

The Serious Pollution Problem in La Oroya and the Ruling of the Inter-American Court of Human Rights Report



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The Peruvian Society for Environmental Law (SPDA) is a non-profit civil association that—since its founding in 1986—has worked continuously to promote environmental policies and legislation, as well as to design and implement tools that support sustainable development based on principles of governance, equity, and justice.

SPDA's Environmental Policy and Governance Program promotes and seeks to influence the development of public policies and legal tools that strengthen environmental institutions and management in Peru, with the aim of raising public awareness about the defense of environmental human rights and their importance to the country's sustainable economic development.

The Serious Pollution Problem in La Oroya and the Ruling of the Inter-American Court of Human Rights

Report



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General Information

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| Location | La Oroya, Junín, Perú |
| Productive activity | Smelting and refining of polymetallic concentrates |
| Mining Unit | La Oroya Metallurgical Complex (CMLO) |
| Owner | Metalúrgica Business Perú S.A. |
| Current status | In operation |
| Sector | Mining |

1. A Brief History of the La Oroya Metallurgical Complex (CMLO)

In 1922, the La Oroya Metallurgical Complex (CMLO) was established in the district of La Oroya, Junín, and operated by the U.S. company Cerro de Pasco Copper Corporation.

From the outset, the complex focused on the smelting and refining of polymetallic concentrates with high contents of lead, copper, and zinc, as well as other metals such as silver, gold, bismuth, selenium, tellurium, cadmium, antimony, indium, and arsenic.

In 1974, the metallurgical complex was nationalized and became the property of the state-owned company Empresa Minera del Centro del Perú S.A. (Centromin), which operated it until 1997, when it was acquired by the private company Doe Run Perú S.R.L., a subsidiary of the U.S. company The Renco Group, Inc. In 2009, due to the company's financial crisis, operations at the complex were suspended.

On January 15, 2022, the creditors' committee of Doe Run agreed to transfer ownership of the complex to its workers as a form of payment. The workers subsequently founded the company Metalúrgica Business Perú S.A. In October 2023, the Ministry of Energy and Mines (Minem) authorized the resumption of operations, which restarted that same month.



2. Environmental problem

Metal smelting and refining activities at the complex have produced heavy metal emissions for decades, contaminating the air, water, and soil in La Oroya, an issue that has been demonstrated through various studies. In 2006, La Oroya was ranked as one of the ten most polluted cities in the world¹.

The extremely high levels of heavy metal pollution have severely affected the health of La Oroya's residents for generations. People living in La Oroya have been exposed to high environmental contamination for decades, with many showing lead levels above the limits recommended by the World Health Organization (WHO), and in some cases, elevated levels of arsenic and cadmium. For instance, in 2005, the Ministry of Health (Minsa) found that 788 children had lead levels exceeding WHO limits².

Such levels of pollution can cause stress, anxiety, skin conditions, gastrointestinal issues, chronic headaches, and respiratory or cardiac problems, among others. The most affected have been the children living in the La Oroya river basin³.

1. Case of the Residents of La Oroya v. Peru. Judgment. Paragraph 76 (November 27, 2023), citing The Blacksmith Institute, New York, "The World's Worst Polluted Places - The Top 10", September 2006.

2. Case of the Residents of La Oroya v. Peru. Judgment. Paragraph 78 (November 27, 2023), citing the Ministry of Health, General Directorate of Environmental Health, "Blood Lead Census and Clinical-Epidemiological Evaluation in Selected Populations of La Oroya Antigua", 2005.

3. Case of the Residents of La Oroya v. Peru. Judgment. Paragraph 222 (November 27, 2023), the Inter-American Court of Human Rights examined the victims' statements and their medical records.



Photo: Diego Pérez / SPDA

3. In Search for Justice

In 2002, a group of citizens filed an action for enforcement against the Ministry of Health (MINSA) and the General Directorate of Environmental Health before the Twenty-Second Civil Court of Lima, requesting the development of an emergency public health strategy to mitigate and remedy the health conditions of the residents of La Oroya. This constitutional case was eventually brought before the Constitutional Court. In 2006, the Constitutional Court partially upheld the enforcement action and ordered protective measures. However, more than 14 years later, the State failed to take steps to implement the ruling, and the highest court did not take further action to ensure its enforcement.

Due to the lack of effective responses at the national level, a group of residents of La Oroya brought the case before the Inter-American Commission on Human Rights (IACHR), in order for the Commission to determine the responsibility of the State for the violation of the human rights of the alleged victims, in light of the possible harm caused by the mining and metallurgical activities carried out at the CMLO.

Fifteen years after the process began, the IACHR issued a decision on the merits of the case and submitted it to the Inter-American Court of Human Rights (IACHR), having determined the international responsibility of the Peruvian State for the human rights violations suffered by the residents of La Oroya.

The IACHR held a public hearing on the case in October 2022. In November 2023, it issued its judgment, and in March 2024, the international tribunal made it public.



4. The Decision of the Inter-American Court of Human Rights and the Responsibility of the Peruvian State

In March 2024, the IACHR ruled that the Peruvian State is responsible for, among other things, the violation of the right to a healthy environment and the right to health (Article 26); the rights to life, a dignified life, and personal integrity (Article 4); and the rights to access to information and political participation (Articles 13 and 23) of the American Convention on Human Rights.

Regarding the right to a healthy environment, the IACHR reviewed the evidence and concluded that the existence of high levels of environmental pollution in La Oroya—originating from metallurgical activities at the CMLO—had been proven. Despite knowing that this situation posed a significant risk to the environment and to human health, the Peruvian State failed to take the necessary actions.

First, the Court established that the State failed to fulfill its duty of oversight and monitoring, as supervisory actions only began in 2010 — decades after the State had already been aware of the high levels of pollution in La Oroya. Furthermore, the State granted extensions for the implementation of the Environmental Management and Adaptation Program (PAMA) in both 2006 and 2009. It is important to recall that the PAMA was a key instrument aimed at reducing sulfur dioxide emissions through the construction of a Sulfuric Acid Plant. Despite this, the State extended the PAMA in 2006 citing Doe Run's financial difficulties, and in 2009 it did so without providing any justification. This demonstrates the State's lack of action in preventing the worsening of pollution in La Oroya.

The State was aware of these high levels of pollution but failed to take the necessary measures to prevent them from continuing or to provide care for individuals who may have developed illnesses related to the contamination. Therefore, this demonstrates a violation of the right to a healthy environment.

Second, the international court ruled that the Peruvian State adopted regressive measures regarding environmental protection in relation to air quality. In 2001, the Regulation on National Environmental Quality Standards for Air (ECA Air) established that the applicable ECA Air for sulfur dioxide (SO₂) was 365 µg/m³ over a 24-hour period and 80µg/m³ over an annual period. In 2008, the regulation was modified, and

new ECA Air standards were approved, establishing a maximum daily value of 80 $\mu\text{g}/\text{m}^3$ starting in January 2009, and, beginning in January 2014, a daily value of 20 $\mu\text{g}/\text{m}^3$ over a 24-hour period. However, in 2017, the permissible limit for sulfur dioxide was increased to 250 $\mu\text{g}/\text{m}^3$ over a 24-hour period. The Peruvian State did not provide justification for this modification of sulfur dioxide air quality standards in 2017. This increase in the allowable limits without a valid justification is considered a regressive measure.

Third, according to the IACHR, the Peruvian State violated the right to access to information, to the detriment of the alleged victims. The State has a duty of active transparency, which includes providing the public with complete, understandable, and accessible information—especially when the State itself holds that information. In 2003, the Regulation on National Air Pollution Alert Levels was adopted with the objective of triggering a set of measures to protect public health and prevent excessive exposure of the population to pollution. After that, starting in 2007, the Ministry of Health activated an air pollution alert system for Particulate Matter (PM₁₀) and sulfur dioxide (SO₂). In 2012, screens were installed in La Oroya to inform the population about air quality conditions and the issuance of alert levels. Additionally, the State adopted some awareness-raising measures through informational brochures.

However, prior to 2003, there is no record of actions taken by the State to inform the population about environmental pollution or related health risks. And after 2003, the measures adopted by the State were insufficient to ensure effective access to information about air and water quality. For example, the alert levels were disseminated online, and the three screens installed in La Oroya operated only for a short period of time. Likewise, the informational brochures were aimed at promoting hygiene measures among the population. Therefore, the State did not adopt measures aimed at ensuring effective access to information related to the quality of air and water. As a result, the alleged victims lacked sufficient means to understand the risks to their health, personal integrity, and life due to exposure to pollutants produced by the CMLO.

5. Obligations of the Peruvian State

The IACHR ordered various measures aimed at ensuring that a situation similar to that of La Oroya does not happen again. Below, some of the measures ordered to the Peruvian State regarding environmental matters are listed, along with the deadlines granted for their compliance cumplimiento⁴, se menciona a la entidad que sería responsable, así como su posible aplicación.

Carry out a baseline assessment and an action plan to remediate the environmental damage in La Oroya

The State must carry out a baseline assessment to determine the contamination status of the air, soil, and water in La Oroya, which must include an action plan to remediate the environmental damage. Additionally, it must define the short-, medium-, and long-term actions required for the remediation of the contaminated areas and begin executing this plan.

- **Deadline:** Execution of the plan within no more than 18 months from the notification of the judgment.
- **Responsible entity:** Ministry of the Environment, in coordination with other entities.
- **The measure would be fulfilled** through a diagnosis of the sources and levels of contamination and the contamination hotspots in La Oroya, as well as the execution of the necessary decontamination actions for the air, soil, and water.

Align the air quality standards with international and scientific standards

The State must align regulations defining air quality standards so that the maximum permissible levels in the air for lead, sulfur dioxide, cadmium, arsenic, particulate matter, and mercury do not exceed the limits necessary to protect the environment and human health. To do this, it must consider the most recent criteria established by the WHO and the available scientific information. Furthermore, the State must act in accordance with its obligation to avoid any regression in the right to a healthy environment and health.

4. The full measures are detailed in Chapter X, "Operative Paragraphs," of the judgment (paragraph 391).

- **Deadline:** 2 years from the notification of the judgment.
- **Responsible entity:** Ministry of the Environment.
- **The measure would be fulfilled** through the issuance of a supreme decree approving the new Air Quality Standards for lead, sulfur dioxide, cadmium, arsenic, particulate matter, and mercury, which must consider the parameters recommended by the WHO.

Ensure compliance with the national and international regulatory framework

The State must adopt and implement measures to ensure that the operations of the complex comply with international environmental standards, preventing and mitigating damage to the environment and the health of La Oroya's inhabitants. In this regard, it must supervise and oversee compliance with the environmental and social commitments arising from the environmental management instruments applicable to the complex, as well as the international standards established in this judgment. Furthermore, the State must ensure that the granting of administrative permits for the operation and, where applicable, the closure of the complex is carried out in accordance with the applicable national regulations and international standards for the protection of a healthy environment.

- **Deadline:** No specific deadline was established, but within one year from the date of the judgment, the State must submit a report to the Court on the measures adopted to comply with it.
- **Responsible entities:** Environmental Evaluation and Oversight Agency (OEFA) (in charge of environmental supervision and oversight), the National Environmental Certification Service for Sustainable Investments, and the Ministry of Energy and Mines (regarding the granting of environmental management instruments).
- **The measure would be fulfilled** through effective oversight of the complex.

Ensure that mining activities are carried out within the framework of human rights

The State must ensure that mining operators conduct mining or metallurgical operations in accordance with the United Nations Guiding Principles on Business and Human Rights and the Framework Principles on Human Rights and the Environment. In this way, the State must require that mining operators bear responsibility for the consequences and compensation for environmental damage caused by their operations, in line with the guiding principle known as "the polluter pays." Similarly, the State must take necessary actions to ensure that the approval of environmental management instruments applicable to mining projects

explicitly includes the protection of human rights, including the right to a healthy environment, as an environmental commitment.

- **Deadline:** No specific deadline was established, but within one year from the date of the judgment, the State must submit a report to the Court on the measures adopted to comply with it.
- **Responsible entities:** OEFA (oversight) and the Ministry of Energy and Mines (environmental evaluation).
- **The measure would be implemented** through effective oversight of the complex and the inclusion of an explicit environmental obligation in the approval of management instruments regarding the protection of human rights.

Ensure the comprehensive recovery of La Oroya

The State must design and implement an environmental compensation plan applicable to the high-Andean ecosystem of La Oroya, so that the operations of the complex include an environmental commitment to the comprehensive recovery of the ecosystem. The State must ensure that the environmental compensation plan applicable to the complex incorporates, at a minimum: a) an analysis that allows for net zero loss of biodiversity, achieving at least a neutral net balance; b) an identification of ecological equivalence based on an analysis of ecosystem services; and c) the pursuit of “additionality” in environmental compensation. The State will be responsible for supervising and overseeing the execution of the environmental compensation plan until its full compliance, which entails the comprehensive recovery of the La Oroya ecosystem, regardless of the implementation of measures related to the progressive and final closure of the complex.

- **Deadline:** No specific deadline was established, but within one year from the date of the judgment, the State must submit a report to the Court on the measures adopted to comply with it.
- **Responsible entity:** Ministry of the Environment, in coordination with the relevant entities.
- **The measure would be fulfilled** through the comprehensive recovery and environmental compensation of the ecosystem.

Develop a training program on environmental issues

The State must design and implement a permanent training program on environmental matters for judicial and administrative officials working in the Judiciary and in entities with responsibilities in the large- and medium-scale mining sector in Peru, with emphasis on populations in the areas of direct and indirect influence of active extractive projects. The training should cover international standards and national legislation regarding the protection of the environment, health, access to information, and political participation, particularly concerning environmental due diligence obligations. Additionally, the State must create a system of indicators to measure the effectiveness of the training programs and verify their impact and effectiveness.

- **Deadline:** 1 year.
- **Responsible entities:** Ministry of the Environment and the Judiciary.
- **The measure would be fulfilled** through the effective training of judges and public administration officials.

Ensure access to environmental information

The State must design and implement an information system containing data on air and water quality in areas of Peru with significant mining and metallurgical activity. This system must provide the population with information about health risks arising from exposure to air and water pollution, the population's rights to enjoy a healthy environment and health, and the means to protect these rights, as well as the existing mechanisms to request information and ensure political participation in environmental matters. Additionally, the information system must include a method for people who wish to receive real-time notifications, through electronic means, when air and water quality data in any of the areas of Peru with the highest mining and metallurgical activity reflect pollution levels that pose a risk to health. The State must ensure this information is accessible and inform the population about its availability. This information must be continuously updated until full compliance with the judgment is achieved.

- **Deadline:** 1 year.
- **Responsible entity:** Ministry of the Environment, through the National Environmental Information System (SINIA).
- **The measure would be fulfilled** through the implementation of an information system on air and water quality in all areas of Peru with significant mining and metallurgical activity.

6. Recommendations

The Peruvian State has clear international obligations regarding the protection of human rights as a member of the Inter-American Human Rights System (SIDH) and in complying with the mandates of the IACHR within the framework of its rulings. It is important to remember that Peru has been a State Party to the American Convention on Human Rights (Pact of San José) since July 1978 and recognized the contentious jurisdiction of the IACHR on January 21, 1981. In this regard, the State is obligated to comply with the orders in the ruling and must submit a report to the IACHR on the measures adopted within one year.

Furthermore, as part of its functions, the IACHR will periodically monitor compliance with its rulings and will consider them concluded once the State fully complies with the judgment. The IACHR also informs the Organization of American States (OAS) of cases in which a State has failed to comply with its rulings. In such a scenario, victims may bring claims before the IACHR stating that the Peruvian State is not fulfilling the obligations established in the ruling.

Therefore, we emphasize that compliance with the IACHR rulings is mandatory for the Peruvian State, which must fully implement all measures within the ordered timeframe, without waiting until the deadline to fulfill its obligations. In this sense, as long as the ruling remains pending compliance, the Peruvian State must strengthen environmental oversight, maintain a solid regulatory framework regarding environmental assessment, avoid approving corrective management instruments or extending deadlines for compliance, and reinforce transparency and citizen participation. We thus call for action from all state entities responsible for complying with the La Oroya ruling and emphasize the central role of the Ministry of the Environment in this process.



Photo: Diego Pérez / SPDA



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