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Third meeting of the Conference of the Parties
to the Regional Agreement on Access to Information,
Public Participation and Justice in Environmental Matters
in Latin America and the Caribbean

Santiago, 22–24 April 2024

**ACTION PLAN ON HUMAN RIGHTS DEFENDERS IN ENVIRONMENTAL MATTERS
IN LATIN AMERICA AND THE CARIBBEAN**

PROPOSAL BY CHILE, ECUADOR AND SAINT KITTS AND NEVIS



The coordinating countries of the open-ended ad hoc working group on human rights defenders in environmental matters in Latin America and the Caribbean present, for the consideration of the Parties, a draft action plan on human rights defenders in environmental matters in Latin America and the Caribbean.

INTRODUCTION

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

Article 9 of the Escazú Agreement states 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. It also establishes that each Party shall take adequate and effective measures to recognize, protect and promote the rights of those persons, groups and organizations, as well as 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 Agreement.¹

To support the implementation of article 9 of the Agreement, at its first meeting, held in Santiago from 20 to 22 April 2022, the Conference of the Parties to the Escazú Agreement decided to establish, through decision I/6, an open-ended ad hoc working group on human rights defenders in environmental matters.²

The working group is currently led and coordinated by Chile, Ecuador, and Saint Kitts and Nevis. In accordance with the decision, the working group on human rights defenders in environmental matters “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 in its capacity as Secretariat”.

As set forth in the decision, the main task of the working group is to prepare an action plan in that regard and to present it to the Conference of the Parties, which will be held in 2024, for consideration and adoption.

Furthermore, in decision I/6, the Conference of the Parties agreed to hold an annual forum on human rights defenders in environmental matters with recognized specialists in the field, with the assistance of the Secretariat (the Economic Commission for Latin America and the Caribbean (ECLAC)), following which a final report would be prepared to serve as input for drafting and review of the relevant action plan.

The First Annual Forum on Human Rights Defenders in Environmental Matters in Latin America and the Caribbean was held in Quito, in November 2022. On that occasion, the public participated in various round tables, the outcomes of which were a set of proposals that formed the basis for the draft of the annotated index of the action plan.

Subsequently, at the second meeting of the Conference of the Parties, held in April 2023 in Buenos Aires, the coordinating countries of the working group presented the draft annotated index, which included preliminary content and the work streams that would be reflected in the action plan. Public consultations on the draft annotated index were held between 21 April and 6 July 2023.

¹ See article 9 of the Agreement [online] <https://www.cepal.org/en/escazuagreement>.

² See decision I/6 [online] <https://acuerdodeescazu.cepal.org/cop1/en/documents/3>.

At the Second Annual Forum on Environmental Human Rights Defenders in Latin America and the Caribbean, held in Panama from 26 to 28 September 2023, the coordinating countries of the working group presented a draft action plan that expanded on the contents of the annotated index and incorporated the input from the public consultation thereon.³ The draft action plan was also opened for public consultation between 6 November 2023 and 14 January 2024.

This revised action plan, which was prepared by the coordinating countries of the working group, presents the priority areas and strategic measures in greater detail. These priority areas and strategic measures were defined on the basis of input received through public participation, as well as contributions from various international organizations and States Parties. The plan of action is submitted for consideration and adoption by the States Parties at the third meeting of the Conference of the Parties, to be held at ECLAC headquarters in Santiago from 22 to 24 April 2024.

A. BACKGROUND AND CONTENT OF ARTICLE 9 OF THE ESCAZÚ AGREEMENT

Persons, groups and organizations that defend and promote human rights in environmental matters are among the most at risk of suffering human rights violations. In its historic resolution 40/11 of 2019, the United Nations Human Rights Council expressed great concern about the situation of these human rights defenders around the world, and strongly condemned the murders and all other human rights violations committed against them, highlighting that those acts may violate international law and undermine sustainable development at the local, national, regional and international levels.

The dramatic situation faced by human rights defenders in environmental matters in the region was also recognized by the then United Nations Special Rapporteur on the situation of human rights defenders, Michel Forst, in his 2016 report, in which Latin America was deemed one of the most hostile regions for these persons.⁴

The Escazú Agreement contains specific provisions for persons, organizations and groups that promote and defend human rights in environmental matters. However, the special consideration given to human rights defenders in environmental matters by the Escazú Agreement does not entail the establishment of new rights or special jurisdictions, nor does it recognize any additional rights other than those that every person already has under international human rights law. Rather, the Escazú Agreement reiterates and reaffirms commitments already assumed by States under international, regional and national frameworks and adapts them to the environmental sphere, facilitating their application to the work and specific situation of environmental defenders in view of the particular risks and threats they face in the region.

As stated in the implementation guide on the Escazú Agreement prepared by ECLAC, the content of article 9 may be structured around three main clusters of obligations for States Parties: (i) structural or

³ The text of the Escazú Agreement, the implementation guide of the Agreement prepared by ECLAC, the proposals made at the First Annual Forum and the outcomes thereof, and the input received from the public and the States Parties were used as the basis for the preparation of the draft by the coordinating countries. The implementation guide is available online at <https://www.cepal.org/en/publications/48495-regional-agreement-access-information-public-participation-and-justice>.

⁴ See [online] <https://observatoriop10.cepal.org/en/document/report-special-rapporteur-situation-human-rights-defenders>.

systemic obligation to ensure a safe and enabling environment;⁵ (ii) obligation *ex ante* for preventive and protection measures;⁶ and (iii) obligation *ex post* for response measures.⁷

In view of the above, the present draft aims to fulfil the obligations and provisions of the Escazú Agreement, and is intended to promote the implementation of the Agreement in partnership with a number of key institutions, which include the United Nations system.

The implementation of this action plan will, where relevant, complement and be synergistic with the functions of the Committee to Support Implementation and Compliance.

B. OBJECTIVE

The objective of the action plan is to highlight a set of priority areas and implement strategic measures to advance towards the full and effective implementation of article 9 of the Escazú Agreement.

C. IMPLEMENTATION TIME FRAME

The action plan will be implemented over a period of six years (April 2024 to April 2030).

D. IMPLEMENTATION OF THE ACTION PLAN

To implement this plan, each Party, to the extent of its ability and in accordance with its national priorities, shall: (i) seek State action at all levels (national, federal, subnational and local, as appropriate), including by the executive, legislative and judicial branches, and (ii) provide the means for national implementation within the framework set forth in article 13 of the Escazú Agreement.

Capacity-building and cooperation, obligations referred to in articles 10, 11 and 12 of the Agreement, are considered factors that reinforce the Escazú Agreement as a whole and support the implementation of and compliance with all the other provisions of the Escazú Agreement, including the obligations mentioned in article 9. The ultimate objective of cooperation is to create and strengthen national capacities to ensure compliance with the Agreement, based on the ability and priorities of each Party.

⁵ Article 9, paragraph 1 and article 4, paragraph 6.

⁶ Article 9, paragraphs 2 and 3. Paragraph 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." Paragraph 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."

⁷ Article 9, paragraph 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."

Likewise, the implementation of the present plan may benefit from contributions to the voluntary fund established in article 14 of the Escazú Agreement, and the voluntary contribution of additional resources from other sources will be encouraged.

To develop the plan, meaningful public participation will also be sought, through mechanisms such as open dialogues, especially with persons, groups and organizations that promote and defend human rights in environmental matters, including Indigenous Peoples and local communities, and persons or groups in vulnerable situations.

The Secretariat of the Escazú Agreement will encourage partnerships with various stakeholders, such as international agencies, civil society organizations, development banks, the private sector, academia and the media, for implementation of the plan.

In accordance with article 4.7 of the Agreement, no provision in the present plan shall limit or repeal other more favourable rights and guarantees set forth, at present or in the future, in the legislation of a State Party or in any other international agreement to which a State is party.

E. APPROACHES AND PRINCIPLES

The present action plan falls under the Escazú Agreement, and its implementation will therefore take into account the provisions of the Agreement and will seek to promote and comprehensively address the different topics considered in article 9 of the Agreement, through an approach based on priority areas and strategic measures.

The implementation of the plan will be guided by the principles established in article 3 of the Agreement, and by the applicable principles of international, environmental and human rights law. The cross-cutting implementation of gender, intergenerational, intersectional, territorial and intercultural approaches will also be encouraged in the different priority areas and strategic measures, and special consideration will be given to persons or groups in vulnerable situations, as defined in the Agreement.

Likewise, the implementation of the present plan should avoid overexposure and risks for those who promote and defend human rights in environmental matters.

F. PRIORITY AREAS AND STRATEGIC MEASURES

The action plan is structured around four interrelated and complementary priority areas: knowledge creation; recognition; capacity-building and cooperation for national implementation of the action plan; and evaluation, follow-up and review of the action plan. Each priority area includes a set of strategic measures proposed to achieve objectives.

Area A: Knowledge creation

Objective

Create more knowledge, raise awareness and disseminate information on the situation, rights and role of persons, groups and organizations that promote and defend human rights in environmental matters in Latin America and the Caribbean, as well as on the existing prevention, protection and punishment instruments.

Lines of action

A.1. Prepare an assessment of the situation of persons, groups and organizations that promote and defend human rights in environmental matters in the States Parties, which, depending on the availability of data, considers, among other factors: the number of victims or violations and the different types of violations; international and national instruments and mechanisms related to prevention, protection and punishment, such as early warning systems and protocols for action by national and subnational institutions; existing practices and other experiences and community-based initiatives and self-protection strategies carried out by those who promote and defend human rights in environmental matters.

The assessment will take into account information provided by the States Parties and other key stakeholders, and will provide relevant conclusions.

A.2. Ensure continuity and wider dissemination of spaces for capacity-building, exchanges and reflection on the situation of persons, groups and organizations that promote and defend human rights in environmental matters in Latin America and the Caribbean. These forums for exchange will be organized periodically starting in 2025, and every two years thereafter, for the duration of the present plan, and will include recognized specialists in the subject and the support of the Secretariat of the Escazú Agreement, and the thematic areas and methodologies will be determined through a participatory process.

A.3. Strengthen the content related to persons, groups and organizations that promote and defend human rights in environmental matters in the Observatory on Principle 10 in Latin America and the Caribbean, as the clearing house referred to in article 12 of the Agreement, promoting the dissemination, accessibility and understanding of the Agreement, and establishing synergies and linkages with other existing repositories. The assessment referred to in action A.1 will be published in the Observatory. The States Parties shall report on new relevant legislation, policies, plans and programmes that have entered into force, in order to update the information on this subject in the Observatory.

A.4. Disseminate the information gathered in this area, ensuring that it is accessible and understandable, in line with the standards of the Agreement. This process will take into account the problems that the public —and especially persons, groups and organizations that promote and defend human rights in environmental matters— may face in terms of connectivity and the digital divide.

Area B: Recognition

Objective

Publicly recognize the work and contribution of persons, groups and organizations that promote and defend human rights in environmental matters, helping to develop a culture that fosters a healthy environment, the strengthening of democracy, access rights and sustainable development.

Lines of action

B.1. Foster exchanges and partnerships between persons, groups and organizations that promote and defend human rights in environmental matters and the States Parties to advance in the recognition of their work.

B.2. Regularly implement measures for dissemination, communication and raising public awareness, which are adapted to the social, economic, cultural, geographical and gender characteristics of the public, and which relate to the situation of human rights defenders in environmental matters and the relevance of their essential work.

B.3. Organize activities to commemorate and recognize the work of persons, groups and organizations for their contributions to the promotion and defence of the environment, the strengthening of democracy, access rights and sustainable development, including posthumous recognition activities. As part of these activities, efforts will be made to ensure the participation of State authorities and managers, and the timely participation of those who promote and defend human rights in environmental matters, especially Indigenous Peoples and local communities, as well as the inclusion of persons or groups in vulnerable situations.

B.4. Forge partnerships with different stakeholders and national, regional and international forums or other bodies focused on environmental themes related to the present plan, in order to carry out activities for the recognition and promotion of the work and rights of persons, groups and organizations that promote and defend human rights in environmental matters, in accordance with the rules of each one.

Area C: Capacity-building and cooperation for national implementation of the action plan

Objective

Contribute, through capacity-building and cooperation, to the formulation and implementation by institutions of various laws, policies, plans, programmes or measures at the national, subnational or other levels for the recognition, protection and promotion of the rights of persons, groups and organizations that promote and defend human rights in environmental matters.

Lines of action

C.1. Formulate regional guidelines which are useful for the various stakeholders and which consider the approaches and principles of the present plan, to support the national review, adaptation and formulation of laws, policies, plans and programmes, along with prevention, investigation and punishment measures, with respect to attacks, threats or intimidations that persons, groups or organizations that promote and defend human rights in environmental matters may suffer.

C.2. Provide support and technical assistance to the Parties for the full and effective implementation of article 9 of the Escazú Agreement through the preparation and execution of national implementation plans and road maps, including capacity-building to assess the situation of persons, groups and organizations that promote and defend human rights in environmental matters, in accordance with national needs, contexts, specificities and priorities.

C.3. Create, foster or strengthen forums for coordination and collaboration with other bodies or existing mechanisms for the prevention, investigation and punishment of attacks, threats or intimidations that may be suffered by persons, groups or organizations that promote and defend human rights in environmental matters, in an effort to establish synergies between States and other stakeholders for the effective implementation of article 9 of the Escazú Agreement.

C.4. Encourage the observance of international regulations, recommendations and guidelines on respecting and ensuring a safe and enabling environment for persons, groups and organizations that promote and defend human rights in environmental matters.

C.5. Foster the establishment and strengthening of institutions that provide pro bono legal assistance to persons, groups and organizations that promote and defend human rights in environmental matters that have been victims of crimes and human rights violations.

C.6. Conduct training activities on the Escazú Agreement, with an emphasis on specific aspects of article 9, with persons, groups and organizations that promote and defend human rights in environmental matters and relevant stakeholders at the national, subnational and international levels, such as civil society organizations, journalists and social communicators, donors, private sector actors, development banks and financial institutions, international agencies, academia, governments at all levels and relevant State institutions, especially national human rights institutions and ombudspersons' offices.

C.7. Carry out national or regional training and awareness-raising activities aimed at justice officials, such as judges and prosecutors, and persons who are involved in processes in which the State carries out functions seeking to guarantee access to justice, such as public security and law enforcement agents or other national institutions that play a key role in the functioning of mechanisms for care, prevention, investigation and punishment with regard to attacks, threats or intimidations that may be suffered by persons, groups or organizations that promote and defend human rights in environmental matters; also, facilitate dialogue and sharing of experiences on specific subjects among these justice officials and between them and the persons who promote and defend human rights in environmental matters.

C.8. Prepare materials in different formats and languages, with clear and understandable content, and disseminate them in an accessible manner, so that they can be used to inform, provide training and raise awareness on the contents of article 9 of the Escazú Agreement. The adoption of a participatory approach in this process will be encouraged.

Area D: Evaluation, follow-up and review of the action plan

Objective

Implement measures for evaluation, follow-up and review of the action plan within the framework of the institutional architecture of the Escazú Agreement, in accordance with the principles of transparency and accountability.

Lines of action

D.1. Support implementation, evaluation, monitoring and review of the measures of the action plan, with meaningful public participation, especially by persons, groups and organizations that promote and

defend human rights in environmental matters, including Indigenous Peoples and local communities, endeavouring to include persons or groups in vulnerable situations.

D.2. Develop an implementation programme for this action plan that considers, among other factors, responsibilities, deadlines and possible sources of support.

D.3. Include in the regular reports of the Parties on the implementation of and compliance with the Escazú Agreement, within the framework established in article 15.5(c) of the Agreement, the national measures and actions for the implementation of article 9 and those corresponding to the priority areas and strategic measures of this action plan, enabling the development of follow-up indicators.

D.4. Present the progress made in the implementation of the priority areas and strategic measures set forth in this action plan at the ordinary meetings of the Conference of the Parties to be held for the duration of this instrument.