

14 April 2023

ENGLISH
ORIGINAL: SPANISH

**PROPOSAL FOR PUBLIC CONSULTATION PUT FORWARD
BY CHILE, ECUADOR AND SAINT KITTS AND NEVIS**

**DRAFT ANNOTATED INDEX OF THE ACTION PLAN ON HUMAN RIGHTS DEFENDERS
ON ENVIRONMENTAL MATTERS IN LATIN AMERICA AND THE CARIBBEAN**

The coordinating countries of the open-ended ad hoc working group on human rights defenders in environmental matters in Latin America and the Caribbean have the honour to make available for public consultation a proposed annotated index with the preliminary contents and work streams to be considered for the elaboration of the Action Plan. This document has not undergone editorial review.

1. INTRODUCTION

The Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (“Escazú Agreement”) is the first regional environmental treaty in Latin America and the Caribbean and the first in the world to include specific provisions for the protection of human rights defenders in environmental matters.

Article 9 of the Escazú Agreement establishes that each Party shall guarantee a safe and enabling environment for persons, groups and organizations that promote and defend human rights in environmental matters, so that they are able to act free from threat, restriction and insecurity. In addition, each Party shall take adequate and effective measures to recognize, protect and promote all the rights of human rights defenders in environmental matters, as well as take appropriate, effective and timely measures to prevent, investigate and punish attacks, threats or intimidations that they may suffer while exercising the rights set out in the Agreement.¹

In order to support the implementation of Article 9 of the Agreement, the First Meeting of the Conference of the Parties to the Escazú Agreement (COP1), held in Santiago from 20-22 April 2022, in its Decision I/6² agreed to establish an open-ended ad hoc working group on human rights defenders in environmental matters (Working Group or Group).

The Working Group is currently working under the leadership and coordination of Chile, Ecuador and Saint Kitts and Nevis. According to this Decision, the Group shall “allow for meaningful public participation, especially by indigenous peoples and local communities, endeavouring to include persons or groups in vulnerable situations, and receive the assistance of the Economic Commission for Latin America and the Caribbean (ECLAC) in its capacity as Secretariat”.

The main task of the Group, according to the Decision, is the preparation of an action plan in that regard (action plan or plan), to be presented at the second ordinary meeting of the Conference of the Parties for consideration and adoption (in 2024).

At the first virtual meeting of the Working Group held on 28 October 2022, the coordinating countries presented a preliminary work schedule for the elaboration of the Action Plan on human rights defenders in environmental matters. The schedule indicates that, as a first step, an annotated index with the fundamental

¹ Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean. Article 9. Human rights defenders in environmental matters: “1. Each Party shall guarantee a safe and enabling environment for persons, groups and organizations that promote and defend human rights in environmental matters, so that they are able to act free from threat, restriction and insecurity. 2. Each Party shall take adequate and effective measures to recognize, protect and promote all the rights of human rights defenders in environmental matters, including their right to life, personal integrity, freedom of opinion and expression, peaceful assembly and association, and free movement, as well as their ability to exercise their access rights, taking into account its international obligations in the field of human rights, its constitutional principles and the basic concepts of its legal system. 3. Each Party shall also take appropriate, effective and timely measures to prevent, investigate and punish attacks, threats or intimidations that human rights defenders in environmental matters may suffer while exercising the rights set out in the present Agreement.”

² Decision I/6 available at: https://acuerdodeescazu.cepal.org/cop1/sites/acuerdodeescazuocop1/files/22-00344_cop-ez.1_decisions_approved_4_may.pdf

contents and work streams for the development of the Plan of Action will be presented at the Conference of the Parties in 2023.

The Parties to the Escazú Agreement also decided by means of Decision I/6 to hold an annual forum on human rights defenders in environmental matters with recognized specialists in the field, with the assistance of the Secretariat (ECLAC) following which a final report will be prepared to serve as an input for drafting and review of the relevant action plan.

The First Annual Forum took place on 22 and 23 November 2022 in Quito, which served to hold an initial discussion on possible proposals to be considered in the Action Plan's annotated index. This discussion on the same took place mainly during the second day of the Forum in 10 thematic breakout groups, in which a total of 140 people participated.

Of the total number of breakout groups, three groups dealt with the structural obligation to ensure a safe and enabling environment; three others focused on protection measures; three others on response measures and access to justice; and the last group dealt with cooperation and follow-up of the future Action Plan. The groups produced a total of 201 proposals that were reported to the plenary³.

This document is a preliminary proposed annotated index that has been prepared by the coordinating countries of the Working Group. In its preparation, the coordinators considered the text of the Escazú Agreement, the Implementation Guide⁴, prepared by ECLAC, the proposals presented and results of the first Annual Forum⁵, and the input received from the public and States Parties.

2. OVERVIEW OF ARTICLE 9 OF THE ESCAZÚ AGREEMENT

Based on the Implementation Guide of the Escazú Agreement⁶, the content of Article 9 can be structured around three main groups of obligations:

- Structural or systemic obligation to ensure a safe and enabling environment (first paragraph of Article 9 and paragraph 6 of Article 4).⁷
- Obligation to take protection measures ex ante (second and third paragraphs of Article 9)⁸; and

³ The summary of the breakout groups and an annex with the systematization of all the proposals elaborated in the groups is available in the Report of the First Annual Forum on Human Rights Defenders in Environmental Matters in Latin America and the Caribbean.

⁴ ECLAC, Regional Agreement on Access to Information, Public Participation and Access to Justice in Environmental Matters in Latin America and the Caribbean. Implementation Guide, 2022, available at: <https://www.cepal.org/en/publications/48495-regional-agreement-access-information-public-participation-and-justice>

⁵ <https://www.cepal.org/en/publications/48791-report-first-annual-forum-human-rights-defenders-environmental-matters-latin>

⁶ ECLAC, Regional Agreement on Access to Information, Public Participation and Access to Justice in Environmental Matters in Latin America and the Caribbean. Implementation Guide, 2022, available at: <https://www.cepal.org/en/publications/48495-regional-agreement-access-information-public-participation-and-justice>

⁷ Article 9.1: "Each Party shall guarantee a safe and enabling environment for persons, groups and organizations that promote and defend human rights in environmental matters, so that they are able to act free from threat, restriction and insecurity." Article 4.6: "Each Party shall guarantee an enabling environment for the work of persons, associations, organizations or groups that promote environmental protection, by recognizing and protecting them."

⁸ Article 9.2. "Each Party shall take adequate and effective measures to recognize, protect and promote all the rights of human rights defenders in environmental matters, including their right to life, personal integrity, freedom of opinion

- Obligation to take response or ex post measures (Article 9, third paragraph)⁹.

In addition, capacity building and cooperation (obligations contained in Articles 10, 11 and 12) are considered a driving force behind the Escazú Agreement as a whole. They constitute a cross-cutting pillar supporting the implementation and fulfillment of all other provisions of the Agreement, including the obligations of Article 9. The ultimate objective of cooperation is to strengthen national capacities to implement the Agreement, based on the priorities and needs of each Party.

Accordingly, this proposed index aims to contribute to the compliance of the obligations of the Escazú Agreement.

3. OBJECTIVE OF THE ACTION PLAN

The Action Plan will aim to establish a set of priority areas of work and strategic actions to be developed at the regional level to advance towards the full and effective implementation of Article 9 of the Escazú Agreement on human rights defenders in environmental matters.

4. IMPLEMENTATION TIME FRAME

The implementation timeframe of the proposed plan is 6 years (from April 2024 to April 2030), with a mid-term review of the progress made to implement the activities foreseen in the plan.

5. WORK STREAMS OF THE ACTION PLAN

This proposal has a progressive and flexible approach based on cooperation and capacity building, the principle of equality and non-discrimination and the special consideration for people and groups in vulnerable situations.

Consequently, it is proposed that the Action Plan revolve around the following 5 work streams:

- a) Knowledge: This first stream aims to generate greater knowledge about human rights defenders in environmental matters.
- b) Recognition: This stream seeks to advance towards the recognition of the work and contributions made by human rights defenders.
- c) Capacity building and cooperation: This work stream will seek the creation and strengthening of capacities of the Parties and cooperation among diverse actors.

and expression, peaceful assembly and association, and free movement, as well as their ability to exercise their access rights, taking into account its international obligations in the field of human rights, its constitutional principles and the basic concepts of its legal system.” Article 9.3 “Each Party shall also take appropriate, effective and timely measures to prevent... attacks, threats or intimidations that human rights defenders in environmental matters may suffer while exercising the rights set out in the present Agreement.”

⁹ Article 9.3. “Each Party shall also take appropriate, effective and timely measures to prevent, investigate and punish attacks, threats or intimidations that human rights defenders in environmental matters may suffer while exercising the rights set out in the present Agreement.”

- d) Implementation support: This stream will seek to support the institutional implementation of the different policies, plans, mechanisms and/or measures of protection of human rights defenders in environmental matters.
- e) Follow-up and review: This stream will seek to make the follow-up and review of the plan a constant task within the institutional framework of the Escazú Agreement.

An annotated tentative index is presented below for each of the work streams with their specific objectives and courses of action that may be incorporated into the Plan.

6. ANNOTATED INDEX OF THE ACTION PLAN

a) Knowledge

Objective:

Generate and disseminate information on the situation and role of human rights defenders in environmental matters in Latin America and the Caribbean, as well as on the existing protection and response mechanisms.

Courses of action:

- Generation of assessments on the situation of human rights defenders in the region that refer to the quality of civic space, criminalization trends, causes of attacks, threats or intimidation, risk areas and hotspots of violence, as well as success stories, administrative, regulatory and institutional frameworks and best practices for their recognition and protection.
- Compilation of good practices on national prevention, protection, and response mechanisms, including early warning systems, use of technologies, risk mapping and analysis, action protocols, national, regional and local institutions in charge of protection, and community experiences and initiatives.
- Strengthening contents related to human rights defenders in environmental matters in the Observatory on Principle 10 in Latin America and the Caribbean, which operates as the clearinghouse under Article 12 of the Escazú Agreement.
- Continue organizing the Forum on human rights defenders in environmental matters, with the ECLAC Secretariat's assistance, as a space for exchange and reflection about the situation of the human rights defenders in environmental matters in Latin America and the Caribbean.

b) Recognition

Objective:

Recognize the role, contributions and rights of human rights defenders in environmental matters.

Courses of action:

- Activities to commemorate the work of human rights defenders within the framework of the Escazú Agreement bodies.
- Actions and communication campaigns to raise public awareness of the situation and role of human rights defenders in partnership with other international organizations.
- Build alliances and participate in national, regional and international forums on Business and Human Rights.

- Dialogues and thematic exchanges with key justice operators in the implementation of national prevention, protection, and response mechanisms.

c) Capacity building and cooperation

Objectives:

- Strengthen the capacities of Parties to advance towards the full and effective implementation of Article 9 of the Escazú Agreement.
- Develop cooperation activities between the Parties to the Agreement and partnerships with other relevant actors to strengthen national capacities.

Courses of action:

- Technical assistance to Parties for the full and effective implementation of Article 9 of the Escazú Agreement, through national implementation plans and roadmaps.
- Generation of guidelines for the establishment at the national level of individual and collective prevention and protection mechanisms for human rights defenders in environmental matters, addressing the different aspects of the security of defenders.
- Review of good practices for the mainstreaming of a gender perspective and an intersectional and intercultural approach, especially considering indigenous peoples and local communities, in protection mechanisms.
- Training activities on the specific aspects of Article 9 with different relevant actors, including defenders, civil society, donors, the private sector, legal operators, international organizations, academia, governments at all levels and relevant State institutions, such as national human rights institutions and ombudsmen's offices.
- Preparation of materials to disseminate and provide training on the contents of Article 9 of the Escazú Agreement.
- Articulation and collaboration with other existing protection mechanisms for human rights defenders in order to seek synergies within the framework of other agreements and multilateral processes.

d) Implementation support

Objective:

- Contribute to support the development and institutional implementation of the different policies, plans, mechanisms and/or measures of protection of human rights defenders in environmental matters.

Courses of action:

- Support the development of policies, plans, mechanisms and/or measures of protection of human rights defenders in environmental matters.
- Support the implementation of policies, plans, mechanisms and/or measures, including through national or sectorial strategies and action plans.

d) Follow-up and review of the Action Plan

Objective:

- Implement follow-up and review measures of the plan within the framework of the institutional architecture of the Escazú Agreement.

Courses of action:

- Maintain the Working Group to follow up and review on the actions of the action plan and that it has significant public participation, especially indigenous peoples, local communities, human rights defenders in environmental matters, and persons or groups in vulnerable situations.
- Search for funding sources for the voluntary fund to support the implementation of the actions of this plan.
- Periodic information from the Parties on the implementation of and compliance with the Escazú Agreement, including Article 9.
- Within the framework of the work and functions of the Committee to Support Implementation and Compliance, establish a rapid response system for dealing with cases of attacks on human rights defenders and for it to provide support to the Conference of the Parties for the implementation of the Action Plan.

7. ELEMENTS TO CONSIDER IN EACH ACTION OF THE PLAN

Finally, it is proposed that the actions to be included in each work stream and course of action of the Plan should consider the following elements:

- A general description of each action.
- The expected outcomes of each action and its contribution to the achievement of the objectives of the Plan.
- The responsible actors for implementing the actions within the framework of the institutional architecture of the Escazú Agreement.
- The specific deadlines for carrying out each action within the general timeframe of the Action Plan.
- The resources needed to implement each action, whether financial, human, technical, or other resources.