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A new era for environmental protection

The Escazú Treaty — which came into effect last week — could help combat eco-social violence and environmental exploitation in Latin America

Latin America is the area with the richest biodiversity and ecosystems, which have a major impact on the global climate. But because of megaprojects in infrastructure, such as new roads or dams, and huge investments in the exploration of minerals and petrol, the many ecosystems are under threat. It is in this context that the so-called 'Escazú Treaty' entered in force last week, the first agreement negotiated for and by Latin American countries to tackle these problems. In its intent and breadth, it raises massive expectations.

The overall objective of the Escazú Treaty is to guarantee the right for all people to live in a healthy environment. To improve human and environmental rights, the treaty proposes greater access to information as well as to guarantee the participation of affected groups in decisions on big mining and infrastructure projects. Furthermore, the agreement outlines a guarantee for affected groups to access the judicial system, and – for the first time in a multilateral treaty – the inclusion of mechanisms to protect the rights of environmental activists. This aspect alone makes the Escazú Treaty much more ambitious than the Aarhus Convention.

The treaty was negotiated by 24 countries in March 2018 in Escazú, Costa Rica. Since then, it has been ratified by only twelve countries. They agreed to adapt their legal framework to organise the access to all information related to environmental issues as well as rules for an open and inclusive participation concerning projects with implications on the environment.

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In order to protect affected groups, the signatories agreed to create institutions such as environmental courts, guarantee transparent procedures in their legal system, and offer free legal consultancy. To foster transparency,

private and state companies are obliged to present all related information in local languages and provide information on their social and ecological impacts. Additional measures include capacity programmes for staff in the juridical system and information campaigns on the treaty for the public as well as the exchange of best practices among the member states.

Eco-social violence

The access to information on natural resources, environmental risks and adverse impacts affecting the eco-system or health will have a profound impact in overcoming the increasing number of eco-social conflicts that are present all over the region. In the context of huge investments in mining and petrol production, many conflicts – especially those in remote areas – have escalated into violence, and the criminalization of conflicts is widespread. Climate activists in particular are victims to threats, intimidation and even murder. In fact, Latin America is the most dangerous region for activists and journalists. In 2019, the NGO Global Witness counted of 212 murdered climate activists globally, 148 are from Latin America.

Therefore, the expectations on the implementation of the Treaty are enormous, especially by civil society organisations which have participated actively in the whole negotiation process. Last week's entering into force of the agreement is only the beginning, now the treaty has to be filled with action.

A first step would be the adaptation of the legal framework in the member states which have been dodging their responsibilities up to now. While big countries such as Mexico passed laws on free access to information many years ago, many smaller countries will have to undertake big efforts to fulfill the rules of the treaty. A first evaluation will be undertaken during the first summit of the member states scheduled for spring 2022. On the agenda of the meeting will also be the discussion of further procedures, such as the possibility of creating a compliance committee.

The hard work is yet to begin

The next step would be to convince other states to ratify the agreement, especially countries with many unsolved social conflicts such as Brazil, Chile, or Peru. In the beginning of the negotiation process, Chile and

Costa Rica were the main drivers of the treaty, but today both are reluctant to ratify it. Many countries use three arguments as a justification: their already existing regulations on the protection of the environment, their fear to lose national sovereignty on environmental issues as well as the potential loss of future investments in their primary economic sectors.

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These concerns are not well founded, however, since the treaty stipulates that all members maintain their right to set-up their own environmental policies. Furthermore, through the creation of cross-national standards, the treaty could even help to overcome competitive disadvantages. It is hoped that the ratification Mexico and Argentina, two big players in the region, will motivate others to join. There seems to be a little pressure, since Peru announced on 22 April that it will improve the protection of environmental activists. While the civil society is lobbying for the ratification and implementation of the treaty, there is a strong opposition on behalf of the private sector in most countries.

Even though the treaty focuses on environmental and human rights, the impacts might be more far reaching and could strengthen democratisation and trade deals in the countries involved. During the last years, trust in democracy has declined significantly in most countries of the region. The goal of the Escazú Treaty to enhance participation of the civil society and the affected communities in the decision making on environmental issues could help to reverse this trend. Countries ratifying the treaty would also gain international prestige and might be in a better position to negotiate bi- and multilateral trade agreements including clauses on the accomplishment of environmental regulations and human rights.

The treaty coming into force was celebrated internationally on 22 April But the hard work is yet to begin, and will be closely monitored by international organizations as well as civil society.



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