

ENVIRONMENT AND HUMAN RIGHTS, IACTHR, ADVISORY OPINION

- **Environment and Human Rights, IACTHR, Advisory Opinion OC-23/17 of 15 November 2017**
- **Legalities involved:** international human rights law and international environmental law.
- **Tools to deal with inter-legality:** VCLT art. 31(1) and art. 31(3)(c).

SUMMARY

Colombia requested an advisory opinion from the IACTHR in 2016 concerning state's obligations in relation to the environment in the context of the protection of the right to life and the right to personal integrity.

In the case, the IACTHR addressed Colombia's questions on whether an individual located abroad who suffered the adverse environmental consequences of a state's intra-territorial actions is within the jurisdiction of the Court; what rights citizens have in relation to environmental harm; and what environmental obligations states have under treaties and customary international law.

The Court recognized that states bear extraterritorial human rights obligations regarding transboundary environmental harm when the activities under their territory or jurisdiction cause an infringement of the right to life and physical integrity of persons located abroad.

It then affirmed that the right to a healthy environment is instrumental to the enjoyment of other fundamental rights and defined it as an autonomous human right. To define the scope of this right, the Court "integrated" IEL standards into human rights law. It argued that the relevant states' obligations include the obligation to take measures to prevent significant environmental harm within and outside their territories; obligations to regulate, supervise, and monitor activities that could cause environmental harm; obligations to conduct environmental impact assessment when there is a risk of harm and to establish contingency plans to mitigate the harm.

The Court also noted that states are required to act in line with the precautionary principle to protect the right to life and the right to personal integrity in the event of potential serious and irreversible damage to the environment, even in the absence of scientific certainty.

Finally, the Court discussed the procedural obligations of states related to the right to a healthy environment, which include guaranteeing an access to information in relation to possible environmental harm, securing the right to public participation in environmental decision-making processes, and ensuring the right to access to justice to enforce the above-mentioned state obligations regarding the environment.