



# Prior Consultation

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## What is prior consultation?

Prior consultation is a fundamental right that ethnic groups have to be able to decide on measures (legislative and administrative measures) or projects, works and activities to be carried out in their territories. This right seeks to protect the cultural, social and economic integrity of ethnic groups and provide them with the right to participate in the decision-making process.

This participation mechanism is a collective constitutional right, as well as a special public and mandatory process that has to be carried out prior any public or private adoption, decision, project or measure is implemented, especially if any of the aforementioned items directly affects the life style of the national ethnic groups in terms of their territorial, environmental, cultural, spiritual, social, economic and wellbeing aspects, among other that impact their integrity.

## When must a prior consultation take place?

A Prior Consultation process must be carried out every time administrative or legislative measures and public or private ventures are going to be decided, adopted or implemented, especially if those may directly affect the life styles and systems or the ethnic, cultural, spiritual, social and economic integrity of indigenous peoples.

### STAGES OF THE PRIOR CONSULTATION PROCESS

1. Prior consultation
2. Commencement of the Prior Consultation
3. Workshops to identify impacts and define handling measures
4. Pre-agreement meeting
5. Protocol meeting
6. Monitoring and accompaniment
7. End of process

## How to know if there is presence of ethnic groups in a specific geographical area?

If you are the legal representative of an organization or company that is interested in carrying out projects in areas with presence of ethnic groups, you need to obtain a certificate confirming the presence of ethnic groups in the targeted area that may be affected by the execution and implementation of the project. This certificate is requested to the Office of Prior Consultation of the Ministry of the Interior.

## What requirements are necessary to request a certificate confirming the presence of ethnic groups in zones where projects will be executed?

The following are the necessary requirements to obtain the certificate:

- To be a natural or a legal person willing to execute Projects, Works or Activities in Colombian land and/or maritime territories.



- To submit a duly filled out "CERTIFICATE OF PRESENCE OR ABSENCE OF ETHNIC GROUPS IN THE AREA OF INFLUENCE OF A PROJECT, WORK OR ACTIVITY REQUEST FORM".
- The "CERTIFICATE OF PRESENCE OR ABSENCE OF ETHNIC GROUPS IN THE AREA OF INFLUENCE OF A PROJECT, WORK OR ACTIVITY REQUEST FORM" must contain at least the following:
  - ◇ A description of the Project, Work or Activity.
  - ◇ The details of the area of interest that clearly specify the State(s) and municipality (ies) it is located, along with a map that shows the exact location and geographical coordinates or plan showing the location indicated in the request form (X=East, and Y=NORTH) using the Magnas-Sirga system (please state the origin) (Add the digital dwg or shape of the area of the project).
  - ◇ A CD containing the coordinate's box in MS EXCEL.

### Were to submit the request?

The request must be addressed to the Office of Prior Consultation of the Ministry of the Interior, and must be submitted at the Correspondence Office of the Ministry of the Interior.

### Who is in charge of conducting the Prior Consultation process?

The responsibility of conducting Prior Consultation processes is a joint activity carried out between the representatives of the projects and the Ministry of the Interior. The Ministry is responsible for the way the process is carried out at every specific stage, and the representatives of each one of the projects are in charge of actively participating in the Prior Consultation process in addition to providing the necessary resources for each one of the individual processes.

#### **Legal References**

*ILO Convention 169*

*Political Constitution of Colombia Art 2,7,10 AT55*

*Act 21 of 1991*

*Act 70 of 1993*

*Act 99 of 1993 Section 76*

*Act 387 of 1997*

*Decree 1320 1998*

*Judgment C-891 of 2002 "Mining Code".*

*Decree 1220 2005*

*Presidential Directive 01, 2010*

*Decree 2893 of 2011*

