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Economic Commission for Latin America and the Caribbean

12 April 2018

**INPUTS FURTHER TO PARAGRAPHS 16 AND 17 OF THE GENERAL ASSEMBLY  
RESOLUTION A/RES/72/247 ON THE TWENTIETH ANNIVERSARY OF THE  
DECLARATION ON THE RIGHT AND RESPONSIBILITY OF INDIVIDUALS,  
GROUPS AND ORGANS OF SOCIETY TO PROMOTE AND PROTECT  
UNIVERSALLY RECOGNIZED HUMAN RIGHTS  
AND FUNDAMENTAL FREEDOMS**

Having been mandated to exercise the secretariat functions of the **Regional Agreement on Access to Information, Public Participation and Justice on Environmental Matters in Latin America and the Caribbean** (hereinafter, the “**Escazú Agreement**” for its place of adoption) and having supported the preparatory and negotiation phases of such regional agreement, the Sustainable Development and Human Settlements Division of ECLAC would like to report the following:

- The Escazú Agreement was adopted on 4 March 2018, at Escazú, Costa Rica. It will open for the signature of the 33 countries of Latin America and the Caribbean on 27 September 2018 at United Nations headquarters in New York, coinciding with the General Annual Debate of the United Nations General Assembly. To enter into force, it requires 11 States Parties.
- Initiated at the United Nations Conference on Sustainable Development (Rio+20) and grounded on the tenets of Principle 10 of the 1992 Rio Declaration on Environment and Development, the Escazú Agreement came into existence after a preparatory phase of two years and nine meetings of its negotiating committee. Led by Chile and Costa Rica, as co-chairs, and five other Presiding Officers (Argentina, Mexico, Peru, Saint Vincent and the Grenadines and Trinidad and Tobago), the negotiations were undertaken with the significant participation of the public.
- Its objective is “to guarantee the full and effective implementation in Latin America and the Caribbean of the rights of access to environmental information, public participation in the environmental decision-making process and access to justice in environmental matters, and the creation and strengthening of capacities and cooperation, contributing to the protection of the right of every person of present and future generations to live in a healthy environment and to sustainable development” (article 1).
- The Escazú Agreement is the only binding instrument emanating from Rio+20, the first regional environmental agreement of Latin America and the Caribbean and the world’s first treaty to include specific provisions on environmental human rights defenders. The inclusion of such provisions are intrinsically related with the deep interdependence recognized by the countries of the region between human rights, access rights and the protection of the environment. A safe and healthy environment enables the full exercise of human rights by all. For their part, human rights also foster the protection of the environment and the achievement of sustainable development for all persons, especially those sectors that have been traditionally marginalized and excluded or that are most



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vulnerable to human rights violations and environmental harm. In that vein, the right to a healthy environment is widely recognized in Latin America and the Caribbean as a human right in itself. Furthermore, the provisions of the Escazú Agreement attest the region's firm will of raising awareness on, strengthening the role of and tackling the dangers faced by environmental defenders in Latin America and the Caribbean as described in the report of 3 August 2016 of the Special Rapporteur on the situation of human rights defenders (A/71/281).

- Article 9 of the Escazú Agreement reads as follows:

“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.”

- Such provision is complemented with a preambular recognition of “the important work of the public and of human rights defenders in environmental matters for strengthening democracy, access rights and sustainable development and their fundamental contributions in this regard” and the principles of equality and non-discrimination, transparency, accountability and *pro persona*, among others, in article 3.
- Furthermore, in article 4 on general provisions, States commit to: (i) guarantee the right of every person to live in a healthy environment and any other universally-recognized human right related to the Agreement; (ii) ensure that the rights recognized in the Escazú Agreement are freely exercised; and (iii) that an enabling environment for the work of persons, associations, organizations or groups that promote environmental protection is guaranteed, by recognizing and protecting them.
- The substantive rights contained in the Escazú Agreement also support international human rights standards applicable to human rights defenders, including the *Declaration on the right and responsibility of individuals, groups and organs of society to promote and protect universally recognized human rights and*



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*fundamental freedoms* (hereinafter, the “**Declaration**”). Article 6 of the Escazú Agreement which ensures the public’s right of access to environmental information in accordance with the principle of maximum disclosure and includes the right of requesting and receiving information without mentioning any special interest or explaining the reasons for the request and provides for specific measures for persons or groups in vulnerable situations to receive assistance, incorporates the main elements of article 6 of the Declaration. Article 8 of the Declaration is developed by article 7 of the Escazú Agreement, which foresees open an inclusive participation in environmental decision-making. Moreover, access to justice, including redress and remedy, is the object of both Article 8 of the Escazú Agreement and Article 9 of the Declaration. Access to justice with the guarantees of due process provided for in the Escazú Agreement encompasses judicial, administrative or other mechanisms and gives attention to minimizing or eliminating barriers to the exercise of such right.

- The aforementioned provisions were negotiated considering international and regional human rights standards as well as the Declaration and reports from Special Procedures, such as those from the Special Rapporteur on the situation of human rights defenders (particularly report A/71/281 on environmental human rights defenders) and from the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment (mainly reports A/HRC/22/43, A/HRC/25/53, A/HRC/28/61 and A/HRC/31/53).
- To support the negotiations, ECLAC and OHCHR published the book *Society, rights and the environment: international human rights standards applicable to access to information, public participation and access to justice*<sup>1</sup> (LC/W.712) which also contained those standards related to human rights defenders. OHCHR and Special Procedures likewise participated and sent inputs during the negotiations: the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment participated at the Fourth Meeting of the Focal Points (November 2014) and Seventh Meeting of the Negotiating Committee (July 2017), messages were sent by the Special Rapporteurs on the situation of human rights defenders and on the rights to freedom of peaceful assembly and of association and joint press releases were issued by 15 and 9 mandate-holders in October 2015 and November 2017, respectively<sup>2</sup>. In addition, in 2018, ECLAC made available the document *Access to information, Participation and justice in environmental matters in Latin America and the Caribbean: towards achievement of the 2030 Agenda for Sustainable Development* (LC/TS.2017/83), a

<sup>1</sup> See Economic Commission for Latin America and the Caribbean (ECLAC) and Office of the High Commissioner for Human Rights (OHCHR), *Society, rights and the environment: international human rights standards applicable to access to information, public participation and access to justice* (LC/W.712), Santiago, 2016 [online]: [http://repositorio.cepal.org/bitstream/handle/11362/40736/4/S1600930\\_en.pdf](http://repositorio.cepal.org/bitstream/handle/11362/40736/4/S1600930_en.pdf)

<sup>2</sup> See: <https://www.cepal.org/en/pressreleases/latin-america-and-caribbean-urgently-need-strong-legally-binding-treaty-environmental> and <https://www.cepal.org/en/news/un-experts-urge-latin-america-and-caribbean-adopt-trend-setting-agreement-environmental>



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regional assessment on the situation of environmental access rights in the countries of Latin America and the Caribbean<sup>3</sup>.

- The Escazú Agreement places a strong emphasis on capacity-building and cooperation at all levels, it provides for an accessible clearing house on access rights operated by ECLAC<sup>4</sup>, establishes a Conference of the Parties to examine and promote implementation and effectiveness of the Escazú Agreement and creates a Committee to Support Implementation and Compliance. It also foresees the establishment of a Voluntary Fund to support the financing of the implementation of the Escazú Agreement. These mechanisms will focus on the implementation of the obligations contained in the Escazú Agreement, including those pertaining to environmental human rights defenders.
- The Escazú Agreement offers an unparalleled platform for joint action on the issue of environmental human rights defenders at the national, regional and international levels, and is a prime example of regional multilateralism and South-South cooperation. In this matter, as in environmental access rights in general, regional action has proven to be crucial to achieve sustainable development for all in a safe, balanced, inclusive and participatory manner. It is expected that collaboration will be intensified with key stakeholders in the region such as OHCHR, UN Environment, UNECE, UNDP and UNESCO, civil society and academia, among others.

The text of and additional information on the Escazú Agreement are available at: <http://www.cepal.org/en/principle10>.

### **Secretariat**

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<sup>3</sup> See Economic Commission for Latin America and the Caribbean (ECLAC), *Access to information, Participation and justice in environmental matters in Latin America and the Caribbean: towards achievement of the 2030 Agenda for Sustainable Development* (LC/TS.2017/83), Santiago, 2018 [online] at: [http://repositorio.cepal.org/bitstream/handle/11362/43302/1/S1701020\\_en.pdf](http://repositorio.cepal.org/bitstream/handle/11362/43302/1/S1701020_en.pdf)

<sup>4</sup> See Observatory on Principle 10 in Latin America and the Caribbean [online]: <http://observatoriop10.cepal.org/en>