

**COMPARATIVE TABLE OF ADMISSIBILITY CRITERIA IN THE SAN
RAFAEL, OXEC AND EXMINGUA CASES**

(Quotes)	Active legitimation of the applicant.	P.
<p align="center">San Rafael. (4785-2017)</p> <p>Follows criteria of files: 1600-2015, 795-2016, 1380-2016. Citation file: 4069-2015</p>	<p align="center">Petitioner: CALAS Civil Association.</p> <p>In summary, the tendency of this Court has been to recognize, to said civil association, the capacity to promote ordinary and constitutional actions in defense of the right to a healthy environment, even when this complaint has been associated with the omission of consultation with the indigenous peoples, since that right - to a healthy environment - is included among the fundamental rights whose preservation is to be ensured through the aforementioned consultation (omissis ...)</p> <p>Its statutes establish, as aims and objectives, among others, to develop actions and activities of citizen incidence related to the control applicable to public entities that have powers in the matter of natural resources (renewable and non-renewable).</p>	<p align="center">255.</p>
<p align="center">Oxec I and II. (90, 91, 92-2017)</p> <p>Comments on the ruling of the Constitutional Court of Colombia (T-724/2011) dated 09/26/2011.</p>	<p align="center">Petitioner: Bernardo CaalXól.</p> <p>This Court considers that the recognition of legitimacy to the plaintiff to file a complaint –through the amparo– of violation of the aforementioned right is justified, by virtue of the fact that it proved to be from that municipality, with a copy of the Personal Identification Document –DPI– issued by the National Registry of Persons (omissis ...)</p> <p>The plaintiff's sense of belonging to that community is a component that becomes relevant in the constitutional establishment and has a guarantee connotation based on the human right to a healthy environment.</p>	<p align="center">38.</p>
<p align="center">Exmingua. (3207 and 3344-2016)</p> <p>Follows criteria of files: 1600-2015, 795-2016, 1380-2016 and 4785-2017. Citation file: 4069-2015</p>	<p>In summary, the tendency of this Court has been to recognize said civil association, the capacity to promote ordinary and constitutional actions in defense of the right to a healthy environment, even when this complaint has been associated with the failure to consult indigenous peoples. , because that right - to a healthy environment - is included among the fundamental rights whose preservation is to be ensured through the aforementioned consultation (omissis ...)</p> <p>Its statutes establish, as aims and objectives, among others, to develop actions and activities of citizen incidence related to the control applicable to public entities that have powers in the matter of natural resources (renewable and non-renewable).</p>	<p align="center">31.</p>
	<p align="center">Temporality of the Action.</p>	
<p align="center">San Rafael. (4785-2017)</p> <p>Follows criteria of files: 90-2017, 91-2017 and 92-2017, 1798-2015, 2567-2015, 3120-2016 and 5711-2013.</p>	<p>This Court has jurisprudentially established that this period cannot be applied to those cases in which what is denounced is omissive conduct. (omissis...).</p> <p>The omissions or abstention procedures cause continued injury that, due to being maintained over time, can be reported without being subject to the term referred to in the precept.</p>	<p align="center">256-257.</p>

<p>Oxec I and II. (90, 91, 92-2017)</p>	<p>Consequently, the conduct of that Minister subject to prosecution in the constitutional establishment is negative in nature; this implies, constitutive of an omissive conduct on the part of the refuted authority.</p> <p>In effect, the violation of the stated right to consultation is considered permanent, which in turn denotes that the conduct itself reproached - negative act, abstention or omission - makes it possible to know the reasons for the denounced offense as it is of a continuous nature , as long as the obliged authority overrides the legal mandate to consult the affected community</p>	<p>39</p>
<p>Progreso VII Derivada. (3207 and 3344-2016)</p> <p>Follows criteria of files: 90-2017, 91-2017 and 92-2017, 1798-2015, 4785-2017,</p>	<p>Through jurisprudential means, this Court has established that this period cannot be applied to those cases in which what is denounced is omissive conduct. (omissis...).</p> <p>The omissions or abstention procedures cause continued injury that, due to being maintained over time, can be reported without being subject to the term referred to in the precept.</p>	<p>32</p>
	<p>Definitiveness of the claimed conduct.</p>	
<p>San Rafael. (4785-2017)</p> <p>Follows criteria of files: 90-2017, 91-2017 and 92-2017, 3573-2014, 5710-2013.</p>	<p>It could not be argued that, prior to appealing to denounce discrimination due to failure to consult indigenous peoples, those affected should resort to ordinary administrative or judicial channels, because the right to consultation with indigenous peoples and the right to an environment healthy, are guarantees that this Court has directly protected by way of amparo.</p>	<p>259.</p>
<p>Oxec I and II. (90, 91, 92-2017)</p>	<p>It cannot be required that, before appealing for protection, it should file the respective resources or actions to discuss the legality of the actions of that Ministry. In addition, when the omission of the aforementioned authority was denounced in terms of holding the prior consultation referred to in Convention 169 of the International Labor Organization on Indigenous and Tribal Peoples in Independent Countries, there are no ordinary resources or instances through which that situation can be adequately ventilated.</p>	<p>40</p>
<p>Progreso VII Derivada (3207 and 3344-2016)</p> <p>Follows criteria of files: 90-2017, 91-2017 and 92-2017, 3573-2014, 5710-2013 and 4785-2017.</p>	<p>Even though the applicant cannot be part of the administrative procedure followed for the granting of the mining exploitation license in question (omissis) ...</p> <p>It could not be argued that, prior to appealing to denounce discrimination due to failure to consult indigenous peoples, those affected should resort to ordinary administrative or judicial channels, because the right to consultation with indigenous peoples and the right to an environment healthy, are guarantees that this Court has directly protected by way of amparo.</p>	<p>35.</p>