

The Latin American Water Tribunal (*Tribunal Latinoamericano del Agua*, TLA) invited EPM on October 4, 2018 to participate in a hearing on the Ituango Hydroelectric Project.

By virtue of the principles of sovereignty and subsidiarity that govern international organizations and the powers of the State as representative before international binding entities, on October 10, 2018 the Ministry of Foreign Affairs was consulted on the binding nature of the Latin American Water Tribunal to attend the meeting.

On October 22, 2018, the Vice-Ministry of Multilateral Affairs of the Ministry of Foreign Affairs informed regarding the Latin American Water Tribunal that:

“1. The TLA does not have the legal nature of an international organization since it does not meet the characteristics required under international law to consider it as such, namely (i) to be created by virtue of a legally binding instrument of international law, (ii) to have an organizational structure enabling it to fulfill its purpose, (iii) to be composed essentially of States and, finally (iv) to be holders of international legal capacity.

2. It should be noted that the creation of the TLA is the result of a coalition of non-governmental organizations based in different Central American States, with the collaboration of an informal interdisciplinary legal and scientific team.

3. It is also noted that the “Latin American Declaration on Water”, which constituted the basis for the creation of the TLA in question, does not have the legal nature of a treaty by virtue of which the States have assumed legally binding commitments, or by means of which the jurisdiction of a supranational entity has been consented with the competence to hear environmental controversies.

(...)



Relevant Information



In conclusion, both the TLA and its pronouncements, pointed out or exhorted by the authorities of the States involved, lack formal authority and, therefore, a binding status.”.

Consequently, EPM informed the TLA on October 22 that it would not attend the meeting.

Notwithstanding the foregoing, and taking into account only the information presented by the conveners of the hearing, the Court issued its considerations on the matter, which, as corroborated by the Ministry of Foreign Affairs, are not binding on EPM or the Colombian State.

October 31, 2018

