

ECUADOR

In response to your request, this document is intended to provide an overview of Ecuador's implementation of and compliance with the obligations it has acquired as a result of the ratification and entry into force of the Escazú Agreement.

In preparing this document, we have focused our analysis on the following five (5) main areas:

- a) The right to a healthy environment
- b) Access to environmental information
- c) Access to justice in environmental matters
- d) Protection of environmental defenders
- e) Implementation and compliance mechanisms

This document has been prepared based on the template provided by the Cyrus R. Vance Center for International Justice, which contains the main provisions of the Agreement.

I. Legal Basis

The following regulations have been considered for the preparation of this document:

- a) Constitution of the Republic of Ecuador of 2008.
- b) Organic Environmental Code
- c) Regulations to the Organic Environmental Code
- d) Organic Law on Transparency and Access to Public Information
- e) Regulations to the Law on Transparency and Access to Public Information
- f) Organic Law on Citizen Participation
- g) Organic Consumer Protection Law
- h) Mining Law
- i) Organic Comprehensive Criminal Code
- j) Arbitration Comprehensive Criminal Code
- k) Arbitration and Mediation Law
- l) Ombudsman's Office Resolution No. 21-2019
- m) Ombudsman's Office Resolution No. 077-2019
- n) Ministerial Decree 102 of the Ministry of the Environment published on January 19, 2018
- o) Aarhus Convention
- p) United Nations Declaration on the Rights of Indigenous People
- q) ILO Convention 169

II. Executive Summary

a) Implementation of the Agreement in Ecuador

- The Escazú Agreement was ratified by Ecuador on May 21, 2020, and became effective on April 22, 2021; therefore, Ecuador is bound to comply with its provisions. However, since Ecuador was the first country in the world to recognize nature's rights in the 2008 Constitution, there are previous laws that already include and complement the provisions of the Escazú Agreement.
- The Escazú Agreement provides new guarantees for environmental defenders, mechanisms for citizen participation in environmental decision-making, as well as access to and transparency of environmental information. Nevertheless, to date, Ecuador has yet to make a major effort to implement it beyond the laws already in place. Considering that the effective date of the Agreement

was during the pandemic caused by COVID-19, the State's priority interests have been focusing on confronting this health crisis.

- According to the Ecuadorian Constitution, international human rights treaties ratified by the State that acknowledge rights that are more favorable than those in the Constitution shall prevail over any other law. Furthermore, judges, administrative authorities and public servants must apply them directly and immediately, without the possibility of alleging no knowledge of the law.

b) Environmental institutions

- Ecuador has several institutions and administrative authorities in charge of environmental protection. Among the main ones are: the Ministry of the Environment, created in 1996, whose main purpose is the direction, planning, regulation, control, management, and coordination of the National Decentralized Environmental Management System, and the Autonomous Decentralized Governments at all levels with their respective duties (Provincial, Metropolitan and Municipal, Parochial and Rural).
- On the other hand, Ecuador still does not have any judicial units or jurisdictional authorities specializing in environmental matters or in matters related to nature or environmental rights.

c) The right to a healthy environment

- The Constitution of Ecuador acknowledges this as a fundamental right: "The right of the population to live in a healthy and ecologically balanced environment that guarantees sustainability, and the good way of living (*sumak kawsay*) is acknowledged." The following is stated in relation to this right: "The right to live in a healthy environment that is ecologically balanced, pollution-free and in harmony with nature;" "[p]ersons, communities, peoples, and nationalities shall have the right to benefit from the environment and the natural wealth that enables them to enjoy the good way of living;" and "[n]ature [...] has the right to full respect for its existence and for the maintenance and regeneration of its life cycles, structure, functions, and evolutionary processes." Due to its status as a constitutional right, in the event of a threat or violation, it is possible to file a judicial guarantees lawsuit as provided for in the constitution and the law.
- The judicial guarantees lawsuit is simple, fast, efficient, and will be oral in all its phases and instances. In practice, we have been able to observe that the proceeding is fulfilled within the times established in the law; however, the appeal to this first decision could prolong the proceeding, which could be considered a limitation. In addition, favorable resolutions have been issued in environmental matters, which has allowed this to be an adequate way to respond to a violation of environmental rights.
- Administrative and judicial processes have some characteristics that seek to guarantee effective access to justice. In procedural terms, the following characteristics can be identified: (i) broad standing to file a lawsuit in defense of the environment or the rights of Nature (any person, group of persons, community, people or nationality may file them); (ii) reversal of the burden of proof; (iii) strict liability for environmental damages; (iv) precautionary and preventive principles; among others.

d) Access to environmental information

- Another relevant right regarding environmental matters is the right to access to public information. Acknowledged in the Constitution as a fundamental right, it is guaranteed by an action to obtain access to public information, with the purpose to ensure access to such information when it has been denied or when it is not complete or reliable.
- In addition, the Organic Environmental Code regulates the right to access to environmental information as an essential right. To enforce this right, the following has been provided for: (i) the

creation of the Unified Environmental Information System, a public instrument with information on the state and conservation of the environment, as well as projects that pose environmental risk or impact; (ii) the access process will be carried out promptly, efficiently, transparently and with the best technology; and (iii) public institutions have a transparency section on their web sites with the documents issued and produced by them.

e) Right to citizen participation

- The right to citizen participation is a fundamental right recognized by the Constitution of Ecuador. Based on this provision, Ecuadorians may participate in and be consulted on matters of public interest. This legitimizes citizen action in citizen participation processes regarding environmental issues in response to the public interest that such matters entail.
- Moreover, the special rules of the Organic Environmental Code have acknowledged citizen participation in environmental management as a right. In this regard, it is established that any individual or legal entity, individually or collectively, may present opinions, positions, points of view, observations, or contributions in the decision-making processes related to environmental management and in the policies and actions that affect it, as well as in its subsequent execution, follow-up, and control. To strengthen access to this right, the Sectoral Citizen Council and Local Advisory Councils have been created for public policy observation, follow-up, oversight and evaluation processes. These entities are made up of representatives of civil society, communes, communities, peoples, nationalities and groups of the relevant territory.

f) Protection of environmental defenders

- The Inter-American Commission on Human Rights in its 2017 report on Integral Protection Policies for Human Rights Defenders, established that “[d]espite efforts adopted by State authorities in the last decade to improve the situation of human rights defenders, the Inter-American Commission on Human Rights continues to observe, through its different monitoring mechanisms, an increase in violence, threats, and intimidation against human rights defenders, the deterioration of the general situation of security in which they operate, and the ineffectiveness of protection measures.” (Hurtado, F. (2020). *Artículo 9: Entornos seguros y libres de violencia para la defensa de derechos ambientales*¹). Thus, the current context continues to be threatening for environmental rights defenders in a country like Ecuador, where every day they face individual and collective economic interests, since the economy is still based on the primary sector, depending almost exclusively on the intensive exploitation of natural resources.
- However, despite the context under which environmental rights defenders operate in Ecuador, some measures have been taken at the state level for their protection. One of the most recent ones is Resolution No.77 of 2019, issued by the Ombudsman's Office, establishing the Regulations for the Promotion and Protection of the Rights of the Defenders of Human and Nature Rights. Its purpose is to “establish actions for the promotion and protection of the rights of the defenders of human and nature rights with the application of international standards and recommendations made on the subject” (art. 2).

III. Legal Analysis

¹ Available at:

https://www.uhemisferios.edu.ec/uhe_content/uploads/2021/03/sostenibilidad-articulo-9_entornos-seguros-para-la-defensa-de-derechos-ambientales.pdf

Ecuador was the first country in the world to recognize nature as a subject of rights. It is for this reason that most of the legal framework detailed below has been issued since the enactment of the 2008 Constitution, long before the entry into force of the Escazú Agreement in April 2021.

The right to live in a healthy environment	
	Guaranteeing the right to a healthy environment in the Constitution.
	The right to a healthy environment is recognized in the 2008 Ecuadorian Constitution in articles 14 and 66. Based on the provisions of the Constitution, secondary regulations have been developed to guarantee the right of people to live in a healthy and ecologically balanced environment. However, in spite of the existing regulations and judicial guarantees as well as the administrative actions available, there are limitations that affect full compliance therewith. In addition to the right to a healthy environment, the Ecuadorian Constitution recognizes Nature as a subject of independent rights, as we can see in articles 10, 71 and 72.
	Case No. 0796-12-EP, judgment No. 065-15-SEP-CC of March 2015 – Extraordinary action to enforce constitutional rights
	This extraordinary action to enforce constitutional rights arose from an action for the enforcement of rights filed by the members of the Verdum commune, located in the estuary of the Chone River, in the Tosagua county, province of Manabí, because they were being forced to move from their commune by Mr. Jefferson Antonio Loor Moreira, the owner of a shrimp business who had bought several hectares of land where the commune is located and had limited their access to the mangrove area that is their source of livelihood.
	In addition, in their action for enforcement of rights, the commune members stated that the activities carried out by Mr. Jefferson Loor were destroying the mangrove ecosystem in the areas he was revegetating due to the abandonment of shrimp farms; therefore, they requested the enforcement of Nature's right to restoration (article 72), their collective rights to keep ownership of their community lands, to keep ownership of their ancestral territories, and to not be displaced from their ancestral lands (article 57 (4, 5 and 11)), the right to a healthy environment (article 14), the right to health (article 32), the right to personal safety (article 66 (3)), the right to a safe habitat and to decent housing (articles 30 and 376 of the Constitution).
	In the Constitutional Court ruling it is mentioned that the State has the obligation to regulate everything related to fragile and threatened ecosystems, including their conservation, sustainable use, recovery and limitations regarding property ownership ² , since mangroves, as well as all the species that inhabit that ecosystem, are part of the State's property ³ . The Court mentions that this obligation is performed by the State primarily through the Ministry of the Environment and, for matters relating to control, follow-up and penalties for environmental damage, also through the Decentralized Autonomous Governments, among other authorities that have legitimate power to punish this type of actions, which authorities must act in a subsidiary manner to guarantee the health and recovery of ecosystems in the event of environmental damage ⁴ .
	Therefore, the Court ordered the following integral reparation measures: 1. To void the judgment issued by the First Division for Civil and Commercial Matters of the Provincial Court of Justice of Manabí. 2. To give the judgment retroactive effect as of the time at which the violation of the constitutional right occurred, that is, the time immediately preceding the issuance of the judgment. 3. To order that the case be heard and decided, after being assigned to another division of the Provincial Court of Justice of Manabí.

² As provided for in article 406 of the 2008 Constitution.

³ As provided for in article 408 of the 2008 Constitution.

⁴ Due to the subsidiarity principle provided for in article 397 of the 2008 Constitution.

In relation to the rights of Nature, the Court mentions in the first place that, since the issuance of the 2008 Constitution, Nature is recognized as a subject of rights and therefore has a series of guarantees focused on its conservation, protection, regeneration and improvement, with the aim of ensuring a sustainable and harmonious development of humans with Nature.

Subsequently, the Court refers to the interdependence that exists between human rights and the rights of Nature, emphasizing the need for a systemic reading of the Constitution to determine the scope of the different rights, so that natural resources can be utilized for the benefit of society, provided that respect for the life cycles of Nature is ensured so as not to threaten the existence thereof.

Regarding the right to a healthy environment, the Court first elaborates on this matter as follows "(...) the Constitution of the Republic, international instruments dealing with ancestral rights and the mangrove ecosystem, and secondary laws have the purpose of preventing the deterioration thereof and any irrational irruption into ancestral lands that constitute patrimonial wealth; due to their diversity of cultures and ecosystems, **they are vital spaces for all Ecuadorians and future generations**" (Constitutional Court of Ecuador, judgment No. 065-15-SEP-CC, 2015, p. 15).

And then the judgment refers to how to assess a specific damage to ecosystems in relation to the assessment of a violation of the right to a healthy environment, "[t]hat is, [the damage to an ecosystem] is assimilated into the impairment, reduction or damage suffered by the elements of nature to the detriment of the environment, which directly **affected the quality of life of human beings**" (Constitutional Court of Ecuador, judgment No. 065-15-SEP-CC, 2015, p. 15).

This case is important because as it went through different levels of court and proceedings, such as the action to enforce constitutional rights and the extraordinary action to enforce constitutional rights, it provided a broader view of how some issues are addressed by different authorities. It is worth mentioning that it is extremely important to consider the criteria set forth by the Constitutional Court when enforcing the rights of Nature and the right to a healthy environment, since this body is the highest authority having the power to interpret the Constitution through its rulings and judgments, which also constitute binding precedents. Therefore, the criteria developed by the Court when enforcing the rights of Nature and the right to a healthy environment should be taken into consideration by all the administrators of justice, including the Constitutional Court itself.

Right of access to environmental information

01	Guaranteeing the right of public access to environmental information and establishing the procedure for such access.
	Ecuador has bodies of law that recognize the right of public access to environmental information of all citizens: articles 4, 5, 7 and 9 of the Organic Law on Transparency and Access to Public Information; articles 15 and 19 of the Organic Environmental Code; and articles 42, 43, 47 and 48 of the Regulations to the Organic Environmental Code. Ecuadorian regulations are also consistent with those contained in articles 1, 4 and 5 of the Aarhus Convention.
	To comply with this obligation, the State has created the Unified Environmental Information System (SUIA in Spanish) ⁵ to "provide a fast and timely service that makes validated and efficient environmental information available to the general public, allowing proper environmental management to facilitate decision making." ⁶ However, many complain that the

⁵ The SUIA can be found at suia.ambiente.gob.ec and the SUIA User's Guide at <https://www.ambiente.gob.ec/wp-content/uploads/downloads/2015/06/Manual-de-Regularizacion-Ambiental.pdf>.

⁶ Deleted from the SUIA's mission, available at http://suia.ambiente.gob.ec/?page_id=1321.

system is out-of-date and the information is incomplete⁷.
 In addition, at the official website of the Ministry of the Environment⁸ we can access information on the activities carried out by the institution and on topics such as Institutional Calls, Single-Use Plastic Importers and Register, Protected Areas, Hazardous Substances and Waste, Environment and Water Portal, Socio-Environmental Statistics, and Environmental Quality.

02

Defining specific rules to facilitate access to environmental information for individuals and groups in vulnerable situations, including efforts to identify and support individuals or groups in vulnerable situations, to provide assistance in the preparation of requests for access, and to ensure that information is available in the different languages used in the country.

The domestic legal framework includes rules to facilitate access to environmental information for individuals and groups in vulnerable situations in articles 35 and 57 of the Constitution of the Republic of Ecuador; articles 4, 81 and 82 of the Organic Law on Citizen Participation; article 90 of the Mining Law; article 261 of the Organic Environmental Code; and articles 462 and 471 of the Regulations to the Organic Environmental Code.

Based on the aforementioned provisions as well as those set forth in the previous question, we can say that there are specific provisions that regulate access to environmental information for individuals and groups in situations of vulnerability. However, in spite of all the provisions relating to this matter in our legislation, in many cases, except those of prior consultation that will be later discussed, environmental information is not available in the different languages used in the country. This can be observed in the official webpage of the Ministry of the Environment and the Unified Environmental Information System (SUIA).

03

Guaranteeing that access to environmental information be provided at no cost, except for reproduction and delivery costs, which must be reasonable.

Ecuador has legal provisions that recognize access to environmental information at no cost in article 1 of the Organic Law on Transparency and Access to Public Information; articles 3 and 4 of the Regulations to the Organic Law on Transparency and Access to Public Information; and articles 44, 46 and 48 of the Regulations to the Organic Environmental Code. Ecuador's legal framework recognizes that all information of intergovernmental institutions is public and access to such information is free of charge. Consequently, access to environmental information is guaranteed at no cost, either physically on request or through the official websites suia.ambiente.gob.ec and <https://www.ambiente.gob.ec/>.

04

Establishing or designating one or more impartial entities or institutions with autonomy and independence to promote transparency in access to environmental information.

In Ecuador, the Ministry of the Environment is the national environmental authority in charge of the steering, planning, regulation, control, management and coordination of the National Decentralized Environmental Management System, which includes the Unified Environmental Information System among its tools. Therefore, the Ministry of the Environment is the state entity in charge of promoting transparency in the access to environmental information. This rule is defined in the 2017 Organic Environmental Code, in articles 15, 19, 23 and 24(4). In addition to the Ministry of the Environment, the Autonomous Decentralized Governments also guarantee access to and transparency of environmental information within their jurisdictions. Such information is furnished to the National Decentralized Environmental

⁷ See article published by GK titled “El camino que deberá recorrer el Ecuador para cumplir con Escazú” available at <https://gk.city/2021/04/22/vigencia-acuerdo-escazu-ecuador/>.

⁸ Such freely accessible information can be found at <https://www.ambiente.gob.ec/>.

	<p>Management System.</p> <p>Under the current legal framework, the information system is the responsibility of the Ministry of the Environment, and civil society participation is limited to what is prescribed by law. Article 18 of the Organic Environmental Code establishes Sectoral Citizen Councils that guarantee citizen participation in the Decentralized Environmental Management System.</p>
05	<p>Guaranteeing that the competent authorities generate, collect, disclose and disseminate environmental information relevant to their functions.</p> <p>This obligation is regulated by the Regulations to the Organic Environmental Code in article 43 cited in question No. 01 of this section and article 44 cited in question No. 03 of this section. The Ministry of the Environment⁹ publishes information of each of its areas on its official website. For example, the information that the Undersecretaries make available to the public can be found on its official website in the Unified Environment and Water Portal. For better reference, the Undersecretariat of Climate Change has published information regarding the carbon neutral concept and the National Greenhouse Gas Inventory System.</p>
06	<p>Creating one or more environmental information systems.</p> <p>A rule in this regard is found in the Organic Environmental Code, article 19, already cited in question No. 01 of this section. As previously mentioned, the Unified Environmental Information System (SUIA) was created as a digital platform to consolidate all information relating to the environment. It is under the responsibility of the Ministry of the Environment and Water and is aimed at keeping updated, systematized, complete and easily accessible information.</p>
07	<p>Creating a materials, waste and pollutant release and transfer register.</p> <p>A rule in this regard is found in articles 717 and 725 of the Regulations to the Organic Environmental Code.</p> <p>The Ministry of the Environment's official website presents information on the systems created to deal with materials, wastes and pollutants. For example, in the Hazardous Substances/Waste section of the official website¹⁰ we can learn about the existence of the Hazardous and Special Chemical Substance and Waste Management System¹¹. Likewise, in the Unified Environment and Water Portal section, within the Environmental Information selection, we can find the Environmental and Sustainability Indicators System¹². Finally, in the Socio-Environmental Statistics section, we can find the latest data on activities and levels of solid waste released by the population¹³.</p>
08	<p>Guaranteeing immediate disclosure and dissemination of information in case of imminent threat to public health or the environment; developing and implementing an early warning system.</p> <p>Ecuador recognizes the principle of prevention provided for in article 396 of the Constitution (2008), which establishes that "the State shall adopt timely policies and measures to avoid adverse environmental impacts where there is certainty about the damage." This gives a wide field of action to the State to take the most appropriate measures depending on the specific case and to disclose the necessary information by the means it considers the most advisable. Furthermore, article 82 of the Organic Law on Citizen Participation cited in question No. 02 of</p>

⁹ <https://www.ambiente.gob.ec/>

¹⁰ <https://www.ambiente.gob.ec/>

¹¹ <https://www.ambiente.gob.ec/sistema-de-gestion-de-desechos-peligrosos-y-especiales/>

¹² <http://snia.ambiente.gob.ec:8090/indicadoresambientales/pages/welcome.jsf>

¹³ <http://pras.ambiente.gob.ec/web/siesap/inicio>

	<p>this section provides for citizen consultation on environmental matters. Citizen consultation on environmental matters is carried out prior to the performance of any work, activity or project that may affect public health or the environment, so that measures may be taken to avoid or mitigate such damage or impact. In addition to this, we have the aforementioned Unified Environmental Information System; however, dissemination is not entirely immediate or massive. In Ecuador there is a National Secretariat for Risk Management whose functions include: (a) identifying natural or anthropic risks in order to reduce vulnerability; and (b) generating and democratizing access to and dissemination of sufficient and timely information to adequately manage risk.</p>
09	<p>Publishing and disseminating a national report on the state of the environment at intervals not exceeding 5 years.</p> <p>This rule is set forth in articles 100, 231 and 297 of the Constitution of the Republic of Ecuador; articles 90, 91 and 95 of the Organic Law on Citizen Participation; articles 199, 200 and 201 of the Organic Environmental Code; and articles 568, 680, 682, 684, 686, 688, 690, 698 and 700 of the Regulations to the Organic Environmental Code.</p> <p>As can be seen from the legal framework cited above, there is a legal obligation to render annual accounts and periodically evaluate plans and programs related to the environment. Ecuador publishes information on national environmental reports on its official website. For example, accountability reports of the Ministry of the Environment and Water are found on the official web page https://www.ambiente.gob.ec/, in the Transparency section. We can also access reports for every activity approved and carried out by the Ministry of the Environment. One of these reports can be found at informe rendicion de cuentas - sgmc 2017.pdf (ambiente.gob.ec).</p>
10	<p>Encouraging independent environmental performance reviews that evaluate the efficacy, effectiveness and progress of national environmental policies in meeting national and international commitments.</p> <p>The rule of citizen participation in the review of public policies is consistent with the international commitments assumed by Ecuador in this connection and is defined in article 85 of the Constitution of the Republic of Ecuador; articles 8 and 18 of the Organic Environmental Code; articles 36, 28, 40 and 41 of the Regulations to the Organic Environmental Code; articles 52, 53, 79 and 80 of the Organic Law on Citizen Participation; and articles 1, 4, 5, 6, 7, 9, 11 and 13 of Ministerial Decree 102 of the Ministry of the Environment published on January 19, 2018.</p>
11	<p>Ensuring that consumers and users have official, relevant and clear information on the environmental qualities of goods.</p> <p>In Ecuador, article 57 of the Organic Consumer Protection Law establishes the obligation of suppliers to include the necessary warnings or indications for use on the products or in attached instructions when the products are potentially dangerous for consumers' health, safety or property, or the environment.</p>
12	<p>Promoting access to environmental information in the possession of private entities and encouraging public and private companies to prepare sustainability reports.</p> <p>Regarding environmental information in the possession of private entities, article 9(6) of the Organic Environmental Code (2017) provides that "every person, commune, community, people, nationality and group shall, in accordance with the law, have the right to timely and adequate access to information related to the environment available to the agencies comprising</p>

the public sector or **any natural or legal person** that assumes public responsibilities or functions or provides public services, particularly information and adoption of measures that involve environmental risk or impact." Thus, any citizen may request environmental information held by private entities without the need to demonstrate a direct or particular interest. In case of explicit or tacit refusal by the relevant entity, an action for access to public information can be considered to achieve this purpose.

Furthermore, in connection with annual sustainability reports, in Ecuador there is still no evidence of the issuance of these reports on a periodic, mandatory and general basis for all companies, although several companies already prepare them as part of their annual reports, seeking to align themselves with the principles of the United Nations Global Compact. In addition, companies engaged in any activity, work or project that may have an impact on the different ecosystems must obtain the relevant permit(s) and are subject to monitoring of compliance with certain parameters and standards established for the granting of the relevant permit(s), including annual reports on compliance with the relevant environmental management plan.

13

Guaranteeing mechanisms for citizen participation in decision-making processes, reviews, reexaminations, or updates with respect to projects, activities and other environmental licensing processes that have or may have a significant impact on the environment or may affect health.

This rule is defined in articles 15, 18 and 184 of the Organic Environmental Code; articles 35, 36, 37, 40, 431, 432, 440, 441, 463, 464, 465, 466, 469, 470, 471, 474, 475, 476, 477, 478 and 479 of the Regulations to the Organic Environmental Code; and articles 52, 53, 54 and 482 of the Organic Law on Citizen Participation.

Ecuador's legal framework is also consistent with articles 5, 18 and 27 of the United Nations Declaration on the Rights of Indigenous Peoples and articles 3, 6 and 7 of the Aarhus Convention. It is also consistent with articles 2 and 4 of Ombudsman's Office's Resolution 21-2019 and Recommendation No. ACCC/A/2020/2:

Ecuador publicly discloses the requirements of the calls for participation in projects or consultations for decision making and reviews regarding environmental activities having an impact on society and people's lives. In this regard, on the official website <https://www.ambiente.gob.ec/>, in the institutional calls section, there is a list of all projects, courses and updates to society related to the environment. For better reference visit: <https://www.ambiente.gob.ec/convocatorias/>.

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Making efforts to identify the persons directly affected by the aforementioned decision-making processes and to promote specific actions to facilitate their participation.

In respect of efforts to identify the persons directly affected by the aforementioned decision-making processes and to promote specific actions to facilitate their participation, the State carries out (i) prior consultation, which is a collective right applicable in those cases where indigenous communities, peoples or nationalities are affected; and (ii) environmental consultation with the community where citizens at large are affected. This is provided for in the Constitution (2008, art. 57) and in several bodies of law, such as the Organic Law on Citizen Participation (2010, arts. 82 and 83).

From the perspective of society, the implications of both prior consultation and environmental consultation with the community are clear.

15

Making public at least the following necessary information relating to the aforementioned decision-making processes:

(a) a description of the area of influence and the physical and technical characteristics of the proposed project or activity;

This rule is defined in articles 406 and 407 of the Constitution of the Republic of Ecuador and articles 87 and 88 of the Mining Law.
(b) a description of the major environmental impacts of the project or activity and, if appropriate, the cumulative environmental impact;
This rule is defined in article 89 of the Mining Law.
(c) a description of the measures provided for with respect to those impacts;
This rule is defined in article 90 of the Mining Law cited in question No. 02 of this section.
(d) a summary of (a), (b) and (c) above in comprehensible, non-technical language;
The State is responsible for the protection, care, management and sustainable use of fragile and threatened ecosystems including, among others, moorlands, wetlands, cloud forests, dry and humid tropical forests and mangroves, marine and coastal-marine ecosystems. Therefore, every project intended to be implemented in these areas must be identified and delimited according to its ecosystem. The physical and technical characteristics of the project intended to be performed must be detailed therein. In particular, in relation to mining, the environmental impacts must be described in an administrative report that will serve as the basis to go to citizen consultation and discuss the admissibility of the proposed mining exploitation.
(e) public reports and opinions of the involved entities addressed to the public authority in relation to the project or activity under consideration;
This rule is defined in article 91 of the Mining Law.
(f) a description of the available technologies intended to be used and alternative locations for performance of the project or activity under assessment, in those cases where the information is available; and
There is no express provision on the available technology intended to be used or alternative locations for performance of the projects under assessment.
(g) actions taken to monitor the implementation and results of environmental impact assessment measures.
Article 488 of the Regulations to the Organic Environmental Code establishes the obligation to submit environmental compliance reports by operators of projects, works or activities regularized through environmental registration, in order to evaluate compliance with current environmental regulations, environmental management plans, and obligations derived from the environmental administrative authorization. These reports may include an update of the environmental management plan, if required. These reports must be submitted one year after the administrative authorization is granted and every two years thereafter, without prejudice to the authority's requesting them whenever it deems necessary.
Ecuador publicly discloses reports on participation in projects or consultations for decision making and reviews regarding environmental activities having an impact on society and people's lives. For example, a report of ongoing plans and programs including calls made is published on the official website https://www.ambiente.gob.ec/ , in the transparency section. For better reference, visit: https://www.ambiente.gob.ec/transparencia/Literal-k-Planes-y-programas-en-ejecucion-abril-2019.pdf

However, there are still cases where the Ecuadorian State has violated the right to prior consultation of indigenous peoples, as explained in the following two cases analyzed by the Inter-American Court and the relevant constitutional authorities:

Case: Sarayaku Kichwa People v. Ecuador (2012)

The Sarayaku Kichwa People are one of the oldest settlements of the indigenous Kichwa people in the province of Pastaza in Ecuador's Amazon region, and it is home to approximately 1,300 people. In 1996, Ecuador entered into a production sharing contract for hydrocarbon exploration and crude oil exploitation between Empresa Estatal de Petr leos del Ecuador (PETROECUADOR) and a consortium made up by CGC (Compa a General de Combustibles, a subsidiary of Chevron, in Argentina) and Petrolera Ecuador San Jorge S. A. Between 2002 and 2003, CGC, with the help of the State security forces, entered without permission and against the will of the Sarayaku people into Sarayaku territory to carry out seismic exploration, planting almost a ton and a half of explosives inside the forest. This entry that happened without consultation also caused the destruction of sacred sites and led to confrontations between the Sarayaku people and the company's agents and the security forces.

The Inter-American Commission ordered precautionary measures in favor of the Sarayaku people in 2003, but the Court did not issue its judgement in the case until 2012, after a historic visit to the village in April of that year. The Court found that Ecuador had violated the rights to prior and informed consultation, to indigenous communal property and to cultural identity. The State was also found responsible for putting the rights to life and to personal integrity at serious risk and for violating the rights to judicial guarantees and judicial protection to the detriment of the Sarayaku People.

The Court ordered Ecuador to "remove the pentolite from the territory of the Sarayaku People." In addition, the State must conduct an adequate, effective and full consultation before beginning natural resource extraction projects. It must also hold "mandatory courses" on the rights of indigenous peoples, aimed at officials involved with indigenous peoples, and organize "a public act of acknowledgement of responsibility" for the violations. Finally, the Court established that the State must pay USD 90,000 in material damages and USD 1,250,000 in non-material damages to the Sarayaku people.

Case: Piat a River (2019)

In 2017, the Ministry of Energy and Non-renewable Natural Resources signed a concession contract with the company GENEFRAN S.A. for the development of a hydroelectric project on the Piat a River (Pastaza Province), for a 40-year term. The authorizations issued by the Ministry of the Environment ignored prior consultation processes with the Kichwa people of Santa Clara (ancestral owners of the territory); were based on information that was 22 years out of date, with parameters from 1962 to 1996, and data that belonged not to the Piat a River, but to the Verde River (located in the county of Ba os, Tungurahua Province); and ignored the high number of endangered fauna and flora that depended on the Piat a River. Meanwhile, the Water Secretariat and the Undersecretariat of the Napo River Basin District authorized taking 90% of the ecological flow of the Piat a River and relocating it to other rivers, causing the project to seriously affect the ecological balance of the area.

The constitutional judge of first instance denied the proposed action to enforce constitutional rights, as he found the acts performed to authorize this project in the case to be legitimate, since they complied with the requirements of competence and content. The judgement was appealed.

The Provincial Court of Pastaza accepted the appeal, determining the violation of Nature's right to the full respect of its existence, maintenance, and regeneration (Art. 71); the State's obligation to adopt precautionary measures and to restrict activities that could lead to the

extinction of species (Art. 73); the human rights to a healthy environment, to food sovereignty and the collective rights of cultural identity and of prior, free, and informed consultation of the Kichwa People of Santa Clara.

The following can be found as part of the judgment in this case:

(1) Given that the area of direct influence of the hydroelectric power plant on the Piatúa River extends over the PONAKICS territories, it was necessary, in accordance with the aforementioned article, to carry out a prior consultation with the communities that could be affected, to ensure the sharing of the project for the following purposes:

- That the communities be informed about the prospecting, exploitation and commercialization plans and programs involving the river and its resources, which could affect them environmentally or culturally.
- That the communities can share the benefits of the project.
- That the communities may receive compensation for the social, cultural and environmental damages caused.

(2) In the judgment of the case presented before the IACHR on the indigenous Sarayaku Kichwa People v. Ecuador (2012), the Court determined that the consultation must meet certain essential characteristics:

- i. The consultation must be carried out in advance.
- ii. It must be carried out in good faith and with the purpose of reaching an agreement.
- iii. The consultation must be adequate and accessible.
- iv. An Environmental Impact Study must be conducted.
- v. Consultation must be informed.

16

Promoting the right to public participation in decision-making processes relating to environmental matters of public interest, such as land-use planning, policies, strategies, plans, programs, rules and regulations that have or may have a significant impact on the environment.

Public participation in environmental decision-making processes is established in Ecuador as a right and as an obligation of the State. Thus, this rule is found in articles 85, 134 and 137 of the Constitution of the Republic of Ecuador, articles 8 and 9 of the Organic Environmental Code, and articles 52, 53, 79 and 80 of the Organic Law on Citizen Participation.

Ecuador has legislation that guarantees citizen participation in decision-making processes related to environmental issues of public interest, such as land use planning, public policy, strategies, plans, programs, rules and regulations. This participation takes place mainly through the National Citizen Council for the Environmental Sector, as extensively discussed above, but the legislation leaves the door open to independent participation as well, for both individuals and groups.

17

Defining procedures and mechanisms that support the right to citizen participation in decision-making processes from early stages to decision-making.

This rule is defined in articles 475, 476, 477, 478, 479, 480 and 481 of the Regulations to the Organic Environmental Code.

Ecuador's legal framework is also consistent with the United Nations Declaration on the Rights

of Indigenous Peoples, articles 5, 18 and 27, and the Aarhus Convention, articles 3, 6 and 7.

Ecuador publicly discloses the mechanisms used to make public the calls for participation in projects or consultations for decision making and reviews regarding environmental activities having an impact on society and people's lives. In this regard, a list of all projects, courses and updates to society related to the environment, including the mechanisms and participating entities, is published on the official website <https://www.ambiente.gob.ec/>, in the institutional calls section. For better reference, visit: <https://www.ambiente.gob.ec/convocatorias/>.

18

With respect to the aforementioned decision-making processes, guaranteeing that the public is informed at least of (a) the nature of the environmental decision, (b) the authority responsible for making the decision and other authorities or entities involved, (c) the public participation procedure, (d) other public authorities from which additional information may be requested and the procedure for such request.

The aforementioned Unified Environmental Information System includes "information on the state and conservation of the environment, as well as projects, works and activities that generate environmental risk or impact. (...) The Unified Environmental Information System will be the mandatory computerized tool for the regularization of activities at the national level." (Organic Environmental Code, 2017, art. 19 cited in question No. 01 of this section).

Therefore, it is in this system, which is currently in operation and whose updating is under the responsibility of the Ministry of the Environment, that anyone can access information related to the nature of the environmental decision, the authorities involved and the public participation procedures (prior consultation or environmental consultation with the community).

Regarding the procedure to request additional information from public authorities in relation to an activity, work or project, this is a right, as mentioned above, so the request does not involve any particular formal requirement such as justifying a direct interest in the requested information. In case of explicit or tacit refusal of an authority to deliver the requested information, an action for access to public information may be filed.

19

Providing means to facilitate understanding and participation of directly affected persons in those cases where their primary language is different from the official language.

This rule is found in article 16 of the Constitution of the Republic of Ecuador, article 184 of the Organic Environmental Code, and articles 475, 476, 477, 478, 479, 480 and 481 of the Regulations to the Organic Environmental Code.

Ecuador's legal framework is also consistent with the United Nations Declaration on the Rights of Indigenous Peoples, article 16, and the Aarhus Convention, articles 3, 6 and 7.

Ecuador publicly discloses through digital means the mechanisms used to make public the calls for participation in projects or consultations for decision making and reviews regarding environmental activities having an impact on society and people's lives. For example, a list of all projects, courses and updates to society related to the environment, including the mechanisms and participating entities, is published on the official website <https://www.ambiente.gob.ec/>, in the institutional calls section. For better reference, visit:

<https://www.ambiente.gob.ec/convocatorias/>. If the applicant's or consulting party's primary language is different from the official language, they may, by virtue of the guarantees recognized in the Constitution, request that the information in the call be translated into their language of origin. This provision also applies to Ecuador's indigenous nationalities and peoples.

20

Encouraging the establishment of appropriate means of consultation that enable participation of diverse groups and sectors.

	In relation to the means of consultation that enable participation of diverse groups and sectors of society, the above discussed prior consultation and environmental consultation with the community and the National Citizen Council for the Environmental Sector are available.
21	<p>Guaranteeing observance of domestic laws and international obligations relating to the rights of indigenous peoples and local communities.</p> <p>Articles 56, 57, 424 and 425 of the Constitution define special rights of indigenous peoples and communities. In addition, Ecuador has ratified ILO Convention 169, which places the provisions of the Convention at the same level of hierarchy as the Constitution. Article 6 of the Convention, which defines the obligations to the States Parties, is of special relevance to this matter.</p> <p>The special rights of local communities and indigenous peoples are guaranteed by the Constitution and international treaties, and there are administrative and judicial mechanisms to turn to in case of violation, as discussed in previous questions and in the cases referred to above. An element that should be considered is that there are several social movements that keep close watch over compliance with the provisions that protect the environment and over prior consultation with indigenous communities, peoples and nationalities located near future projects.</p>
	Access to justice in environmental matters
01	<p>Ensuring that domestic legislation guarantee substantive and procedural due process.</p> <p>Domestic legislation does not make a distinction between substantive and procedural due process since this distinction is specific to the doctrine and is rarely mentioned but never elaborated on in case law. In any case, due process is provided for in article 76 of the Constitution.</p> <p>Compliance with and application of due process as a fundamental right and the guarantees provided for its compliance are mandatory in all judicial and administrative proceedings in which rights and obligations of any kind are determined. Non-observance of due process guarantees results in the nullity of the relevant process, applied retroactively to the time immediately preceding the act of violation.</p>
02	<p>Based on due process, relying on</p> <p><u>(a) competent state entities with access to expertise in environmental matters;</u></p> <p>Under Ecuador's legal framework, Autonomous Decentralized Governments were created in accordance with articles 23, 24, 25, 26, 27, 28, 165 and 166 of the Organic Environmental Code, and the powers of the National Environmental Quality Committee were defined in article 19 of the Regulations.</p> <p><u>(b) effective, timely, public, transparent and impartial procedures that are not prohibitively expensive;</u></p> <p>In articles 76, 86 and 169, the Constitution guarantees the right to due process of law and a fair procedural system. Article 75 of the Constitution provides that every person has the right to free access to justice and effective, impartial and expeditious protection of their rights and interests.</p> <p><u>(c) broad standing to sue for the purpose of protecting the environment;</u></p> <p>The Organic Environmental Code provides in articles 7, 8 and 10 that the protection of the environment and nature is of public interest. Article 397 of the Constitution provides that any natural or legal person may file suit to halt environmental damage and request precautionary</p>

measures.
<u>(d) the possibility of ordering precautionary and interim measures, inter alia, to prevent, halt, mitigate or repair damage to the environment;</u>
As discussed above, any person may bring action and request precautionary measures to halt environmental damage. Likewise, environmental liability is regulated by articles 162, 172, 173, 176, 200, 201, 202, 204, 208, 211, 224, 228, 235, 243 and 293 of the Organic Environmental Code and article 646 of the Regulations to the Organic Environmental Code. Under this legal framework, the environmental agency is authorized to order precautionary measures to prevent, halt and mitigate environmental damage either in the course of an environmental licensing procedure or as a result of an administrative sanctioning procedure.
<u>e) measures to facilitate the production of evidence of environmental damage, such as reversal of the burden of proof and dynamic burden of proof;</u>
Article 397 of the Constitution provides that the burden of proof lies with the person or organization responsible for the activity to which the environmental damage is imputable. Article 313 of the Organic Environmental Code regulates reversal of the burden of proof, providing that a transfer of the burden of proof is possible only where it is possible to identify the causality between the activity and the environmental damage.
<u>(f) mechanisms to execute and enforce judicial and administrative decisions in a timely manner; and</u>
Ecuador's legal framework has defined mechanisms to execute and enforce judicial and administrative decisions in articles 290, 291, 294 and 295 of the Organic Environmental Code, articles 807, 808, 809, 810, 811 and 812 of the Regulations to the Organic Environmental Code, and articles 71, 132, 245, 246, 247, 252, 254, 255 and 256 of the Organic Comprehensive Criminal Code.
<u>(g) Mechanisms for redress.</u>
Ecuador's legal framework has defined mechanisms for redress in articles 164, 288, 292 and 296 of the Organic Environmental Code, articles 813, 814 and 823 of the Regulations to the Organic Environmental Code, and articles 257, 258 and 551 of the Organic Comprehensive Criminal Code. Ecuador applies the legal provisions to specific cases in judicial and administrative actions relating to the environment. Below is a summary of the first case regarding the rights of nature to be brought to court.
<u>Action No. 11121-2011-0010 to enforce constitutional rights – VILCABAMBA RIVER</u>
The Provincial Court of Loja ruled in favor of Nature, particularly of the Vilcabamba River through Action No. 11121-2011-0010 to enforce constitutional rights. The main points of the judgement are the following: 1) The suitability and effectiveness of the action to enforce constitutional rights as the only way to immediately remedy the focused environmental damage due to the indisputable, fundamental and inalienable importance of Nature, taking into account its evident degradation process. 2) It states that, based on the precautionary principle, until it is objectively demonstrated that there is no probability or definite danger that the tasks carried out in a certain area cause pollution or environmental damage, it is the duty of the constitutional Judges to immediately tend to safeguard and make effective the judicial protection of the Rights of Nature, taking all

the necessary measures to avoid pollution or to remedy it. Note that in relation to the environment not only the certainty of the damage is considered, but also the probability.

3) It recognizes the importance of Nature, stating that the damage caused to it is generational damage, which means that due to its magnitude its effects have repercussions not only on the current generation, but will have an impact on future generations as well.

4) Using the principle of reversal of the burden of proof, it states that the plaintiffs did not have to prove the damages, but that the Provincial Government of Loja, as manager of the activity or defendant, had to provide concrete evidence that the activity of opening a road would not and will not affect the environment.

5) Regarding the Provincial Government's allegation that the population needs roads, the response is that there is no need to ponder on this matter since there is no collision of constitutional rights, nor sacrifice of one of them, since it is not a question of not widening the Vilcabamba-Quinara road, but rather that the constitutional rights of Nature be respected;

The Provincial Court of Loja established the following remediation measures:

- 1) That the Provincial Government of Loja present within 30 days a remediation and rehabilitation plan for the affected areas in the Vilcabamba River and to the affected populations, as a consequence of the disposal and accumulation of debris on the river banks from the resulting material. Compliance with the environmental authority's recommendations.
- 2) That the Provincial Government of Loja immediately submit to the Ministry of the Environment (MAE) the environmental permits for the construction of the road.
- 3) That they implement remedial actions such as: implement safety bins to prevent fuel spills in the soil where fuel tanks and machinery are located, clean up contaminated soil from spilled fuel, implement a good labeling and signage system, and establish dump sites for the material resulting from construction.
- 4) It orders the Provincial Government to comply with all the recommendations made by the Undersecretary of Environmental Quality of the MAE.
- 5) It appoints MAE's Regional Director of Loja, El Oro and Zamora Chinchipe and the Ombudsman's Office to monitor compliance with the judgement.
- 6) It orders the defendant to publicly apologize for initiating the construction of a road without an environmental license by publishing a quarter page in a local newspaper.

The Court decided: 1) To accept the appeal and revoke the challenged judgement declaring that the defendant entity is violating Nature's right to have its existence and its vital cycles, structure, functions and evolutionary processes fully respected.

Conclusion: This was the first case to guarantee compliance with the rights of Nature and admit the seriousness of environmental problems, especially in relation to rivers. For the first time, there was a judicial action based on the rights of Nature in which the status of Nature as a subject of independent rights was acknowledged and guaranteed.

03

Establishing (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 from languages other than the official languages.

First, in relation to the measures to minimize or eliminate barriers to the exercise of the right of access to justice, articles 11, 75, 168 and 191 of the Constitution define rules and principles that guarantee this right of access.

The Public Defender's Office must provide technical, timely, efficient and effective legal services free of charge, including representation and legal advice in connection with the rights of

individuals, with respect to all matters and at all levels of court. These rules and principles as well as the guarantees related to the right to due process must be observed by all administrative and judicial authorities hearing cases in which any kind of rights or obligations are determined.

Second, with regard to the means to make public the right of access to justice, there are several radio and television programs at the state level, as well as the inclusion of this and other topics in the school curriculum. Furthermore, laws are public, and the Constitution and other bodies of law can be accessed free of charge in physical or digital form.

Third, with regard to mechanisms to systematize and disseminate judicial and administrative decisions in Ecuador, there is an official registry for certain judicial decisions and the Ecuadorian Automatic Judicial Processing System (SATJE in Spanish), which records and makes it possible to follow up on the steps taken in each of the cases handled by the different courts, obtaining fast and reliable information in real time.

The SATJE system was developed to systematize proceedings and decisions in all courts and levels of court and relating to all matters, such as the Civil, Criminal, Traffic, Labor, Family, Women, Children and Adolescents and Tenancy Courts; Criminal, Tax and Administrative Litigation Courts; Specialized Divisions of Provincial Courts and the National Court, and those determined by law.

Finally, with regard to the use of interpretation or translation from any languages other than the official languages, article 76 of the Constitution provides that failure to comply with this guarantee of due process shall result in the nullity of the relevant process and may also give rise to actions for damages or to an action for protection due to discrimination, depending on the specific case.

04

Establishing support mechanisms including free technical and legal assistance to meet the needs of persons or groups in vulnerable situations.

According to articles 76, 86, 169, 191, 214 and 215 of the Constitution of the Republic of Ecuador, due process includes protections for persons or groups in vulnerable situations including free technical and legal assistance, the option of receiving decisions in oral or written form, the support provided by the Ombudsman's Office to all the inhabitants of Ecuador, etc. In Ecuador these rules are applied in judicial and administrative cases relating to the environment. In particular, it should be noted that the Ombudsman's Office has taken an active role in the defense of environmental rights. Although access to cases handled by the institution is public, due to the Covid-19 pandemic, access to this type of information is now restricted to officials of the entity. However, information of the activities of the Ombudsman's Office can be found in the following links:

<https://www.dpe.gob.ec/la-defensoria-del-pueblo-frente-a-la-vulneracion-de-derechos-humanos-y-de-la-naturaleza-de-los-pueblos-en-aislamiento-voluntario-y-de-reciente-contacto/>

<https://www.dpe.gob.ec/cartografia-participativa-para-conocer-las-vulneraciones-de-los-derechos-humanos-y-de-la-naturaleza-en-ecuador/>

<https://www.dpe.gob.ec/proteccion-de-derechos-humanos-y-de-la-naturaleza/>

<https://www.dpe.gob.ec/la-defensoria-del-pueblo-presenta-propuesta-enfocada-a-la-proteccion-de-personas-defensoras-de-derechos-humanos-y-de-la-naturaleza/>

<https://www.dpe.gob.ec/que-hacemos/>

<https://www.dpe.gob.ec/la-defensoria-del-pueblo-emprende-acciones-para-la-proteccion-de-la-naturaleza-en-galapagos/>

05	<p>Ensuring that judicial and administrative decisions adopted in relation to environmental matters are set out in writing.</p>
	<p>Notice of judicial and administrative decisions adopted in relation to environmental matters in Ecuador is served on the parties in writing to the physical or electronic judicial mailbox designated for this purpose, without prejudice to the judicial and administrative decisions being delivered in oral form at the end of the trial hearing.</p>
06	<p>Promoting alternative dispute resolution mechanisms that allow such disputes to be prevented or resolved.</p>
	<p>According to article 190 of the Constitution and under the Arbitration and Mediation Law, Ecuador recognizes alternative dispute resolution mechanisms in matters capable of being settled. Due to the confidentiality requirement established by law for matters dealt within mediation and arbitration proceedings, we have been unable to access specific cases involving environmental matters; however, in international arbitration we can mention the Perenco v. Ecuador and Chevron v. Ecuador cases in which arbitration was used to resolve the disputes.</p>
Human rights defenders in environmental matters	
01	<p>Guaranteeing a safe and enabling environment for persons, groups and organizations that promote and defend human rights in environmental matters.</p>
	<p>Individuals, groups and organizations that promote and defend human rights in environmental matters have all the rights and guarantees provided for in the Constitution, the Organic Environmental Code, Resolution No. 77 of the Ombudsman's Office (cited in the next question) and the Organic Comprehensive Criminal Code. However, due to private interests that often guide issues relating to the utilization of natural resources, human rights defenders in environmental matters are often victims of acts of intimidation and even attacks on their safety or property.</p> <p>If they are victims of attacks on their safety or property or intimidation in general, they can avail themselves of the National System of Protection and Assistance to Victims, Witnesses and Other Participants in Proceedings, which will provide "specialized measures of protection and assistance to ensure their safety and not revictimize them when they are in danger." (Organic Comprehensive Criminal Code, 2014, Art. 447).</p>
02	<p>Recognizing, protecting and promoting all the rights of human rights defenders including their ability to access such rights.</p>
	<p>The rights of human rights defenders do not have special protection under Ecuador's Constitution. On the other hand, citizens are guaranteed the rights to life, freedom of speech, property, asylum, legal assistance, and emergency humanitarian aid, among others¹⁴. Resolution No. 77 of the Ombudsman's Office contains regulations that recognize, protect and promote the rights of human rights and environmental defenders as prescribed in the Escazú Agreement. However, there is no evidence of implementation of this resolution in judicial or administrative stages.</p>
03	<p>Preventing, investigating and punishing attacks, threats or intimidation against human rights defenders.</p>

¹⁴ As defined in articles 11, 18, 41, 66 and 426.

Attacks, threats or intimidation against human rights defenders in environmental matters are not addressed in any specific regulation other than Resolution No. 77 of the Ombudsman's Office mentioned above on the prevention, investigation and punishment thereof, so they are prosecuted in the same way as attacks, threats or intimidation against any other person according to the provisions of the Organic Comprehensive Criminal Code. In this regard, article 78 of the Constitution provides that "the victims of criminal offenses shall enjoy special protection; guarantees shall be provided to them for preventing their revictimization, especially in obtaining and assessing the evidence; and they shall be protected against any threat or other forms of intimidation. Mechanisms shall be adopted for integral reparation, which will include, without delay, knowledge about the truth of the facts and restitution, compensation, rehabilitation, guarantee of non-repetition, and satisfaction with respect to the violated right. A system for the protection of and assistance to victims, witnesses, and participants in proceedings shall be established."

Compliance with and implementation of the Escazú Agreement

01 Committing resources for activities at the national level that are needed to perform the obligations derived from the Agreement.

We have been unable to gain access to the implementation budget for the Escazú Agreement; however, on the website of the Ministry of the Environment and Water we found a publication of May 2021 on the actions that are being carried out in relation to the Agreement: "In terms of access to environmental information, the National System of Environmental Indicators and Sustainability (SINIAS) platform, a publication of national environmental information generated by the ministry, was launched. In addition, the Unified Environmental Information System (SUIA) was updated to streamline access to the system and regularization, control, monitoring and environmental certification processes. Through the REDD+ Roundtable, a participatory platform was created for information, discussion and proposals on a fundamental issue: the reduction of deforestation and forest degradation at the national level."¹⁵

In addition, in line with this Agreement, the environmental and water authority joined the Alliance for Open Government where it is part of the multisectoral Work Group and implemented the National Environmental Education Strategy ENEA 2017 - 2030 at the territorial level to promote the creation of Local Environmental Education Advisory Councils, which are provincial participation forums in charge of developing and implementing a Provincial Environmental Education Plan.

The country is looking forward to holding work meetings with countries in the region and attending the Conference of the Parties (COP), the main governing body of the Escazú Agreement, where documentation and guidelines for the implementation process will be defined.

02 Cooperating with other Parties to strengthen national capacities with the aim of implementing the Agreement.

Ecuador is carrying out a process with the support and participation of civil society, academia and international cooperation to analyze the regulatory, public policy and institutional consistency of the Escazú Regional Agreement.

¹⁵ Available at <https://www.ambiente.gob.ec/el-acuerdo-regional-escazu-una-prioridad-de-gestion-ambiental-y-der-echos-humanos-para-el-pais/>.

	<p>“The objective is to identify the reforms needed in secondary regulations and public and institutional policies to facilitate the full implementation of the Agreement in order to contribute more broadly to transparency, prevention of corruption, and strengthening the protection of human rights, governance and environmental democracy”¹⁶.</p>
03	<p>Encouraging partnerships with non-Parties (States from other regions, private organizations, civil society organizations, etc.).</p> <p>The Government whose mandate ended in May 2021 was carrying out a process with the support and participation of civil society, academia and international cooperation for "Analysis of Regulatory, Public Policy and Institutional Consistency of the Escazú Regional Agreement." We hope that in the next few days the new government will make a statement on the actions it will take during its mandate to comply with the commitments assumed upon the entry into force of the Escazú Agreement.</p>
04	<p>Recognizing that regional cooperation and exchange of information must be promoted in relation to all aspects of illegal activities against the environment.</p> <p>In addition to the foregoing, Ecuador, through the Ministry of the Environment and in cooperation with the Attorney General's Office and the Ministry of Foreign Affairs, promotes regional cooperation and the exchange of information on all aspects of illegal activities against the environment.</p> <p>In this respect, in our legal framework we have found only general provisions such as those contained in the Organic Environmental Code¹⁷ and the Organic Comprehensive Criminal Code¹⁸.</p>
	<p>Other questions on issues that remain undefined, such as the Parties' obligations:</p>
01	<p>Has the country taken measures to enter into a commitment with the Observatory of the virtual and universally accessible clearing house available on Principle 10?</p> <p>We do not have adequate information available to assess whether or not Ecuador has taken measures to enter into a commitment with the Observatory of the virtual and universally accessible clearing house available on Principle 10.</p> <p>In this connection, a search has been conducted on the Observatory's website: https://observatoriop10.cepal.org/es</p>
02	<p>Has the country taken measures to make contributions to the Voluntary Contribution Fund created by article 14 of the Escazú Agreement?</p> <p>We do not have sufficient public information available to assess whether or not Ecuador has</p>

¹⁶ Obtained from:

https://www.swissinfo.ch/spa/ecuador-medioambiente_acuerdo-de-escaz%C3%BA-entrar%C3%A11-en-vigor-en-ecuador-el-pr%C3%B3ximo-abril/46320108.

¹⁷ Article 8, Organic Environmental Code.

¹⁸ “Seventh General Provision – The Prosecutor General of the State shall use their foreign policy authority to request the execution of bilateral agreements for international cooperation and assistance in criminal matters.”

	made contributions to the Voluntary Contribution Fund created by Article 14 of the Escazú Agreement.
03	Promoting the establishment of appropriate consultation forums where diverse groups and sectors can participate.
	We do not have any information other than as set forth above.

Conclusion

Due to the recent entry into force of the Escazú Agreement in the context of the Covid-19 pandemic, very little has been done at the State level to implement it beyond pre-existing legislation and efforts made during the phases of approval and entry into force. The change of government that occurred in May will surely bring about adjustments in the public administration that will hopefully contribute to the fulfillment of the Escazú Agreement.