

**Summary of Bolivia Report prepared by PPO Abogados**  
**(Last updated September 2021)**

**1. Implementation of the Agreement in Bolivia**

- The Escazú Agreement was signed by Bolivia on November 02, 2018 and ratified on September 26, 2019.
- Bolivia's vast environmental legal framework supports most of the obligations created by the Escazú Agreement, but updates are still necessary to fully implement the treaty. Although there are no official Government declarations or concrete steps to incorporate the text of the agreement in the country's legislation, the Agro-environmental Tribunal has organized a forum in April 2021 to inform the citizenry about the agreement and invited civil society organizations.

**2. The right to a healthy environment**

- The Political Constitution of the Plurinational State of Bolivia guarantees the right to a healthy environment, to adequate management, and exploitation of ecosystems, and defines the duty to promote and guarantee environmental conservation for the wellbeing of current and future generations.

**3. Access to environmental information**

- The Environmental Law establishes the right of the population to access environmental information directly, through electronic pages, publications, or any other formats and means of dissemination, and indirectly, through a written note addressed to the competent environmental authority. The information requested by indirect procedure is free, but the petitioner is responsible for reimbursing the cost of producing such information.
- The General Environmental Management Regulations determined that the National Environmental Information System is the register for environmental information, and should be operated by departmental and municipal governments and planning, academic, and research entities.
- The Environmental Law establishes the obligation to submit to the National Environmental Information System all the reports and documents resulting from the scientific activities and other technical works linked with environmental issues and natural resources and carried out by natural persons or companies.
- The population has the constitutional right to participate in the environmental management initiative, and to be previously consulted and informed concerning decisions that could affect the quality of the environment. Additionally, other legislation reaffirms and regulates the right to Public Consultation.
- The rural indigenous nations and native peoples also enjoy the constitutional right to be consulted through appropriate procedures, and particularly through their own institutions when legislative or administrative measures could affect them. The state shall carry out the right to the mandatory previous consultation in good faith and in concert, with respect to the exploitation of non-renewable natural resources in the territory they inhabit.
- The Law on Social Participation and Control defines the goals, principles, attributions, rights, obligations, and manners of exercising the right to public participation in environmental decision-making proceedings. The right to social participation and control consists of the public being previously

consulted and informed about decisions that could affect the quality of the environment and the conservation of the ecosystems.

- Public consultation must be carried out in the language of the persons involved. The General Labor Law and Linguistic Policies establish the right of persons to access information in their own language and the institutional obligation to promote the use of recognized languages.

#### **4. Access to justice in environmental matters;**

- The right to due process is guaranteed by the constitution and ordinary, agro-environmental, and rural indigenous native jurisdictions are available channels to access justice. The constitution also acknowledges broad active legal standing in favor of any person to protect the right to the environment.
- The Agro-environmental Tribunal is the dedicated entity in charge of delivering justice in environmental matters, and several entities are specialized in environmental matters in the regulatory sphere. The Law on Mother Earth has also assigned entities responsible for protecting and guaranteeing Mother Earth's rights in administrative and judicial instances.
- Precautionary measures to mitigate, avoid, prevent or neutralize damages can be filed on a party's behalf or on the government's own initiative, unless the law provides otherwise.
- The Agro-environmental Tribunal offers free assistance for a defendant, but the normative does not include free assistance to persons that intend to initiate a claim. In practice, vulnerable groups are better served by non-profit entities that provide free legal assistance.

#### **5. Protection of environmental defenders**

- Current regulation does not provide specific protection for environmental human rights defenders. In the event that attacks, threats, or intimidations directed to environmental human rights defenders are perpetrated, they will be able to access justice through the existing legal system.



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**To:** Cyrus R. Vance Center for International Justice  
**From:** PPO Abogados  
**Date:** September 8, 2021  
**Subject:** Implementation of Escazú Agreement in Bolivia

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The object of the present document is to analyze the Bolivian normative and the scope of the implementation and compliance with the Escazú Agreement, ratified by the Plurinational State of Bolivia (hereinafter “Bolivia”).

## I. Legal Analysis

Does Bolivia have domestic legislation creating the following obligations defined in the Escazú Agreement? How is implementation and enforcement of these rules in the country?

Yes. Through Law No. 1182 dated June 03, 2019, Bolivia ratified the Agreement, thus becoming part of the Bolivian constitutionality block in accordance to Article 410 of the State’s Political Constitution. Given the previous existence of a national normative on the issue of access to information and justice in environmental matters, Bolivia is at the socializing stage as well as the determination of the impact and the possible adjustments to the norms to permit full compliance therewith.

Right to a healthy environment	
	Guarantee the right to a healthy environmental in the Constitution
	Yes. The Political Constitution of the Plurinational State of Bolivia (“CPE” for its Spanish acronym) comprises the following aspects related to the environment: - Promote and guarantee environmental conservation, for the wellbeing of current and future generations. <sup>1</sup> - Right to a healthy, protected and balanced environment. <sup>2</sup> - Every person has the right to file legal actions to defend the right to the

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<sup>1</sup> CPE: Article 9, point 6 “Promote and guarantee the responsible and planned exploitation of natural resources and foster the industrialization thereof, through the development and strengthening of the productive base in its different dimensions and levels, as well as the conservation of the environment, for the wellbeing of current and future generations.”

<sup>2</sup> CPE: Article 33 “Persons have the right to a healthy, protected and balanced environment. The exercise of this right must permit individuals and collective organizations of the present and future generations, in addition to other living beings, to develop in a normal and permanent manner.”

environment.<sup>3</sup>  
 -Right to live in a healthy environment, with an adequate management and exploitation of ecosystems.<sup>4</sup>

Right of access to environmental information	
01	<p>Ensure the right to public access to environmental information and define procedure for such access.</p> <p>Yes. The Environmental Law (“LMA” for its Spanish acronym) establishes that the National Environmental Information System (“SNIA” for its Spanish acronym) is the instance in charge of registering, organizing, updating and disseminating environmental information at the national level.<sup>5</sup></p> <p>Likewise, current regulations foresee that any citizen can access environmental information.</p> <p>The population can access environmental information through two mechanisms.</p> <p>1) The indirect procedure to access information is carried out through a written note addressed to the competent environmental authority (at the municipal, departmental or national level). The authority has the obligation to respond the petitioner’s request though a formal written answer.</p> <p>2) The direct procedure to access information is through electronic pages, publications or any other formats and means of dissemination. For example, the current regulations at the macro and national level are contained on the page of the Ministry of the Environment and Waters (“MMAYa” for its Spanish acronym).</p>
02	<p>Define specific rules facilitating access to environmental information to persons and groups in vulnerable situations, including making efforts to identify and support persons or groups in vulnerable situations, providing assistance in preparing requests for access and ensuring information is available in the various languages used in the country.</p> <p>No. In Bolivia there is currently no procedure in place to support vulnerable groups that require access to information. Even though there are certain non-profit groups that support the cause, these generally work with specific communities.</p> <p>With the coming into force of the Escazú Agreement, the environmental authorities at the national level during the conference on “Access to Justice in Environmental Matters within the framework of the coming into force of the Escazú Agreement” organized by the Agro-environmental Tribunal (“TA” for its Spanish acronym) in April 2021, indicated that within their agenda they have foreseen meetings with authorities from all State levels to reconcile the method to implement access to environmental information for the citizenry in general as</p>

<sup>3</sup> CPE: Article 34 “Any person, individually or representing a collectivity, is empowered to exercise the legal actions to defend the right to the environment, without prejudice to the obligations of public institutions to act on their own initiative in the event of threats or attempts against the environment.”

<sup>4</sup> Point 10 of Article 10 of the CPE foresees one of the rights of nations and indigenous, native peoples.

<sup>5</sup> LMA: Article 15 “The National Environmental Secretariat and the Departmental Secretariats, are in charge of the organization of the National Environmental Information System, whose functions and attributions will be: to register, organize, update and disseminate the national environmental information”.

well as to groups in vulnerable situation.

Likewise, the Ministry of Justice commented that it has instructed measures to initiate the drafting of a Law on Access to Public Information, indicating that currently it is in the stage of reviewing proposals from private entities so the State foresees information that is not confidential.

A Supreme Decree<sup>6</sup> is currently in effect, which establishes the general guidelines to guarantee access to information, as a fundamental right of all persons and the transparent management of the Executive Branch.

Finally, there is the General Labor Law and Linguistic Policies, which establishes the right to access information in the official languages of the indigenous nations and peoples according to their territory.<sup>7</sup> To implement this, the officers are required to speak one language of the region at the communication level.

03	Ensure access to environmental information is provided at no cost, provided for costs of reproduction and delivery, which must be reasonable.
	Currently the General Environmental Management Regulations (“RGGA” for its Spanish acronym) establish that the information that authorities provide to citizens in writing – as of three pages – will have a cost that must be assumed by the petitioner. <sup>8</sup> The cost is not determined, given that this depends on the location where the request is submitted. This point is one that must be reconciled between the authorities of the different State levels so that the access to written information is cost free, in accordance to what is foreseen in the Escazú Agreement.
04	Establish or designate one or more impartial entities or institutions with autonomy and independence to promote transparency in access to environmental information.
	In Bolivia there is currently no decentralized and autonomous organization with the authority to oversee and promote transparent access to environmental information. In adherence to the Law on Transparency in the Fight Against Corruption <sup>9</sup> , all public entities in the different levels of government must have a transparency unit responsible for addressing the denunciation of corruption acts and the implementation of policies on transparency. However, these units are subordinate to the entity itself and do not enjoy authentic autonomy.
05	Guarantee that competent authorities generate, collect, publicize and disseminate environmental information relevant to their functions.
	Yes, in Bolivia the principle of publicity is in place. However, the SNIA, which is in charge of registering, organizing, updating and disseminating the national environmental information does not have the entire current environmental normative in its system. In this sense, even though the normative grants the

<sup>6</sup> Supreme Decree No. 28168 Transparency in the Public Management of the Executive Branch.

<sup>7</sup> Law No. 269 General Labor Law and Linguistic Policies.

<sup>8</sup> RGGA: Article 24 “All natural or collective persons, public or private, have the right to obtain information with respect to the environment through a written request addressed to the Competent Environmental Authority or public sectoral entity, which must respond within a period of fifteen calendar days, computable as of the first working day following the presentation of said request. The printing costs will be borne by the petitioner when the requested information exceeds three pages”.

<sup>9</sup> Law No. 974, on Transparency Units and the Fight Against Corruption.

	SNIA the obligation to disseminate the national environmental information, in practice it is not correctly applied, therefore, access to information is limited.
06	<p>Create one or more environmental information systems.</p> <p>The Law on Social Participation and Control<sup>10</sup> establishes that the State in its different levels and territorial areas, will implement documentation centers, information networks, electronic government, tele-centers and other similar instruments to facilitate the access and understanding of the documentation and public information. Notwithstanding the above, in the environmental sector, the only system that is partially implemented is the SNIA.</p>
07	<p>Create materials, waste and pollutant release and transfer register.</p> <p>Yes. By virtue of what is provided by the RGGA<sup>11</sup>, the SNIA has information furnished by the departmental, and municipal governments as well as planning, academic and research entities.</p> <p>The departmental entities are in charge of receiving, reviewing and overseeing all the activities that require the corresponding environmental license and/or permit in order to operate.</p> <p>The activity must be duly approved through the corresponding environmental license and/or permit, which according to its category (there is a normative that categorizes the activities according to their environmental impact). Notwithstanding the above, among the obligations – independently from the category - the petitioner must present a plan for the use and management of hazardous substances for the environment and a report to the competent authority.</p> <p>The SNIA contains multiple reports issued by the governments of the different State levels, as well as the environmental normative – not updated – of interest to the citizenry. However, the SNIA does not include information about judicial processes or news about environmental events of interest for the population.</p> <p>The SNIA is subdivided in the following categories:</p> <ol style="list-style-type: none"> <li>1. Nacional Registry of Environmental Consultancies (“RENCA”)</li> <li>2. National Program of Air Quality Management (“PNGCA”)</li> <li>3. Governmental Commission on Ozone (“CGO”)</li> <li>4. Environmental Liabilities Management Project in Protected Areas and their influence on Hydric Resources (“PROY BOL /91196)</li> <li>5. Environmental Impact Evaluation (“SNIA”)</li> <li>6. Environmental Quality Control (“SNCCA”)</li> <li>7. Licensing System</li> </ol>
08	<p>Guarantee immediate disclosure and dissemination of information in case of imminent threat to public health or the environment, develop and implement early warning system.</p> <p>Yes. In Bolivia there is a National Disaster Early Warning System (“SNATD”), which assigns functions and responsibilities to the different instances in the</p>

<sup>10</sup> Law No. 341, on Social Participation and Control.

<sup>11</sup> RGGA: Article 27 “Applying Articles 15 and 16 of the Environmental Law, the Ministry of Sustainable Development and Environment will be responsible for organizing the National Environmental Information System composed by a national network that integrates the Prefectures, Municipal Governments and planning, academic and research entities”.

three levels of Government (national, departmental and municipal).

The components of SNATD are:

1. Meteorological and Hydrological Surveillance System.
2. Communications System.
3. Prevention and Contingency Plans.

The broadcasting and dissemination of information and warning messages to the emergency services in a standard manner foresees the semi-automatic compilation of newsletters to characterize the critical level of a territory. The specialized newsletters of different risk sources must be issued daily. Said newsletters, are broadcasted automatically through different channels, based on the means of communication in the dedicated web pages and social networks like twitter.

The CPE establishes that environmental crimes do not prescribe and that the State and society must mitigate the harmful effects for the environment as well as the environmental liabilities. Likewise, the LMA indicates that in those cases where an action or omission poses a threat to public health or the environment, it will be typified and sanctioned in adherence to what is provided in the Criminal Code and pertinent administrative norms, if applicable. Each action or omission – depending on the type - is typified as an environmental crime, therefore the publication thereof is mandatory for the Public Ministry given that it attempts against public health and must be known at the national level.

It must be underscored that all processes, either criminal or administrative, are of public knowledge when they represent a threat for the environment and the population. In case of an imminent threat, the dissemination can be carried out through different means of communication.

09

Publish and disseminate national report on the state of the environment, at intervals no longer than 5 years.

Yes. The RGGA establishes that the competent authority will develop a National Report about the State of the Environment and an annual report will be presented.<sup>12</sup> However, the authorities do not fully comply with this obligation, and even if the authorities complied, this information is not of public knowledge. By virtue of these dispositions, the annual report must contain:

- a) Description of the country's biophysical State.
- b) Relationship between social and economic development, and the utilization of the natural resources and the conservation of the ecosystems within the framework of sustainable development.
- c) Relationship between the integration of the environment, and the formulation of the country's strategies and sectoral development policies within the framework of sustainable development.
- d) Determination and state of natural resources, in order to assess the national natural assets.
- e) Evaluation of the Territorial Organization Plan and the Departmental Plans

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<sup>12</sup> RGGA: Article 35 "Every five years, the Ministry of Sustainable Development and Environment will prepare, through the Nacional Environmental Information System, the National Report on the state of the environment and will present every year the corresponding annual report".

	<p>on Soil and Land Use.</p> <p>f) Characteristics of the human activities that have a positive or negative impact on the environment and the use of natural resources.</p> <p>g) Report about the country's environmental quality, technological and scientific progress.</p> <p>h) Technological and scientific advances.</p>
10	<p>Encourage independent environmental performance reviews evaluating efficacy, effectiveness and progress of national environmental policies in fulfillment of national and international commitments.</p> <p>At the national level, by virtue of what is established in the Law on Governmental Administration and Control, there are figures of environmental audits, which are part of the Governmental Control System.</p> <p>Environmental audits are divided as follows:</p> <ol style="list-style-type: none"> <li>1. Audit of an Environmental Management System, with the purpose to determine the effectiveness of the system. Effectiveness is determined by the capability of a system to ensure the attainment of the purposes of the environmental management under consideration.</li> <li>2. Environmental Performance Audit, has the purpose of evaluating the way an entity or entities have implemented, carried out or executed the environmental management audit under consideration.</li> <li>3. Audit of Environmental Management Results, can be carried out with the aim of: a) evaluating what was achieved by an entity or entities in a specific area of environmental management, considering what is established in the National Planning Systems and Public Investment, the programming of operations or other pertinent activities; and/or b) evaluate the variation in the environmental state of a determined environment, ecosystem or natural resource, to verify if the changes are in accordance with what was previously established in these policies, plans, norms, etc. as applicable.</li> </ol>
11	<p>Ensure consumers and users have official relevant and clear information on the environmental qualities of goods.</p> <p>No. The Consumer Defense Law contains general guidelines about minimum information that suppliers of goods and services must provide.<sup>13</sup> Notwithstanding this, there is no express obligation to identify the environmental impacts of such products, besides damages to physical integrity and health.</p> <p>On the other hand, some private companies habitually and voluntarily opt to include information aimed at promoting reasonable consumption as well as the reduction of environmental impacts.</p>
12	<p>Promote access to environmental information in possession of private entities and encourage public and private companies to prepare sustainability reports.</p> <p>Yes. The LMA establishes the obligation to submit to SNIA all the reports and documents resulting from the scientific activities and other technical works</p>

<sup>13</sup> General Law on the Rights of Users and Consumers: Article 37 "Enunciatively but not in a limited manner, the programs and projects on responsible and sustainable consumption, must foresee the following contents:

a) State planning of demand for products and services, within the framework of social, economic and environmental sustainability.

carried out by natural persons or companies, either Bolivian nationals or international entities, linked with environmental issues and natural resources.

The activities, works or projects that have an environmental license must comply with an annual environmental monitoring report prepared by a consultant registered at RENCA.

For the industrial sector, it is established that the information related to the project is of a public nature, however, a company may protect any information that could affect industrial or intellectual property rights duly furnishing technical-legal support.

Notwithstanding this, it has been identified that SNIA's records are incomplete. Although some documents are detailed, in several cases it is only possible to access environmental licenses and licenses for the handling of hazardous substances, but not the current situation (if it was monitored at all) as determined by Law.

13

Guarantee mechanisms for public participation in decision-making processes, revisions, re-examinations or updates with respect to projects, activities and other processes for granting environmental permits that have or may have significant impact on the environment or when they may affect health.

Article 11 of the CPE establishes the mechanisms for the exercise of democracy. Democracy is direct and participative, through a referendum, the legislative citizen initiative, the revocation of mandate, the assembly, the town council, and the previous consultation. Assemblies and town councils are of a deliberative nature according to the Law.

It can be pointed out that participation in environmental projects in particular is divided in two categories:

**a) Public Consultation:** (population in general). Article 343 of the CPE determines that the population has the right to participate in the environmental management initiative, to be previously consulted and informed with respect to decisions that could affect the quality of the environment. Likewise the LMA establishes that every person has the right to be informed, truthfully, timely and sufficiently with respect to questions linked to the protection of the environment, as well as to formulate petitions and promote initiatives at the individual or collective level.

Current Regulations on Environmental Prevention and Control ("RPCA" for its Spanish acronym) establish that during the phase of identification of impacts to be considered in an environmental impact evaluation (process to issue an environmental license), the company must carry out the Public Consultation to take into account the observations, suggestions and recommendations of the public that could be affected by the implementation of the project, work or activity. If this consultation is not foreseen in the evaluation, the competent authority will proceed to implement a period of Public Consultation and collect the reports it deems important in each case, prior to issuing the environmental license.

Based on a search of the SNIA, environmental impact evaluations are not usually published, therefore it is unlikely to confirm if the Public Consultation

has been complied with prior to the issuance of the environmental licenses.

**b) Previous Consultation:** (indigenous populations). Article 30 of the CPE establishes that the rural indigenous nations and native peoples enjoy the right to be consulted through appropriate procedures, and in particular through their own institutions every time that legislative or administrative measures are foreseen that could affect them. The right to the mandatory previous consultation will be respected and guaranteed, and shall be carried out by the State in good faith and in concert, with respect to the exploitation of non-renewable natural resources in the territory they inhabit.

Bolivia's record concerning previous consultations, has generated controversies due to the need to have a specific normative in place to implement the previous consultation, however, to date this has not materialized. The jurisprudence of Constitutional Sentence 300/2012 corresponding to the TIPNIS case acknowledges the need for an adequate regulatory framework regarding previous consultation and indicates what are the constitutive elements of this figure in the light of ILO Convention 169 and the United Nations Declaration on the Rights of Indigenous Peoples.

The claims on the part of defenders of indigenous territories are based on the failure to comply with these constitutive elements and because the procedure of the right to previous consultation through their own institutions is not respected:

- Previous: The State must consult prior to the implementation or execution of a project. In practice, the State decides when to consider if within a project there are phases that must be submitted to previous consultation or not.
- Informed: Indigenous Peoples must be fully aware of the risks when a project is implemented, what will be the mechanisms to inform them and when they will be informed so they can propose a development plan or a mitigation plan. In practice there are no guidelines for the State to implement an informative procedure.
- Good faith: there must be an environment of dialogue and cooperation. In practice, the claims refer to the violation of this element because of corruption.

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Make efforts to identify the public directly affected by the above-mentioned decision making processes and promote specific actions to facilitate their participation.

In general terms, the Public Consultation is applied in two instances: i) procedure to obtain environmental licenses and ii) projects that affect rural, indigenous, native territories. Additionally, the Hydrocarbons Law and Supreme Decree No. 29033 on Previous Consultation regarding hydrocarbons matters, establishes the procedure for such consultation and participation. This normative is considered as the only one in the regulated sector that expressly determines an additional procedure to that effect. Particularities: it is established that the previous consultation must be carried out in two opportunities: i) prior to the tender, the engagement, the call and the approval of measures and ii) prior to the approval of the Environmental Impact Studies. The SNIA does not publish information to confirm the previous consultation in two opportunities.

Make public the following minimum necessary information related to the above mentioned decision-making processes: (a) description of the area of influence and physical and technical characteristics of the proposed project or activity; (b) description of the main environmental impacts of the project or activity and, as appropriate, the cumulative environmental impact; (c) description of the measures foreseen with respect to those impacts; (d) a summary of (a), (b) and (c) herein in comprehensible, non-technical language; (e) public reports and opinions of the involved entities addressed to the public authority related to the project or activity under consideration; (f) description of the available technologies to be used and alternative locations for executing the project or activity subject to assessment, when the information is available; and (g) actions taken to monitor the implementation and results of environmental impact assessment measures.

Administrative Resolution VMABCCGDF 57/2020 on the extension of the Public Consultation methodology applicable to the Environmental Impact Evaluation Study determines that, besides the documentation of the Environmental Impact Evaluation Study, the company must file a copy of the document concerning the dissemination of the study, presented to the population through a presentation note before the competent authority that establishes at least the following:

- a) Summary of the Project, Work or Activity:* A summary that permits the clear and rapid identification of the study's content, punctual and objective wording that provides significant and substantial information. The Summary must be culturally pertinent, taking into account the native language of the affected population with a stake in the Project, which must contain clear terminology that is understandable for non-specialized public, thus contributing to public information.
- b) Clear and concrete identification of the key actors linked with the activity, work or project:* social, public, private actors and their main roles and interventions, as well as the identification of local actors.
- c) Synthesis of current status of the environment:* (situation without the project)
- d) Main environmental impacts foreseen on the environment and the communities within the area of the activity, work or project:* (situation with the project) synthesis of the incidence of effects in the factors of the environmental system: physical, biological, socioeconomic and institutional juridical aspects.
- e) Summary of the prevention and mitigation measures* as well as the Environmental Application and Monitoring Plan.
- f) Summary of the Abandonment, Operations Closure and Reclamation Programs.*
- g) Justification of the project, work or activity*
- h) Supporting documentation for dissemination* (audiovisual material, leaflets, radio messages, etc.).

The rule establishes that the duly filled out forms of the environmental impact evaluations of each project, work or activity will be made available to the public in general in the facilities of the MMAyA and the offices of the environmental entities during the respective period under review, in each one of the offices, and in an official registry that will be opened to that effect. This registry will also contain a current list of these documents. It was not possible to verify if this is implemented.

	<p>Additionally, it has been verified that the official page of the National Statistics Institute (“INE” for its Spanish acronym) contains information with respect to the issuance of environmental licenses only up to 2018. It does not contain current information.</p>
16	<p>Promote the right to public participation in environmental decision-making processes with respect to environmental matters of public interest such as land-use planning, policies, strategies, plans, programs, rules and regulations, which have or may have significant impact on the environment.</p>
	<p>Yes, the Law on Social Participation and Control defines the goals, principles, attributions, rights, obligations and manners of exercise of the right. The right to social participation and control is implemented in other aspects, through the participation in environmental management, and to be previously consulted and informed about decisions that could affect the quality of the environment and the conservation of the ecosystems.</p> <p>The types of actors in social participation and control are:</p> <ul style="list-style-type: none"> <li>- Organic: Social sectors, neighborhood councils, and/or organized union councils, that are legally recognized.</li> <li>- Community-based: Indigenous nations and native, rural populations, the intercultural and Afro-Bolivian communities as well as all those recognized by the State’s Political Constitution, that have their own organization,</li> <li>- Circumstantial: The persons that get organized for a determined purpose and that cease to exist when their objective is attained.</li> </ul> <p>This means that there are conditions such as being part of a social organization in its different expressions (unions, neighborhood councils, native peoples communities, college of professionals, women’s organizations, trade associations, etc.).</p>
17	<p>Define procedure and mechanisms that support the right to public participation in above mentioned decision-making processes, from early stages until decision is made.</p>
	<p>No. There is no specific normative to regulate the participation stages.</p>
18	<p>With regards to above mentioned decision-making processes, guarantee public is informed, as a minimum, of (a) the nature of the environmental decision, (b) the authority responsible for making the decision and other authorities or bodies involved, (c) procedure for public participation, (d) other public authorities where additional information can be requested and procedure for such request.</p>
	<p>Yes. See the answer to point 15 with respect to the decision-making process concerning the project that could affect a determined population, and not the public in general.</p>
19	<p>Provide the means to facilitate understanding and participation of directly affected public with primary language that is different from official language.</p>
	<p>Yes. In general terms Administrative Resolution VMABCCGDF 57/2020 establishes the obligation that Public Consultation must be carried out in the language of the persons involved.</p> <p>The General Labor Law and Linguistic Policies establishes the right of persons to access information in their own language, as well as the institutional obligations to promote the use of recognized languages. The norm establishes</p>

	that public institutions must incorporate in their annual budget the necessary resources to guarantee compliance with these public policies. The budgets are not published in their entirety, although it is a duty to do so.
20	Encourage establishment of appropriate spaces for consultation in which various groups and sectors are able to participate.
	Article 50 of the Administrative Procedure Law (“LPA” for its Spanish acronym) mentions that the organ responsible for the resolution of a procedure may at its own discretion convene a public hearing when the nature of the procedure requires it, or if it affects legally organized professional, economic or social sectors. The hearing will be mandatory when the special representation established for each administrative organization system applicable to the organs of Public Administration foresees this. Currently, this figure is scarcely implemented.
21	Guarantee domestic legislation and international obligations in relation to the rights of indigenous peoples and local communities are observed.
	Yes. See answer to point 13 paragraph b). We underscore that there is no special and/or specific normative that regulates the previous consultation. Up to this date progress has been made on the proposals and even the Plurinational Constitutional Tribunal has issued a pronouncement on the need to have a specific normative in place, but currently there is no additional instrument to the CPE.
<b>Access to justice in environmental matters</b>	
01	Ensure domestic legislation guarantees substantive and procedural due process.
	<p>The right to due process is guaranteed in Article 115.II<sup>14</sup> of the CPE. Likewise, the CPE acknowledges the following channels to access justice:</p> <ul style="list-style-type: none"> <li>- Ordinary Jurisdiction.</li> <li>- Agro-environmental Jurisdiction.</li> <li>- Rural Indigenous Native Jurisdiction <sup>15</sup>.</li> </ul> <p>We make reference to Constitutional Sentences SC 2801/2021-R and SCP 0051/2012 through which the Constitutional Tribunal manifested “As provided in art. 115 II of the CPE, the State guarantees the right to due process and to defense, with respect to due process, the vast constitutional jurisprudence developed, indicates that application is immediate, and binding for the judicial or administrative authorities and it constitutes a guarantee of procedural legality, foreseen by the Constitution to protect the freedom, legal security and the grounds or motivation of judicial resolutions (...)”</p> <p>In this context, due process also extends to the judicial administrative sphere. Administrative activities are governed by the principle of submission to the Law<sup>16</sup>. In Article 11, the LPA establishes that any individual or collective person, public or private, whose subjective right or legitimate interest is</p>

<sup>14</sup> Article 115, II. The State guarantees the right to due process, to defense and a plural, prompt, timely, gratuitous, transparent justice and without delays.

<sup>15</sup> Law on Jurisdictional Delimitation: Article 10 (...) The scope of material effectiveness of the native indigenous jurisdiction does not include forestry rights, and agrarian rights, except for the internal distribution of lands in the communities that hold the legal possession or collective ownership right over the same.

<sup>16</sup> The Public Administration will govern its acts fully submitting to the Law and ensuring that people are entitled to due process.

affected by an administrative action, may appear before the competent authority to assert their rights or interests, as applicable.

02

In addition and support of due process, have (a) competent State entities with access to expertise in environmental matters; (b) effective, timely, public, transparent and impartial procedures that are not prohibitively expensive; (c) broad active legal standing in defense of the environment; (d) the possibility of ordering precautionary and interim measures, inter alia, to prevent, halt, mitigate or rehabilitate damage to the environment; (e) measures to facilitate the production of evidence of environmental damage such as the reversal of the burden of proof and the dynamic burden of proof; (f) mechanisms to execute and enforce judicial and administrative decisions in a timely manner; and (g) mechanisms for redress.

*a) Competent State Entities with Access to specialized knowledge in environmental matters.*

The TA is the entity in charge of delivering justice in environmental matters I. Article 186 of the CPE provides that the TA is the uppermost specialized tribunal of the agro-environmental jurisdiction.

On the other hand, within the regulatory area, the main competent state entities are:

- Ministry of the Environment and Waters,
- National Service of Protected Areas,
- Oversight and Social Control Authority of Drinking Water and Basic Sanitation,
- Forests and Lands Oversight and Social Control Authority,
- Departmental and Municipal Environmental Management Secretariats.

In adherence to legal dispositions, the Law on Mother Earth establishes that the entities responsible for activating the administrative and/or jurisdictional instances with the object of demanding the protection and guarantee of Mother Earth's rights, are:

- 1) Public authorities, at any level of the Plurinational State of Bolivia, within the framework of their competences,
- 2) The Public Ministry,
- 3) The Advocate of Mother Earth<sup>17</sup>,
- 4) Agro-environmental Tribunal.

*b) Effective, timely, public, transparent, impartial procedures without entailing prohibitive costs.*

Article 178 of the CPE establishes that the power to deliver justice emanates from the Bolivian people and it is based on the principles of independence, impartiality, legal security, publicity, probity, celerity, gratuitous, juridical pluralism, interculturality, equity, service to society, citizen participation, social harmony and respect for people's rights.

Notwithstanding the above, in practice the processes are the subject to delays and shortcomings due to the high procedural volume and institutional

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<sup>17</sup> To date the Advocate of Mother Earth has not been created.

disorganization.

*c) Active, ample legitimation in the environment's defense, in accordance with national legislation*

The CPE acknowledges an active and ample legitimation in favor of any person to protect the right to the environment through pertinent legal actions<sup>18</sup>.

Likewise, the Law on Mother Earth establishes that any individual or collective person, that becomes aware of the violation of Mother Earth's rights, has the duty to denounce this to the competent authorities.

*d) Possibility to instruct precautionary and provisional measures to, among other things, prevent, cease, mitigate or redress damages to the environment.*

The object of the precautionary measures is to mitigate, avoid, prevent or neutralize damages to the environment's components or the identified risk sources and to eliminate the threats to environmental risk.

Among its characteristics, it can be filed on a party's behalf or on the government's own initiative, unless the Law provides otherwise. The precautionary measures are subject to variability, as they can be extended, substituted, improved or modified. The basis for precautionary measures in environmental matters are: i) plausibility of right, ii) hazard of imminent damage, iii) irreparable damage, iv) proportionality of the measure and v) juridical possibility.<sup>19</sup>

*e) Measures to facilitate the production of proof of environmental damage, when applicable, such as the inversion of the burden of proof and the dynamic burden of proof.*

There are no normative dispositions that foresee the generation of proofs or otherwise support for the generation thereof; the burden of proof corresponds to both parties to demonstrate what was denounced and taking into account that in environmental matters whoever obtains a right over natural resources or has an environmental license to carry out an activity, work or project, is bound by the responsibility to comply with the measures that guarantee that the environment is not affected.

We underscore that the Guide on Processes in Environmental Matters, Plenary's Agreement SP. TA. No 015/2020 establishes making reference to the following: *"In the application of the burden of proof or the dynamic burden of proof, the judicial authority at the party's request or on its own initiative, will require the presentation of this to the procedural party that enjoys the best conditions to obtain it (art. 151.II of Law 439, and 8.3 (e) of the Escazú Agreement) and by virtue of the procedural principles that govern the matter."*

*f) Execution mechanisms and timely compliance with the corresponding judicial and administrative decisions.*

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<sup>18</sup> Article 34.- Any person, on its individual initiative or representing a collectivity, is empowered to exercise legal actions in defense of the right to the environment

<sup>19</sup> Guide on Processes in Environmental Matters. Plenary's Agreement SP. TA. No. 015/2020.

In the case of a lawsuit, the sentence not subject to appeal will instruct the monitoring of the rulings that were issued with the aim of ensuring compliance with the sentence (i.e. title clearing procedure for agrarian property).

On the other hand, the definitive resolutions of the Public Administration, once these are notified, will be executive and the Public Administration can proceed with the forced execution thereof through the competent organs in each case.

*g) Reparation mechanisms, as applicable, such as restitution to the existing state prior to the damage, restoration, compensation or payment of an economic sanction, satisfaction, non-repetition guarantees, attention to the affected persons and financial instruments to support the reparation.*

Article 347 of the CPE establishes the liability for environmental damages and the imprescriptible nature of environmental crimes.

Article 152 of Law No 025 establishes that it is the competence of agro-environmental judges (...) to take cognizance of actions aimed at establishing environmental liability for the pollution of waters, air, soil or damages caused to the environment, biodiversity, public health or the natural assets, for compensation and reparation, rehabilitation or restoration of the damages arising from or caused by, without prejudice to the administrative activities established in these special norms that govern each matter.

Law No. 300 Framework Law on Mother Earth and Integral Development to Live Well establishes the direct liability for damages caused to the components or living zones of Mother Earth and the liable person must restore the same, as closely to the preexisting conditions prior to the damage, either directly or through the State, when applicable.

The LMA establishes that environmental crimes “are the actions that injure, deteriorate, degrade, or destroy the environment and whose actors are subject to administrative and criminal sanctions. Thus, different levels of sanctions are determined, ranging from the deprivation of freedom as a result of grave damages to the environment (environmental crimes) up to simple sanctions or fines that minimize grave crimes. For example, in 2019 Law 117 was enacted on the Rational Use and Management of Burns commonly known as the “Incendiary Law” by environmentalist collectives, because it establishes administrative and pecuniary sanctions for burning in private properties or protected areas, which is interpreted by society as an incentive rather than a sanction.

03

Establish (a) measures to minimize or eliminate barriers to the exercise of the right of access to justice; (b) means to publicize the right of access to justice and the procedures to ensure its effectiveness; (c) mechanisms to systematize and disseminate judicial and administrative decisions; and (d) the use of interpretation or translation of languages other than the official languages.

(a) The Bolivian Government has not established concrete measures to reduce or eliminate barriers to the exercise of the right to access justice. Although the Law on Mother Earth determines the expansion of the principle of living well, the institutions supporting the public have not been implemented or the existing ones were unable to provide the service for which they were created.

	<p>(b) Article 218 of the CPE determines in the part related to the Ombudsman, who must ensure the validity, promotion, dissemination, and compliance with individual and collective human rights. To date, in coordination with the TA, the Ombudsman has organized social events for the implementation of the Escazú Agreement in different populations throughout Bolivia.</p> <p>(c) The Plurinational Constitutional Tribunal has in its web page a browser of causes, resolutions and jurisprudence. For its part, the Agro-environmental Tribunal has developed the “Jurisprudential Tree” for the compilation, systematization and classification of the resolutions that were issued.</p> <p>Access to both pages is enabled and current.</p>
04	<p>Establish support mechanisms, including free technical and legal assistance with the objective to meet the needs of persons or groups in vulnerable situations.</p> <p>The Plurinational Public Defense Service is currently in place as a decentralized institution in charge of the defense regime and access to gratuitous justice. Notwithstanding this, the legal assistance and technical defense is limited to criminal matters.<sup>20</sup></p> <p>With respect to environmental matters, the TA engages a professional on an annual basis to comply with the legal mandate to assist citizens promptly, timely and on a gratuitous basis<sup>21</sup>. This figure applies only to the defense of a defendant, but the norm does not foresee a gratuitous defense for persons that intend to initiate a claim.</p> <p>In practice and due to the large volume of cases, the possibility to access these services is not effective, therefore the NGOs, which are non-profit entities, are the main actors that provide gratuitous legal support to vulnerable groups.</p>
05	<p>Ensure judicial and administrative decisions adopted in environmental matters are in writing.</p> <p>In administrative matters, the Regulations of the LPA establish in Article 29 that the administrative act must be issued in writing, as well as the resolutions adopted in the pertinent instances in response to the filing of an administrative remedy.</p> <p>Likewise, the Civil Proceedings Code establishes with respect to judicial resolutions, judicial sentences, and resolutions that the same must comply with formalities such as the submission of a written brief.</p>
06	<p>Promote alternative dispute resolution mechanisms to allow such disputes are prevented or resolved.</p>
	<p>The rule on administrative matters does not foresee alternative means for the resolution of controversies, therefore, the Public Administration is permitted to act solely under what is expressly established in the norm.</p> <p>For the other part, there is currently no procedural normative on environmental</p>

<sup>20</sup> Law 483: Article 12.- The Plurinational Public Defense Service is free for all persons that do not have the necessary economic resources to engage a private attorney, as well as for adult persons younger and older than 18 years.

<sup>21</sup> Law on the Judicial Organ, paragraph 1, Article 113. “All defendants will have the right to be assisted by a public defender on duty, if they do not have their own”:

matters, even though there are some Bills<sup>22</sup>, there is yet no specific regulation. Notwithstanding this, the TA has issued The Guide on Processes<sup>23</sup> that determines conciliation as an alternative means for the resolution of conflicts and disposes that the Judge has the duty to convene or foster conciliation. We underscore that conciliation can only proceed on available and acceptable rights between the parties, depending on the characteristics and connotations of the process.

Human rights defenders in environmental matters	
01	Guarantee a safe and enabling environment for persons, groups and organizations that promote and defend human rights in environmental matters.
	<p>Current national normative does not foresee specific guarantees for the promotion and defense of human rights in environmental matters on the part of the defenders and organizations.</p> <p>During the period from April to June 2021, the Bolivia´s Documentation and Information Center (CEDIB) one of the most important actors that compiles the events that occurred in the country, has identified attacks against the defenders of human rights and the continuity of projects and actions that affect the rights of Indigenous Peoples and the environment.<sup>24</sup> As an example:</p> <ul style="list-style-type: none"> <li>- April 2021: The Bolivian Association of Conservation Agents (ABOLAC for its Spanish acronym) denounced the difficulties of safeguarding protected areas due to the increase of mining activities and the absence of State support. This, in addition to political differences, has led the Government to fire park rangers that were complying with their functions.</li> <li>-May 2021: Environmental defenders were intimidated and judicially accused of encroachment and criminal association, because of their actions of defense given the deforestation and wildfires in the municipality of Roboré and denunciations of irregularities in the endowment of lands to people that support the governing party, and the absence of consultation, consensus and coordination between the authorities and the local population.</li> </ul>
02	Recognize, protect, and promote rights and ability to access such rights of human rights defenders.
	There is jurisprudence of the Inter-American Court on Human Rights that, interpreting the American Convention on Human Rights – ACHR, has laid responsibility on the States for violating the rights that principle 10 of the Rio Declaration on the Environment and Development proclaims. Notwithstanding that, only as of the Escazú Agreement that Bolivia will develop an explicit normative on the protection of the rights of defenders of human rights.
03	Prevent, investigate, and punish attacks, threats or intimidations directed to human rights defenders.
	Current normative does not foresee a specific protection for defenders of human rights. In the event this type of acts are perpetrated against them they will be able to access justice.

<sup>22</sup> On July 27, 2021, the TA and the Justice Ministry presented the Draft Agro-environmental Procedural Code: <https://www.tribunalagroambiental.bo/index.php/2021/07/27/tribunal-agroambiental-y-ministerio-de-justicia-presentan-la-propuesta-de-codigo-procesal-agroambiental-al-vicepresidente-de-bolivia/>

<sup>23</sup> Plenary Agreement SP. TA No. 015/2020

<sup>24</sup> Report on human rights in Bolivia / April to June 2021

Compliance and implementation of the Escazú Agreement

01 Commit to provide resources for national activities needed to fulfill the obligations defined by the agreement.

There is no formal commitment on the part of the current Government to allocate the required resources. Based on the review of the 2021 State's General Budget and the Budget of the Ministry of the Environment and Waters, the expenses destined to comply with the Agreement are not included. We underscore that the Budgets of the Agro-environmental Tribunal and the Ombudsman are not published in these official pages.

02 Cooperate with other parties to the agreement with the objective to strengthen national capabilities to implement the agreement.

There are no official Government declarations indicating their commitment to comply with this part of the agreement. We communicated with the Ministry of the Environment, the Agro-environmental Tribunal and the Ombudsman, however, they did not have information to this respect.

03 Encourage partnerships with non-parties to the agreement (states from other regions, private organizations, civil society organizations, etc.)

There are no official Government declarations indicating their commitment to comply with this part of the agreement. We communicated with the Ministry of the Environment, the Agro-environmental Tribunal, and the Ombudsman, however, they did not have information to this respect. Notwithstanding the above, the Agro-environmental Tribunal organized a forum to inform the citizenry about the agreement and invited organizations of civil society. Even though this could be an isolated act and it cannot be considered as a long-term association, it shows the opening of the government to discuss this matter with those that are not part of the agreement.

04 Recognize that regional cooperation and information sharing shall be promoted in relation to all aspects of illicit activities against the environment.

There are no official Government declarations indicating their commitment to comply with this part of the agreement. We communicated with the Ministry of the Environment, the Agro-environmental Tribunal and the Ombudsman, however, they did not have information to this respect.

Other questions regarding topics not defined as obligations of the parties:

01 Has the country taken steps to engage with the virtual and universally available clearing house Observatory on Principle 10?

Yes. Currently Bolivia has information published in the Observatory of the virtual compensation chamber and universally available concerning principle 10, comprising: 8 instruments and 17 international treaties.

02 Has the country taken steps to make contributions to the Voluntary Fund created by Article 14 of the Escazú Agreement?

There are no official Government declarations or public information that confirms compliance with this part of the agreement.

03 Has the country taken steps to engage in the Conference of the Parties to the Escazú Agreement?

There are no official Government declarations or public information that confirms compliance with this part of the agreement.