

The Peruvian Government has failed to comply with its obligation to protect the right of the Awajún and Wampís peoples to a healthy and stable environment by refusing to preserve and protect both the biodiversity and the environment present in their territories

Given the failure to recognize the ownership of indigenous land, local indigenous organizations, aware of the threat posed by extractive activities to such area, decided to request the State to classify the portion of land adjacent to the border, shared with the neighbouring country of Ecuador, as a Protected Natural Area with the intention of protecting, by means of environmental laws, the ecosystems and biodiversity thereof, which could not be protected under the current land legislation in force or Convention 169 of the International Labour Organization (ILO)¹.

Various legal factors seemed to favour this land protection strategy. In 1996, the area was identified as a *“priority zone for the conservation of national biodiversity”* in the document entitled, *“Biodiversity of Peru - Priority Zones for its Conservation (1996)”* assigned by the State to the private institution, *“Conservation International”*. In 1998, the peace agreement between Peru and Ecuador contemplated the establishment of ecological protection zones adjacent to each side of the border. In application thereof, Ecuador created the *“El Cóndor Bi-National Park”* in the Coangos River Basin, by means of Executive Order (Decreto Ejecutivo) 936, dated June 1999; such country also established the *“Cordillera del Cóndor Protected Forest”*, the *“El Zarza Wildlife Refuge”* and the *“El Quimi Biological Reserve”*. In 1999, the Peruvian Government identified the zone as a *“representative area of the montane forest eco-region of the Cordillera Real Oriental (Eastern Mountain Range) of the Andes”* and included it in the *“National Strategy for Protected Natural Areas - Master Plan (1999)”* approved by means of Supreme Executive Order 010-99-AG for its priority protection. In this context, Peru created the *“Santiago-Comaina Reserved Zone”* (hereinafter referred to as *“ZRSC”*) by means of Supreme Executive Order 005-99-AG, featuring an area of 863,277 hectares, which was subsequently enlarged to 1,642,567 hectares (Supreme Executive Order 029-2000-AG).

The establishment of the ZRSC led the National Institute of Natural Resources (INRENA), currently known as the National Service of Protected Natural Areas (SERNANP), a State entity under the Ministry of the Environment, to execute the *PD 3/00 Rev.2(F) Project: “Bi-National Peace and Conservation in the Cordillera del Cóndor, Ecuador - Peru (Peruvian component)”* in the framework of which an extensive participatory process began, developed through consultation workshops offered to private conservation organizations, local and national authorities, Non-Governmental Organizations (NGOs) and neighbouring

¹ This indigenous decision immediately followed a proposal made in 1995 by the Ecuadorian and Peruvian national indigenous organizations known as the Confederation of Indigenous Nationalities of the Ecuadorian Amazon (CONFENIAE) and the Inter-Ethnic Association for the Development of the Peruvian Rainforest (AIDSESEP) respectively, to create a demilitarized area and a *“bi-national indigenous park”* in this geographical zone, under the supervision of the indigenous population. This peace proposal was made when the armed conflict between Peru and Ecuador was still active.

indigenous communities, with the objective of preparing a technical dossier to scientifically justify the creation of the future “Ichigkat Muja - Cordillera del Cóndor National Park” within the ZRSC and thus its corresponding intangibility.

In order to avoid leaving no area unprotected, the Organization for the Development of the Border Communities of El Cenepa (ODECOFROC) and the Indigenous Organization for the Development of Alto Comaina Communities (ODECOAC) agreed, during this process, that they would only accept a National Park, which boundaries corresponded to the boundaries of: (1) communities already awarded land titles; (2) areas requested to be included in the expansion and; (3) new communities to be awarded land titles. Furthermore, they determined that free areas and those assigned would be incorporated into the area of the National Park *“respecting the ancestral rights of the communities”* and urging the State once again to award land titles to the expanded area of the native communities² **(see Exhibit 7)**.

As a result of this extensive participatory process, which lasted approximately thirty months and was headed by INRENA, such entity proposed to partially classify the ZRSC in 2004 as the “Ichigkat Muja - Cordillera del Cóndor National Park” with a total area of 152,873.76 hectares, which, according to INRENA, would allow *“the Peruvian Government to comply with the constitutional mandate to guarantee the fundamental rights of the person, such as the right to free development and well-being, in addition to the right to enjoy a healthy environment suitable for the development of the person (...) as well as to fulfil its obligation to promote the conservation of biodiversity and protected natural areas”*³. This first proposal included the indigenous decision made with regard to Park boundaries, based on its natural compatibility with the ecological objectives of such protected natural area **(see Exhibit 8)**.

However, as explained in the following section, this measure to protect indigenous territory was ultimately ignored without consulting the Awajún and Wampís peoples, which was the product of a process carried out in parallel with the discussions regarding the National Park: the pressure exerted by the private mining sector and the government on INRENA.

² “Minutes of the meeting, in which the Cordillera del Cóndor National Park proposal was presented, Huampami, March 29 and 30, 2004, signed by numerous Awajún and Wampís representatives and inhabitants.

³ Official Letter 1350-2004-INRENA-J-IANP dated November 18, 2004, forwarded by INRENA to the Ministry of Agriculture.