The State will adopt the policies and opportune measures to avoid negative environmental impacts, when there is certainty of damage. In case of doubt about the environmental impact of any action or omission, even if there is no scientific evidence of damage, the State shall adopt effective and timely protective measures". This is what has not happened of taking timely measures, even when there is no scientific evidence of damage. "Liability for environmental damage is objective. Any damage to the environment, in addition to the corresponding sanctions, will also imply the obligation to integrally restore the ecosystems and compensate the affected persons and communities." This is the starting point that is complemented by something fundamental of the Constitution of Montecristi, which is not understood by many judges,

The State shall apply precautionary and restrictive measures for activities that may lead to the extinction of species, the destruction of ecosystems and the permanent alteration of natural cycles, and that is what is happening especially and not exclusively due to the effect of the oil spill caused by the rupture of the pipelines. I have already drawn some conclusions: first, when an action has the possibility of causing damage to human health or affecting nature, one must act with caution, even if the cause-effect linkage is not scientifically and clearly established. After the disappearance of the San Rafael waterfall something should have been done and even some ideas have already been given in this regard, as one of the persons filing an amicus curiae was heard resorting to a fantastic metaphor, "If there is an issue of fixing a pipe, the first thing you do is to close the flow of water so as not to cause greater damage to a house". A second point is proven ad nauseam that there can be no certainty in this type of work especially when it comes to large infrastructure, there is no certainty, there are risks and the first threat you have to take precautionary measures. Thirdly, this scientific uncertainty must always put life first, life comes first, not even the exports necessary to sustain the economy can justify the loss of a single human life or the destruction of nature, there is no way to subordinate the economic interest to the demands of human rights and the rights of nature. In theory we could speak of a "black swan", we speak of a black swan as you will know this theory, when it is a phenomenon, an improbable accident, but that at some point ends up happening, that was the case of the Fukushima central accident in Japan for example and there are many other cases that do not come to the subject to mention. This theory highlights the disproportionate role of the high impact that is difficult to predict in case of events that are out of normal expectations, in those cases we do talk about a black swan, when the probability of such events cannot be anticipated, but this is not the case we are talking about, it is not even a black swan. We cannot confuse with force majeure the black swan and the destruction as it is established in article 30 of the Civil Code, which accurately states that force majeure or fortuitous event is the unforeseen event that cannot be resisted, such as a shipwreck, an earthquake, the capture of enemies, acts of authority exercised by a public official, etc. Here there is nothing like that, here we cannot minimize the lack of responsibility of the state company and of the private oil company OCP, when it minimized the precautions to be taken, here the precautionary principle is imposed, but such precaution is even more necessary in projects that have already been affected and let us see the history of successive problems accumulated in the Trans Ecuadorian Oil Pipeline and in the Heavy Crude Oil Pipeline OCP. Let us remember what the earthquake of March 1987 meant, which destroyed the SOTE Trans Ecuadorian Oil Pipeline, right in the region where the spill occurred and in that sense we know and the experts have said that there is an enormous instability in the area due to its proximity to the Reventador volcano and its high seismic activity, also because there are a number of landslides and even caused by heavy rains. At least the heavy crude oil pipeline, the OCP, should not have been built by that route, but let us go further, we have a concrete fact that affects at this moment within the framework of the new Constitution, the situation of the indigenous communities and the non-indigenous communities of our Amazon, the erosion in the Coca River that could be related to the construction of the Coca Codo Sinclair plant, is a reason that should have been taken into account to prevent what we are analyzing at this time. I was the Minister of Energy and Mines, I delivered the Energy Agenda 2007-2011 to the then President of the Republic on June 14, 2007, as can be read on page 70, it should have been done with adequate technical studies, which everything indicates that there were not and millionaire decisions were taken that put the life of the Amazon communities at risk. After the fall, the disappearance of the San Rafael waterfall, we can no longer speak of a black swan, much less an accident of force majeure, this is not an earthquake, it is not a natural accident that can dare an explanation, we could even recover an advance of the "black swan" theory, we could speak of what in theory is known as a "gray rhinoceros", all rhinoceroses are gray and when they charge rhinoceroses they cause enormous destruction, that is why in this case we are talking about events that have been predictable for a long time and that now if we do not take adequate measures will be repeated, because we are not only analyzing the issue of what happened in April but also what may happen in the future. The oil spill could have been foreseen, the regressive erosion was perfectly known, moreover, that potential threat that became in February of this year when the waterfall disappeared could be repeated and yet neither the State nor its company Petroecuador nor the company OCP took preventive measures. In this case the catastrophe that produced the rupture of the mentioned pipelines cannot be seen as a mere accident and I say it clearly and forcefully an irresponsible behavior with dire consequences for many indigenous and non-indigenous communities and for nature. The affection to the habitat of these communities is further complicated as I said at the beginning with the Covid-19 pandemic, a terrible disease that affected you, Mr. Judge, as reported, the floods in the area add to this and the absence of adequate state responses, simply patches, handouts, charitable acts, there is no social justice, there is no ecological justice in the actions of the Ecuadorian State. The above fully documentable justifies the precautionary measures requested by the severely affected communities, then sticking to the aforementioned constitutional mandates must punish the perpetrators for their actions, omissions and negligence, condemning them to carry out an integral ecological restoration of all the affected components of the ecosystem as ordered by article 72 of the Constitution, and this restoration must go hand in hand with reparation, compensation to the communities, rehabilitation to the communities, including psychosocial measures and of course measures of satisfaction, punishment and not impunity, measures of non-punishment.

Date **Legal Proceedings**

pounds of rice, one tuna, one tinapa, cocoa, sugar, salt, lentils, which is not enough for their communities, since they consume approximately twenty-five fish in three days, and the food contained in the kits is scarce, That medical brigades visited them, composed of a doctor and a nurse to attend to 62 families in the communities, and each family is composed of four to nine children, that the attention they provided is not sufficient for the needs they had, that in the medical attention they only gave them paracetamol and deworming medicine. That about the stains and sores on the skin of their children, they said that they were only given paracetamol and dewormers.

mother should be seen by a dermatologist, that they have the right to a dignified life, access to water, health, good food, that the river is part of their life, that the flora and fauna have been damaged. Upon examination of the plaintiffs, she adds that they did not warn them that they should not eat the fish in the river, that after 2 weeks they are carrying out the remediation, that they are not doing it well, that a 7 year old child with disabilities has developed pimples, that on April 20 she had a meeting with the operators who came to request data. e. - Inna Escurti, geologist, who is a geologist and a geologist of the river. Inna Escurti, geographer of the Ceibo Alliance Foundation, who in her visit to the commune of San Pedro Río Coca, on April 18, 2020, mentions that she collected seven testimonies from affected community members, the crude oil still staining the riverbanks, the sand and under the stones, the companies had not yet started any type of cleanup; In the San Pedro commune, in dialogue with Claudia Tanguila, she stated that they are hungry, they do not have water, nor how to fish, several people commented that they did not have many fish left (carachama), that the companies have given them two bales of tesalia per family, but as they do not have enough, they had to collect from the rain, in the parish of Puerto Amadeus and Community 18 of April, when examining the procedural subjects she says that she is not an eyewitness, therefore, she is not a suitable witness. f.- Ángel Benigno Sánchez Cumbicos, priest of the Vicariate of Aguatico, who accompanied fifty-four communities, twelve of which are in the area affected by the oil spill of April 8, 2020, at 11:00 a.m. he found out about it through a communiqué from the Mayor's Office of Francisco de Orellana, He tried to communicate with the communities, but it was not possible to know how the situation was, so he decided with the team to make some visits to the communities, in the first visit made on April 14, 2020, he observed that those affected had been given four bottles of six liters of water for each family; In another visit on April 21, 2020, to the Community of San Pedro del Río Coca, he observed black stains on the walls of the river banks on both sides and appreciated that the smell of the river was strong and penetrating; then he made another visit on April 30, 2020, a family presented me their son who had skin lacerations and told him that no medical brigade had arrived. That on April 22 and 23, 2020, with the coordination of FECUNAE, Human Rights organizations and the Vicariate was able to contact the Ministry of Public Health, which made some visits to the communities to help, in the community of San Pedro del Río Coca, 10 de Agosto with a doctor from the Guayusa Center, and a nurse, Attention was given to 24 families, including the minor Yelitza Calapucha who had lacerations on her body, vaccines for children under five years old, pregnant women, people with flu, they were also in the center of Guangula Urco de la Comuna Sardinias, where they attended about thirty-five families. g.- Edilma Shiguango, maintains that the oil companies knew about the oil spill, that her children have gone to bathe in the river and come back contaminated, that two days later they have gone fishing and the fish had an unpleasant smell of oil. Because of the contamination, they have been given bottles of water, but it does not supply them because the families have five or more members, and they would like more help because it is insignificant. For this reason, they want the company OCP and PETROECUADOR to attend to the health situation with medical evaluations; h.- Edgar Felipe Salazar Dihua, who comes from a San José Community and has thirteen children, asks for help with water and food, what they give us is not enough for his community, he asks for the water project to be addressed. The community has asked OCP to help with three water tanks and food rations, that he has presented himself to work in the company and they have told him that they are looking for more people from the community to work in the remediation, that he has already brought folders of community members, but so far he does not know anything about his request; i.- Alicia Salazar of the Sinaloa nationality, who has been working in the company and has been told that they are looking for more people from the community to work in the remediation. Alicia Salazar of the Siona nationality, community of Río Puyan, represents the Ceibo Alliance Foundation, formed by the Siona, Secoya, Waorani and Cofán nationalities, regarding the exploitation of their territories and contamination of the forest, that their work is to maintain their territories healthy, free of invasions by companies, that they are not directly affected, but they claim the rights of nature, that the oil spill of April 7, 2020 is not the only one, but the oil contamination dates back many years, in the Cuyabeno reserve there have been two spills, one in 1988 and another in August 2006, and that until now there is still contamination, with traces of oil; Rivers are important for food, drinking, cooking, washing, we have a spiritual relationship with the river, we bathe and get in contact with the energy of nature, so they have to be clean of all impurities and pollution, because of pollution many species of aquatic and terrestrial animals are in danger of extinction, it causes health problems in the skin, respiratory tract and other diseases. The water is not fit for human consumption, the agricultural production of plantain and cassava in the contaminated areas is low. This oil spill affected the indigenous communities on the banks of the Coca River, Dashino, Panduyacu, Shiguacocha, Sardinias, Huataraco, Playas del Río Coca and others; j.- Freddy Oraco, President of the Kichwa Community of El Edén, since oil exploitation began in 2001, there is contamination, which currently have had a spill in the F box, water which killed many fish in the pools, they can not go fishing because they get sick, they request that oil companies stop affecting them, since 2016, have been affected by oil that are affected their tourist attractions and have communicated to the respective authorities but there is no response; k.- Ricardo Huatatoca Alvarado, President of the Kichwa Community of El Eden. Ricardo Huatatoca Alvarado, President of the San Pedro del Río Coca Commune, who observed the oil spill on April 7, 2020, at dawn he went fishing and has found in the river crude oil product of the spill, for which they feel affected, for not being able to feed on fish and use the river water for their crops, which has found dead fish, They request that the oil company and the Ministry of the Environment clean up and remediate the damage caused on the banks of the Coca and Napo rivers, which prevents them from using the water for human consumption and cleaning. They request that the company provide them with a piped water project, medical attention and frequent food rations, since the rations provided are not sufficient because they are large families and are not enough to meet their needs; l.- Johnny Abel Jipa Andy, from the commune of San Pablo de

Quichua nationality, San Sebastian del Coca parish, La Joya de los Sachas canton, province of Orellana, the spills are not an isolated event, this has happened in 2009 and 2013 and on Monday, April 7, 2020 with which the oil companies have violated our rights, they are killing us with this pollution, many have died with cancer. That her son went fishing on April 7, 2020, at 05H00, with his brother and brother-in-law with a fishing line, he brought fish covered with oil and the net stained, that the river is the source of their activities since they use it for washing, drinking and cleaning, it is a source of food for the aquatic species that it provides them. That doctors from O.C.P. arrived, that they only had paracetamol, water has been given to them four times, but it is not enough because they are large families; that they have left them food kits of twenty dollars, which is not enough because they are families of 10 people. They request that the Ecuadorian State and the responsible company make full reparations. II. Nelly Sofía Grefa Alvarado, from the Community of San Francisco Chicta, that the crude oil spill in the Napo River, at 16H00 on April 7, 2020, reached her community, that the river is the source of their food, personal hygiene and consumption, since the spill occurred they cannot go to the river to fish to provide themselves with food, to not carry out their normal activities, for which they request PETROECUADOR to carry out the remediation and provide them with a piped water system, because the river is contaminated. That the food rations delivered are not enough because their large families, in the San Francisco Commune, there are more than one hundred families and they request O.C.P. and PETROECUADOR to attend them in an integral way with medical examination and medicines; and, a project to improve the quality of water through wells for the families, since the delivery of water in bottles, does not supply to comply with their custom, and drink chicha and guayusa. m.- Monsignor Abelardo Jiménez, bishop of the Apostolic Vicariate of Aguatico for the entire province of Orellana, said that the church is not against oil exploitation, but given the contamination of the river, the life of the indigenous communities, since it provides them with food, cleanliness and life, which is the responsibility of the indigenous communities, It is the responsibility of the company to remediate nature, because for the indigenous people the river is their pillar, territory, right to clean water, to life and in these times of COVID-19, that the community members have told him that they do not have anything to eat. That he learned of the spill from Father Pablo Gallego, who visits and works with the indigenous communities, told him that on April 8, 2020, that some of the communities on the banks of the Napo River were unaware of the spill that was advancing downstream. It is a very serious irresponsibility that they have not informed the communities of that disaster, then I observe in a message that said, on April 7, 2020, the operations of the Ecuadorian pipeline system were suspended, due to an earth movement in the San Rafael sector and this caused a reduction of the pressure of the pipeline affecting the operation. For our communities, the river is where they wash their clothes, share with their families, children and young people play and swim, adults rest and gather strength after their work on the farm. The communities have no right to anything and the only thing they receive from the oil is evil and contamination. They request that reparations be ordered and that the damage caused to those affected be recognized. n.- The Confederation of Indigenous Nationalities of the Ecuadorian Amazon, CONFENIAE. They state that there is a late response from the State, that they were the first organization to alert about the situation on April 7, 2020, hours later as can be corroborated in any of the country's media, the State recognizes the fact that there was a spill, however, the response several hours later from the Minister of Government that they could not confirm the existence of the spill, when this had occurred more than five hours ago, which demonstrates the delay of the State to recognize the facts that were occurring. The level of affectation is not only of a community in a specific place, the geography of the Amazon is wide and we know the speed with which it advances over the whole Coca and Napo rivers, then the affectation is extremely considerable. They have filed this action for protection, by compiling the information that one hundred and five communities were affected in the provinces of Sucumbíos and Orellana, twenty two parishes, where twenty seven thousand Quichua people were affected by the spill, which according to INEC information, and thirty-five thousand people between indigenous and mestizos have been affected, but twelve thousand people would be affected, considering that cities such as Coca lost water due to the spill and in fact have had to use water from the Payamino River to provide water in the days and weeks following the rupture. This contamination in the context of the COVID-19 pandemic, places the communities in a triple threat situation, such as the pandemic, flooding and the spill since April 7, 2020. From the testimonies of the community members, we see that the solution has not been found and that on the contrary, we are still in the pandemic, facing the effects of the spill. The community members of several communities in Sucumbíos and Orellana have indicated that they will not be able to fish again in the coming months. As a biologist I can certify that the whole cycle of the river has been altered, it cannot recover from one moment to the next, the fauna has been affected and the vital ecological functions cannot be reproduced, the cultural patterns are also affected in a profound way, which, in the conception of the Amazonian Quichua, it is more than clear the impact it generates in the psychosocial, motivational, psychological, anemic and mythological part. As an organization they have presented this action for protection, demanding reparation measures, requesting an ecological restoration of the ecosystem. They request a repair of everything that has to do with the water system, an ecological solution. They also request compensation for all the material and immaterial damages caused to the affected families, as well as to determine the health situation of the affected communities, which put their physical and emotional health at risk. ñ.- Fanny María Grefa Oraco, from the San Pablo Commune, as women we need water and food to reach us all, I just want them to help us; o.- Carlos Simón Jipa Andy, leader of FECUNIAE, the Constitution recognizes and guarantees the rights of the communes, peoples, and communities. It is regrettable that OCP and PETROECUADOR have not taken the necessary precautions, the communities of the riverbanks state that they obtain their food from the river through fishing.

The defendants have delayed in providing the necessary water and food, which is why we went out to protest and claim our rights. The defendants have delayed in providing the necessary water and food, which is why we went out to protest and demand their rights. They are requesting measures to repair the health of the communities located on the banks of the Coca and Napo rivers, the ecological restoration of the waters and soil affected by the spill. Economic compensation for the material and immaterial damage, for the affectation, that the defendants are obligated to provide adequate food, we do not want them to give us a tinapá and sardine, this is big enough to feed the 5 to 9 children we have, so we require a decent kit with sufficient and quality water, that the drinking water system be built for those affected, in labor matters has not been complied with, The witnesses and those affected are unhappy that the oil spill has affected their communities along the Coca and Napo rivers, affecting their life cycle, since the river is their source of life, everything revolves around it and they carry out their normal activities. The oil companies have not acted effectively to compensate and remedy the impact on nature, health care, food and provision of quality water, the kits are not sufficient, they deliver tinapá, noodles, oil, milk and other foods that are not enough for families of 7 to 10 people. 10.2.- On the other hand, the respondent institutions are decisive in stating: 10.2.a.- That the regressive erosion that occurred in the area is not sufficient. That the regressive erosion that occurred in the Coca River on April 7, 2020, which caused the rupture of the OCP and SOTE pipelines, constitutes a natural disaster produced by nature that constitutes a fortuitous event or force majeure as provided in Art. 30 of the Civil Code which states: "It is called force majeure or fortuitous event, the unforeseen event that cannot be resisted, such as a shipwreck, an earthquake, the capture of enemies, acts of authority exercised by a public official", in harmony with the provisions of Art. 307 of the Organic Code of the Environment which states: "Force majeure or fortuitous event". When the environmental damage is caused by an event of force majeure or fortuitous event, the operator of the activity, work or project shall be exonerated from administrative sanctions only if he proves that such damage could not have been reasonably prevented or that, even if foreseeable, it is inevitable. However, the operator will be obliged to adopt immediate measures or actions to contain the damage and prevent it from spreading. The measures to be implemented will be contingency, mitigation, correction, remediation, restoration, follow-up, evaluation or others that may be administratively necessary."In the case of PETROECUADOR and OCP, based on these legal norms, they state that the rupture of the pipelines is due to a fortuitous event caused by nature that could not have been predicted and therefore the defendants cannot be held responsible since they acted immediately after the natural disaster occurred, however, being the duty of OCP and PETROECUADOR in coordination and vigilance with the Ministries of the Environment, Health, Natural Resources and more, Health, Natural Resources and other agencies of the National Government, once the spill occurred, immediately set in motion an emergency contingency and environmental remediation plan in accordance with the law on the matter in all the affected areas that include the communities settled on the banks of the Coca and Napo rivers, The company has also provided abundant proof that they have immediately begun the environmental remediation and are attending to the requirements of the affected Indigenous Communities in a timely manner, demonstrating that they have complied with the provisions of the environmental regulations in force, so they say that it is not true that they have not acted immediately, despite the COVID19 pandemic, the State entities sued in this action have faced the consequences produced by this natural disaster with the few economic and human resources they have, being the concern of the National Government the attention to all the citizens in this sanitary pandemic, it is evident that the oil activity constitutes a very important source of income for the development of the national economy; that all the activity is regulated under the environmental licenses and the obligation to do so in compliance with the environmental legal norms in force. While it is true that there is environmental damage, in which they agree with the plaintiffs, the legal and constitutional norms in force establish the actions that the affected persons must follow in order for the corresponding claims to operate before the competent jurisdictional authority and in the natural process of the environmental actions, and not to erroneously pretend to do so by activating the constitutional justice, as if it were just another way; since the administrative, civil and criminal avenues are available for this type of claims, and if this constitutional action were to be accepted, it would seriously undermine legal security and due process. ELEVENTH. In view of what was stated in the claim by the plaintiffs, the answer given by the defendants and the interventions in the first instance hearing where the pronouncements made by the plaintiffs and amicus curiae and the evidence produced have been heard, this Court of Appeals considers: 11.1.- It is undeniable that as a result of the natural disaster occurred on April 7, 2020 caused the rupture of the heavy crude transportation pipelines (SOTE) operated by OCP and EP-PETROECUADOR, that as a result the plaintiffs and nature have suffered environmental damages, which according to the defendants falls under the provisions of Art. 30 of the Civil Code (fortuitous event) and that by legal mandate is unpredictable under Art. 307 of the Organic Code of the Environment, and there is sufficient evidence that demonstrates the immediate intervention of the private and public companies that operate the pipelines, who together with the various Ministries of Government have undertaken a series of actions to mitigate as much as possible the effects with the delivery of bottled water, food kits and medical attention to the affected indigenous and colonist population, who, dissatisfied with the quantity and quality of what was delivered, demand the execution of wells for the provision of water and even the execution of piped water projects for the population centers; On the other hand, they also demand an increase in the volume and quality of the food kits, which should be in accordance with their customs and ancestral diet, and that medical attention be provided at a permanent medical attention post with laboratories for exams, doctors and medicines, since they have only been given paracetamol and deworming medicine.

contamination of the river. The Constitution recognizes the following environmental principles: 1. The State shall guarantee a sustainable model of development, environmentally balanced and respectful of cultural diversity, that conserves biodiversity and the capacity for natural regeneration of ecosystems, and ensures the satisfaction of the needs of present and future generations. 2. Environmental management policies shall be applied in a cross-cutting manner and shall be mandatory for the State at all levels and for all natural and legal persons in the national territory. 3. The State shall guarantee the active and permanent participation of the affected persons, communities, peoples and nationalities in the planning, execution and control of any activity that generates environmental impacts. In case of doubt as to the scope of the legal provisions on environmental matters, these shall be applied in the sense most favorable to the protection of nature. Art. 396.- The State shall adopt the appropriate policies and measures to avoid negative environmental impacts, when there is certainty of damage. In case of doubt about the environmental impact of any action or omission, even if there is no scientific evidence of damage, the State shall adopt effective and timely protective measures. Liability for environmental damage is objective. Any damage to the environment, in addition to the corresponding sanctions, will also imply the obligation to fully restore the ecosystems and compensate the affected persons and communities. Each of the actors in the processes of production, distribution, commercialization and use of goods or services will assume direct responsibility for preventing any environmental impact, for mitigating and repairing the damage caused, and for maintaining a permanent environmental control system. Legal actions to prosecute and sanction for environmental damages shall be imprescriptible. Art. 397.- In case of environmental damage, the State shall act immediately and subsidiarily to guarantee the health and restoration of ecosystems. In addition to the corresponding sanction, the State shall repeat against the operator of the activity that produced the damage, the obligations entailed by the integral reparation, under the conditions and with the procedures established by law. The responsibility will also fall on the civil servants responsible for environmental control. To guarantee the individual and collective right to live in a healthy and ecologically balanced environment, the State undertakes to: 1. Allow any natural or juridical person, collectivity or human group, to exercise legal actions and go to the judicial and administrative bodies, without prejudice to their direct interest, to obtain from them effective protection in environmental matters, including the possibility of requesting precautionary measures that allow the threat or environmental damage subject of litigation to cease. The burden of proof on the non-existence of potential or real damage will fall on the manager of the activity or the defendant. Establish effective mechanisms for the prevention and control of environmental pollution, recovery of degraded natural areas and sustainable management of natural resources.

3. Regulate the production, importation, distribution, use and final disposal of toxic and hazardous materials for people or the environment. To ensure the intangibility of the natural protected areas, in such a way as to guarantee the conservation of biodiversity and the maintenance of the ecological functions of the ecosystems. The management and administration of the natural protected areas will be in charge of the State. 5. Establish a national system for prevention, risk and natural disaster management, based on the principles of immediacy, efficiency, precaution, responsibility and solidarity". 11.3.- In compliance with the constitutional framework transcribed above, the public entities OCP and EP PETROECUADOR, once the natural phenomenon of regressive erosion occurred on April 7, 2020, which affected the oil transportation pipeline in the sector of the Cascada de San Rafael, in the limits of the provinces of Napo and Sucumbíos, and once PETROECUADOR and OCP officials warned of the imminent disaster through monitoring, immediately officials of EP PETROECUADOR and OCP warned of the imminent disaster, immediately officials of EP PETROECUADOR proceed to close the valves and suspend pumping operations through the pipeline, as shown on page 1309 where we find an email dated April 7, 2020, at 18H28, from OCP official Roberto Grijalva, who reports that the regressive erosion in the Coca River bed, Therefore, an operational emergency is declared and pumping is suspended until the event is evaluated, and the rupture of the pipes occurs in the early morning of April 8, 2020, immediately informing the corresponding environmental authority, which according to official letter No. MAE-SCA-2020-0444. MAE-SCA-2020-0448-O, dated April 8, 2020, the National Directorate of Environmental Control, headed by Mgs. Paulo Proaño Andrade, Undersecretary of Environmental Quality, which in the pertinent part states: "orders in accordance with Art. 76 of the Hydrocarbon Operations Regulation

Emergency plan that includes: contingency activities, mitigation, correction, remediation, hazardous waste management and monitoring to be implemented with their respective start and end dates, as well as measures to be implemented for the applicability of compensation or indemnification in the event that there is an impact on third parties, 2. Cause of the origin of the event. Referential coordinates of the beginning of the event and of the control points implemented. Affected area. Physical, biotic or social components affected. As well as initial soil monitoring, electrical conductivity, dissolved oxygen, according to ministerial agreement 097 A, monitoring to be conducted in the presence of the delegate of the Ministry of Environment and laboratory analysis accredited by the SAE"; on page 1318 (annex 12) OCP in compliance with environmental regulations to mitigate the effects of the disaster activates the contingency and remediation plan with the companies ARCOIL, PECS, and CORENA, as evidenced by official letters Nos. OCP-253-2020, OCP-254-2020 and OCP-255-2020, dated April 8, 2020, constant at fojss1319, 1320 and 1321; it also immediately informs the Emergency Operation Committee COVID19 of what happened, with which immediate actions are taken to face this crisis, an operational emergency is declared with the immediate suspension of pumping, to evaluate the impact, to later restart operations. 11.4.- On page 1323 we find an official letter dated April 13, 2020, to which is attached the emergency plan called FORCE EVENT KP93+469 OF THE OLEODUCTO DE

Date	Legal Proceedings
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HEAVY CRUDE; (fs. 1330); to which several suggestions were made, whose corrections made by the Ministry of Environment were accepted by OCP as shown in pages 1376 to 1382, emphasizing that a constant monitoring of the remediation of the affected areas will be carried out (fs. 1392 to 1674), and that a meeting with leaders and authorities of the affected areas will be held, which is duly documented. 1392 to 1674), stating that the hiring of personnel from the area, medical assistance, delivery of bottled water and food kits, meeting with leaders and authorities of the affected areas, which is duly documented with photographs of the actions carried out since April 7, 2020, programmed until July 31, 2020, according to the schedule established in the Contingency and Remediation Plan in the so-called FORCE EVENT KP93+469 OF THE HEAVY CRUDE OIL PIPELINE, (fs. 1372); document that was approved on May 4, 2020, according to official letter No. MAE-SCA-2020-0477-O, subscribed but Mgs. Oscar Zapata Olmedo, Undersecretary of Environmental Quality, (s), (fs. 1634). EP PETROECUADOR attaches to the process on page 1731 the official letter No. MAE-SCA-2020-0478-O, dated May 4, 2020, signed by Oscar Zapata Olmedo, Deputy Undersecretary of Environmental Quality, which notifies EP PETROECUADOR that it has complied with the observations made by the Environmental Authority to the emergency plan for the crude oil and gasoline base spill classified as level 3, which complies with the legal regulations (fs. 1697 to 1902) in the activities of timely emergency attention to the affected inhabitants of the banks of the Napo and Coca rivers: a) North Zone: from the rupture to the town of Puerto Madero, following the course of the river for 70 km, in charge of ARCOIL; b) North Zone: from the rupture to the town of Puerto Madero, following the course of the river for 70 km, in charge of ARCOIL; b) Central Zone. From Puerto Madero to Providencia, with an extension of 117 km, operated by CORENA; c) South Zone: from Providencia to the Peruvian border, 176 km, operated by PECS-AMBIENTE. OCP and EP PETROECUADOR have identified about 60 communities near the Coca and Napo rivers from the incident to Cabo Pantoja. Since May 10, 2020, they have delivered to the populations settled on the banks more than 570,000 liters of bottled water, 1,447 food kits, delivered by river and land with the logistical support of the Ecuadorian army, governmental and local institutions and community leaders. Up to April 30, 120 inhabitants of the Marun Meza community were medically evaluated and received medication for gastrointestinal discomfort and skin conditions. It has coordinated with community leaders to hire local labor for cleaning and remediation tasks with the companies ARCOIL, CORENA and PECS AMBIENTE, (fs. 1702 to 1911). 11.5.- Information on the oil spill has been given to the control entities, also to Dr. Luis Vizueta Encalada. Luis Vizueta Encalada, Ombudsman of Ecuador, indicating that there was a natural phenomenon of regressive erosion, in the cause of the Coca River, on April 7, 2002, at 19h15, producing land subsidence in the limit between the provinces of Napo and Sucumbíos, which caused a rupture of the Trans-Ecuadorian Oil Pipeline System- SOTE, and Shushufindi-Quito Polyduct, causing the spill of 4900 barrels of crude oil and 1245 barrels of gasoline Base, which reached the Quijos, Coca and Napo rivers, attaching the consolidated report of the event (fs. 1697 to 1703), according to official letter No. PETRO-PGG-2020-027. PETRO-PGG-2020-0271-O, dated April 18, 2020, signed by Pablo Flores Cueva General Manager of EP PETRECUADOR stating that as an immediate action, once the phenomenon of backward erosion and pipeline rupture is known, upon detecting a low suction pressure or entry at the El Saldo pumping station, they activate the protections and stop the engines and immediately stop the pumping operations of the trans-Ecuadorian pipeline (fs. 1741). On the other hand, the Ministry of Energy and Non-Renewable Resources has channeled meetings through the Governor's Office of Orellana, with state entities and oil companies, to coordinate and work on the mitigation and remediation plan for the affected communities in the Province of Orellana, resolving that all activities will be led by the Environmental Quality Committee through three groups: technical, environmental and social, with the following institutions as participants: SENAGUA, MAE, GOBERNACION, PCP. PETROECUADOR, ARCH, ARSA. FFAA, NATIONAL POLICE, and SECRETARIAT OF

RIEGSOS under the guidelines of the Ministry of Environment and Water, according to the legal regulations for this kind of events, coordinating the contingency, mitigation, remediation, and water supply and distribution tasks, monitoring the affected areas through inspection of the Coca and Coca Rivers to determine hydrocarbon contamination, socialization with FECUNAE and GAD MUNICIPAL for the delivery of water cans to the affected families, Likewise, with the purpose of coordinating actions to facilitate environmental remediation work in the affected sectors on the banks of the Napo River, in Aguarico canton, where it is established that the workers of the company PECS AMBIENTE who were going to carry out the remediation activity were not allowed to enter and once the event was over, the activities continue (fs. 4166). Lastly, Petroecuador has informed the corresponding institutions of the emergency plan presented in response to the emergency. The Ministry of Health has documented having provided medical attention to the affected communities (fs. 4172 to 4200). 11.6.- In the report and intervention of Mercy Almeida, Zonal Coordinator 2 SALUD, on May 1, 2020 with the Government of Francisco de Orellana held a meeting with delegates from PETROAMAZONAS, O.C.P., Provincial Directorate of Environment in Orellana; Ministry of the Environment, District Directorate 22002 Orellana-Loreto-Health and the National Water Secretariat, activities were carried out in health care due to the damage caused by the rupture of the SOTE, in the communities of Orellana, where it is known that certain community leaders, It is known that certain community leaders of the Confederation of Indigenous Nationalities of the Ecuadorian Amazon (COFENIAE), and of the Federation of United Communes of the Kichwa Nationality of the Ecuadorian Amazon (FCUNAE) for the delivery of food kits were obstructing the actions of O.C.P. and Petroecuador. The District Directorate 22D02 Orellana-Loreto-Health carries out inter-institutional work with OCP to provide medical attention to those whose health may have been affected or damaged due to the hydrocarbon contamination of the river; it coordinates with the health centers near the communities to provide medical attention with O.C.P. in the cantons of Orellana, Loreto and Joya de los Sachas and Aguarico.

that mortality rates have not changed, that the most common conditions are acute rhinopharyngitis (common cold, unspecified pharyngitis, diarrhea and gastroenteritis of infectious origin, among others), that there is no evidence of hydrocarbons, and that on page 4184 in conclusion it states: a. - That in the Health Districts DD22D01-DD22D02 and 0022003 (Orellana, Joya de los Sachas and Loreto) they established a comprehensive plan of action to provide comprehensive care for all the patients in the districts of Orellana and Loreto. That in the Health Districts DD22D01-DD22D02 and 0022003 (Orellana, Joya de los Sachas and Loreto) they established an action plan of integral attention to a total of 1487 families; b.- The District Directorates with their Operative Units in the impact zone have intervened in the communities of the river a total of 307 families benefited; c).- The Morbi-mortality registered in the population in the dates of intervention have not been modified. Therefore, it is estimated that the current regulations related to the remediation plan have been complied with, in accordance with Articles 291 and 292 of the Organic Environmental Code. Article 302 of the Organic Environmental Code literally states: "Civil and criminal liability for environmental damage: Civil actions as a consequence of environmental damage may be brought in order to obtain the corresponding reparation. When there is a presumption that an environmental crime has been committed, the Competent Environmental Authority shall send the necessary information to the Prosecutor's Office for the corresponding proceedings. For this purpose, it shall provide the facilities and technical contingent if required. The exercise of these actions does not constitute prejudiciality", since the text of the transcribed legal rule is clear and easily understandable, we are relieved of any comment. 11.8.- It has been argued the rights of nature and health effects of the inhabitants as referred by the experts and Amicus curiae that have intervened by the plaintiffs and the defenders of nature, which analyzed as a whole it is determined that in the testimony the experts have mentioned that due to the fact of the oil spill in the ecosystem of the Coca and Napo rivers, the inhabitants being exposed to oil could affect their health in the long term according to publications worldwide, mentioning as mental health effects: anxiety, depression, post-traumatic stress, and physical impacts such as skin diseases. They have also mentioned that it could produce genetic and hormonal alterations, which may later lead to cancer in the sexual and reproductive sphere, with a higher incidence of risk of miscarriages, prostate cancer, decrease in semen, (San Sebastiana-Chasco Miguel). Regarding the damage to nature, the expert Catalina Campo Imbaquingo referred that it is necessary to understand the dynamics of the Kichwa population with the territory and its worldview, that nature must have a balance, that by not receiving pure water, it damages the spirit of the plants and therefore the ecosystems, being at risk by contamination, being at risk, the transfer of knowledge and traditional knowledge would be lost. The expert María Fernanda Solís Torres, refers that hydrocarbon contamination affects the health of the population at the following levels: a) Economic; b) Social and cultural processes; c) Care; d) Access to drinking water and food. In this regard, according to a report from the Ministry of Health, the mortality rate has never been about this type of disease, there is no duly documented scientifically documented case provided with examination or treatment given by a doctor that certifies this ailment. Furthermore, the studies referred to by the experts are based on research from previous years, and in relation to the event of April 7, 2020, they have limited themselves to mentioning documents of other authors and upon examination of the defense of the entities involved, they expressly state that they never went to the site, nor have they had contact with said populations in the place of their homes and/or communities, that is to say, at the site of the disaster. 11.9.- Regarding the social, cultural and recreational organization processes in relation to the territory, this is aggravated by the expansion of COVID-19, which has complicated all of the aforementioned processes with the communities, because they do not have access to a safe water source. The expert Lidia Eufemia Guarderas Flores, in relation to the ichthyological richness, in terms of aquatic ecosystems, who has conducted studies for 17 years in the Curaray sub-basin, which has nothing to do with the Napo River basin, relieving us of any analysis. The expert Jorge Emilio Celi Sangurima, stated that the Napo River is an important flow that emerges from the Andes to the Amazon, that the breakage of the Sote is a consequence of the phenomenon of regressive erosion as a result of the construction of the Coca Codo Sinclair dam, that according to studies of Carolina Bernal this phenomenon was foreseeable for the State and does not act in time, and the consequences for the environment are substantial. 11.10.- Regarding the life of the Kichwa communities, the anthropologist Michael Benson Huzandoski, refers that the life of the inhabitants of the communities has four fundamental spaces: 1.- The Chacra or orchard is where they practice agriculture, growing yucca, plantain, fruit and other foods; 3. The Sacha or jungle is where they practice hunting, collect medicinal plants, gather wood, guadua and things they need for life; and, 4.- The Yaku or river, is a space where they practice fishing, wash clothes, source of water for human consumption, which with pollution has broken this link between nature and the Kichwa man; who agrees with experts Juan Moran Saenz and Fernando Garcia Serrano in considering that the rupture of the Sote, was caused by the inaction of the State and the oil companies, before the advance of the regressive erosion that ended the San Rafael waterfall produced in February, which did not act, thus affecting the spill to the populations of the banks of the Coca and Napo rivers and the ecosystem and the lives of its inhabitants. 11.11.- The AMICUS CURIAE, such as the Ombudsman's Office, Fundación Por la Defensa de la Naturaleza y sus Derechos, Red Eclesial (REPAM), Manuel Bayon Jiménez, GAD de Aguarico, José Miguel Goldaraz Olaechea, Sonia Oleas Ferreras, Centro Amazónico de Antropología de aplicación práctica del Perú, Centro de Derechos Humanos de la Pontificia Universidad Católica del Ecuador, are conclusive in strengthening the grounds of the lawsuit, where the plaintiffs have grouped all the communities settled on the banks of the Coca and Napo rivers in approximately 90.000 affected in the provinces of Sucumbíos, Orellana and Napo where this disaster has caused irreversible damage to their territories and population, affecting the ichthyological richness of the rivers, therefore the flora and fauna, which is closely related to the Kichwa culture because they live their lives around the river, with which they coexist and feed them, expressions that are in relation to an evident environmental damage that

is unquestionable and undeniable, but that their criteria, because they are not experts accredited by the Judiciary Council, cannot be appreciated because they are referential. 11.12.- Regarding the demands of the plaintiffs for the provision of wells for family use and projects for community use of water to meet the needs of the population of the Amazonian communities, in the intervention of the Amicus curiant Alex Cristóbal Hurtado Borbua, after making a historical review of the region, recalls that the Amazon for its development receives economic resources from the State, which are delivered for administration to the GADS, for mining concessions, oil, timber and international cooperation, whose economic resources are: a).- The SUSTAINABLE DEVELOPMENT FUND (Law 010) and b) - The COMMON FUND, economic resources received by local, sectional governments and parish boards who must manage, through their competencies, the provision of basic services for their inhabitants. It is not the obligation of the oil companies to carry out infrastructure works in the community. Being that all public policy for the benefit of the Amazon is articulated by the Council of Planning and Development of the Amazon Special Territorial District, which is the entity responsible for the articulation and inter-institutional coordination between the different levels of government with the citizens and the public and private sector, within the scope of its powers, in the process of participatory construction of comprehensive planning, an entity made up of the following members with voice and vote: 1. The national planning authority or its delegate; 3. The national environmental authority or its delegate; 4. The national authority of agriculture and livestock or its delegate; 5. The national authority of hydrocarbons or mining, or its delegate; 6.- A prefect, representing the provincial autonomous governments of the Special Amazon Territorial District; 7.- A mayor, representing the municipal autonomous governments of the Special Amazon Territorial District; 8. A representative of the nationalities and peoples of the District; 10.- A representative of the institutions of higher education of the District; and, 11.- A representative of the productive sectors of the District, which as a resource have received around FIVE HUNDRED MILLION DOLLARS, which are deposited in the accounts of the sectional, provincial governments and parish boards who are the executors of these resources for the welfare of the inhabitants of each Amazonian province. Regarding the arguments put forward by the experts and defenders of nature who state that not granting the protection action will cause irreparable damage to nature and the rights of the communities, Arts. 304 and 305 of the Environmental Code provide: "Art. 304.- Defense of the rights of nature: Any natural or legal person, community, community, people or nationality, individually or collectively, may request the Competent Environmental Authority to enforce and protect the rights of nature. Likewise, they may denounce violations to the provisions established in the Constitution, this Code and environmental regulations. Any natural or juridical person may take legal action before the corresponding judicial and administrative instances and request precautionary measures that allow the threat or environmental damage to cease. Additionally, the judge shall condemn the responsible party to pay 10 to 50 unified basic salaries, in accordance with the seriousness of the damage to be repaired, in favor of the plaintiff. Art. 305.- Non-applicability of statutes of limitation - Actions to determine liability for environmental damages, as well as to prosecute and sanction them, shall not be subject to statutes of limitation. The imprescriptibility of actions for damage caused to persons or their patrimony as a consequence of environmental damage shall be governed by the law of the matter."In other words, in order to demand the rights of nature, all natural or juridical persons, communities, communities or nationalities, whether individually or collectively, are entitled to demand or demand the compliance and protection of the rights of nature, in the same way they may demand the violations to the provisions of the Constitution, the environmental code and in general all the environmental regulations, they may file the corresponding actions before the administrative or legal bodies and request precautionary measures with the purpose of ending the environmental threat or damage, which are not subject to any statute of limitations; In addition, everything related to these environmental legal dispositions are developed in the Regulations to the Organic Code of the Environment from Art. Art. 507 onwards in the following manner: Emergent Plan - It is a set of actions programmed to mitigate and reduce the environmental impacts produced by an emergency not contemplated in the approved environmental management plan, or for non-regularized activities, which shall be submitted by the operator within two (2) days of the event. The Competent Environmental Authority shall approve, observe or reject the emerging plan within a maximum term of ten (10) days. Notwithstanding the provisions of the preceding paragraph, and if necessary, the operator shall adopt the contingency, mitigation and correction measures immediately after the emergency has occurred", as throughout the file the parties involved in the proceedings have referred to the environmental damage caused by the oil spill as a result of the regressive erosion of the Coca River on April 7, 2020, in this regard there is a broad regulatory regulation on the same in the Regulations to the Environmental Law that we transcribe for better illustration that goes from Art, 807 to 822 that provide: "Book VII OF THE INTEGRAL REPARATION OF ENVIRONMENTAL DAMAGES AND PUNISHMENT REGIME, Title I OF THE INTEGRAL REPARATION OF ENVIRONMENTAL DAMAGES Chapter I ENVIRONMENTAL DAMAGE. Section 807.- Environmental damage.

Environmental liability is any significant alteration that, by action or omission, produces adverse effects on the environment and its components, affects species, as well as the conservation and balance of ecosystems. The environmental liability is the damage that has not been repaired or restored, or that which has been previously intervened but inadequately or incompletely and that continues to be present in the environment, constituting a risk for any of its components. For the determination of the damage, the magnitude, extension and difficulty of reversibility of the environmental impacts will be considered as significance criteria.

In addition to the normative criteria, for the determination of environmental damage, the affectation to the state of conservation and functioning of ecosystems and their physical integrity, capacity for renewal of resources, alteration of natural cycles, species richness, sensitivity and threat, provision of environmental services; or, the risks to human health associated with the affected resource shall be considered. Article 808 - Determination of environmental damage - The environmental damage and/or environmental liability shall be determined in the administrative venue by the Competent Environmental Authority according to the damage determination process established in these regulations; and, in the judicial venue by the competent judge. Chapter II THE PROCESS OF DETERMINATION OF DAMAGE Art. 809.- Beginning of the process of determination of environmental damage: The process of determination of environmental damage in the administrative venue begins with the identification of a presumed environmental damage, which may come from an event reported by the regulated party, by a citizen complaint or ex officio by means of the control and follow-up mechanisms established by law. The Competent Environmental Authority will inspect the affected area and will determine by means of a technical report the need to carry out a preliminary characterization or detailed investigation, as the case may be, to determine the existence of the environmental damage or environmental liability. In case the event does not affect socio-environmental components, the environmental damage determination process shall be archived. Art. 810 - Preliminary characterization - A preliminary characterization of the affected area shall be carried out, at a general level, considering existing secondary information of the area and a survey of field samples and monitoring to identify the effects on the physical, biotic and social components, according to the technical standard issued for this purpose. If this preliminary characterization identifies non-compliance with current environmental regulations or the environmental management plan without environmental damage, the operator must submit to the competent environmental authority a corrective action plan, which must include a remediation and environmental restoration plan. The preliminary characterization shall be prepared by an accredited environmental consultant, according to the technical standard issued for this purpose. This process will be carried out in the presence of the delegate of the Competent Environmental Authority. In case there are indications of environmental damage at this stage, the Competent Environmental Authority shall order the operator to carry out a detailed investigation in order to complement the evidence for the determination of environmental damage. Art. 811.- Detailed investigation: In case a detailed characterization is required, this shall contemplate the performance of studies, investigations and the gathering of more in-depth primary information that will allow the magnitude, extension, reversibility of the negative environmental impacts and the determination of the existence of environmental damage, considering the guidelines of the technical norm issued for this purpose. Article 812 - Initiation of the administrative sanctioning procedure - Based on these results, the Competent Environmental Authority may initiate the respective administrative sanctioning procedure with the purpose of determining by means of a reasoned administrative resolution: a) The existence of environmental damage; and, b) The existence of an environmental administrative infraction. In the event that an administrative resolution determines the existence of environmental damage, the Competent Environmental Authority shall order the operator to present the Integral Repair Plan, without prejudice to other contingency, mitigation, remediation, restoration and/or repair measures that may have been previously ordered and the payment of the corresponding fine. Chapter III INTEGRAL REPARATION. Art. 813.- Integral Reparation Plan: It is the set of processes, actions and measures that, when fully executed, have the objective of reverting environmental damages and liabilities, as well as losses of biodiversity and ecosystem services, through the reestablishment of the quality, dynamics, ecological balance, vital cycles, structure, functioning and evolutionary processes of the affected ecosystems. The processes, measures and actions of the Integral Reparation Plan must be aimed at facilitating the restitution of the rights of the affected persons and communities, compensating their losses, and guaranteeing the non-repetition of the damage. The criteria and guidelines for the elaboration of the Integral Reparation Plan, as well as the procedure for its presentation will be established in the corresponding technical standard. The Integral Reparation Plan shall be prepared by an accredited environmental consultant in accordance with the technical standard issued by the National Environmental Authority for such purpose. Article 814 - Contents of the Integral Remedial Plan. The Integral Remediation Plan shall identify the environmental damage or liability and shall contain at least the following elements: a) Diagnosis and characterization of the damage, including the exact determination of the surface of the affected area; b) Description of the remediation and/or restoration technologies to be applied, including the corresponding designs; c) Identification of the negative impacts to the social component together with the measures of collective compensation and individual indemnification, as the case may be. d) Schedule and costs of the remediation and/or restoration works, as well as of the collective compensation and individual indemnification, as the case may be; e) Schedule of monitoring and other follow-up elements determined by the National Environmental Authority; and, f) Valuation of the environmental damage, which must be carried out in accordance with the methodology defined by the National Environmental Authority. Article 815 - Review of the Integral Remediation Plan - The Competent Environmental Authority shall approve or observe the Integral Remediation Plan submitted by the operator. During the review process of the Integral Remediation Plan, the operator shall continue executing the applicable contingent and emergent measures. Art. 816.- Control and follow-up. - In order to verify compliance with the Integral Remediation Plan, the competent Environmental Authority shall implement the control and follow-up mechanisms contemplated in these regulations. Art. 817.- Approval of Compliance with the Integral Remedial Plan: Once compliance with the measures of the Integral Remedial Plan is verified, the Competent Environmental Authority shall issue the administrative act of approval, which may be carried out in parts and sequentially, according to the type and complexity of the activities to be carried out. Art. 818.- Non-compliance with the Integral Remedial Plan - In case of total or partial non-compliance with the Integral Remedial Plan, the Competent Environmental Authority shall require the operator to immediately and compulsorily

comply with it, without

prejudice to the legal actions that may correspond. Chapter IV COLLECTIVE COMPENSATION AND INDEMNIFICATION TO INDIVIDUALS Art. 819.- Compensation and Indemnification. - Collective compensation operates in the face of an affectation suffered by a community or human collective, and indemnification operates at the individual level, to the persons affected in their health, welfare, or patrimony, and is of a pecuniary nature. Collective compensation may also be made through projects or activities aimed at restoring the affected ecosystem service enjoyed by the community or human group when this is agreed upon. The application of the technical criteria defining the dimensioning and valuation of the damage will make it possible to determine whether it is necessary to apply compensation or indemnification actions, in addition to the execution of the remediation or restoration processes. Art. 820.- Determination of compensation and indemnification: The compensation to communities, collectives and social groups, as well as the indemnification to persons that have not been agreed upon within the Integral Reparation Plan, may be demanded by judicial means. Article 821 - Calculation - The calculation of the cost of compensation or the amounts of indemnification shall be made according to the methodological criteria developed by the National Environmental Authority. Chapter IV COMPENSATION FOR BIODIVERSITY (Note:

We keep the numbering of this chapter, even though it does not correspond to the sequential order, for fidelity to the publication of the Official Gazette). Article 822. Biodiversity compensation measures as integral reparation measures for environmental damages - Biodiversity compensation measures apply when the environmental damage is irreversible, or when all pertinent remediation and restoration measures have been exhausted, and there is still a significant impact. Biodiversity offsetting measures can take the form of an intervention to repair and restore degraded areas of ecological relevance other than the damaged area, or target those that involve an intervention to conserve and protect areas that are threatened or at risk. Restoration by compensation will have to have the express pronouncement of the Competent Environmental Authority. The guidelines, requirements and procedures for restoration by compensation shall be established by the National Environmental Authority". From the legal and regulatory rules transcribed above it is clear that the defense of the rights of nature and the imprescriptibility of the administrative and legal actions are regulated by the law and Regulations of the matter, rules that due to their simplicity of wording are easy to understand: everything related to the emergent plan (Art. 507), what constitutes an emergent plan (Art. 507), environmental damage (Art. 807), determination of the environmental damage (Art. 807), the environmental damage (Art. 807), and the environmental damage (Art. 807). 807), determination of environmental damage (Art. 808), initiation of the process of determination of environmental damage (Art. 809), preliminary characterization (Art. 810), detailed investigation (Art. 811), initiation of administrative sanctioning procedure (Art. 812), Integral reparation plan, (Art. 813) establishing its content (Art. 814), how and who carries out the review of the integral reparation plan (Art. 815), as well as on the control and follow-up (Art. 816), how and when the plan of integral reparation (Art. 815), how and when it is reviewed (Art. 816), how and when the plan of integral reparation (Art. 815) is carried out (Art. 816), how and when it is reviewed (Art. 816). 816), how and when to proceed with the approval of the compliance of the integral reparation plan (Art. 817), everything related to when the reparation plan is not complied with (Art. 818), what is related to the collective compensations and indemnifications to persons (Art. 819), how the determination and compensation and indemnifications are made (Art. 820), the way to calculate it (Art. 821), the compensation measures to biodiversity as a measure of integral reparation of environmental damages (Art. 822); being necessary to emphasize the fact that it is necessary to establish that the reparation plan is not complied with (Art. 821), and that it is necessary to establish that the reparation plan is not complied with (Art. 822). 822); being necessary to highlight that it is clearly stated that the compensation to communities, collectives and social groups, as well as the indemnification to persons that have not been agreed within the Integral Reparation Plan, may be demanded by judicial means, a procedure that of course must comply with the due process guaranteed in the constitution, Organic Code of the Judicial Function and General Organic Code of Processes. On the other hand, the provision of basic services corresponds to the national government and sectional governments such as provincial, cantonal and parish governments, as rightly pointed out and illustrated by the Counselor and delegate of the central government in the Amazon Alex Hurtado, in his amicus curiae, that by legal provision there are the necessary economic funds for the provision of such basic services, for which the sectional governments must submit the respective projects. 11.13.- In addition to the legal and regulatory norms cited above, we have the provisions of Art. 38 of the General Organic Code of Proceedings, which expressly states in its order: "Representation of nature. Nature may be represented by any natural or juridical person, collectivity or by the Ombudsman, who may also act on his own initiative. Nature may not be sued or counterclaimed. The Ombudsman shall respond in accordance with the law and this Code. The actions for environmental damage and those produced to persons or their patrimony as a consequence of this shall be exercised separately and independently", a legal disposition that clearly establishes that this body of legal norms is the one that regulates everything related to the procedure and competence to process actions for environmental damage, which is corroborated with the provisions of numeral 8 of Section 10 Ibidem, which foresees: "In addition to the judge of the domicile of the defendant, the following shall also be competent at the choice of the plaintiff: 8. Of the place where the event that generated the environmental damage takes place", corroborated by the fifth subsection of Art. 169 Ibidem, which refers to the burden of proof by stating: "In environmental matters, the burden of proof on the non-existence of potential or real damage will fall on the manager of the activity or the defendant", leaving no doubt that the natural route for claims on environmental damage is the one foreseen in the General Organic Code of Procedure. As well as the measures indicated in Art. 39 Ibidem, it brings us the following: Measures. If by application of other laws it has been possible to prevent, avoid, remedy, restore and repair the environmental damage, it will not be necessary to proceed with the actions described in this chapter. The remediation, restoration and reparation measures for environmental damages, as well as

Date **Legal Proceedings**

their implementation, shall be submitted to the approval of the national environmental authority. In the event that such measures do not exist, the judge shall order them", in this respect OCP, PETROECUADOR and the other State agencies, once the natural disaster of December 7, 2001, occurred, shall order them to be implemented.

a.- Oficio No. MAE-MAE-2002-0327-O, dated April 28, 2020, the Ministry of Environment (fs. 830 to 899), informs the Ombudsman's Office of Ecuador about the activities undertaken and that will be implemented within its competences and the environmental regulations for the period from April 10 to 25, 2020, following the remediation and contingency plan of the oil spill in the affected communities. b.- Technical report No. MAE-MAE-2002-0327-O, dated April 28, 2020, the Ministry of Environment (fs. 830 to 899). Technical report of the Provincial Environmental Directorate of Orellana, No. 211-UCAO-MAE-20. 211-UCAO-MAE-2020, signed by Williams Guerrero, Technical Specialist of the UCA, who points out the effects on the communities settled on the banks of the Coca and Napo rivers, in which he recommends the operators to undertake containment and remediation actions, requesting the Legal Department to initiate the actions foreseen in the environmental regulations, without prejudice to civil and criminal actions if applicable, which are those that should be exercised by those affected to assert their rights, documents that served for the Orellana Ombudsman's Office to initiate the Ombudsman process, which are part of the Amicus Curiae. c.- Notifications from EP PETROECUADOR and O.C.P ECUADOR to the Ministry of Environment (fs. 2647 to 2649) in compliance with the Environmental Regulation of Hydrocarbon Operations, within 24 hours, regarding the pipeline rupture, on April 8, 2020, at 02H57; d.- Emergency plan of OCP and EP PETROECUADOR, which are part of the Amicus Curiae. Emergency plan of OCP and EP PETROECUADOR (fs. 2658 to 2784); e.- Environmental License (fs. 2688) of OCP and ECUADOR S.A.- for the construction and operation of the heavy crude oil pipeline of June 7, 2001, approved by the Ministry of Environment, published in the Official Gazette No. 257 of January 22, 2004. f.- Notifications, control and follow up of the Notifications, control and follow-up of the emerging plans approved by the Ministry of the Environment (fs. 2939 to 4160) on the remediation of the oil spill in the populations located in the affected area of the provinces of Sucumbios, Orellana and Napo, g.- Daily reports from April to July 2020, of the activities carried out by the defendants in relation to the spill. From the above and the evidence presented in this action there is no doubt that the regressive erosion of the Coca River caused the rupture of the heavy crude oil pipelines and the Shushufindi San Lorenzo polyduct on April 7, 2020, which caused the oil spill that affected the inhabitants of the communities of the Coca and Napo rivers, and therefore the indigenous communities, among them the plaintiffs located in the province of Orellana, in addition to everything expressed in several previous recitals of this judgment, the claim of said affectations for the environmental damage suffered must be claimed through natural channels, be it administrative or jurisdictional, as has been fully evidenced in this judgment. TWELFTH. Prior to the analysis of the main object of the constitutional action brought before us, it is necessary to mention that in a Constitutional State of Rights and Justice we find: 12.1.- In constitutional matters, according to the doctrine that has been produced since the Constitution of 2008 came into force, it points out that the legal system now has a binding Constitution as a reference, and therefore values and principles that beyond the rules of hypothetical structure, make necessary a hermeneutic work different from the traditional one; therefore it is essential to point out that, with special emphasis, it must be mentioned that on October 20, 2008 and publication in the Official Gazette No. 449, it grants legal validity to the Constitution of the Republic of Colombia, which was published in the Official Gazette No. 449. 449, grants legal validity to the new Fundamental Charter, and this from its first article already evidences its clear transforming matrix by stating: "Ecuador is a constitutional State of rights and social justice, democratic, sovereign, independent, unitary, intercultural, plurinational and secular", which shows the enormous importance given to the rights of individuals, peoples and nature; for Ricardo Guastini, Genoese jurist, in his publication in the magazine FISONOMÍA No. April 22, 2005, with the title, CONSTITUTIONAL RIGIDITY AND NORMATIVITY OF THE LEGAL SCIENCE, page 225, "the legal structure of the constitutional States would have as a distinctive feature, the existence of a Supreme Law, extremely "invasive", in such virtue, the society will suffer a constitutional metastasis. In short, we must be clear that, in this new paradigm, the Constitution cannot be limited by inferior legal bodies. In other words, there is no room for legal inconsistencies. We are therefore talking about a constitutional deification, of a Supreme Law that not only conditions legislation, but also extends its influence to jurisprudence and doctrinal currents"; on the other hand, the Italian jurist Luigi Ferrajoli maintains that there are fundamentally two ways of understanding law. For legal positivism, the criterion for recognizing both the existence and validity of laws is the form in which they are produced, independently of their content; while legal constitutionalism conditions the validity of laws also on the substance of the decisions, that is, on the coherence of their contents with the principles of justice established by the constitutions; in this same constitutional ius-philosophical current, the Ecuadorian constitutionalist Ramiro Avila Santa Maria, affirms that the Rule of Law has reference to the legal system, and nothing else; whereas in the Rule of Rights, the reference is no longer exclusively to the legal system, but are the rights of the people and this leads from the legal text to reality, which is a huge difference. Then, when it is said that the State is no longer of Law, but of Rights, the reference is no longer the Law but the reference is the reality and the rights of the people who move in that reality; and 12.2.- In this sense, apart from the supremacy of the Constitution over the Law, it is a characteristic of the constitutional State that all public powers and particularly the powers of the State are subject to the Constitution, that is to say, that they act within the limits of the specific competencies that the Constitutional Code establishes for each of them in relation to the competencies attributed to the other constitutional orders. That is to say, when violation or infringement of the constitutional provisions is accused, as in the present case, this charge must be analyzed in the first place by the principle of constitutional supremacy established in Arts. 424 and 425 of the Constitution of the Republic, since the supreme norm of the State is the original and fundamental source of the derived legal order, to which the infraconstitutional normative system, the actions of the institutions of the State, its representatives, the administered and in general the society that is by force of law linked to said precepts must adjust. Thus understood, the Constitutional State supposes the approach

The maximum that has been reached in the materialization of the juridical ideal of Western civilization, that is, government by means of law that imposes itself on the will of those in power. 12.3. According to Article 82 of the Constitution of the Republic of Ecuador, the right to legal certainty is articulated with compliance with constitutional norms, establishing through that postulate a true material supremacy of the content of the Fundamental Charter of the Ecuadorian State; For that, and in order to have certainty with respect to a normative application in accordance with the Constitution, it is foreseen that the rules that are part of the legal system are previously determined; in addition, they must be clear and public; only in this way it is possible to create certainty that the existing rules in the legislation will be applied in compliance with certain guidelines that generate confidence about the respect of the rights enshrined in the constitutional text. Legal certainty refers to a characteristic of the legal system that has to do with the way in which the law is applied. Specifically, it refers to the objective application of the rules; it is the guarantee itself of the objective application of the law. (Juan Palomar De Miguel, DICCIONARIO PARA JURISTAS, Editorial Roma, 2000. P. 1428);

12.4. It should be noted that the rulings of the Constitutional Court are binding, since according to the Constitution of the Republic, this is the highest body of control, constitutional interpretation and administration of justice in this matter, whose decisions have "the constitutional character of binding" and guide the jurisdictional activity. Therefore, with the support of the aforementioned work "Manual de Justicia Constitucional Ecuatoriana, La acción de protección desde la jurisprudencia constitucional", we proceed to point out some aspects of this action, in order to subsequently support the decision. The Constitutional Court of Ecuador, with respect to the purpose of the action of protection, in various rulings, has determined that this guarantee was established in the 2008 Constitution as a tool to protect the constitutional rights of individuals against violations or injuries to their rights by the public authority and, under certain circumstances, by a private individual. In addition, the Court has pointed out that the action for protection has two primary objectives: "the protection of the constitutional rights of individuals, as well as the declaration and the consequent integral reparation of the damages caused by their violation"; 12.5. It is necessary to determine what kind of right has been violated, as recommended by the Constitutional Court when it "considers that the solution to be used, in the first place, is the identification of the subject matter decidendum and its correspondence with the object of the action for protection. That is to say, when what is raised in the complaint and what emerges from the verification of the facts is a direct violation of constitutional rights, it will be before the primary object of the action for protection. On the other hand, when what is sought is the declaration of a subjective right provided for in secondary legislation or in general, the application of an infra-constitutional rule for a certain case or the claim for the lack thereof, without the presentation of facts that determine the existence of a violation of constitutional rights, it will be a problem that can be solved by other judicial means". For which it has issued the following rule with erga omnes character: "The constitutional judges who hear an action for protection, must conduct a thorough analysis of the actual existence of the violation of constitutional rights in judgment, on the actual occurrence of the facts of the specific case". In view of the foregoing, it is appropriate to reiterate that in the binding jurisprudence sentence N.0 001-1 6-PJO-CC, case N.0 0530-10-JO, it was stated that the operators of justice "are obliged to carry out an analysis of the merits of the specific case that goes beyond the limits of mere ritualism and formality, allowing them to determine whether the specific case has another adequate and effective remedy or whether, on the contrary, the constitutional remedy is the appropriate one given the matter in dispute", an analysis that in the case at hand, the First Level Constitutional Judge should have carried out prior to resolving the present action; and, that it is now up to this Court of Appeals to verify the correctness or otherwise of the ruling, in view of the plaintiffs' challenge to the ruling, as we will see below; and, 12. The principle of legality is established in Article 226 of the Constitution, which states that the actions of State institutions and of all persons who, in the exercise of State authority, act on behalf of the State, must exercise their powers in accordance with the provisions of the Constitution and the law. Thus, the present analysis must be carried out taking into account the purpose of legality, for which it is necessary to differentiate the three elements it presents. In the first place, it establishes as its primary foundation respect for the Constitution, as the hierarchically superior normative provision within the legal system; secondly, it is not exhausted in the mere application of norms, but establishes that the existing normative provisions to be applied must be prior, clear and public; and finally, it establishes the obligation that such application be carried out by a competent authority and under the established rules of competence and due process that must be clearly and previously defined. Within this framework, it constitutes a guarantee of the constitutional right to due process (Art. 76.1.3.7 letter k); according to Article 82 of the Constitution of the Republic of Ecuador, the right to legal certainty is articulated with the compliance of the constitutional rules, establishing through that postulate a true material supremacy of the content of the Fundamental Charter of the State; for that, and to have certainty regarding a normative application in accordance with the Constitution, it is provided that the rules that are part of the legal system are previously determined; in addition, they must be clear and public; THIRTEENTH. In relation to the precautionary measures of protection requested by the plaintiffs, it is necessary to refer to the provisions of Articles 395, 396 and 397 of the Constitution of the Republic, Articles 304, 305 and 309 of the Organic Code of the Environment, Articles 807 onwards and in particular Article 820 of the General Regulations to the Organic Code of the Environment and Article 38 of the General Organic Code of Procedure. 38 of the General Organic Code of Proceedings, which refer to the protection measures, their procedure and the competent authority to order them, but from the large amount of evidence, it is established that there is disagreement among the members of the indigenous communities that the provision of bottled water and food kits is insufficient, that in the

They are only given paracetamol and antiparasitics for medical attention; they are requesting better quality and greater quantity of water, that they also be provided with wells for family use and that a piped water project be executed for the population centers; that the food be the product of coordination with them, nutritionists in accordance with their ancestral customs; and, that they also be provided with a health center that includes laboratory tests, medical attention and medicines; All this for at least ten months, which demonstrates the dissatisfaction of the attention that the defendants are providing and that they have justified with a range of documentation, that in addition there are ordinary administrative and jurisdictional channels for their claim, for which reason the constitutional channel is improper, consequently it is rejected that these dissatisfactions be granted through constitutional channels.

FOURTEENTH.- PROCEEDING AND OBJECT OF THE ACTION FOR PROTECTION. 14.1.- According to Art. 88 of the Constitution of the Republic of Ecuador, provides: "The purpose of the action for protection shall be the direct and effective protection of the rights recognized in the Constitution, and may be filed when there is a violation of constitutional rights, by acts or omissions of any non-judicial public authority; against public policies when they entail the deprivation of the enjoyment or exercise of constitutional rights; and when the violation comes from a private person, if the violation of the right causes serious damage, if it provides improper public services, if it acts by delegation or concession, or if the affected person is in a state of subordination, defenselessness or discrimination.", the same which is developed in Art. 39 of the Organic Law of Jurisdictional Guarantees and Constitutional Control as follows: "Object.- The purpose of the action of protection shall be the direct and effective protection of the rights recognized in the Constitution and international treaties on human rights, which are not protected by the actions of habeas corpus, access to public information, habeas data, for non-compliance, extraordinary of protection and extraordinary of protection against decisions of the indigenous justice system." . Therefore, the action for protection is a jurisdictional guarantee that, as defined in Art. 88 of the Constitution of the Republic has the purpose of directly and effectively protecting the rights recognized in the Constitution, being able to deduct it when there is a violation of constitutional rights, by acts or omissions of any non-judicial public authority, or because of public policies that result in the deprivation of the enjoyment or exercise of constitutional rights, or when the violation is the effect of an act violating constitutional rights on the part of a private party, provided that such act is the antecedent producer of a serious damage, either because the private agent provides improper public services, or acts as a delegate or concessionaire of the State, or if the affected person is in a state of subordination, or has been the victim of discrimination, or is in a state of defenselessness. Without the act denounced as violating constitutional rights being a public policy, or one carried out by a private agent that has acted by delegation or concession of the State, since it does not meet the objective characteristics of essentiality that configure the former, it is then necessary to analyze whether the decision of the judge of instance is in accordance with the provisions of the Constitution of the Republic and the International Treaties on Human Rights.

14.2 On the other hand, Article 40 of LOGJCC provides: "Requirements: The action for protection may be filed when the following requirements are met: 1. Violation of a constitutional right; 2. Action or omission of a public authority or a private individual in accordance with the following article; and, 3. This legal rule determines which are the requirements that the action for protection must have in order to be admitted, these are: the violation of a constitutional right; the action or omission of a public authority or of a private individual and, the inexistence of another adequate and effective judicial defense mechanism to protect the violated right. In relation to this last requirement, it should be mentioned as Karla Andrade Quevedo points out when dealing with the action for protection (Andrade Quevedo, 2013), that the right protected must not be protected by any of the other six jurisdictional guarantees enshrined in the Magna Carta or through specific actions in the ordinary courts. That is to say, the purpose of the action for protection will not be to resolve matters of mere legality, as repeatedly held by Constitutional Jurisprudence, since if the legality of the act or the omission of a duty imposed by the positive legal norm is challenged exclusively through the action for protection, without these entailing the violation of the rights guaranteed in the Constitution and international human rights instruments, the matter must be decided in the competent ordinary jurisdictional mechanisms, but not through a jurisdictional guarantee such as the action for protection. Consequently, and as also mentioned by the Constitutional Court, not all violations to the legal system necessarily have to be discussed in the constitutional sphere, since for conflicts in matters of legality there are suitable and adequate ways within the ordinary jurisdiction. Therefore, the action for protection is a special protection process that is only activated to resolve the conflict or dispute arising from a claim that deals with the injury of a fundamental right that can be fully repaired;

14.3.- According to Article 82 of the Constitution of the Republic of Ecuador, the right to legal certainty is articulated with the compliance of constitutional norms, establishing through that postulate a true material supremacy of the content of the Fundamental Charter of the Ecuadorian State; For this purpose, and in order to have certainty regarding a normative application in accordance with the Constitution, it is provided that the rules that are part of the legal system are previously determined; in addition, they must be clear and public; only in this way it is possible to create certainty that the existing rules in the legislation will be applied in compliance with certain guidelines that generate confidence about the respect of the rights enshrined in the constitutional text. Legal certainty refers to a characteristic of the legal system that has to do with the way in which the law is applied. Specifically, it refers to the objective application of the rules; it is the guarantee itself of the objective application of the law. (Juan Palomar De Miguel, DICCIONARIO PARA JURISTAS, Editorial Roma, 2000. P. 1428);

14.4. The rulings of the Constitutional Court are binding, because according to the Constitution of

The Constitutional Court is the highest organ of control, constitutional interpretation and administration of justice in this matter, whose decisions have "the constitutional character of binding" and guide the jurisdictional activity. Therefore, with the support of the aforementioned work "Manual de Justicia Constitucional Ecuatoriana, La acción de protección desde la jurisprudencia constitucional", some aspects of this action will be detailed, in order to subsequently support the decision. The Constitutional Court of Ecuador, with respect to the purpose of the action of protection, in various rulings, has determined that this guarantee was established in the 2008 Constitution as a tool to protect the constitutional rights of individuals against violations or injuries to their rights by the public authority and, under certain circumstances, by a private individual. In addition, the Court has pointed out that the action for protection has two primary objectives: "the protection of the constitutional rights of individuals, as well as the declaration and the consequent integral reparation of the damages caused by their violation"; 14.5. In this sense, the Constitutional Court has stated the following: "what must be clear is that, in the case of acts or omissions to which a violation of constitutional rights is imputed, the contentious-administrative remedy, as well as the others provided for in the ordinary jurisdiction (which would constitute other "mechanisms of judicial defense") become ineffective for the protection of those rights...". Therefore, it is necessary to determine what kind of right is violated, as recommended by the Constitutional Court when it "considers that the solution to be used, in the first place, is the identification of the *thema decidendum* and its correspondence with the object of the action for protection. That is to say, when what is raised in the complaint and is clear from the verification of the facts is a direct violation of constitutional rights, it will be before the primary object of the action for protection. On the other hand, when what is sought is the declaration of a subjective right provided for in secondary legislation or in general, the application of an infra-constitutional rule for a certain case or the claim for the lack thereof, without the presentation of facts that determine the existence of a violation of constitutional rights, it will be a problem that can be solved by other judicial means". For which it has issued the following rule with *erga omnes* character: "The constitutional judges who hear an action for protection, must conduct a thorough analysis of the actual existence of the violation of constitutional rights in the sentence, on the actual occurrence of the facts of the specific case". Analysis that in this case, the Constitutional Judge of the First Level should have carried out prior to resolving the present action; and that it is now up to this Court of Appeals to verify the correctness or otherwise of the ruling, in view of the challenge of the ruling by the plaintiffs, as we will see below; and, 14.6. The principle of legality is established in Article 226 of the Constitution, which establishes that the actions of State institutions and of all persons who, in the exercise of State authority, act on behalf of the State, must exercise their powers in accordance with the provisions of the Constitution and the law. Thus, the present analysis must be carried out taking into account the purpose of legality, for which it is necessary to differentiate the three elements it presents. In the first place, it establishes as its primary foundation the respect for the Constitution, as the hierarchically superior normative provision within the legal system; in second place, it is not exhausted in the mere normative application, but establishes that the existing normative provisions to be applied must be prior, clear and public; and, finally, it establishes the obligation that such application be carried out by a competent authority and under the established rules of competence and due process that must be clearly and previously defined. In this context, it constitutes a flagrant violation of the constitutional right to due process (Art. 76.1.3.7 letter k); according to Article 82 of the Constitution of the Republic of Ecuador, the right to legal certainty is articulated with the compliance of the constitutional rules, establishing through that postulate a true material supremacy of the content of the Fundamental Charter of the State; for that, and to have certainty regarding a normative application in accordance with the Constitution, it is provided that the rules that are part of the legal system are previously determined; in addition, they must be clear and public; But the law also establishes the requirements for its presentation and procedure. This means that, as Juan Montaña Pinto has pointed out, in order for the action of protection to proceed, the violation of the right must necessarily affect the constitutional content of the same and not the other dimensions of the affected right, that the violation has been caused by action or omission of a public authority or a private individual in accordance with the Constitution. This assumption does not require further clarification, only to emphasize that unlike the traditional figure of constitutional protection, the action for protection also extends its scope to relations between individuals to ensure the effectiveness of constitutional rights; and, that there is no other adequate and effective judicial defense mechanism to protect the violated right. This means that for the violation of a right to be protected by the action for protection, the violated right must not have a special guarantee. In other words, the right claimed must not be protected by any of the six jurisdictional guarantees enshrined in the Constitution of the Republic or through specific actions in the ordinary courts" (Article published by Andrade Quevedo Karla. Manual de Justicia Constitucional Ecuatoriana. Corte Constitucional 2013, p. 113 to 114). The same author tells us that, "The action for protection is a guarantee that operates as a mechanism for the protection of rights contained in the constitution. Thus, it is undeniable that such action proceeds only when there is a violation of constitutional rights or, in accordance with the provisions of Art. 39 of the LOGJCC, when the direct protection of a right recognized in international human rights treaties is sought, provided that they are not protected by other constitutional actions. 14.7.- The Constitutional Court of Ecuador, with respect to the purpose of the action for protection, in various rulings, has determined that this guarantee was enshrined in the 2008 Constitution as the tool for

protect the constitutional rights of individuals against violations or injuries to their rights by the public authority and, under certain circumstances, by a private individual. In addition, it has pointed out that the action for protection has two primary objectives: "the protection of the constitutional rights of individuals, as well as the declaration and the consequent integral reparation of the damages caused by their violation"; adding in this sense the following: "... what must be clear is that, in the case of acts or omissions to which a violation of constitutional rights is imputed, the contentious-administrative remedy, as well as the others provided for in the ordinary jurisdiction (which would constitute other "mechanisms of judicial defense") become ineffective for the protection of those rights. Therefore, it is necessary to determine what kind of right has been violated, as recommended by the Constitutional Court when it "considers that the solution to be used, in the first place, is the identification of the subject matter decidendum and its correspondence with the object of the action for protection. That is to say, when what is raised in the complaint and is clear from the facts is a direct violation of constitutional rights, it will be the primary object of the action for protection; on the other hand, when what is sought is the declaration of a subjective right provided for in secondary legislation or in general, the application of an infra-constitutional rule for a certain case or the claim for the lack thereof, without the presentation of facts that determine the existence of a violation of constitutional rights, it will be a problem that can be solved by other judicial means". For which it has issued the following rule with erga omnes character: "The constitutional judges who hear an action for protection, must conduct a thorough analysis of the actual existence of the violation of constitutional rights in judgment, on the actual occurrence of the facts of the specific case". In short, it is established, under the protection of a "direct and effective recourse", that the substantiation of the jurisdictional guarantees responds to the principle of effective judicial protection. These constitutional rules inescapably denote the change of constitutional paradigm in the country, since the formalistic and restrictive tendencies in the jurisdictional guarantees of protection of rights have no place under the conception of the Constitutional State of rights and justice, since its primary duty lies precisely in the protection of constitutional rights without the establishment of formal schemes that tend to hinder such protection. The Constitutional Court of Ecuador, in dealing with the issue under analysis in a timely manner has stated: "That the action for protection is the appropriate and effective guarantee that proceeds when the judge actually verifies a real violation of constitutional rights, with which, there is no other way to protect these rights other than the jurisdictional guarantees. It states that not all violations of the legal system necessarily have a place for debate in the constitutional sphere, since for conflicts in matters of legality there are suitable and effective ways within the ordinary jurisdiction". (Constitutional Court. Decision No. 016-13-SEP-CC, May 16, 2013, Case No. 1000-12-EP). Due to the considerations extensively exposed throughout this ruling, it is inferred that the constitutional action for protection is based on the environmental damage caused by the rupture of the SOTE and polyduct operated by EP PETROECUADOR and OCP ECUADOR S.A., which was caused by the regressive erosion that is occurring in the Coca River, a disaster that is produced by nature and the claims of the plaintiffs are the reparation of the environmental damage, the individual and collective indemnification of damages; also that a greater quantity of bottled water and quality of piped water be delivered, that wells for family use be provided and that water supply projects be executed for the populated centers; Also that the food kits delivered are insufficient, that they should be delivered according to their diet and ancestral customs; that the defendants are also providing timely attention to all the population groups located on the banks of the Coca and Napo rivers as has been demonstrated throughout the process, so it is not evident that there is a violation of constitutional rights of the plaintiffs, which makes the present constitutional action for protection inadmissible, in accordance with the provisions of paragraphs 1, 4 and 5 of Art. 42 of the Organic Law of Guarantees of the Constitution. 42 of the Organic Law of Jurisdictional Guarantees and Constitutional Control. For the foregoing considerations and in accordance with the provisions of Art. 168.1 of the Law of Jurisdictional Guarantees and Constitutional Control, the Multicompetent Chamber of the Provincial Court of Justice of Orellana ADMINISTRATING JUSTICE IN THE NAME OF THE SOVEREIGN PEOPLE OF ECUADOR, AND BY AUTHORITY OF THE CONSTITUTION AND THE LAWS OF THE REPUBLIC, rejects the appeal filed by the plaintiffs, consequently confirms in all its parts the judgment of first instance, leaving aside the rights that the plaintiffs may have to exercise their rights through the Administrative or Ordinary Jurisdiction. Tobias Castro Castro Castro, in his capacity as Acting Secretary, by means of personnel action No. 078-DPCJO-2021-JF, dated March 10, 2021, signed by Mr. Diego Alberto Goyes Prado, Director of the Judiciary Council of Orellana. Once this sentence is executed, send it to the Constitutional Court for the development of its jurisprudence according to Art. 86.5 of the Constitution of the Republic and numeral 1 of Art. 25 of the Organic Law of Jurisdictional Guarantees and Constitutional Control; in turn, the Clerk of this Chamber shall return the process to the Judicial Unit of origin for the purposes of the law.

03/17/2021 GENERAL VIEW**15:20:00**

Orellana, Wednesday, March 17, 2021, at 15h20, Let the writs presented by the plaintiff Carlos Simón Jipa Andi and others, on Monday, March 1 and Friday, March 12, 2021; at 10h57 and 15h15 respectively, with the sponsorship of the technical defender Abg. Luis Xavier Solis T., its content, if appropriate, will be taken into account at the appropriate procedural moment. Notify

Date	Legal Proceedings
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12/03/2021 WRITTEN

15:15:28

Written, FaithPresentation

01/03/2021 WRITTEN

10:57:53

Written, FaithPresentation

04/02/2021 GENERAL VIEW

11:13:00

Orellana, Thursday, February 4, 2021, at 11:13 a.m., Inside the Protection Action signed with No. 22281-2020-00201 S- CPJO, it is disposed: 1.- Incorporate to the process the writ presented on Thursday, January 28, 2021, at 4:27 p.m., by Attorney Luis Xavier Solís, in representation of the plaintiffs in this case; 2. Luis Xavier Solís, representing the plaintiffs in this case; 2.- Add the brief and annexes presented on Friday, January 29, 2021; at 15h41, by Mrs. NATALIA PEIRO PEREZ, General Secretary of Caritas Española- Amicus Curiae, taking into account the authorization given to Mrs. Sonia Olea Ferreras, with identity card 52090442L and Passport AAC695400, to appear on her behalf, as well as the e-mail solea.ssgg@caritas.es . 3.- With respect to the petitions, if appropriate, they will be considered in accordance with the law. Jakeline Véliz Pinargote, as Secretary in charge according to personnel action No. 015-DPCJO-2020-JM, dated January 21, 2021, signed by Dr. Diego Goyes Prado, Provincial Director of the Judiciary Council of Orellana. Notify

29/01/2021 WRITTEN

15:41:01

APPENDICES, Written, FaithPresentation

28/01/2021 WRITTEN

16:27:35

Written, FaithPresentation

01/27/2021 GENERAL VIEW

13:37:00

In the constitutional process assigned as No. 22281-2020- 00201, in the main part, it is hereby DECIDED: 1.- To incorporate to the process the brief presented by Dr. Marco Proaño Duran, who appears in his capacity as National Director of Sponsorship and Delegate of the Attorney General of the State, according to the attached personnel action, whose content detailed in the same, if appropriate, will be considered at the appropriate procedural moment. Take into account the e-mails indicated to receive notifications; and, 2.- Incorporate the brief with its annexes signed by the plaintiff Carlos Simón Jipa Andi; and, Attorney Luis Xavier Solís, whose content detailed therein, if appropriate, will be considered at the appropriate procedural moment.- NOTIFY.

22/01/2021 WRITTEN

15:04:36

ANNEXES, ANNEXES, Written, Presentation, Written, Presentation

24/12/2020 WRITTEN

14:10:26

APPENDICES, Written, FaithPresentation

12/21/2020 GENERAL VIEW

15:27:00

Orellana, Monday, December 21, 2020, at 15h27, IN VIEW OF: Within the constitutional process of (Action of Protection) assigned with No. 22281-2020-00201, in the main part, IT IS ORDERED: 1.- Incorporate to the process the document signed by the plaintiff Carlos Simón Jipa Andi, as well as by the attorney Sylvia Bonilla Bolaños, and attorney Lina María Espinosa, through which in its pertinent part they request the acceptance of their request that a hearing be convened in order to be heard and to explain the legal grounds of the appeal. Lina María Espinosa, through which in its pertinent part they request the acceptance of their request to convene a hearing so that they may be heard and present the legal grounds of the appeal, in attention to the same, it is worth mentioning in addition to what has already been stated in previous orders that in accordance with Article 24 of the Organic Law of Jurisdictional Guarantees and Constitutional Control, the Provincial Court shall take cognizance and resolve on the merits of the

Date **Legal Proceedings**

file; and only when it is deemed necessary, the judge or judge

Date **Legal Proceedings**

In other words, in accordance with the aforementioned norm, the appointment of a hearing is optional for the aforementioned purpose, and since this is not the case in the present constitutional action of protection, the request is denied, this in strict compliance with the provisions of Art. 82 of the Constitution of the Republic, which states: "The right to legal security is based on the respect for the Constitution and on the existence of previous, clear, public and applied legal norms by the competent authorities"; even more so, if we take into account that in the case of constitutional actions the procedure must be simple and quick in all its instances. 2.- The Amicus Curiae brief, filed by Marcia Martha Andy Alvarado on her own behalf and in her capacity as President of the Mushuc Llacta Commune and Linze Karina Grefa Tanguila, on her own behalf, through which they state that they are part of approximately 27,000 thousand people affected by the spill of 15,800 barrels of oil that occurred last year, is incorporated to the process. 800 barrels of oil that occurred on April 7, 2020, in the province of Orellana, through which in its pertinent part they request to convene a hearing with the purpose of orally exposing the criteria and contributions as amicus curiae, in attention to the same, as to its content, if appropriate, it will be taken into account at the appropriate procedural time, taking into account the provisions of Art. 12 of the Organic Law of Jurisdictional Guarantees and Constitutional Control which textually states "...Art. 12.- Appearance of third parties. Any person or group of persons who have an interest in the case may file an amicus curiae brief which will be admitted to the file for a better resolution until before the judgment. If deemed necessary, the judge may hear the interested person or group in a public hearing..." considering that this Court is an appellate court and has taken cognizance of the appeal of the sentence and will resolve on the merits of the file as provided in Article 24 of the Organic Law of Jurisdictional Guarantees and Constitutional Control, therefore, the request to convene a hearing is denied, taking into account the e-mail addresses karinagrefa9@gmail.com; 75andymarcia@gmail.com; vidrovom@yahoo.com and sylviabonillab@hotmail.com, designated to receive future notifications. 3.- The amicus curiae brief filed by Mr. Juan Sebastian Calero Chávez, in his capacity as legal representative of PETROAMAZONAS EP; and the amicus curiae brief filed by Dr. Manuela Picq, which, if appropriate and in accordance with the law, shall be taken into account at the appropriate procedural moment under the considerations set forth in paragraph 2 of this order. Please take into account the judicial mailboxes and e-mails indicated for the purpose of receiving future notifications - FULFILL AND NOTIFY.

16/12/2020 **WRITTEN**

12:01:23

Written, FaithPresentation

15/12/2020 **WRITTEN**

14:31:02

APPENDICES, Written, FaithPresentation

14/12/2020 **WRITTEN**

11:00:17

APPENDICES, Written, FaithPresentation

14/12/2020 **WRITTEN**

10:54:29

Written, FaithPresentation

11/12/2020 **GENERAL VIEW**

18:32:00

Orellana, Friday, December 11, 2020, at 18h32, Inside the Protection Action signed with No. 22281-2020- 00201 S-CPJO, it is disposed: 1.- Incorporate to the process the writs presented on Thursday, December 10, 2020; at 09h16, 11h28, 14h22 and 14h23 respectively; the first one, by Eng. Franklin Israel Paredes Galeas, in his capacity as General Manager of the Public Company of Exploration and Exploitation of Hydrocarbons PETROAMAZONAS EP, by means of which he attaches the Judicial Procurement made in favor of Abg. Juan Sebastián Calero, among others, taking into account the judicial box no.

In relation to the following three briefs submitted by the plaintiffs Jorge Acero González, Carlos Simón Jipa Andi, and others, in accordance with the same content, they will be taken into account in what may be applicable in law; and, with respect to the petition for revocation of the order dated December 10, 2020, at 09h20, it is disposed to comply with its provisions, considering the authorization given to the attorneys mentioned in the briefs that are provided. 3.- The briefs and annexes presented today, Friday, December 11, 2020, at 14h31, 14h40, 15h51 and 14h53, respectively, by which the following appear as Amicus Curiae: a) Juan Garcia Hernández, as Executive Secretary and Special Representative of the Pastoral Social Caritas, as well as: b) Juan Garcia Hernández, as Executive Secretary and Special Representative of the Pastoral Social Caritas, as Amicus Curiae.

Date **Legal Proceedings**

Ecuador, who authorizes Mr. Héctor Jesús Pérez Zamora, to appear on behalf of the institution and indicates the e-mail addresses jgarcia@caritasecuador.org and hperez@caritasecuador.org to receive his notifications; b) Mr. Ismael Vega Díaz, representative of the Centro Amazónico de Antropología y Aplicación Práctica, who authorizes Mrs. Iraide Donaire Hidalgo, to appear on behalf of the institution and indicates the e-mail addresses iraidedonaire@gmail.com, Andrea.bernal@caaap.org.pe, and segundoherrera1504@gmail.com belonging to Attorneys Andrea Bernal Chávez and Segundo Herrera Mejia; c) Mons. Rafael Cob, Bishop of the Apostolic Vicariate of Puyo, Bishop Adelio Pasqualotto, Bishop of the Apostolic Vicariate of Napo, Bishop Néstor Montesdeoca Becerra, Bishop of the Apostolic Vicariate of Méndez-Morona Santiago, Mons. Walter Heras, Administrator of the Apostolic Vicariate of Zamora and Bishop of Loja, Fr. Rafael González, President of the Ecuadorian Conference of Religious; Dr. Enrique Galarza, President of the Ecuadorian Conference of Religious Men and Women. Enrique Galarza, President of the Ecuadorian Commission of Justice and Peace; and, of all the teams of the Indigenous Pastoral and Youth Pastoral of the Amazon Region together with the Servants of the Catholic Church of the Indigenous Nationalities of Ecuador SICNIE that conform the Pan-Amazonian Ecclesial Network-Ecuador (REPAM), who indicate the e-mails fandrade@redamazonica.org and rafacobg@gmail.com to receive their notifications; and, d) Esperanza Martínez Yánez, representing the people of Rio Napo and Rio Coca, all appellants, who request to be considered as Amicus Curiae, which will be taken into account at the appropriate procedural moment.

e) Regarding the request to set a date for the hearing, it is not provided since a first appointment has already been made and in order to safeguard the health of judicial servants and other intervening persons, due to the health emergency that we are still experiencing due to COVID 19, it was revoked by order of December 10, 2020; 09h20.

11/12/2020 **WRITTEN**

14:53:21

APPENDICES, Written, FaithPresentation

11/12/2020 **WRITTEN**

14:51:39

APPENDICES, Written, FaithPresentation

11/12/2020 **WRITTEN**

14:43:42

Written, FaithPresentation

11/12/2020 **WRITTEN**

14:40:26

APPENDICES, Written, FaithPresentation

11/12/2020 **WRITTEN**

14:31:36

APPENDICES, Written, FaithPresentation

10/12/2020 **WRITTEN**

14:23:14

Written, FaithPresentation

10/12/2020 **WRITTEN**

14:22:22

Written, FaithPresentation

10/12/2020 **WRITTEN**

11:28:07

Written, FaithPresentation

10/12/2020GENERAL NOTICE

09:20:00

Orellana, Thursday, December 10, 2020, at 09h20, IN VIEW OF. Within the constitutional process of (Action of Protection) assigned with No. 22281-2020-00201, in the main part, IT IS ORDERED: 1.- Once the term has expired for the plaintiffs to pronounce on the request made by the defendants Eng.

Date **Legal Proceedings**

as Executive President and legal representative of Compañía de Oleoductos de Crudos Pesados OCP Ecuador S.A. and Abg. Marcos Wenceslao Ochoa Ochoa Ochoa, who appeared offering power of attorney or ratification of Abg. Juan Andrés Delgado Garrido, General Coordinator of Legal Counsel and delegate of the Minister of Environment and Water, by which they requested the revocation of paragraphs 3 and 4 of the order issued on November 27, 2020; at 7:22 p.m., petition with which the plaintiffs were served, but up to this date they have not made any pronouncement on the matter; also taking into account that the appeal brief is signed by Ms. Lina Maria Espinosa Villegas and Ms. Sylvia Bonilla Bolaños, and that the appeal is signed by Ms. Lina Maria Espinosa Villegas and Ms. Sylvia Bonilla Bolaños, respectively. Sylvia Bonilla Bolaños, in which it is stated that the plaintiffs will ratify the intervention in the present action, without having done so to date, due to these considerations and by virtue of the sanitary emergency generated by the COVID-19, that our country is still going through and in order to protect the health and welfare of the judicial servants and the large number of each of the procedural parties called to intervene in the proceedings and without this violating the due process, the provisions of paragraphs 3 and 4 of the order of substantiation dated November 27, 2020 are revoked; 19h22, therefore the scheduling of the hearing made in the SATJE system is left without effect, consequently in accordance with the provisions of the second paragraph of Art. 24 of the Organic Law of Jurisdictional Guarantees and Constitutional Control, it is hereby ordered to resolve what corresponds in law. ANDRÉS MENDIZABAL MOCHKOFISKY, who appears as Executive President and Legal Representative of the Company OLEODUCTO DE CRUDOS PESADOS (OCP) ECUADOR S.A. in attention to the same, take into account the authorization granted to Dr. Byron Villacres Medina, in addition to his technical defenders already previously authorized to represent him in the substantiation of the present case. 3.- The writ presented by Dr. Marco Dávila Carrión, who appears in his capacity as Provincial Delegate of Orellana of the Ombudsman's Office of Ecuador, is incorporated to the process, through which he requests that the hearing be held telematically due to the number of parties involved in the proceedings and in order to avoid contagion, a request that is denied in virtue of the provisions of numeral 1 of this order. 4.- The document signed by Mr. Luis Xavier Solis Tenesaca, dated December 8, 2020, at 2:54 p.m., who states that he appears on behalf of the plaintiffs through which he requests to maintain the convening of the hearing via telematic means, scheduled for December 14, 2020, at 9:30 a.m., a request that is denied under the provisions of paragraph 1 of this order. 5.- The brief submitted by Cristina Cepeda Tipan, requesting the admission of her Amicus Curiae brief, which, if appropriate, will be taken into account at the appropriate procedural moment, taking into account the judicial boxes indicated to receive future notifications. 6.- The brief signed by Mr. Juan Sebastian Calero Chávez, who states that he appears in his capacity as Judicial Attorney of Mr. Franklin Israel Paredes Galeas, General Manager of the Public Company of Exploration and Exploitation of Hydrocarbons Petroamazonas EP, through which he requests that Petroamazonas EP be considered as Amicus Curiae, content with which, if appropriate, will be considered at the appropriate procedural moment, taking into account the e-mail addresses indicated to receive future notifications. Incorporate to the process the Official Letter N° MSP-CGAJ-2020-0417, signed by Mg. Gabriel Fernando Rivadeneira Revelo who appears in his capacity as General Coordinator of Legal Counsel of the Ministry of Public Health through which he requests the assignment of a room in the ZOOM platform in order to appear by videoconference to the indicated hearing, request that is not provided due to the revocation of the indicated hearing. Take into account the judicial mailboxes and e-mails indicated by the judicial attorney to receive future notifications. NOTIFY.

10/12/2020 **WRITTEN**

09:16:21

APPENDICES, Written, FaithPresentation

09/12/2020 **WRITTEN**

14:48:50

APPENDICES, Written, FaithPresentation

09/12/2020 **OFFICE**

12:47:58

APPENDICES, Oficio, FePresentacion

08/12/2020 **WRITTEN**

14:54:23

Written, FaithPresentation

08/12/2020 **WRITTEN**

14:22:32

Written, FaithPresentation

Date	Legal Proceedings
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08/12/2020 **WRITTEN**

09:28:47

Written, FaithPresentation

07/12/2020 **WRITTEN**

08:34:04

APPENDICES, Written, FaithPresentation

03/12/2020 **ANSWER**

14:35:00

Orellana, Thursday, December 3, 2020, at 14h35, Inside the Action of Protection Assigned with No. 22281-2020-00201 S-CPJO, in the main thing IT IS DISPOSED: Pursuant to the provisions of numeral 8 of Art. 130 of the Organic Code of the Judicial Function ex officio we proceed to clarify numeral 2 of the order dated December 3, 2020, at 09h48, in which due to an involuntary error the following has been stated "...From the second brief submitted by Dr. Marco Proaño Durán, National Director of State Sponsorship, delegate of the Attorney General of the State requesting to leave without effect the summons to hearing; from the third brief submitted by the plaintiffs through Abg. Luis Xavier Solís Tenesaca, and of all the briefs shown by the appellants that coincide in requesting that the hearing scheduled for Tuesday, December 14, 2020; at 09h30, be carried out telematically, the undersigned will pronounce in due course..." Being correct that, from the second brief submitted by Dr. Marco Proaño Durán, National Director of State Sponsorship, delegate of the Attorney General of the State and from the third brief submitted by the plaintiffs through Abg. Luis Xavier Solís Tenesaca, and of all the writings shown by the appellants that coincide in requesting that the hearing scheduled for Tuesday, December 14, 2020; at 09h30, be carried out telematically, which the undersigned will pronounce in due time, thus clarifying the same, in the rest will be in accordance with the provisions of said order - COMPLY AND NOTIFY.

03/12/2020**GENERAL VIEW**

09:48:00

Orellana, Thursday, December 3, 2020, at 09h48, At the interior of the Protection Action signed with the No. 22281-2020-00201 S-CPJO, it is disposed: 1.- Incorporate to the process the writs presented on Wednesday, December 2, 2020; at 09h39, 10h56, 16h14 and 16h36 respectively, the first and the fourth, by the defendant Eng. ANDRES MEIRZALDE MOCHKOFISKY, in his capacity as Executive President and legal representative of Compañía de Oleoductos de Crudos Pesados OCP Ecuador S.A and Abg. Marcos Wenceslao Ochoa Ochoa, offering power of attorney or ratification of Abg. Juan Andrés Delgado Garrido, General Coordinator of Legal Counsel and delegate of the Minister of Environment and Water, by means of which they request the revocation of paragraphs 3 and 4 of the order issued on November 27, 2020; 19h22, which refer to the summons to hearing and intervention of the judges via telematic, with the same that the counterpart is served for the legal term of forty-eight hours, in accordance with the provisions of Art. The second brief presented by Dr. Marco Proaño Durán, National Director of State Sponsorship, delegate of the Attorney General of the State, requesting that the summons to the hearing be annulled; the third brief presented by the plaintiffs through the Attorney General of the State, Luis Xavier Solís Tenesaca. Luis Xavier Solís Tenesaca, and of all the briefs shown by the appellants that coincide in requesting that the hearing scheduled for Tuesday, December 14, 2020; at 09h30, be carried out telematically, the undersigned will pronounce in due time. Notify

02/12/2020 **WRITTEN**

16:36:11

APPENDICES, Written, FaithPresentation

02/12/2020 **WRITTEN**

16:14:19

Written, FaithPresentation

02/12/2020 **WRITTEN**

10:56:13

APPENDICES, Written, FaithPresentation

02/12/2020 **WRITTEN**

Date **Legal Proceedings**

09:39:59Written,
FaithPresentation**11/27/2020CONVOCATION OF THE APPEAL HEARING****19:22:00**

Orellana, Friday, November 27, 2020, at 19h22, IN VIEW OF. Within the constitutional process of (Action of Protection) assigned with No. 22281-2020-00201, in the main part, IT IS ORDERED: 1.- Incorporate to the process the brief presented by Eng. ANDRÉS MENDIZABAL MOCHKOFKY, who appears in his capacity as Executive President and Legal Representative of the Company OLEODUCTO DE CRUDOS PESADOS (OCP) ECUADOR S.A., The authorizations granted to Dr. Rafael Oyarte Martínez and Mr. Ismael Quintana Garzón, as well as the indication that the notifications will continue to be received in the mailboxes and e-mails previously mentioned. 2.- The document filed by Elizabeth Bravo, who appears on behalf of the Fundación Pro-Defensas de la Naturaleza y sus derechos, through which she indicates that she appears as a third party interested party and filed the AMICUS CURIAE, which, if appropriate, will be considered in its procedural moment, is incorporated to the process. 3.- Add to the process the petition subscribed by the legal professionals Sylvia Bonilla Bolaños, Ana Vera, Vivian Idrovo Mora and Verónica Potes, through which they request the clarification and amplification of their request to convene a hearing so that the parties may be heard and present their grounds for the appeal, in accordance with the provisions of the second paragraph of Article 24 of the Organic Law of Guarantees of the Supreme Court of Justice. 24 of the Organic Law of Jurisdictional Guarantees and Constitutional Control, the procedural parties are summoned for DECEMBER 14, 2020, AT 09H30, in order for the ORAL, PUBLIC AND CONTRADICTORY HEARING to take place, which will take place in the new building of the Judiciary Council located at Ambato Avenue and Huataraco Street, diagonal to the Terrestrial Terminal of this city of Francisco de Orellana (Hearing Room assigned to this Jurisdictional Body), with all the formalities of the Law. 4.- Let the persons in charge of ICTs know, in order to grant the necessary technological facilities, so that the Provincial Judges may appear at the respective hearing through one of the telematic means duly authorized by the Council of the Judiciary, likewise, the procedural parties are required to appear with the respective preventive biosecurity measures.- NOTIFY.

24/11/2020 **WRITTEN****12:16:18**

APPENDICES, Written, FaithPresentation

24/11/2020 **WRITTEN****12:13:35**

Written, FaithPresentation

24/11/2020 **WRITTEN****09:28:54**

Written, FaithPresentation

11/23/2020AUTOS **TO RESOLVE****10:53:00**

Orellana, Monday, November 23, 2020, at 10h53, IN VIEW OF: In my capacity as Judge Rapporteur, I take cognizance of the Protection Action signed with No. 22281-2020-00201 S-CPJO, filed by the plaintiff CERDA ANDI HERNANDO RAFICO and others, that by appeal to the sentence dictated by De. Jaime Oña Mayorga, Judge of the Criminal Multicompetent Judicial Unit with headquarters in the canton Francisco de Orellana, on October 12, 2020; at 08h37, accesses this Court. 1.- Please inform the Judges Drs. Freddy Cisneros Espinoza, Edgar Rosero Aldás and the litigant parties of the reception of the process for the purposes of the Law. Pursuant to the provisions of Article 24, paragraph II of the Organic Law of Jurisdictional Guarantees and Constitutional Control, it is hereby ordered to resolve what in law corresponds. 3.- The writ presented on November 6, 2020; at 10:34 a.m., by Dr. Marco Dávila Carrión, Provincial Delegate of the Ombudsman's Office of Ecuador, who appears as Amicus Curiae, within the present case, be considered as incorporated to the process, taking into account the judicial box No. 63 and the e-mails marco.davila@dpe.gob.ec, flavio.lopez@dpe.gob.ec, carlos.soledispa@dpe.gob.ec, javier.chipantiza@dpe.gob.ec that he indicates to receive his notifications. Nixon Taday León, as Secretary appointed by Administrative Act TR-DP22-INT-2020-01517. Notify

06/11/2020 **WRITTEN**

10:34:09

Written,
FaithPresentation

05/11/2020DRAWING OF LOTS

11:29:08

Received in the city of Orellana today, Thursday, November 5, 2020, at 11:29 a.m., the Constitutional process, Type of proceeding: jurisdictional guarantees of constitutional rights by Subject matter: protective action, followed by: Oraco Ajon Freddy Nixon, Lazzari Celmo, Grefa Aguinda Veronica Beatriz, Cerda Andi Hernando Rafico, Licuy Mamallacta Juan Elias, Coquinche Andi Gabina, Jipa Grefa Bayron Alfredo, Salazar Digua Edgar Felipe, Tanguila Chongo Claudia Lourdes, Alvarado Tapuy Saqueo Edgar, Grefa Aguinda Camilo Ramiro, Grefa Tanguila Romario Luis, Grefa Tanguila Martha Rosa, Grefa Shiguango Jairo Geovanny, Grefa Oraco Fanny Maria, Jipa Andi Johnny Abel, Mazabanda Calles Carlos Santiago, Jimenez Mendoza Jose Adalberto, Acero Gonzalez Jorge, against: Pablo Antonio Flores Cueva, General Manager of Empresa Pública de Hidrocarburos del Ecuador - Ep Petroecuador, Andrés Eugenio Mendizábal Mochkofsky, Legal Representative of Compañía Oleoducto de Crudos Pesados (ocp) Ecuador S.A, Íñigo Salvador Crespo, Attorney General of the State, Juan Carlos Zevallos López, Minister of Public Health, Paulo Arturo Proaño Andrade, Minister of the Environment (e), René Ortiz, Minister of Energy and Non-Revocable Natural Resources.

By lot of law, the competence lies in the MULTICOMPETENT CHAMBER OF THE PROVINCIAL COURT OF JUSTICE OF ORELLANA, conformed by the Judges: Abg. Moran Mejia Angel Ernesto (Rapporteur), Dr. Cisneros Espinoza Freddy Ramon, Dr. Rosero Aldas Eugenio Edgar. Secretary: Abg Taday Leon Nixon Darwin.

Process number: 22281-2020-00201 (1) Second InstanceTo which the following documents are attached:

1) PROCESS N° 22281-2020-00201 IN 47 BODIES WITH 4734 PAGES INCLUDING 12 CDS (ORIGINAL)

Total number of sheets: 1 JORGE ANDRES GARCIA GARCIA Drawing manager