

Main Results of the First Conference of the Parties of the Escazú Agreement (CoP1)

Why did CoP1 of the Escazú Agreement mark a historic moment in the Latin American and Caribbean region?

The Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean known as the "Escazú Agreement" is a paradigmatic instrument that arises from the demands of social movements in the Latin American region. America and the Caribbean to have an instrument that guarantees and strengthens environmental democracy based on the recognition of the rights of access to information, public participation and environmental justice. The instrument establishes that to realize the substantive right to a healthy environment, it is essential to guarantee effective and transparent citizen participation mechanisms and ensure access to judicial and administrative instances to challenge decisions on environmental issues. In addition, the instrument contains a key article that establishes the obligation of States to protect the life and integrity of individuals, groups, and organizations that promote and defend environmental human rights. It is the first instrument worldwide that contemplates this protection scheme for environmental defenders. A fundamental issue considering that the Latin American and Caribbean region has the highest rates of harassment, bullying and violence against those who protect our ecosystems.

The Escazú Agreement is a milestone since it is the first regional instrument specialized in environmental protection with a human rights perspective. It establishes a common floor, that is, basic standards for States to make decisive progress in strengthening environmental and climate justice. With the ratification of the Escazú Agreement, the States, for example, undertake that all strategies and actions to deal with climate change, the water crisis, pollution and loss of biodiversity, as well as conservation programs, among other environmental actions, are carried out through informed processes of citizen participation. The Agreement is a transversal tool that impacts all economic sectors and that forces us to rethink development models considering the voices, experiences and contributions of everyone, especially those people, groups and social movements that have historically been marginalized from the decision-making processes.

The First Conference of the Parties (CoP1) of the Escazú Agreement was held from April 20 to 22 in Santiago, Chile at the headquarters of the Economic Commission for Latin America (ECLAC) and brought together more than 780 people in person. and virtual, including delegations from States, international organizations, representatives of citizens and civil society.

The main purpose of CoP1 was to bring together the 12 States party to the Agreement to discuss and adopt decisions that allow progress in the effective implementation of the instrument. Immediately, CoP1 served to outline financing schemes, decision-making processes, as well as mechanisms for participation and monitoring of compliance with the Agreement. However, the importance of CoP1 goes much further. The Conference began a profound process of citizen empowerment that promises to turn the CoP of the Escazú Agreement into a historical benchmark of openness, transparency and democratic deliberation to advance a fair, green transition with a gender perspective in the Latin American region. and the Caribbean.

What were the main results obtained?

The 12 States party to the Escazú Agreement (Antigua and Barbuda, Argentina, Bolivia, Ecuador, Guyana, Mexico, Nicaragua, Panama, Saint Vincent and the Grenadines, Saint Kitts and Nevis, Saint Lucia and Uruguay), with the accompaniment of civil society, adopted six decisions that can be consulted on the official website. Among the decisions adopted, the following stand out:

- **Financing:**

The rules for the operation of the Voluntary Contribution Fund were adopted to support the financing and application of the instrument, which is provided for in article 14 of the Agreement. Said mechanism was established as a trust fund administered by the Secretariat, which falls to ECLAC, to have adequate, stable and predictable resources that allow progress in the implementation of the Agreement. The draft decision on financial arrangements invites States Parties to make annual or multi-year contributions and calls on the Presiding Officers, in conjunction with the Secretariat, to seek additional sources of funding. Until now, Mexico has been the only country that has committed to contributing resources to the Fund, but it is expected to secure additional sources of financing within the framework of an extraordinary meeting to be held in 2023.

- **Rules of procedure:**

The "rules of the game" for the CoPs were approved, that is, the rules on the frequency of meetings, the establishment of subsidiary bodies, the formation of the Board of Directors, the processes for decision-making and the spaces for participation to the public. The Rules of Procedure contemplate the active participation of civil society with voice, but without vote, in the CoPs and in the meetings of the subsidiary bodies. Civil society will be able to take the floor and join the list of speakers in the discussions on the same terms as the States, although they will not have the right to vote. This is the first time that an international forum gives that priority place to the representatives of the citizenry.

Likewise, it was decided to create a subsidiary body: the open-ended ad hoc working group on human rights defenders in environmental matters, which will develop an action plan on the matter and hold an annual forum to compile inputs and inform the implementation of the possible action plan. This means a fundamental advance towards having effective follow-up mechanisms that allow us to respond to the systematic crisis of human rights violations against human rights defenders in the region.

Finally, it was decided that the Board of Directors will be composed of Uruguay (chair), Argentina and Saint Lucia (Vice-Chair) and Mexico and Antigua and Barbuda (members). In addition, the Board of Directors will have representatives of the public with voice but without vote and it was decided that the CoPs will be held biannually at ECLAC headquarters in Santiago, Chile.

- **Regulations of the Committee to Support Application and Compliance:**

Another fundamental issue was the approval of the composition and operating rules of the Implementation and Compliance Support Committee provided for in Article 18 of the Agreement. Said body will be composed of seven (7) members and will have a non-adversarial consultative nature that will provide the States with information and technical assistance on strategic issues for the implementation of the Agreement and accompaniment to those that incur in non-compliance or violations of the treaty. Unlike other treaty enforcement mechanisms, the Committee's rules allow

anyone to submit information (communications) on alleged treaty violations. The Committee may also take protective measures in favor of members of the public who may be at risk from possible attacks, harassment or intimidation. Public participation is also provided for in the preparation of reports on systemic issues, in hearings and consultations with the States Parties, as well as in the preparation of general observations on the interpretation of the Agreement. The scheme considers a wide and significant participation by the public in all the functions of the Committee.

During CoP1, several pending issues remained, including actions to incorporate a mechanism and an action plan to mainstream gender equality issues, as well as to monitor and create specialized link channels with indigenous peoples and communities. Due to the importance that an intersectional perspective has in environmental action, both thematic axes will have to be considered by the CoP of the Escazú Agreement as progress is made in the institutional development of the forum.

What are the next steps?

An extraordinary meeting of the CoP will be convened in Argentina to be held in 2023 to finish defining details on the functioning of the Conference and the follow-up bodies, in particular financing alternatives will be analyzed to ensure the proper implementation of the Agreement. In said meeting, the seven people who will make up the Application and Compliance Support Committee will also be selected, with the help of members of the public. It will be essential that civil society and the public follow-up on said appointments to ensure that the Committee fully complies with its mandate.

At the same time, the process for the selection and renewal of the six elected representatives of the public will also begin. This is another of the innovative mechanisms of the Escazú Agreement through which a citizen representation mechanism is established that allows coordinating agendas, actively participating in decision-making spaces, and contributing to the implementation of the Agreement.

An essential task of civil society is to expand and protect the spaces for public participation in the institutional arrangement of Escazú in the face of possible regressive initiatives that could be presented by the States.

To support these efforts, the Office of the United Nations High Commissioner for Human Rights (OHCHR) and ECLAC signed a collaboration agreement to provide information, create spaces for training, dissemination, and research.

Side Event Results:

Towards a fair, green transition with a gender perspective

On April 20, the side event “Escazú Agreement: towards a fair, green transition with a gender perspective in Latin America” was held within the framework of CoP1. The event was organized by the Global Initiative for Economic, Social and Cultural Rights (GI-ESCR), the Inter-American Association for Environmental Defense (AIDA), the Economic, Social and Cultural Rights Project (ProDESC) and the Environmental Prosecutor's Office (FIMA). The event brought together experts, civil society representatives, and activists to reflect on the challenges and opportunities that the implementation of the Escazú Agreement implies to advance a fair, green, and gender-sensitive transition in the region.

The event was moderated by Magdalena Sepúlveda Carmona, executive director of GI-ESCR and former Special Rapporteur on Poverty and Human Rights, and included the participation of the following panelists:

Daniel Noroña, consultant to the Office of the Special Rapporteur for Economic, Social, Cultural and Environmental Rights (SRESCER).

Alejandra Ancheita, executive director of ProDESC.

Rodrigo Echeopar, director of strategy and incidence of GI-ESCR

Marcella Torres, AIDA lawyer

Felipe Pino, FIMA lawyer

From their different contexts, the panelists identified the following challenges and opportunities in the implementation of the Escazú Agreement and reflected on the role that the treaty can play to promote a fair, green and gender-sensitive transformation agenda in Latin America.

Challenges and challenges in the implementation of the Escazú Agreement

The panelists identified the following challenges that the implementation of the Escazú Agreement represents:

The region is characterized by a fragile democratic and human rights institutional framework, as well as the lack of autonomy of public human rights organizations and prosecutors. These conditions allow selective persecution to persist and the resurgence of attacks against environmental rights defenders by both public and private entities. It was considered essential to strengthen public and people's defenders, early warning mechanisms, national human rights institutions, and prosecutors' offices to be able to respond to the structural challenge implied by acts of harassment and harassment of human rights defenders. humans in the region. To move towards a fair, green transition with a gender perspective, we must put those who protect the environment at the center.

Despite considerable progress in standards and procedures regarding access to information in some countries, such as Mexico, challenges persist in making the information provided accessible to different audiences and populations in conditions of vulnerability. Publishing or providing technical information generates the false premise that society has the tools to participate in decision-making, but for a large majority such information is incomprehensible or inaccessible. In addition, this vision does not consider the traditional knowledge of indigenous and local communities, which should be the basis for the impact analysis of any development measure or project. All of us should have the information in acceptable and accessible formats to be part of the decision processes.

The challenge of the implementation of Escazú involves putting it in the context of the climate emergency, recognizing that the current commitments reflected in the Nationally Determined Contributions (NDC) will not be able to reach the global goals to stop the increase in the average global temperature and increasing environmental degradation. In this context, we must think about how human rights can help us to map out a roadmap towards a just transition. An adequate implementation of Escazú would be one that brings us closer to a just transition and brings about a profound transformation not only of the type of technology we use to generate energy, but also of our

consumption and production patterns, of the new sources of sustainable employment that should be ensured for male and female workers, the restructuring of key industrial sectors and the development of new economic models.

Along these lines, the panelists stressed that the recent Resolution 3/21 of the IACHR and SRESCER sets out the inter-American human rights standards that we must consider guiding a just transition. Among other things, the resolution refers to labor and trade union rights and the need to distribute revenues from carbon pricing in public investments or social programs that support low-income households. Likewise, it recognizes as essential to avoid increases in basic goods derived from carbon taxes, encourage investment in infrastructure, urban and mobility plans that benefit homeless people, among other avant-garde standards that are expanding the fundamental rights of people within the framework of a just transition to sustainable and regenerative economies. The Escazú Agreement and Resolution 3/21 are not only legal tools, but also compasses that allow us to guide national public policies towards a just transition to sustainable economies.

It was emphasized that the region must make progress in reducing levels of inequality, low incomes, and a new relationship with the Global North if we want to advance in the implementation of the Escazú Agreement and promote a just transition that achieves and expands all the economic, social, cultural and environmental rights for all. The large inequality gaps are an anchor that imposes structural barriers to the exercise of fundamental rights.

Another of the greatest challenges is to get the countries of the region that have not yet ratified the Agreement. For this, it is essential to reinforce that the instrument is positive for the economy that opens opportunities to also provide security and legal certainty to investments by private entities. This is essential since it is common for the Agreement to be mistakenly considered an obstacle to the economic prosperity of the region. We must demystify that notion that sees human rights as a brake on the economy instead of an indispensable basis for achieving fair economic development that benefits us all.

It is essential to demand levels of ambition at CoP1, but mainly we must do it at home, that is, in our national contexts. This, to comply with standards of access to information, participation and access to justice that allow reformulating the way in which development projects are implemented and improving citizen participation mechanisms to outline said projects. The Agreement allows us, in this sense, to generate a new governance, decentralize power and with these bases, promote a fair, green transition with a gender perspective.

Opportunities opened by the implementation of the Escazú Agreement to deepen environmental democracy in the region

The panelists shared the opportunities in the implementation of the Escazú Agreement

The implementation of the Escazú Agreement adds to a host of instruments, principles and regulations that make up the regional legal framework for environmental governance and human rights, among which the recent Resolution 3/21 on the climate emergency, the principles of the international environmental law (i.e. principles of prevention, precaution, the polluter pays, reversal of the burden of proof, common but differentiated responsibilities, etc.), Advisory Opinion 23 on the environment and human rights of the Inter-American Court of Human Rights (IACHR), among others. These instruments make it possible to strengthen the institutions and systems for the protection of environmental rights.

Likewise, it opens the possibility to generate a dialogue between the Escazú system and the Inter-American Human Rights System, since both are regional human rights systems that, although with different scopes, reinforce the options of justiciability of economic, social, cultural, and environmental rights (ESCER) in the region, including the system of petitions and cases of the Inter-American Commission and Court of Human Rights. Thus, the protection and enforceability mechanisms of these rights, which for decades had been left behind in the background, are expanded.

The Escazú Agreement generates favorable conditions for the development of territorial defense processes or for the promotion of activities that favor the sustainable use of natural assets, such as community forest management or the efforts of community renewable energy projects. The Agreement also invites us to reflect on the need not only to move towards new sustainable energy schemes, but also on how essential it is to advance the open government agenda. The paradigm of public management must be changed in a way that ensures meaningful participation and the provision of adequate, prompt and expeditious information, with limited and justified conditions for the denial of information.

In order to expand the opportunities opened up by the Escazú Agreement, it is important that the following fundamental questions be raised at the regional and national levels: how to involve companies in the implementation of the Agreement in the different national contexts? How to ensure the effective and safe participation of indigenous communities, organizations and people defending in the processes of justice, information and participation provided for in the Agreement? What will be the indicators of compliance with the agreement in the different countries? How is an intersectional feminist perspective incorporated in the efforts to advance in the implementation of the Agreement? address the structural inequality suffered by indigenous women and girls, workers and union leaders?

The maxims that establish the human rights recognized in the Escazú Agreement allow us to guarantee that the transition is never a step backwards, but always a step forward. Likewise, it gives us tools to challenge hegemonic concepts about the economic model, such as the measurement of social progress based on economic growth or the measurement of GDP. These basic concepts of our economic system do not necessarily ensure greater well-being and security for the population. We must generate new models that see productivity, the market and growth as a means to realize human rights and ensure environmental protection and not as an end in themselves.

The Escazú Agreement expands and deepens the spaces for collaboration between the countries of the region on different issues related to the promotion and enforcement of environmental rights. Achieving adequate financing for the implementation of the Agreement implies, for example, rethinking fiscal policy and how a united Latin America positions itself on this issue on the international scene. Currently, it is estimated that developing countries annually lose around 1.3% of GDP due to tax benefits for multinationals and the abuse of tax havens. This issue has been discussed in different international forums, so we cannot miss the opportunity for the CoP of the Escazú Agreement where this and other fundamental issues can also be discussed to advance in the guarantee of rights contained in the instrument.

The Escazú Agreement also contributes to strengthening national regulatory frameworks on biodiversity protection and climate change, since it provides tools for responsible entities to provide accurate, accessible and adequate information on activities that have historically been characterized by a general

lack of information and citizen participation, such as, fishing activities and hydrocarbon extraction by fracking.

To think about a fair transition, the Escazú Agreement should serve to advance gender equality. The Agreement must encourage the generation of effective policies and mechanisms to eliminate structural barriers and ensure the meaningful participation of women in all their diversity in decision-making processes. Their voices, experiences and contributions must be considered in the actions to face the environmental crisis so that they achieve their objectives.

Concept of just transition and the relevance of the Escazú Agreement in this context.

Finally, the panelists reflected on the concept of just transition and the relevance of the Escazú Agreement in this context.

A just, green transition with a gender perspective is one that puts marginalized populations at the center, effectively reduces greenhouse gas emissions, respects human rights and the rights of nature, and ensures and promotes the participation of women in decision-making recognizing their vital role as defenders and caretakers of local lands and ecosystems.

Likewise, it was considered that a just transition would have to ensure affirmative actions that remedy the effects of the energy paradigm based on fossil fuels: the inequality of girls and women in the rights to land, control of resources and access to decision-making processes, the lack of voice in politics and limited mobility due to the care work they perform, the poverty that generates dependence on natural resources threatened by climate change, among many others, which show that women, particularly indigenous, rural and low-income women find themselves in a situation of inequality in access to rights and resources that must remain public, such as energy, water, housing, among others.

We must commit to an energy democracy through new renewable energy systems that create structural opportunities for the diversification of land ownership/tenure, management and use of energy, where the means of generation and distribution are democratic, public, cooperative and include women. On the other hand, it is also crucial to address the obstacles to female employment in the renewable energy sector, such as the lack of a favorable environment, flexible working hours and training opportunities; as well as other actions that impact the cultural and social perception linked to gender roles that stigmatize women in the industry or that force them to maintain double shifts: work and family.

To conceptualize a just transition, it is also necessary to redefine the concept of value in the economy so as not to understand it solely from the price system. In this change, indigenous peoples and communities can contribute a lot to adopt alternative visions and cultural constructions that allow us to conceive a broader conception of value that includes environmental preservation, the realization of human rights and care.

Finally, the concept of just transition informed by the Escazú Agreement makes it possible to identify what we call “false solutions” that exacerbate structural conditions of inequality and discrimination, such as large-scale renewable energy projects that reproduce extractive practices, including eviction. of local communities, the restriction of natural resources and the lack of distribution of benefits.

An interactive exercise was carried out with the participants in which the audience was asked, what would a fair, green transition with a gender perspective look like in Latin America? The result was reflected in an online blackboard with the contributions of the public.

The event recording is located at the following [link](#). Do not miss it!