

PERUVIAN JUDICIARY SUPERIOR

COURT OF JUSTICE LIMA

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NOTIFICATION N° 69712-2025-JR-DC

EXPEDIENTE	04399-2024-0-1801-JR-DC-05	COURT	5THCONSTITUTIONAL COURT
JUDGE	RAMIREZ NINO DE GUZMAN, JORGE LUIS	LEGAL SPECIALIST	CARBAJAL CAYLLAHUA, JULIO CESAR
SUBJECT	ENFORCEMENT ACTION		

MATTER

PLAINTIFF	ASSOCIATION INSTITUTE FOR THE LEGAL DEFENSE OF THE ENVIRONMENT AND SUSTAINABLE DEVELOPMENT OF PERU - DEFENDANT	MINISTRY OF AGRARIAN DEVELOPMENT AND IRRIGATION ,
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TARGET	ASSOCIATION INSTITUTE FOR THE LEGAL DEFENSE OF THE ENVIRONMENT AND SUSTAINABLE DEVELOPMENT PERU - IDLADS PERU
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ADDRESS : **Electronic Address - N° 2447**

Attached is Resolution SEVEN dated 31/03/2025 at Fjs : 6

ATTACHING THE FOLLOWING:
JUDGMENT

MAY 12, 2025

MD6-007155-0



**SUPERIOR COURT OF JUSTICE OF LIMA
FIFTH COURT SPECIALIZED IN CONSTITUTIONAL MATTERS**



EXPEDIENTE 04399-2024-0-1801-JR-DC-05.
PLAINTIFF INSTITUTE FOR THE LEGAL DEFENSE OF THE ENVIRONMENT AND SUSTAINABLE DEVELOPMENT OF PERU - IDLAD
SUSTAINABLE DEVELOPMENT OF PERU - IDLAD
DEVELOPMENT OF SUSTAINABLE DEVELOPMENT PERU
- IDLADS PERU DEFENDANT MINISTRY OF AGRARIAN DEVELOPMENT AND IRRIGATION AND
PROCURATOR
NATIONAL FORESTRY AND WILDLIFE SERVICE (SERFOR)
AND PROSECUTOR.
SUBJECT COMPLIANCE ACTION.
JUDGE JORGE LUIS RAMIREZ NIÑO DE GUZMAN.
SPECIALIST JULIO CESAR CARBAJAL CAYLLAHUA.

JUDGMENT

RESOLUTION NUMBER SEVEN

Lima, March thirty-first, two thousand twenty-five. -

I. EXPOSITORY PART

Having regard to.

The compliance process formulated by the **Instituto de Defensa Legal del Ambiente y el Desarrollo Sostenible del Perú - ISLADS Perú** against the **Ministry of Agrarian Development and Irrigation**, the public prosecutor of the **Ministry of Agrarian Development and Irrigation**, the **National Forestry and Wildlife Service - SERFOR** and the public prosecutor of **SERFOR**.

Petition:

The plaintiff formulates his demand for compliance requesting the following:

1. That the defendant be ordered to comply with the provisions of numeral 9 of Article 3 of the Supreme Decree declaring the climatic emergency of national interest, Supreme Decree N° 003-2022-MINAM, published on January 25, 2022.

Factual basis:

The plaintiff states, in synthesis, the following:

1. It refers that the Ministry of Agrarian Development and Irrigation does not comply with the provisions of paragraphs 9.1, 9.2 and 9.3 of Article 3 of the Supreme Decree that declares of national interest the climatic emergency, Supreme Decree N° 003-2022-MINAM. The plaintiff entity by letter from IDLADS dated April 17, 2024, requests compliance with numeral 9 of Article 3 of the Supreme Decree, taking into account that the deadline to do so has expired.
2. It argues that the respondent entity responds to the request and issues Letter No. D000048-2024-MIDAGRI-SERFOR-DGPCFFS dated April 29, 2024, where it states that it has not complied with the Approval of the Regulations of the National System of Forestry and Wildlife Control and Surveillance - SNCVFFS, nor has it established actions for the development of the study on the Estimation of the Index and percentage of illegal logging and illegal timber trade in Peru, given that the latest studies are from 2019 and the

mandate was given in 2022, therefore it is understood that the studies should be carried out after that date and not before.

Ministry of Agrarian Development and

Irrigation Response to the lawsuit

3. The text of the lawsuit would claim that we would be facing an alleged material inaction, since it is questioned that the authority of the entity has been reluctant to comply with the provisions of Article 3, paragraph 9) of the Supreme Decree declaring the climate emergency of national interest.
4. In the present case, this is a self-application rule; proof of this is that the Regulation of the Forestry and Wildlife Control and Surveillance System establishes Final Complementary Provisions that would demonstrate its hetero-application nature.
5. The plaintiff questions that it has not complied with the Approval of the Regulations of the National System of Forestry and Wildlife Control and Surveillance, however, through Official Communication No. D000407-2024-MIDAGRI-SERFOR-DE dated June 17, 2024, SERFOR forwarded to MIDAGRI Memorandum No. D000407-2024-MIDAGRI-SERFOR- DGPCFFS issued by the Policy and Regulation Directorate of the General Directorate of Forestry and Wildlife Policy and Competitiveness, It is evident that the defendant supports and recommends the publication of the draft "Supreme Decree that approves provisions for the determination and joint intervention for forest and wildlife control and surveillance".
6. In turn, Legal Reports N°s D000189-2024-MIDAGRI-SERFOR-GG-OGAJ dated May 15, 2024 and D000278-2024-MIDAGRI-SERFOR-DGPCFFS-DPR dated July 15 of the same year, both state that the "Supreme Decree that approves provisions for the determination and joint intervention for the control and surveillance of forests and wildlife".
July of the same year, both state that the purpose of the draft "Supreme Decree that approves provisions for the determination and joint intervention for forest and wildlife control and surveillance" is to regulate the mechanisms for the resolution and joint intervention for forest and wildlife control and surveillance, in cases of great magnitude that exceed the response capacity of the Regional Governments; which is in accordance with the provisions of Article 147 of Law No. 29763, Forestry and Wildlife Law and Law No. 29158, Organic Law of the Executive Branch.
7. Technical Report No. D000290-2024-MIDAGRI-SERFOR-DGPCFFS-DPR dated July 25, 2024 further states that subsection 3.9.8 of numeral 3.9 of Article 3 of Supreme Decree No. 003-2022-MINAM2, establishes that, in a coordinated manner, the Ministry of Agrarian Development and Irrigation and SERFOR, prioritize measures to strengthen forest governance and deforestation control with the aim of reducing deforestation by up to 30% by 2030, promoting sustainable agriculture.
8. The objective of reducing deforestation by up to 30% must be carried out in conjunction with local governments that will exercise their control functions within the scope of their competence and actions to carry this out must be carried out in coordination with regional governments and other members of the National System of Forest and Wildlife Management.
9. Under the regulations of the Forestry and Wildlife Law (LFFS), forest and wildlife control and monitoring functions are shared among different institutions. Likewise, there is no further normative development in the regulations that regulates or establishes general rules for the joint intervention of the competent entities involved in forest and wildlife control and surveillance in cases of major impact to the forest and wildlife heritage, in such a way that it is the subject of an enforcement process.

10. Therefore, although the mandate to "promote the approval of the SNCVFF Regulation" seems to be true and clear, it entails complications that do not detract from the clarity of the manner in which this regulation must be carried out; not corresponding to the filing of a compliance process.

II. CONSIDERATIVE PART

On the compliance process.

11. From paragraph 6 of Article 200 of the Political Constitution of the State, it is clear that the action of compliance proceeds against any authority or official who refuses to comply with a legal rule or an administrative act, without prejudice to the responsibilities of law.
12. Likewise, this is related to the provisions of Article 65 of the New Constitutional Procedural Code, which states that:

"It is the object of the compliance process to order the reluctant public official or authority: 1) to comply with a legal norm or execute a firm administrative act; or 2) to expressly pronounce itself when the legal norms order it to issue an administrative resolution or dictate a regulation.

The administrative act that contains the recognition or payment of accruals or obligations that must be determined in a specialized jurisdictional body or evidentiary station other than the specialized constitutional courts is not subject to the compliance process."

From the petition.

13. The object of the lawsuit is the compliance with the provisions of numeral 9 of article 3 of the Supreme Decree that declares of national interest the climatic emergency, Supreme Decree N° 003-2022-MINAM, published on January 25, 2022.

The controversy of the case:

14. According to the grounds of the lawsuit and attached evidentiary means, the plaintiff requested both the Ministry of Agrarian Development and Irrigation on April 18, 2024 to comply with Article 3 of the Supreme Decree that declares of national interest the climatic emergency, Supreme Decree No. 003-2022-MINAM, without obtaining a response from the obligated authority of having complied with said mandate. It adds that the present lawsuit meets the requirements of Article 66 of the New Constitutional Procedural Code.
15. In this regard, the defendant has specified that this is a self-applicable norm; proof of this is that the Regulation of the Forestry and Wildlife Control and Surveillance System establishes Final Complementary Provisions that would demonstrate its hetero-applicable nature.
16. In this sense, the controversy is limited to determining whether the rules that are the object of this lawsuit comply with the requirements established in the New Constitutional Procedural Code, as well as in the Villanueva Valverde precedent. It should be noted that the aforementioned Villanueva Valverde precedent is prior to the New Code of Constitutional Procedure, which establishes methods of interpretation and mechanisms with which the effectiveness of the rule subject to compliance must be determined, and therefore the precedent is not applicable. However, in the present case, even with the application of said precedent, it is verifiable that the enforceable mandate exists.

Special requirement of the compliance process.

17. In this regard, the New Constitutional Procedural Code, in its article 69°, states that in order to proceed with the compliance process, it is required that the plaintiff has previously claimed, by a document of a certain date, the compliance of the legal or administrative duty, and that the authority has ratified its non-compliance or has not answered within the ten working days following the presentation of the request. Apart from such requirement, it will not be necessary to exhaust any administrative remedy that may exist.
18. In this regard, the plaintiff has submitted as annexes, document filing charges of certain date to the defendant institution, dated April 18, 2024, requesting compliance with Article 3 of the Supreme Decree that declares of national interest the climate emergency, Supreme Decree No. 003-2022-MINAM. The defendant has not questioned this document in its written complaint, therefore, this court considers that the special requirement specified in the New Constitutional Procedural Code for compliance proceedings has been fulfilled, therefore, it is appropriate to elucidate the matter in dispute.

The rules applicable to compliance proceedings.

19. The New Constitutional Procedural Code, in its Article 66°, regarding the rules applicable to resolve the claim, with a more tutelary criterion establishes the following:

"Article 70. Grounds of inadmissibility The compliance proceeding does not proceed:

 - 1) When the mandate is generic or unclear, the judge, prior interpretation of the legal norm or of the firm administrative act, enters to resolve the merits of the matter, having to observe the following rules:*
 - 1.1) For the interpretation of the legal norm, the judge uses the classic methods of legal interpretation; its result must respect what is established by the laws of the matter and the Constitution itself.*
 - 1.2) The interpretation of the final administrative act must respect the general principles of Administrative Law; the jurisprudence of the corresponding administrative bodies, as well as that of the Constitutional Court.*
 - 2) When the mandate is subject to complex controversy or disparate interpretations, the judge, after clarification of the controversy, enters to resolve the merits of the case. To do so, the following rules must be observed:**
 - 2.1) The judge applies a minimum interpretative activity to overcome the controversy, attending to the classic methods of legal interpretation, and applying the criteria of specialty, chronological and hierarchical.**
 - 2.2) Likewise, and if necessary, the judge applies a minimum evidentiary activity that, without compromising the urgent and peremptory purpose of the compliance process, allows confirming the veracity of the mandate.**
 - 3) When, in order to determine the obligatory nature or unquestionability of the mandate contained in a legal rule or firm administrative act, it is necessary to enter into the merits of the case, the judge admits the claim and clarifies the controversy.*
 - 4) When the mandate, although imperative, is contrary to the law or the Constitution, the judge must so declare, and, consequently, dismiss the lawsuit".*
20. With regard to the mandate being generic or unclear, from a literal interpretation it follows that the mandate that the plaintiff seeks to enforce the following normative device:

"3.9 In a coordinated manner, the Ministry of Agrarian Development and Irrigation and the National Forestry and Wildlife Service (SERFOR), as appropriate, prioritize measures to strengthen forest governance and deforestation control with the aim of reducing deforestation by up to 30% by 2030, promoting sustainable agriculture that considers the adequate suitability of the soil by carrying out the following actions:

3.9.1. Promote the titling of native communities, as well as, in coordination with the Presidency of the Council of Ministers, through the Secretariat of Government and Digital Transformation, promote the use of georeferencing, interoperability, open data, certificates and digital signatures, creation of digital services and strengthening of regional governments in the matter, according to the current legal framework in government, trust and digital transformation.

3.9.2. Promote the inclusion of criteria related to adaptation and mitigation in the Action Plan for the development of the Second Agrarian Reform.

3.9.3. Promote the approval of the new Regulation for the Classification of Land by its Capacity for Major Use (CTCUM) to comply with Law No. 29763, Forestry and Wildlife Law.

3.9.4 Approve the Regulations of the National Forestry and Wildlife Control and Surveillance System (SNCVFFS).

3.9.5 Promote the approval of the criteria for the establishment of mandatory strategic control posts at the national level.

3.9.6. Approve the guidelines for the creation, recognition and operation of the Forestry and Wildlife Management Committees (CGFFS).

3.9.7. Promote the articulation from the national level with the regional levels, through the SNCVFFS, including satellite monitoring of impacts to the forest heritage.

3.9.8. Establish actions for the development of the study of the Estimation of the Index and percentage of illegal logging and illegal timber trade in Peru, in coordination with the Oversight Agency of Forest and Wildlife Resources, National Forest and Wildlife Service, and regional governments; aligned with the National Multisectoral Strategy to Combat Illegal Logging 2021 - 2025, approved by Supreme Decree No. 013-2021- MIDAGRI".

In this sense, from the legal provisions previously delimited, a set of actions that aim to prioritize measures to strengthen forest governance and control deforestation with the purpose of reducing deforestation up to 30% by 2030 are clear and do not require further interpretation.

21. Regarding the possibility of the mandate being subject to a complex controversy or, to disparate interpretations, the mandate, by contemplating a list of actions to be carried out in coordination by the Ministry of Agrarian Development and Irrigation and the National Forestry and Wildlife Service in order to reduce deforestation up to 30% by 2030, it is not possible that these could be subject to a complex controversy. Thus, it should be noted that the Ministry of Agrarian Development and Irrigation is not unaware of the duty to coordinate with SERFOR measures to strengthen forest governance and control deforestation, so it is not in question that this is a complex controversy.
22. In turn, as to the binding or unquestionable nature of the mandate, the mandate, by

In turn, as to the enforceability or unquestionability of the mandate, the mandate, by entrusting the Ministry of Agrarian Development and Irrigation with the duty of coordinating with SERFOR the implementation of actions to reduce deforestation, it is not possible that these could be subject to a complex controversy. Moreover, the defendant does not deny such particularity of the mandate, since it only limits itself to point out that the law would be hetero-applicable, without undermining the imperative nature of the mandate.

23. Regarding the complexity of the controversy, in the present case it is not observed that it has such characteristic, nor that there are disparate interpretations since, from what has been analyzed so far in the present judgment, it is clear that the mandate contained in the legal provisions subject to compliance derives from the obligation conferred to the Ministry of Agrarian Development and Irrigation in conjunction with SERFOR to carry out actions to reduce deforestation, with all the characteristics and conditions that this means.
24. Finally, as to whether the mandate is contrary to the law or the Constitution, there is no such characteristic. On the contrary, the mandates to be complied with are framed within the fundamental right to enjoy a balanced environment, a fundamental right recognized in our fundamental text.
25. Thus, as a conclusion, it is not evidenced that the defendant entity had not complied with the compliance of numeral 9 of article 3 of the Supreme Decree that declares of national interest the climate emergency, Supreme Decree N° 003-2022- MINAM, published on January 25, 2022. Therefore, the reluctance of the defendants to comply with the provisions of paragraph 9 of article 3 of the Supreme Decree that declares of national interest the climatic emergency, Supreme Decree N° 003-2022-MINAM, published on January 25, 2022, is manifest, therefore, it is appropriate to declare the claim founded and order the defendant entity to comply with the provisions of numeral 9 of Article 3 of the Supreme Decree that declares of national interest the climate emergency, Supreme Decree N° 003-2022-MINAM, published on January 25, 2022, and consequently to prioritize measures to strengthen forest governance and control deforestation, carrying out the actions contained in numeral 3.9.1 to 3.9.8 of the same article.

III. OPERATIVE PART

For such considerations, the Judge of the Fifth Constitutional Court resolves:

1. To declare the compliance lawsuit filed by the **Instituto de Defensa Legal del Ambiente y el Desarrollo Sostenible del Perú - ISLADS Perú** against the **Ministry of Agrarian Development and Irrigation and the National Forestry and Wildlife Service - SERFOR** as **FOUNDED**.
2. **Defendants Ministry of Agrarian Development and Irrigation and National Forestry and Wildlife Service - SERFOR are ordered to** comply with the provisions of numeral 9 of article 3 of the Supreme Decree that declares of national interest the climate emergency, Supreme Decree N° 003-2022-MINAM, published on January 25, 2022, within 10 days and consequently prioritize measures to strengthen forest governance and control deforestation, carrying out the actions contained in numeral 3.9.1 to 3.9.8 of the same article, in accordance with the provisions of article 72° of the New Constitutional Procedural Code.
3. **To be notified.** -