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**PROPOSAL PUT FORWARD
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**DRAFT OF THE REGIONAL 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 honor of presenting a proposal 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 persons, groups and organizations that promote and defend human rights in environmental matters (or HRDEM).¹

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.²

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/6³ 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”.

¹ Articles 4.6 and 9.1 of the Escazú Agreement refer to persons, associations, groups, and organizations that “promote environmental protection” and “promote and defend human rights in environmental matters”, respectively, while Decision I/6 of the First Meeting of the Conference of the Parties (COP1) refers to “human rights defenders in environmental matters”. In this document, the acronym “HRDEM” will be used to simplify this reference and to not exclude organizations, associations and groups that carry out this work.

² 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.”

³ Decision I/6 available at: https://acuerdodeescazu.cepal.org/cop1/sites/acuerdodeescazuocop1/files/22-00344_cop-ez.1_decisions_approved_4_may.pdf

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).⁴

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.⁵

At the 2023 Conference of the Parties (COP2), the coordinating countries of the Working Group presented a proposal for an annotated index that develops the preliminary contents and work streams to be considered in the Action Plan on human rights defenders in environmental matters. This proposal was subjected to public consultation between April 21 and July 6, 2023.⁶

In this new document prepared by the coordinating countries of the Working Group with the support of the Secretariat, the contents of the annotated index are developed, and the contributions of the public consultation are considered⁷, and will be presented at the second forum at the second forum to be held in Panama on September 26-28, 2023.

2. CONTEXT AND OVERVIEW OF ARTICLE 9 OF THE ESCAZÚ AGREEMENT

Persons, groups, and organizations that defend 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.⁸

⁴ 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. The schedule indicated that, as a first step, an annotated index with the fundamental contents and work streams for the development of the Plan of Action will be presented at the Conference of the Parties in 2023.

⁵ 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. The groups produced a total of 201 proposals that were reported to the plenary. 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, available at: https://repositorio.cepal.org/bitstream/handle/11362/48791/3/S2300137_en.pdf

⁶ The public consultation was carried out through the Regional Public Mechanism's participatory platform and the Secretariat's e-mail, receiving a total of 237 responses from individuals, groups and public organizations, indigenous peoples and civil society from 17 countries in the region.

⁷ As inputs in its preparation, the coordinators considered the text of the Escazú Agreement, the Implementation Guide prepared by ECLAC, the proposals presented and the results of the first Annual Forum, and the inputs received from the public and States Parties. ECLAC's Implementation Guide is available at: https://repositorio.cepal.org/bitstream/handle/11362/48495/S2300149_en.pdf?sequence=6&isAllowed=y

⁸ See Human Rights Council, "Recognizing the contribution of environmental human rights defenders to the enjoyment of human rights, environmental protection and sustainable development" (A/HRC/RES/40/11), New York, 2019. Operative paragraph 3 of the resolution "urges all States to take all measures necessary to ensure the rights, protection and safety of all persons, including environmental human rights defenders, who exercise, inter alia, the

The dramatic situation faced by human rights defenders in environmental matters 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 environmental defenders.⁹

As it is an environmental treaty, the Escazú Agreement focuses on human rights defenders in environmental matters. The special consideration given to persons, groups and organizations that defend human rights in environmental matters does not entail the establishment of new rights or special jurisdictions for this group, 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 practical situation of environmental defenders in view of the particular risks and threats they face in the region.¹⁰

Based on the Implementation Guide of the Escazú Agreement¹¹, 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).¹²
- Obligation to take protection measures ex ante or preventive measures (second and third paragraphs of Article 9)¹³; and
- Obligation to take response or ex post measures (Article 9, third paragraph)¹⁴.

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

rights to freedom of opinion, expression, peaceful assembly and association, online and offline, which are essential for the promotion and protection of human rights and the protection and conservation of the environment”.

⁹ See United Nations, Situation of human rights defenders: note by the Secretary-General (A/71/281), New York, 2016.

¹⁰ See Human Rights Council, “Final warning: death threats and killings of human rights defenders. Report of the Special Rapporteur on the situation of human rights defenders, Mary Lawlor” (A/HRC/46/35), New York, 2020.

¹¹ 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>

¹² 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.”

¹³ 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 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.”

¹⁴ 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.”

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 proposal aims to contribute to the compliance of the obligations of the Escazú Agreement.

3. OBJECTIVE

The Action Plan will aim to undertake a set of priority work streams and strategic actions to advance towards the full and effective implementation of Article 9 of the Escazú Agreement in Latin America and the Caribbean.

4. IMPLEMENTATION TIME FRAME

The implementation timeframe of the action plan is 6 years (from April 2024 to April 2030).

5. APPROACHES AND PRINCIPLES

The Action Plan is framed in the Escazú Agreement and will therefore consider its provisions and seek a comprehensive promotion and application of the different matters contemplated in its article 9, through strategic work streams and priority actions. Furthermore, its implementation shall be guided by the principles established in Article 3 of the Agreement¹⁵, as well as by the applicable principles of international environmental and human rights law, with special consideration for persons and groups in situations of vulnerability.

As provided in Article 4.7 of the Agreement, nothing in this Plan shall limit or derogate from other more favorable rights and guarantees established or that may be established in the legislation of a State Party or in any other international agreement to which a State is a Party.

For the implementation of this Plan, each Party, according to its possibilities and priorities, shall encourage State action at all levels (national, federal, subnational, and local, as appropriate), including the executive, legislative and judicial branches, with special emphasis on agencies with criminal prosecution powers and human rights institutions. Significant public participation will also be sought, especially from indigenous peoples and local communities, as well as the establishment of alliances with various stakeholders such as international organizations, the private sector, development banks, academia, and the media, among others.

The application of this plan should be carried out taking special care to avoid overexposure and risk to those who promote and defend human rights in environmental matters.

6. RESOURCES FOR THE IMPLEMENTATION OF THE REGIONAL ACTION PLAN

¹⁵ Escazú Agreement. Article 3. “Principles Each Party shall be guided by the following principles in implementing the present Agreement: (a) Principle of equality and principle of non-discrimination; (b) Principle of transparency and principle of accountability; (c) Principle of non-regression and principle of progressive realization; (d) Principle of good faith; (e) Preventive principle; (f) Precautionary principle; (g) Principle of intergenerational equity; (h) Principle of maximum disclosure; (i) Principle of permanent sovereignty of States over their natural resources; (j) Principle of sovereign equality of States; and (k) Principle of pro persona.”

For the implementation of this plan, the Parties, in accordance with their possibilities, shall provide the financial and technical means and resources, within the framework set forth in Articles 10 and 11 of the Escazú Agreement. Complementarily, other sources will be encouraged to contribute additional resources on a voluntary basis.

7. WORK STREAMS OF THE REGIONAL ACTION PLAN

The Action Plan is structured around 4 complementary and interrelated priority work streams which contemplate the actions that will be promoted to achieve its objectives.

A. Generation of knowledge

Objective:

Generate knowledge, raise awareness, and disseminate information on the situation 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 response instruments and mechanisms.

Courses of action:

A.1. To elaborate a diagnosis on the situation of HRDEM in the region that refers among other aspects to: the quality of civic space, criminalization trends and the different types of abuses, including digital security aspects, causes of attacks, threats or intimidation, risk areas and hotspots of violence, with a gender and intersectional approach. This diagnosis will also gather international instruments, national administrative, regulatory and institutional existing frameworks and good practices for prevention, protection and response to those abuses, such as early warning systems and action protocols developed by national, regional and local institutions in charge of protection, and other community experiences and initiatives and non-state self-protection strategies.

A. 2. To continue organizing and disseminating the Forum on human rights defenders in environmental matters, starting in 2025 and every two years until 2030, 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, strengthen capacities and encourage national forums with these objectives.

A. 3. To strengthen 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. In addition, to establish synergies and articulation of the Observatory with other existing repositories and make its contents more accessible.

B. Recognition

Objective:

Recognize and promote the work and contributions of persons, groups and organizations that promote and defend human rights in environmental matters, helping to develop a culture in favor of the right to a healthy environment and sustainable development.

Courses of action:

- B. 1. To conduct actions and communication campaigns to raise public awareness of the situation and the importance of the role played by persons, groups and organizations in defending and guaranteeing the right to a clean, healthy and sustainable environment.
- B. 2. To organize activities to commemorate and recognize the critical work carried out by HRDEM, for their contributions to strengthening environmental democracy, access rights and sustainable development.
- B. 3. To build alliances with different actors, national, regional and international forums such as the Forum of Ministers of the Environment of Latin America and the Caribbean, the Regional Forum on Human Rights and Business or other spaces on related environmental issues, for the realization of activities for the recognition and promotion of the work and rights of persons, groups and organizations that defend human rights in environmental matters.

c) Capacity building, national implementation support and cooperation

Objective:

Contribute to the development and institutional implementation of different policies, plans, mechanisms and/or measures at the national level for the protection and promotion of the rights of persons, groups and organizations that promote and defend human rights in environmental matters through capacity building and cooperation.

Courses of action:

- C. 1. To generate guidelines, with a gender and intersectional approach, for the establishment at the national level of effective laws, policies, individual and collective mechanisms for preventing, protecting, and responding attacks, threats, or intimidations against human rights defenders in environmental matters, that address the different aspects of their security.
- C. 2. To provide support and technical assistance to Parties for the full and effective implementation of Article 9, through the elaboration and execution of national implementation plans and roadmaps of the Escazu Agreement, according to national needs and priorities.
- C. 3. To promote and create instances and opportunities for articulation and collaboration with other existing mechanisms for preventing, protecting and responding to attacks, threats or intimidations that HRDEM may suffer human rights defenders in order to seek synergies between States and other actors for the effective implementation of Article 9.
- C. 4. To carry out training activities on the Escazú Agreement and the specific aspects of Article 9 with different relevant actors, including defenders, civil society, journalists and social communicators, donors, the private sector, development banks and financial institutions, international organizations, academia, governments at all levels and relevant State institutions, such as national human rights institutions and ombudsperson's offices.
- C. 5. Organize dialogues, training, and thematic exchanges with justice operators, security agents, forces responsible for maintaining public order or other key national institutions in the implementation of mechanisms for the prevention, investigation and punishment of attacks, threats, or intimidation that these individuals, groups and organizations may suffer.

C. 6. To prepare materials for disseminating, learning and training on the contents of Article 9 of Article 9 of the Escazú Agreement, in different formats and languages.

D. Follow-up and review of the regional Action Plan

Objective:

To implement follow-up, assessments, and review measures of the regional action plan within the framework of the institutional architecture of the Escazú Agreement, and in accordance with the principle of transparency and accountability.

Courses of action:

D. 1. To give permanent status to the Working Group for following up, assessing, and reviewing 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.

D. 2. To facilitate the performance of the functions of the Committee to Support Implementation and Compliance on the matter, particularly considering recommendations and measures in favor of persons, groups and organizations at risk, within the framework of its rules relating to the structure and functions and the working modalities defined by it.

D. 3. Periodic reports from the Parties on the implementation of and compliance with the Escazú Agreement, including implementation activities of Article 9.

D. 4. To prepare a regional report to be submitted at the COP in 2026 to contribute to the assessment of the progress made towards the implementation of the activities foreseen in this action plan.

8. EXAMPLE OF DETAILS OF THE ACTIVITIES OF THE ACTION PLAN

A. GENERATION OF KNOWLEDGE					
COURSE OF ACTION	DELIVERABLES	EXPECTED OUTCOMES	RESPONSIBLE ACTORS FOR IMPLEMENTATION	DEADLINE	LEVEL OF IMPLEMENTATION
A. 1. To elaborate a diagnosis on the situation of HRDEM in the region	1 Diagnosis report	To reflect the regional situation and contributing to the development and implementation of measures by the States Parties.	Working Group, the Secretariat and State Parties	2025 Forum	Regional
A. 2. To continue organizing and disseminating the Forum on human rights defenders in environmental matters	3 Foros	Provide a space for exchange and reflection on the situation of persons, groups and organizations that promote and defend human rights in environmental issues in Latin America and the Caribbean, strengthen capacities and encourage national instances with these objectives.	COP	Every two years from 2025 and until 2030	Regional
3. To strengthen contents related to human rights defenders in environmental matters in the Observatory on Principle 10 in Latin America and the Caribbean	A new section of the Observatory on HRDEM	-Disseminate information on Article 9 of the Escazú Agreement in an accessible manner. -In addition, establish synergies and articulation of the Observatory with other existing repositories.	Secretariat	2025	Regional, national and subnational