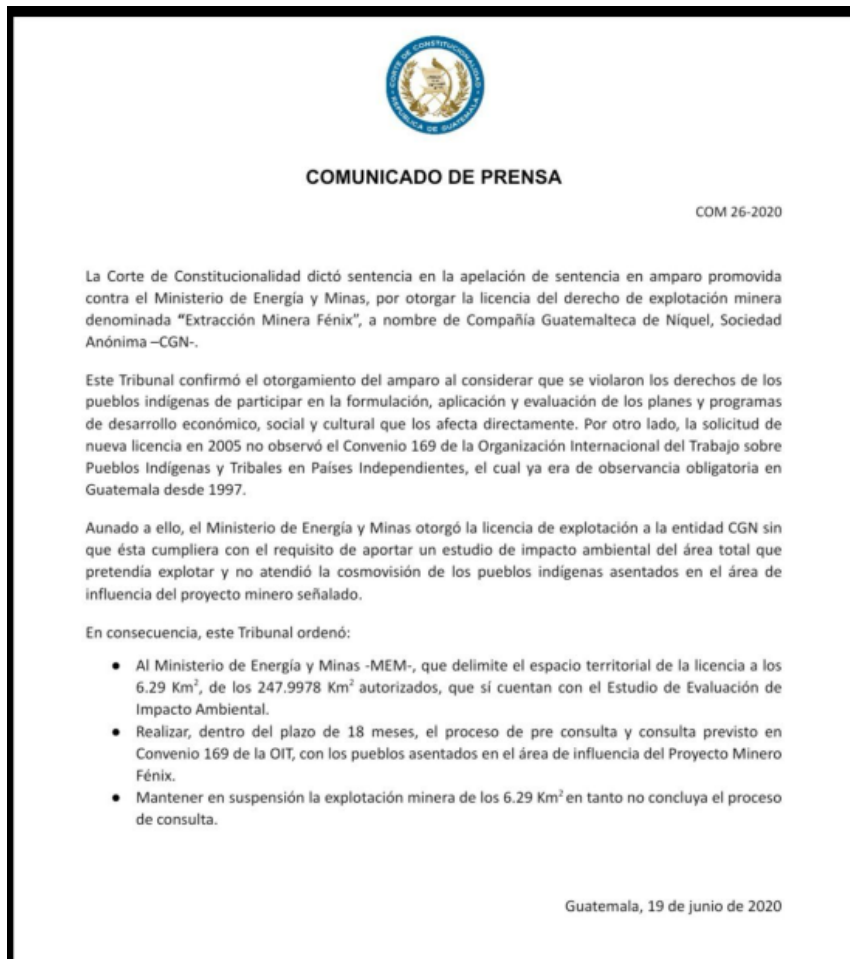


Guatemalan court confirms illegality of mine owned by Solway Investment Group (previously by Hudbay Minerals/Skye Resources)

<https://mailchi.mp/rightsaction/guatemalan-court-confirms-illegality-of-mine>

The Constitutional Court of Guatemala has ordered the immediate suspension of the “Fenix” nickel mining operation, concluding that the mine (owned by Solway Investment Group, 2011-present; by Hudbay Minerals/Skye Resources, 2005-2011) has operated illegally since 2005.



Guatemala Constitutional Court Press Release, COM 26-2020, June 19, 2020 (Translation: Rights Action)

The Constitutional Court has ruled on a mining suspension proceeding brought against the Guatemalan Ministry of Energy and Mines (MEM) that granted the “Fenix mine extraction”

license to the Guatemalan Nickel Company (Compañía Guatemalteca de Niquel, Sociedad Anónima –CGN-).

The Court ordered suspension of the mining operation taking into consideration violations of the rights of indigenous peoples to participate in the formulation, implementation and evaluation of economic, social and cultural development plans and programs that directly affect them.

Furthermore, the Court found that the application for a new license in 2005 did not comply with International Labour Organization Convention 169 on Indigenous and Tribal Peoples in Independent Countries, which is binding law in Guatemala since 1997.

In addition, the Court confirmed that the Ministry of Energy and Mines granted the exploitation license to CGN when the company had not complied with the requirement to provide an Environmental Impact Assessment of the total area it intended to exploit, nor the requirement to take into account the cosmovision of the indigenous peoples settled in the area of impact of the aforementioned mining project.

Accordingly, this Court ordered:

- The Ministry of Energy and Mines to limit the territorial space of the license to 6.29 Km-sq of the 247.9978 Km-sq originally authorized, as the Environmental Impact Assessment only covered this smaller portion;
- Carry out, within 18 months, the pre-consultation and consultation processes provided for in ILO Convention 169, with the peoples settled in the area of impact of Fenix Mining Project;
- Complete suspension of all mining, within the 6.29 Km-sq area, until the consultation process is concluded.

Thus: Since 2005, Canadian companies Hudbay Minerals/Skye Resources and now Swiss-based Solway Investment Group have been illegally operated the “Fenix” mine in El Estor, department of Izabal, Guatemala.

This is to say: All the mining repression and harms suffered since 2005 – killings and assassinations; gang-rapes of women; violent evictions and destruction of homes, crops and property; violent attacks; “criminalization” of community defenders and journalists; threats; harms to the environment; etc. – that all of these cases of mining repression and harms (illegal in and of themselves) occurred in the context of an illegally operating mine.

The Court goes further, concluding that the Environmental Impact Assessment done in 2005 covered only 6.29 Km-sq of the 247 Km-sq that Solway Investment Group, Hudbay Minerals/Skye Resources claim to have rights to.

Furthermore, the Court orders the immediate suspension of all mining operations in the 6.29 Km-sq area, confirming that when the mining license was improperly granted in 2005 there was never a proper consultation process with the Mayan Q'eqchi' people of the region.

The Court will publish the full sentence in the next few days.

It remains to be seen if the Guatemalan regime will ensure the immediate suspension of the mine. It remains to be seen if the Guatemalan regime will order reparations for all mining repression and harms suffered since 2005.

Implications for landmark Hudbay Minerals lawsuits in Canada?

Will this decision impact the Hudbay Minerals (Skye Resources) lawsuits in Canada, given that this decision of Guatemala's highest court puts into question the underlying legality of Hudbay/Skye's years of mining in Guatemala, let alone the repression and harms (including killings, gang-rapes, shootings, forced evictions and community destruction) linked to their mining operation?

Increase risk

Obviously and sadly, this Court decision will increase the chances of more violence and repression against people and groups, particularly in the El Estor region, who have worked and struggled since 2005 in defense of their rights, territories and the environment.

Rights Action holds responsible CGN, the Solway Investment Group and Hudbay Minerals (still involved in issues related to its former mining operation), and the governments of Guatemala, Switzerland and Canada for any repression suffered in the aftermath of this Court sentence.

Grahame Russell, director Rights Action

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Rights Action's Covid19 response fund
Supporting indigenous & campesino communities, Honduras & Guatemala
(including Q'eqchi' communities in the mining harmed region of El Estor)

Updated: June 12, 2020

<https://mailchi.mp/rightsaction/covid19-response-fund-updated-june-12-2020>

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