

# **CIVIC SPACE FOR PARTICIPATION IN CLIMATE POLICIES IN COLOMBIA**



# Imprint

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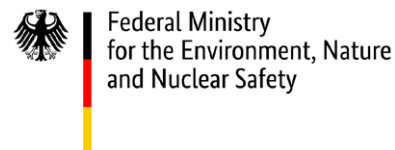
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## Abbreviations

**ACOLGEN:** Colombian Association of Energy Providers (*Asociación Colombiana de Generadores de Energía Eléctrica*)

**ANDESCO:** Colombian National Association of Public Service and Communication Enterprises (*Asociación Nacional de Empresas de Servicios Públicos y Comunicaciones*)

**ANDI:** Colombian Chamber of Commerce (*Asociación Nacional de Empresarios de Colombia*)

BMU: German Federal Ministry for the Environment, Nature Conservation and Nuclear Safety (*Bundesministerium für Umwelt, Naturschutz und nukleare Sicherheit*)

**CAMACOL:** Colombian Chamber of Construction (*Cámara Colombiana de la Construcción*)

**CAR:** Environmental Councils of Regional Environmental Entities in Colombia (*Consejos Ambientales de las entidades ambientales de orden regional*)

**CCCS:** Colombian Council of Sustainable Construction (*Consejo Colombiano de Contrucción Sostenible*)

**CDM:** Clean Development Mechanism

**CICC:** Colombian Intersectoral Commission on Climate Change (*Comisión Intersectorial de Cambio Climático*)

**CNA:** Colombian National Environmental Council (*Consejo Nacional Ambiental*)

**CNCC:** Colombian National Climate Change Council (*Consejo Nacional de Cambio Climático*)

**CONPES:** Colombian National Council for Economic and Social Policy (*Consejo Nacional de Política Económica y Social*)

**COP:** Conference of the Parties

**CPI:** Corruption Perception Index

**CSO:** Civil Society Organisation

**DNP:** Colombian National Planning Department (*Departamento Nacional de Planeación*)

**ECDBC:** Colombian Low Carbon Development Strategy (*Estrategia Colombiana de Desarrollo Bajo en Carbono*)

**EDI:** Environmental Democracy Index

**EICDGB:** Colombian Comprehensive Strategy to Control Deforestation and Manage Forests (*Estrategia Integral de Control a la Deforestación y Gestión de los Bosques*)

**ELN:** National Liberation Army (*Ejército de Liberación Nacional*), *revolutionary left-wing armed group in Colombia*

**ENREDD+:** Colombian National Strategy for Reducing Emissions from Deforestation and Forest Degradation (*Estrategia Nacional de Reducción de Emisiones por Deforestación y Degradación de los Bosques*)

**ESAL:** Non-profit entity in Colombia (*Entidad sin ánimo de lucro*)

**FARC:** Revolutionary Armed Forces of Colombia (*Fuerzas Armadas Revolucionarias de Colombia*), *guerrilla movement in Colombia*

**FPIC:** Principle of free, prior, and informed consent

**GHG:** Greenhouse gas

**HIIK:** Heidelberg Institute for International Conflict Research (*Heidelberger Institut für Internationale Konfliktforschung*)

**IACHR:** Inter-American Commission on Human Rights

**IDEAM:** Colombian Institute of Hydrology, Meteorology and Environmental Studies (*Instituto de Hidrología, Meteorología y Estudios Ambientales*)

**IKI:** International Climate Initiative (*Internationale Klimaschutzinitiative*)

**ILO:** International Labour Organisation

**INDC:** Intended Nationally Determined Contribution

**KLN:** Klimaforum Latinoamerica Network

**MADS:** Colombian Ministry for the Environment and Sustainable Development (*Ministerio de Ambiente y Desarrollo Sostenible*)

**MPC:** Permanent Coordination Board with Indigenous Peoples and Organisations (*Mesa Permanente de Concertación con los Pueblos y Organizaciones Indígenas*)

**MSMEA:** Roundtable of Social Affairs, Mining and Energy, and Environment for Peace (*Mesa Social Mine-ro-Energética y Ambiental por la Paz*)

**NASA:** National Aeronautics and Space Administration

**NDC:** Nationally Determined Contribution

**NFI:** National Forestry Inventory

**NGO:** Non-governmental organisation

**NOAA:** National Oceanic and Atmospheric Administration

**NRCC:** Regional Climate Change Hubs in Colombia (*Nodos Regionales de Cambio Climático*)

**PAS:** Colombian Sectoral Action Plans for Mitigation (*Planes de Acción Sectorial de Mitigación*)

**PIGCC:** Comprehensive Climate Change Management Plans (*Planes Integrales de Gestión del Cambio Climático*)

**PIGCCS:** Colombian Comprehensive Sectoral Climate Change Management Plans (*Planes Integrales de Gestión del Cambio Climático Sectoriales*)

**PIGCCT:** Colombian Comprehensive Territorial Climate Change Management Plans (*Planes Integrales de Gestión del Cambio Climático Territoriales*)

**PIVAC:** Intergenerational Pact for the Life of the Colombian Amazon (*Pacto Intergeneracional por la Vida del Amazonas Colombiano*)

**PNACC:** Colombian National Climate Change Adaptation Plan (*Plan Nacional de Adaptación al Cambio Climático*)

**PNCC:** Colombian National Climate Change Policy (*Política Nacional de Cambio Climático*)

**PND:** Colombian National Development Plan (*Plano Nacional de Desarrollo*)

**REDD+:** Reducing Emissions from Deforestation and Forest Degradation

**SISCLIMA:** Colombian National Climate Change Governance System (*Sistema Nacional de Cambio Climático*)

**SNIF:** Colombian National Forestry Information System (*Sistema Nacional de Información Forestal*)

**UfU:** Independent Institute for Environmental Issues (*Unabhängiges Institut für Umweltfragen*)

**UNCED:** United Nations Conference on Environment and Development

**UNDP:** United Nations Development Programme

**UNEP:** United Nations Environment Programme

**UNFCCC:** United Nations Framework Convention on Climate Change

**USAID:** United States Agency for International Development

**WWF:** World Wildlife Fund



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# 1 Introduction

## 1.1 Background and overarching questions

Analyses by the National Aeronautics and Space Administration (NASA) and the National Oceanic and Atmospheric Administration (NOAA) show that Earth's global surface temperatures in 2019 were the second warmest since modern recordkeeping started in 1880. The five years between 2015 and 2019 were the warmest in the last 140 years.<sup>1</sup> The United Nations Framework Convention on Climate Change (UNFCCC), adopted in May 1992, set limits on greenhouse gas (GHG) emissions to prevent this dangerous anthropogenic global warming. At the Conference of the Parties of the UNFCCC in 2015 (COP 21), 195 countries, also Colombia, agreed on the Paris Agreement and signed it in 2017. Thus, they committed themselves to undertake ambitious efforts to keep the rise in global temperature in this century well below 2 °C above pre-industrial levels and to pursue efforts to limit the temperature increase even further to 1.5 °C. The long-term goals of each country to reduce national emissions and adapt to the impacts of climate change are demonstrated in the Nationally Determined Contributions (NDCs) that must be updated regularly. However, time is running out and current climate actions are insufficient.

Within this political process, civil society actors, such as civil society organisations (CSOs) and non-governmental organisations (NGOs) play a key role. They should be involved in developing and implementing climate policy because they act as “defenders” and “advocates” for a fair socio-environmental transformation. The scope of their activities and advocacy work ranges from raising awareness about climate change, building capacity, supporting climate change mitigation and adaptation activities to conducting research, developing strategies and measures, and influencing concrete climate policies (Reid, Ampomah, Olazábal Prera, Rabbini, & Zvigadza, 2012).

Since 1992 different declarations, agreements, treaties and national laws have been developed that promote the participation of civil society in environmental matters. The **Rio Declaration** documented the results of the United Nations Conference on Environment and Development (UNCED), informally known as the Earth Summit, in 1992. The 27 principles laid the foundation for sustainable development around the world and still serve as a set of guidelines for states and intergovernmental bodies. **Principle 10** highlights the role of the participation of citizens in environmental issues. It sets out the three fundamental pillars of public participation: access to information, access to public participation and access to justice. The **Bali Guidelines** (Guidelines for the Development of National Legislation on Access to Information, Public Participation and Access to Justice in Environmental Matters), adopted in 2010, aim to guide governments to align their national environmental governance with Principle 10 of the Rio Declaration and enforce adequate laws and regulations. The **Aarhus Convention** (Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters), adopted in 1998, is the first legally binding treaty on the three pillars of public participation and codifies environmental protection rights for all. Similar to the European Aarhus Convention, the **Escazú Agreement** (Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean)

<sup>1</sup> [www.ncdc.noaa.gov/sotc/global/201913](http://www.ncdc.noaa.gov/sotc/global/201913), accessed 20 January 2020.

has the objective of guaranteeing the full and effective implementation of the three pillars in Latin America and the Caribbean.

However, the global alliance of CSOs and activists “CIVICUS”<sup>2</sup> stated that the real influence of civil society on crucial climate-related decisions is limited and that the currently available opportunities to participate are not very effective. Moreover, participatory democracy and citizens’ freedom of association and expression cannot be taken for granted. In many countries, civic space is shrinking and fundamental rights have to be defended every day.

Yet in spite of the potential and obvious threats climate-related civil society participation is facing, detailed information on its status in different countries is still rare. Moreover, there is a lack of knowledge on the various possible ways to strengthen the involvement of civil society in making climate policies.

Which opportunities do civil society actors have to participate in climate policy? Which legal framework does exist that requires public participation and the involvement of civil society within climate-related policy making? How does the practical implementation of these rights look like? And which barriers hamper meaningful participation and how can they be overcome? These questions were analysed in the framework of a comprehensive study by the Independent Institute for Environmental Issues, supported by local research teams, in the framework of the international project “Strengthen civil society for the implementation of national climate policy”. The project that was supported by the Federal Ministry for the Environment, Nature Conservation, Building and Nuclear Safety (BMU) as part of the International Climate Initiative (IKI), analysed the situation in Colombia, Georgia and Ukraine. This country report presents the results of Colombia and evaluates the environment and conditions for climate-related participation and concrete practices of participatory policy making in the country.

## 1.2 Framework of this study

### Aim and contents of the study

The full study analysed the civic space and participation opportunities of CSOs in Colombia, Georgia and Ukraine working on environmental and climate issues. The purpose of the study was to investigate the environment and conditions for climate-related participation, such as the legal framework for participation, as well as concrete practices of participatory policy making in the three countries. Considering that Colombia, being party of the Paris Agreement, has committed to undertake ambitious action to keep global temperature rise in this century well below 2 °C above pre-industrial levels, this country report explores how national civil society is being involved in the related political processes. The focus thereby lies on professional organised groups, leaving aside processes with grassroots organisations and the general public. The study furthermore identifies concrete country-specific barriers that hamper or avoid meaningful, effective and long-term participation, and gives advice for overcoming these barriers.

<sup>2</sup> <https://monitor.civicus.org>, accessed 13 August 2020.

In order to give a systematic overview of the findings, we additionally introduce a standardised evaluation scheme that assesses the general conditions for participation, as well as concrete opportunities and practices. It comprises 5 criteria with 25 indicators. This classification enables the evaluation of the situation in further countries as well.

In addition, “good practice” examples of participation processes and supporting governance and structures from other countries around the globe were collected in the full study. Although each country has its own unique context and the adaptation of one certain country’s approach to another country might be difficult, these examples can nonetheless inspire other countries and spark ideas to strengthen civil society involvement based on their individual shortcomings.

Methodology

The study is based on desk research, analysing reports, scientific papers, reviews, and other secondary literature that deals with civil society participation in climate policy. It furthermore refers to the results of focus group workshops with different experts that were organised in each country in spring 2019. Each focus group consisted of eight to twelve participants from CSOs, ministries, scientific institutions, foundations, international programmes and organisations such as the United Nations Development Programme (UNDP), and the Heinrich Böll Foundation. The focus of the workshops was on assessing the framework and opportunities for CSOs to participate in national climate policy as well as on discussing existing barriers that hamper participation, and collecting solutions on how to overcome them. In addition to this, semi-structured interviews and consultations with representatives of CSOs and other key stakeholders were conducted between July 2017 and November 2019, either in person or via Skype/phone. Country research teams were additionally engaged in completing the analyses based on their local knowledge, contacts, experience and access to sources in national languages.

In Colombia, the focus group, interviews, and consultations were conducted with representatives from the following organisations and institutions:

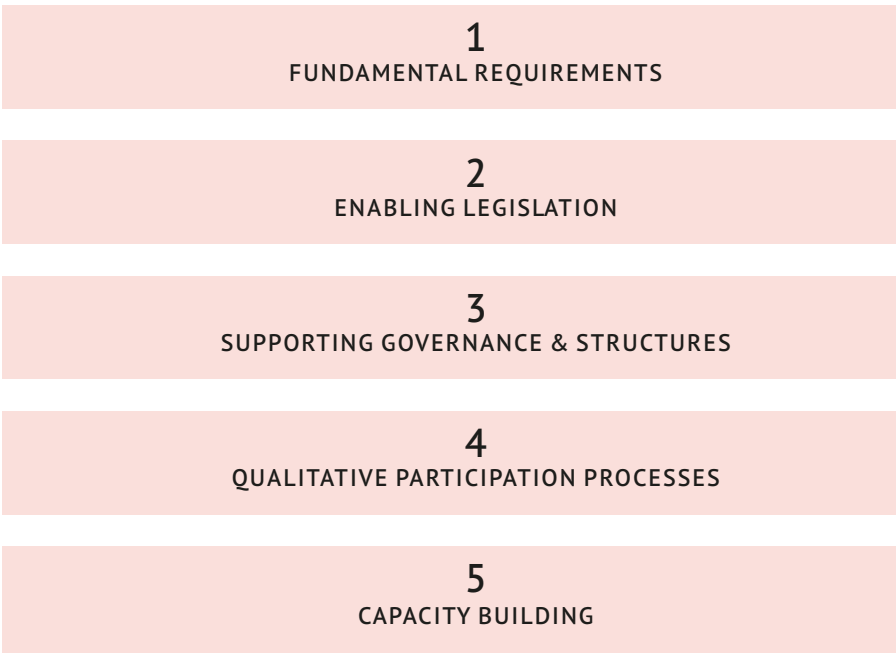
Table 1: Sources in Colombia

Censat – Agua Viva	Klimaforum Latinoamérica Network (KLN)	AIDA - Asociación Interamericana por la Defensa Ambiental
Asociación Ambiente y Sociedad	ONIC - Organización Nacional Indígena de Colombia	Dejusticia
Heinrich Böll Foundation Colombia	Universidad del Rosario – Facultad de Jurisprudencia	Universidad Nacional de Colombia (UNAL) - Departamento de Geografía
Mesa Social Minero-Energética y Ambiental por la Paz (MSMEA)	Transforma Global	The Nature Conservancy in Colombia
Departamento Nacional de Planeación (DNP)	IDEAM - Instituto de Hidrología, Meteorología y Estudios Ambientales	Alianza Verde

Evaluation scheme

The research team of the Independent Institute for Environmental Issues (UfU), supported with feedback from the project partners in the countries investigated, developed a standardised evaluation scheme to analyse and assess the general conditions for participation as well as concrete opportunities and practices in different countries (see appendix). Even though we are suggesting a universal scheme in this study, it should be noted that it is not necessarily suitable for every country in the world. There may be country-specific particularities that are not considered in the proposed assessment.

Based on international literature on civil society participation and civic space, and the findings and conclusions of our case studies, the following **five evaluation criteria** were defined:



Afterwards, a set of four to eight indicators was determined for each criterion. In total, **25 indicators** were defined. Each indicator has an associated scoring system. The scoring options are not the same for every indicator. Depending on the question, a graduated answer or a clear yes or no may be required. With regard to complex topics, such as stability and conflicts, corruption, or the security of citizens, we suggest to use existing indices, such as for instance the Corruption Perception Index (CPI), to assess the respective indicators.

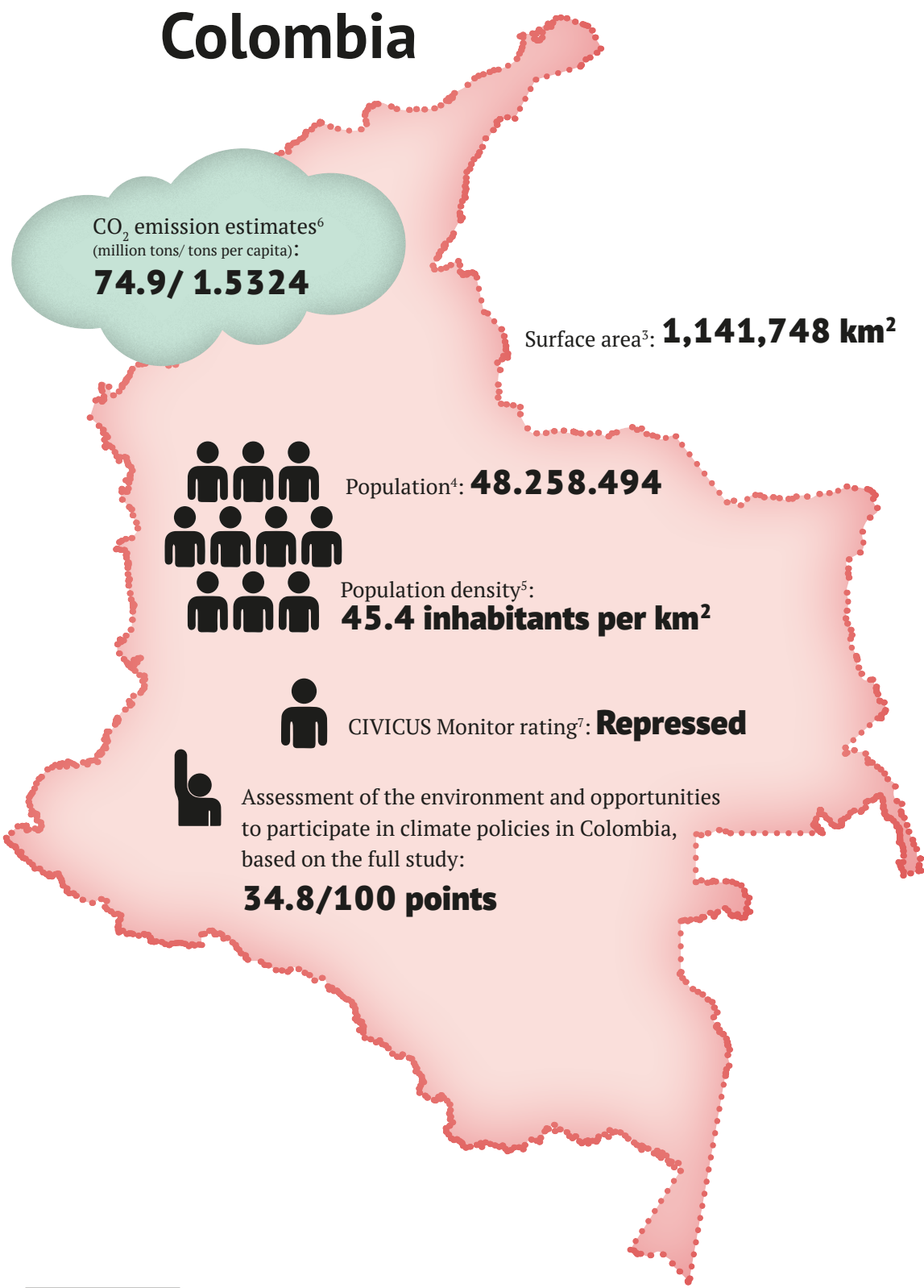
Regarding the legal framework for participation (second criterion), our assessment methodology mainly derives from the Environmental Democracy Index (EDI), that measures the degree to which national laws in 70 countries promote environmental democracy rights harmonised with the Bali Guidelines. Although the EDI also tracks national progress in promoting environmental democracy in practice, the focus clearly is on legal frameworks. Our scheme, however, also aims to evaluate further aspects and concrete practices. It therefore also comprises other criteria and indicators. The indicators are based on international standards for public participation that are defined in the Aarhus Convention and the Escazú Agreement. They have been adjusted based

on the findings of this study and furthermore inspired by other participation guidelines, codes, recommendations and evaluations (including the Conference of INGOs of the Council of Europe, 2009; Council of Europe; Pompidou Group, 2015; LIFE PlanUp, 2019; Milano, 2019; United Nations Economic Commission for Europe, 2014; United Nations Environment Programme (UNEP), 2015).

In total, a maximum score of 59 points can be achieved. However, due to the varying numbers of indicators, certain criteria are given more weight than others. By scaling each criterion to a maximum score of 20, we balance out the criteria evenly (Table 2). The detailed evaluation scheme with indicators and scoring options can be found in the annex.

Table 2: Weighting of the scores

Criteria	Possible max. score	Scale factor	Scaled max. score
1 Fundamental requirements	10	2	20
2 Enabling legislation	17	1.18	20
3 Supporting governance & structures	7	2.86	20
4 Qualitative participation processes	17	1.18	20
5 Capacity building	8	2.5	20
Total	59		100



3 United Nations data, <http://data.un.org/en/iso/co.html>, accessed 21 December 2019.

4 Departamento Administrativo Nacional de Estadística - DANE. (2020). Censo Nacional de Población y Vivienda 2018. <https://www.dane.gov.co/index.php/estadisticas-por-tema/demografia-y-poblacion/censo-nacional-de-poblacion-y-vivienda-2018>, accessed 20 April 2020

5 United Nations data, <http://data.un.org/en/iso/co.html>, accessed 21 December 2019

6 <https://edgar.jrc.ec.europa.eu/overview.php?v=booklet2018&dst=CO2emi>, accessed 3 April 2020.

7 CIVICUS Monitor is a research tool built by civil society that aims to share data on the state of civil society freedoms (civic space) all over the world. It analyses to what extent states fulfill their duty to protect the freedom of association, the freedom of peaceful assembly and the freedom of expression. Each country is assigned a rating of the following categories: open, narrowed, obstructed, repressed or closed. For more information: <https://monitor.civicus.org/methodology>, accessed 23 April 2020.



## 2 Colombia

### 2.1 National climate policy<sup>8</sup>

Colombia ratified the United Nations Framework Convention on Climate Change (UNFCCC) through Law 164 of 1994, and the Kyoto Protocol as its first instrument of implementation through Law 629 of 2000. Thus, Colombia progressed in the development of necessary regulations to implement the **Clean Development Mechanism (CDM)** as regulated under the UNFCCC during the first period of the **Kyoto Protocol** from 2008 to 2012. Furthermore, the country began to record and document the progress of actions undertaken to mitigate and adapt to climate change through the elaboration of the First and the Second **National Communications on climate change** in 2001 and 2010. These documents aim to inform relevant stakeholders in the country and to facilitate decision-making on climate-related issues by different actors in Colombia. The third and most recent national communication was published in 2017.

Between 2010 and 2011, Colombia was hit by an extremely intense appearance of the climate phenomenon "La Niña". The "La Niña" episode of 2010/2011 caused serious economic, social, and environmental impacts in many regions of Colombia. Following this natural disaster that was linked to climate change by scientists, specific climate change strategies were included in the **National Development Plan (PND)** for the first time for the period of 2010-2014. This created demand for the development of an institutional structure for decision-making processes regarding climate change to coordinate climate policy measures among different sectors. Thus, in 2011, the National Council for Economic and Social Policy (CONPES) approved the "**Institutional Strategy to Articulate Climate Change Policies and Actions in Colombia**". This document included recommendations for the generation of a new institutional structure including the creation of new political and administrative spaces that enable the integration of climate strategies within different sectors and regions.

Based on this, the formulation of the **National Climate Change Policy (PNCC)** began at the end of 2014, including the development of the **Climate Change Law**. The aim was to integrate the different advances of the country in terms of climate change and to define a path of low carbon and climate resilient development with a short, medium and long-term vision. In parallel, Colombia actively participated in the international negotiations that led to the adoption of the **Paris Agreement** in December 2015 at the Conference of the Parties in Paris (COP 21).

Colombia also implemented the institutional, political and legal framework for climate change actions and created the **National Climate Change Governance System (SISCLIMA)**, which was approved by Decree 298 of 2016. This contributed to further progress in the development of the following strategies and plans that are important for Colombian climate policy:

- \_ the Colombian Low Carbon Development Strategy (ECDBC),
- \_ the National Climate Change Adaptation Plan (PNACC),
- \_ Comprehensive Climate Change Management Plans (PIGCC)
- \_ the National Strategy for Reducing Emissions from Deforestation and Forest Degradation (ENREDD +) and the Comprehensive Strategy for Deforestation Control and Forest Management (EICDGB),
- \_ and the Policy Strategy for Public Financial Management of Natural Disaster Risk.

The **Colombian Low Carbon Development Strategy (ECDBC)** aims to identify and prioritise GHG mitigation options. It is constituted as a short, medium and long-term development programme that seeks to separate the GHG emissions from national economic growth through the implementation of plans, projects and policies that maximise the carbon-efficiency of economic activities, and contribute to social and economic development. It includes technical studies for the elaboration of **Sectoral Action Plans for Mitigation (PAS)**, which were approved by each of the sector ministries (Ministries of Mines and Energy, Housing, City and Territory, Transport, Commerce, Industry and Tourism, and Agriculture) and were the basis for the Colombian National Determined Contribution (NDC).

Colombia also progressed in the elaboration of the **National Climate Change Adaptation Plan (PNACC)**, which was defined as a process that facilitates the adaptation to climate change of regions and sectors. Accordingly, the country started to construct different conceptual tools and methodological guidelines to face climate change. These guidelines aim to enable sectors and regions to move forward towards planned adaptation measures through the preparation of sectoral and territorial adaptation plans.

The development of the **National Strategy for Reducing Emissions from Deforestation and Forest Degradation (ENREDD+)** started with the participation of different stakeholders, relevant communities, and international cooperation. The results were incorporated into the **Comprehensive Strategy for Deforestation Control and Forest Management (EICDGB)** approved in 2018.

In 2015, Colombia developed its **Intended National Determined Contribution (INDC)**, which includes the goal of reducing GHG emissions by 20% with respect to the projected level by 2030. Furthermore, due to its relevance for the country, Colombia voluntarily included ten adaptation actions, including among others the formulation of climate change plans, the increase of strategic protected areas, sector actions and watershed management, focused on reducing the levels of risk and vulnerability of the municipalities of the country. Seven implementation actions were included: The strategy of university networks that support research around the **National Determined Contribution (NDC)**, the creation of an innovation cluster on climate change, the incorporation of national entities to mechanisms of technological transfer of the UNFCCC, the exchange of experiences and the strengthening of regional alliances in the field of climate change, and the continuous articulation and improvement of work with the financial sector.

<sup>8</sup> Based on research of the Facultad de Jurisprudencia Universidad del Rosario Bogotá, Colombia, November 2019.



PNCC was adopted in 2016. One year later, in 2017, Colombia ratified the Paris Agreement through Law 1844 of 2017. Finally, the **Colombian Climate Change Law** (Law 1931 of 2018) came into force in 2018. According to this Law, the **Intersectoral Commission on Climate Change (CICC)** that was established in 2016 through Decree 298/2016, is responsible for the monitoring of the NDC, and the supervision of the **Comprehensive Sectoral Climate Change Management Plans (PIGCCS)**, which are developed by the sectoral ministries, and the **Comprehensive Territorial Climate Change Management Plans (PIGCCT)**, which are developed by the regional departments and the Environmental Councils of Regional Environmental Entities (CARs).

## 2.2 Climate-engaged civil society in Colombia

In Colombia, the basic conditions for engaging civil society are difficult. Colombia has a long history of civil war and internal violent conflicts between the state, paramilitary groups, criminal organisations, and guerrilla groups. Although a peace process started in 2011 with a signed peace agreement between the government and one of the largest guerrilla groups, the Revolutionary Armed Forces of Colombia (FARC), armed conflicts continued with other guerrilla and paramilitary groups in some parts of the country in 2016. The peace process has therefore been on hold since 2016.

Historically, many problems and conflicts of Colombian civil society have their roots in an extremely unequal distribution of land ownership and national income. Colombia's civil society has faced periods of extreme violence, persecution, and strong stigmatisation. Furthermore, there is a lack of security as well as political and financial support (Sánchez-Garzoli, 2016). Colombia's civic space is marked by violence. Violent attacks and murders of journalists, lawyers, human rights and environmental defenders, and indigenous and Afro-descendent people have increased again after the peace negotiations were suspended. According to Global Witness, 64 land and environmental activists were murdered in Colombia in 2019. This makes Colombia the most dangerous country in the world for environmental defenders and is obviously a heavy burden for the environmental and climate-engaged civil society ((Global Witness, 2020) , see Chapter 2.7.1). Despite the various difficulties, or maybe because of them, Colombian civil society has managed to stimulate and create diverse, strong, courageous, and multi-sectoral networks, organisations, movements and policy proposals that have been driving social and environmental change in the country for decades (Sánchez-Garzoli, 2016).

In 2016, Colombia had approximately around 300,000 registered CSOs and NGOs. This means, there is approximately one CSO for every 163 inhabitants, making Colombia the country with the highest number of CSOs per capita in Latin America (Evans, 2016). In Colombia, CSOs and NGOs are registered as non-profit entities (ESAL). Most of them address topics like human services, charity, education, arts, culture and humanities. Only approximately 3% of all ESALs are officially registered explicitly for environmental purposes (Evans, 2016). However, as many social problems in Colombia are closely linked to environmental degradation issues such as land use, mining, oil exploitation and infrastructure development, many social CSOs also address and support environmental issues in their daily work.

Colombian environmental CSOs have traditionally been active in tackling deforestation, protecting biodiversity and rivers, opposing environmental degradation through mining, oil exploitation, hydroelectric dams, and other infrastructure projects, and raising awareness of environmental issues including environmental education. Furthermore, they actively promote alternative solutions for sustainable development, including ecological agriculture, and sustainable energy and mobility concepts. They also have experience in building powerful networks. On the national level, for example, large and successful civil society networks have formed against large-scale mining projects and fracking as well as for the protection of waters and forests. These topics are certainly also relevant for climate protection, however, work on climate policy itself, especially with a national or even international scope, is a relatively new terrain for many environmental

CSOs in Colombia.<sup>9</sup> Although individual climate protection and adaptation projects at the local and regional level have been carried out by CSOs for several years, targeted civil society involvement in the process of national climate policy is still limited. This is in particular due to the lack of information made available by the government and missing opportunities for many CSOs to establish direct contacts with the government and the responsible ministries.<sup>10</sup> Nevertheless, many environmental groups wish to be involved more in climate policy and criticise the lack of effective participation opportunities within the National Climate Change Governance System (SISCLIMA).<sup>11</sup>

Recent activities demonstrate the growing importance of climate policy for Colombian civil society. In 2019, CSOs and representatives of the academic world have created a roundtable discussion on climate change issues that seeks to establish synergies and determine joint action plans to monitor the implementation of climate change policies and regulations and the country’s NDC. Around 15 CSOs and scientific organisations are participating in this roundtable. To date, three joint actions have been arranged, of which the first two were carried out between September and October 2019: a public event with artistic content that made aware of the problem of climate change, and a working breakfast with the national government’s COP 25 delegation. Furthermore, on 7<sup>th</sup> November 2019, a public discussion forum was organised on the implications of the COP and opportunities and limitations of climate action from diverse and critical perspectives.<sup>12</sup> Additionally, Colombian civil society is becoming more visible through new social movements, protests, and collective actions. In the context of climate change, this becomes evident through the increasing support for new movements such as Fridays for Future, Strike for the Climate or Youth X Climate Action that campaign for action against climate change.<sup>13</sup>

Furthermore, a nationwide protest movement against the national government started at the end of 2019. In November 2019, thousands of citizens regularly took to the streets to express their will for political change. The reasons for these national protests were manifold, ranging from education, inequality and human rights to environmental justice. One of the first successes of the protests was that they made the Colombian government change its position on the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement), which is seen by many as a fundamental treaty for the enhancement of participation and human rights in environmental matters. After the government initially rejected the Escazú Agreement, it finally signed it in December 2019 as a result of the political pressure from the citizens. The implementation of the Escazú Agreement will probably shape Colombia’s environmental and climate policies, and will enhance participatory democracy and security for civil society in the coming years (see Chapter 2.4.1).

9 Focus Group Workshop, Bogotá, 13 February 2019.  
10 Focus Group Workshop, Bogotá, 13 February 2019.  
11 Focus Group Workshop, Bogotá, 13 February 2019.  
12 Based on research of the Facultad de Jurisprudencia Universidad del Rosario Bogotá, Colombia, November 2019.  
13 Based on research of the Facultad de Jurisprudencia Universidad del Rosario Bogotá, Colombia, November 2019.

2.3 Legal framework for participation

2.3.1 International Level

On the international level, Colombia has signed and ratified some international conventions and agreements on environmental and human rights that contain references to civil society participation to different extents. In this context, the **American Convention on Human Rights** of 1978 (Pact of San José), the **Indigenous and Tribal People Convention** of 1989 (**Convention 169** of the International Labour Organisation, ILO), and the **United Nations Framework Convention on Climate Change** (UNFCCC) are relevant to mention. Recently, Colombia also signed the **Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement)** but has not ratified it yet.

Table 3: International treaties signed and/ or ratified by Colombia that are related to public participation

Treaties	Date of Ratification/ Accession
American Convention on Human Rights (Pact of San José)	1973
Indigenous and Tribal People Convention (Convention 169 of the International Labour Organisation)	1991
United Nations Framework Convention on Climate Change (UNFCCC)	1995
Kyoto Protocol to the United Nations Framework Convention on Climate Change	2001
Paris Agreement on Climate Change	2017
Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement)	Signed in December 2019, not yet ratified

While the American Convention on Human Rights contains more general obligations to ensure personal liberty and social justice based on the respect for citizens’ basic rights, Convention 169 in particular plays a key role in establishing participation rights of indigenous and other tribal peoples following the principle of free, prior, and informed consent (FPIC). Article 6 of Convention 169 states that “governments shall consult the peoples concerned through appropriate procedures and in particular through their representative institutions, whenever consideration is being given to legislative or administrative measures which may affect them

directly [and] establish means by which these peoples can freely participate, to at least the same extent as other sectors of the population, at all levels of decision-making in elective institutions and administrative and other bodies responsible for policies and programmes which concern them” (ILO Convention 169, Article 6.1). Furthermore, “the consultations carried out [...] shall be undertaken [...] with the objective of achieving agreement or consent to the proposed measures” (ILO Convention 169, Article 6.2).

Convention 169 of 1989 was signed by Colombia shortly before the National Constitution was renewed in 1991. The ratification occurred legally through the enactment of Law 21 of 1991 and it influenced the development of the new constitution. Special rights for indigenous and Afro-descendant people were included, however Colombia was slow in translating the right to prior consultation into specific legislation and in detailing its application. Prior consultation was first regulated in detail by Decree 1320 of 1998, 7 years after the ratification of the convention. However, this decree was criticised as falling short by CSOs, the technical committee of the ILO that oversees the implementation of the convention, and the constitutional court of Colombia. Consequently, the right to prior consultation was continuously upgraded by case law rulings that are directly binding for the government from the constitutional court in the following years (IKV PAX, 2012).

In Colombia, permanent consultation bodies for indigenous and Afro-descendant people were created. Prior consultations with these institutions are mandatory before legislative and political decisions are made that may affect the respective peoples. This obligation is respected and implemented by the authorities making prior consultations with the respective consultation bodies a common practice in the country. However, the actual implementation of the agreements reached within these consultations is often criticised as being incomplete and lagging behind (see Chapter 2.7). Furthermore, in the context of civil society participation, it is important to consider that the right for prior consultation based on Convention 169 applies only to citizens and organisations representing indigenous and Afro-descendant people, excluding other CSOs and citizens with different ethnic backgrounds that may also be affected by environmental decision-making, for example the rural population and farmers.

Regarding participation rights directly affecting decisions on climate change, the **United Nations Framework Convention on Climate Change** (UNFCCC), including the Paris Agreement, plays an important role in Colombia. As the country is a state party of the UNFCCC, and has signed and ratified the Paris Agreement, the participation rights that originate from these international treaties have to be ensured in the country. In particular, the regulations on **Reducing Emissions from Deforestation and Forest Degradation mechanisms (REDD+)** contain requirements on the participation and representation of civil society that are relevant for Colombia. REDD+ especially requires several social and environmental safeguards that have to be respected when a REDD+ initiative is implemented to address the socio-economic problem that REDD+ can lead to loss of livelihood for many forest-dependent people. Like Convention 169, these also include the principle of free, prior, and informed consent of affected local people and the adoption of participatory processes (Nuesiri, 2018).

UNFCCC REDD+ rules have a flexible approach regarding their integration into national legal and political systems. Considering differences in political culture and legislative systems, it has led to the host countries of REDD+ programmes to determine how to best transpose the rules into their domestic legal and policy frameworks (Wilder, 2014). Accordingly, from 2011, Colombia developed its National REDD+ Strategy (ENRED+). Its objectives were integrated into the National Development Plan (PND) for the period 2014-2018 that was made legally binding by Law 1753 of 2015. Further legal acts and political frameworks detail REDD+ implementation, such as the Law on the Resolution Regulating the Procedure for Enrolment in the National REDD+ Initiatives Registry, the Law for the Creation of the National Forestry Information System (SNIF), the National Forestry Inventory (NFI) and the Forest Carbon Monitoring System (Forest Carbon Partnership Facility, 2017). Participation processes within the REDD+ process were implemented on different levels and at different stages, including the REDD+ roundtables on the national level for the formulation of ENRED+, and local REDD+ roundtables in REDD+ project areas involving civil society stakeholders, amongst others. As most of the participation measures ran parallel to the development of national legislation and political frameworks on REDD+, the obligation to implement them derived directly from the international REDD+ regime and was not yet transposed into national legal regulations at this stage.

Recently, Colombia has signed the **Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement)** that has been developed and negotiated since 2012 by several countries in the region. The Escazú Agreement codifies and implements Rio Principle 10, which provides access to environmental information, public participation in environmental decision-making, and access to judicial and administrative proceedings in environmental matters. It also includes provisions on the protection of human rights defenders in environmental matters in Article 9. For Colombia, which is one of the countries with the most murders of environmental defenders in the world (see Chapter 2.7.1), Article 9 has the potential to become an effective tool to protect them and to prevent more violent attacks and homicides against them (Peña Gómez, 2018).

In 2018, the final version of the agreement was finished and opened for signature and ratification by the 33 countries in the region (Habitat-climate-environment Working Group, 2018). Although Colombia was involved in the preparation process and agreed on the final version of the text, it opposed the notion of transferring the agreement into a legally binding treaty under international law (Peña Gómez, 2018). Therefore, the current Colombian government did not originally intend to sign and ratify the agreement. However, due to nationwide protests of the Colombian civil society at the end of 2019, the government changed its position and signed the agreement in December 2019.

The agreement is currently open for 33 countries of the region to sign. Colombia was the 22<sup>nd</sup> country to sign the agreement on 11<sup>th</sup> December 2019. When this study was being written (January 2020), the agreement has been ratified by only five countries (United Nations Treaty Collection, 2020). According to Article 22, the agreement will legally enter into force, when 11 countries have signed and ratified it and after 90 days of the ratification by the 11<sup>th</sup> country (United Nations Organization, 2018)



This means, to date, the Escazú Agreement is not yet legally binding in Colombia, however, the implementation process of this historic agreement will obviously be of great importance for the country and its legal system within the following years. The Colombian government will be obliged to comply with the agreement. The chancellery must present a draft law for ratifying the agreement on the national level to the congress in early 2020. If it is approved by the legislators, the constitutional court will review the bill to guarantee its conformity with the constitution. Finally, the new law must be signed by the president and sent to the Constitutional Court for approval. (El Tiempo, 2019).

2.3.2 National Level

At the national level, the **Constitution** of 1991 is key for the definition of fundamental rights and mechanisms of democratic participation in Colombia. Although Colombia only signed the Escazú Agreement recently (in December 2019) and it hasn't ratified it yet, the country's constitution already included fundamental rights on access to information, environmental participation, and access to justice in environmental matters before the Escazú Agreement existed.

According to Article 74 of the Colombian constitution, all citizens have the right to access public documents except in cases that are regulated by law. The constitution also gives citizens the right to environmental participation. This derives from Article 79 which states that “everyone has the right to enjoy a healthy environment. The law will guarantee the participation of the community in decisions that may affect this. It is the duty of the state to protect the diversity and integrity of the environment, conserve areas of special ecological importance and promote education to achieve these goals” (Constitución Política de Colombia 1991, 2016, Article 79).

Furthermore, the constitution provides several opportunities to take legal action if citizen rights like those mentioned above are violated. This gives Colombian citizens a right to access justice in general that can be also used for environmental matters. Additionally, Article 80 of the constitution obliges the state to impose legal sanctions for environmental damages, stating “the state has to plan the management and use of natural resources, to guarantee their sustainable development, their conservation, their restoration, or their replacement. In addition, it must prevent and control the factors of environmental deterioration, impose legal sanctions and demand the repair of damages caused” (Constitución Política de Colombia 1991, 2016, Article 80).

In addition to the fundamental constitutional rights regarding environmental participation, Colombia's legislation regulates (environmental) participation mechanisms. They can be classified into three broader categories: legal/ judicial, political, and administrative mechanisms. Legal mechanisms of participation are constitutional actions such as writs of protection (an instrument to ensure respect for fundamental rights and freedoms), popular action (a right for each member of a community to bring an action in defense of a public interest), class actions,

enforcement actions (an instrument to ensure compliance with the constitution or the law when public officials fail to comply with it), invalidity actions, and action of unconstitutionality.

Political participation mechanisms that are enshrined in the constitution and further laws are popular legislative initiatives, referendums, popular consultations and open councils. Although they were not originally created for environmental matters, they often have been used for environmental purposes and there are multiple examples that demonstrate their effectivity in environmental issues (Barragán Terán & Muñoz Ávila, 2018).

Administrative participation mechanisms such as the intervention of third parties, public hearings, and the rights to petition and prior consultation are also available. In Colombia, there are no exclusive participation mechanisms regarding climate-related issues, however the ones that are used for environmental matters can also be used for this purpose.

The following table gives an overview of the most important legal/ judicial, political, and administrative mechanisms for environmental participation in Colombia and the legitimacy for their execution:



Table 4: Main mechanisms of environmental participation in Colombia and legitimacy for their execution<sup>14</sup>

Administrative		Legal/ judicial		Political	
Mechanism	Legitimacy for its execution	Mechanism	Legitimacy for its execution	Mechanism	Legitimacy for its execution
Environmental public hearings ( <i>Audiencias públicas ambientales</i> )	Signatures that represent more than 300 citizens or 3 organisations	Writ of protection ( <i>Acción de Tutela</i> ) <i>An instrument to ensure respect for fundamental rights and freedoms</i>	Any natural or legal person	Popular legislative initiative ( <i>Iniciativa popular</i> ) <i>A mechanism of direct democracy: people can present legislative initiatives, without being members of the parliament</i>	Signatures representing 5% of citizens entitled to vote
Citizen surveys ( <i>Veedurías ciudadanas</i> )	Established according to Law 850 of 2003	Enforcement action ( <i>Acción de Cumplimiento</i> ) <i>An instrument to ensure compliance with the Constitution or the law when public officials fail to comply with it</i>	Any natural or legal person, especially social and non-governmental organisations	Referendum ( <i>Referendo</i> )	Signatures representing 5% of citizens entitled to vote
Intervention in administrative procedures ( <i>Intervención en procedimientos administrativos</i> )	Any natural or legal person	Popular Action ( <i>Acción Popular</i> ) <i>A right for each member of a community to bring an action in defense of a public interest</i>	Any natural or legal person, especially social and non-governmental organisations	Recall election ( <i>Revocatoria de mandato</i> ) <i>voters can remove an elected official from office through a direct vote before that official's term has ended</i>	Signatures representing 5% of citizens entitled to vote in the territorial district of the ruler whose election is to be revoked
In process of environmental planning	Citizens (persons over 18 years of age with Colombian nationality) who are members of the Environmental Council of Regional Environmental Entities (CAR).	Invalidity action ( <i>Acción de Nulidad</i> )	In the case of a simple annulment, any natural or legal person can act, in the case of annulment by unconstitutionality, citizens can act (people over 18 years with Colombian nationality)	Popular consultation ( <i>Consulta Popular</i> ) <i>Public deliberation by the people</i>	Signatures representing 5% of citizens entitled to vote in the territorial district in which the consultation is planned (municipal, departmental or national)
Petition rights	Any natural or legal person	Action of unconstitutionality ( <i>Acción de Inconstitucionalidad</i> )	Citizens (people over 18 years with Colombian nationality)	Open council meeting ( <i>Cabildo Abierto</i> )	Signatures representing 0.5% of citizens entitled to vote in the territorial district in which they want to make the council
				Election	Citizens (people over 18 years with Colombian nationality)

14 Based on research of the Facultad de Jurisprudencia Universidad del Rosario Bogotá, Colombia, November 2019.

Due to its various participatory mechanisms, from a legal perspective, Colombia's participation rights are very comprehensive in comparison to many other Latin-American countries. However, real experience shows many shortcomings in their implementation (see Chapter 2.7.2) (Peña Gómez, 2018).

In addition to the constitution, further laws and directives regulate public participation rights in detail. The most important participation laws are **Law 134 of 1994** and **Law 1757 of 2015**, which set the basic requirements on public participation in general. Several further laws specify public participation in specific sector policies and define participatory spaces for different groups of the society. This includes special participatory spaces for members of indigenous, black/ Afro-Colombian and Roma communities. In this context, the Permanent Coordination Board with Indigenous Peoples and Organisations (MPC), the Consultative Commission of Indigenous Rural Women, and the High Level Consultative Commission for the Black Communities, Afro-Colombians, and the Raizal and Palenquera Population are important participatory entities that are also often involved in environmental decision-making (Ministerio del Interior de Colombia, 2016).

Sectoral laws that have special significance for public participation in environmental decision-making processes are **Law 99 of 1993**, which is the legal base for the National Environmental Council (CNA), and **Law 152 of 1994**, which creates the National and Regional Councils of Land Use Planning. Both include requirements for the participation of representatives of civil society to a certain extent. In the context of climate protection and adaptation in particular, the relatively new legislative act, **Law 1931 of 2018**, is key. According to this law, an Intersectoral Climate Change Commission (CICC), Regional Climate Change Hubs (NRCC), and a National Council on Climate Change (CNCC) have to be established, which all include civil society participation to a certain extent.

In addition to the existing legislation, the case law of the constitutional court plays an important role in Colombia's participatory democracy and is directly binding. This can have both positive and negative effects for environmental participation rights. According to **Judgement C-336 of 1994**, the constitutional principle of participatory democracy applies not only to strictly political issues such as elections, but also to economic, administrative, cultural, social and educational aspects in the country. Its primary objective is to enable and stimulate the intervention of citizens in activities related to public management and in decision-making processes that have an impact on their lives and civil society as a whole (Corte Constitucional, sentencia C-336, 21.07.1994). In that sense, public entities, especially environmental authorities, are obliged to open spaces for public participation if these are requested. These spaces must have the real and material possibility of influencing the administrative decisions that are finally applied. This case law provision is actually applicable in any procedure related to the development and implementation of environmental public policies and is therefore relevant for climate change issues, too. However, with the exception of prior consultation for the groups covered by the ILO Convention 169, participatory mechanisms in Colombia are not automatically mandatory. They must be proactively requested by authorities or citizens. If there is no official request to participate in a certain procedure, the entire climate decision-making process may be carried out without a single participation mechanism being implemented.<sup>15</sup>

<sup>15</sup> Based on research of the Facultad de Jurisprudencia Universidad del Rosario Bogotá, Colombia, November 2019.

The constitutional court confirmed that environmental participation has special importance due to the fact that the environment is a legal asset that is protected by the constitution (Sentencia T-348 de 2012, Peña Gómez, 2018). The constitutional court also confirmed that environmental participation has to consist of the three pillars: access to environmental information, deliberative and public participation of the community, and administrative and legal mechanisms for their defence (Sentencia T-361 de 2017).<sup>16</sup>

In contrast, case law of the constitutional court also has limited rights on environmental participation. A recent example for this is public consultations, which have always been a commonly used constitutional mechanism for citizen participation on the local level. They have given citizens a relatively high level of power regarding decision-making on activities within their territories. Citizens have often used them successfully for the prevention of mining permissions being granted and local governments mostly respected these decisions made by the people. However, the recent decision of the constitutional court that downgraded the results of popular consultations on mining projects to not legally binding, leads to an uncertain future of this frequently-used constitutional participatory instrument (see Chapter 2.7.2).

Although the Colombian legal system includes multiple provisions for political participation in environmental matters (Rodríguez & Muñoz, 2009), procedural details for the participation processes are not adequately regulated and the enforcement of laws and satisfactory implementation of the legislation is not always ensured or is delayed.<sup>17</sup> Within the framework of this investigation, civil society experts identified (partly severe) qualitative deficits in nearly all prescribed participation mechanisms. Furthermore, the perception of civil society organisations regarding their involvement in the elaboration of public policy instruments on climate change is rather low.<sup>18</sup>

<sup>16</sup> Based on research of the Facultad de Jurisprudencia Universidad del Rosario Bogotá, Colombia, November 2019.

<sup>17</sup> Interview with a representative of the Universidad del Rosario, November 2019.

<sup>18</sup> Focus Group Workshop, Bogotá, 13 February 2019.

## 2.4 Structures and institutions enabling participation in climate policy

Despite several shortcomings in the implementation of Colombian legal, administrative, and political environmental participation mechanisms, there are various spaces that aim to strengthen environmental participation. Some relevant examples of structures and institutions that aim to enable civil society participation in environmental and climate-related issues in Colombia are presented in this section. Thereby, it is not only official legally required structures and institutions that are described, but also those that are based on initiatives from civil society actors themselves. It is not a comprehensive overview, but rather aims to highlight some selected examples that reflect the spectrum of the different existing structures and institutions for environmental and climate participation.

### 2.4.1 National Climate Change Council (CNCC)

According to Article 5 of Law 1931 of 2018, the National Climate Change Council (CNCC) is created within the framework of the Colombian National Climate Change Governance System (SISCLIMA). This relatively new council, that was established after the associated law came into force in 2019, aims to be the main consultation platform for the Colombian Intersectoral Commission on Climate Change (CICC). Thereby, its tasks are:

- Providing advice on decision-making to the CICC, in order to develop policies with participation of the unions, CSOs, the congress, and academia,
- Giving recommendations to the CICC regarding climate change management within the national territory,
- Issuing concepts for the implementation of the National Climate Change Policy (PNCC) and the planning and implementation of its instruments,
- Recommending necessary actions to the CICC to be taken in the coordination of climate change management activities between the private sector, academia, CSOs, and the public entities responsible,
- Suggesting guidelines and criteria for climate change management to the CICC, especially for enhancing the coordination of actions between national and regional levels (Law 1931 of 2018).

The CNCC has two representatives from trade unions, two representatives from academia, one representative from an international organisation for development support and cooperation, one representative from the Senate of the Republic, one representative from the House of Representatives, and two representatives from CSOs working on climate change issues.<sup>19</sup> Accordingly, the CNCC is a high-level consultative body that allows civil society to have a voice in the creation of climate

<sup>19</sup> Based on research of the Facultad de Jurisprudencia Universidad del Rosario Bogotá, Colombia, November 2019.

policies. As the CNCC was only established recently, it is not possible to evaluate how much weight the positions of the two representatives from CSOs will have within the whole entity. Whether these two representatives will coordinate the different perspectives of CSOs in the country to bring in one consolidated position at the CNCC, or rather only represent the positions of their own organisations without representing the real diversity of Colombian civil society will depend on the chosen representatives of the CSOs. Accordingly, it remains to be seen how much reflection and representation of Colombian civil society this new institution will in fact have. The CNCC has already been criticised for not including ethnic and rural communities, or other traditionally segregated groups.

### 2.4.2 Regional Climate Change Hubs (NRCC)

Regional Climate Change Hubs (NRCC) are regional inter-institutional and interdisciplinary working groups, made up of personnel from public and private institutions at the local, departmental, regional and/or national level, which promote and plan actions of adaptation to climate change and mitigation of GHG emissions within their territories.

The first NRCCs were established already in 2008. Here, it should be highlighted that the initiative for the creation of the first NRCC was not exclusively driven by the state. The initiative for establishing a regional entity for climate issues was promoted by a group of CSOs, academics and regional authorities in the area known as “Colombia’s Coffee Triangle”. They claimed to be recognised as an official regional spokesman for the definition of policy actions in the field of climate change management. Finally, in 2016, after some NRCCs had already been operating for several years, Decree 298/2016 recognised the NRCCs as official entities within SISCLIMA. In this context, seven more NRCCs were created, each of which still has a slightly different composition and scope to date:

- NRCC of the Amazon which consists of the following departments: Amazonas, Caquetá, Guainía, Guaviare, Vaupés, Putumayo.
- NRCC of Orinoquía which consists of the following departments: Meta, Casanare, Vichada, Arauca.
- Central Andean NRCC which consists of the following departments: Boyacá, Cundinamarca, Tolima, Bogotá, Huila.
- Norandino NRCC which consists of the following departments: Norte de Santander, Santander.
- Coffee Triangle NRCC which consists of the following departments: Caldas, Risaralda, Quindío, Valle del Cauca.
- Antioquia NRCC which consists of the department of Antioquia.
- Caribbean and Insular NRCC which consists of the following departments: Guajira, Bolívar, San Andrés and Providencia, Sucre, Córdoba, Magdalena, Atlántico, Cesar.
- North Pacific NRCC which consists of the department of Chocó.
- South Pacific NRCC which consists of the following departments: Cauca, Nariño, Valle del Cauca.<sup>20</sup>

<sup>20</sup> Based on research of the Facultad de Jurisprudencia Universidad del Rosario Bogotá, Colombia, November 2019.



Members of the NRCCs are made up of at least one representative of the departments, municipalities, districts, environmental authorities, unions and/or associations of the private sector, academia, CSOs, the National Natural Parks Unit of Colombia, research centres and institutes, and a representative of the Territorial Council for Disaster Risk Management. Even though the NRCCs are not open for every citizen individually to join, they do include representatives of civil society in the form of social and environmental NGOs or CSOs. The participating NGOs and CSOs form an integral part of the NRCC (Ministerio de Ambiente y Desarrollo Sostenible - MADS, 2019).

#### 2.4.3 REDD+ roundtables

In the context of REDD+ implementation, the major participatory space where citizens and CSOs are involved at the national level is the National Roundtable on REDD+. This is a national platform for the participation of key actors in the process of the development of the National REDD+ Strategy (ENREDD+). The roundtable aims to allow the inclusion of different sectors and stakeholders (academics, CSOs, ministries, unions, indigenous communities, black/ Afro-Colombian communities, farmers) in the dialogue and follow-up of the formulation of actions and measures for the implementation of REDD+ in Colombia. Besides the National REDD+ Roundtable, four additional thematic REDD+ roundtables were established, including one roundtable for Afro-Colombian communities, one for indigenous people, one for rural communities, and one for CSOs and environmental foundations. Furthermore, regional roundtables on the specific cultivation and reforestation plans in the area have to be implemented in every territory where a REDD+ initiative is implemented, especially where it is intended for the affected people from the territories to be involved (Ministerio de Ambiente y Desarrollo Sostenible - MADS, 2013). Some Colombian CSOs boycotted the REDD+ roundtables by refusing to participate in them due to fundamental criticism of the REDD+ mechanisms in general and especially its negative impacts on parts of Colombian civil society.

#### 2.4.4 Permanent Coordination Board with Indigenous Peoples and Organisations (MPC)

The Permanent Coordination Board with Indigenous Peoples and Organizations (MPC) is composed of members of the national government and delegates of indigenous organisations. In addition, the MPC is supervised by the International Labour Organization (ILO), the Inter-American Commission on Human Rights (IACHR) and the Episcopal Conference of Colombia (MPC, 2019). The MPC is required by law. Its purpose is to discuss and coordinate all administrative and legislative decisions made by the state that may affect indigenous peoples and organisations, and to come to a common agreement between all members of the MPC. Furthermore, the MPC evaluates the government's indigenous policies and monitors compliance with the agreements reached therein (Decreto 1397 de 1996). The MPC often deals with territorial issues that have an impact on the environment, biodiversity, and the livelihoods of indigenous people. These issues can be relevant for Colombia's climate policy as well, especially when it comes to questions of deforestation or mining of fossil fuels.<sup>21</sup>

<sup>21</sup> Interview with representatives from the National Indigenous Organization of Colombia (ONIC), 15 February 2019.

#### 2.4.5 Intergenerational Pact for the Life of the Colombian Amazon (PIVAC)

Excluding institutions and spaces that were created by initiatives of the state, the Colombian legislation allows citizens and organisations to enforce their participation and interference in environmental decision-making by using strategic litigation. To date there is no record of the use of litigation against any of the climate change policies analysed in this study, however, spaces have been created to monitor the implementation of climate change policies based on other strategic environmental litigation. For example, the Colombian NGO Dejusticia together with 25 children and young people filed a guardianship action against deforestation in the Colombian parts of the Amazon. The supreme court ruled that the authorities (the Presidency of the Republic, the MADS and the authorities of Agriculture and Rural Development) have to implement appropriate measures to eliminate deforestation and the generation of GHG. In particular, Judgement 4360-2018 forced the authorities to develop a short, medium and long-term action plan to counteract the rate of deforestation in the Amazon, considering effects from and to climate change. Additionally, the state was forced to formulate the "Intergenerational Pact for the Life of the Colombian Amazon" (PIVAC). In this pact, preventive and mandatory measures must be taken to reduce deforestation, GHG emissions, and the impacts of climate change. Furthermore, the judgement stipulated that the development of both the action plan and the PIVAC must be carried out with the participation of stakeholders, including affected communities, the general population, and scientific organisations and environmental research groups (Ministerio de Agricultura y Desarrollo Rural, 2018). In this context, follow-up hearings with civil society actors were carried out to comply with the orders issued by the Supreme Court of Justice. During these hearings, civil society had the opportunity to ask the environmental authorities questions about the implementation of the orders of the judgment and other environmental instruments such as climate change policies.<sup>22</sup>

#### 2.4.6 Roundtable of Social Affairs, Mining and Energy, and Environment for Peace (MSMEA)

Besides the formal institutions and structures of participation that derive from international treaties, national laws and litigation, there are further possibilities that enable and strengthen civil society participation in environmental and climate-related decision-making in Colombia. In particular, civil society-driven initiatives and networks create spaces for the articulation of civil society's views and demands and build capacity for its active involvement in political decision-making on climate change, including the energy transition.

In Colombia, mining and energy-related decisions have traditionally caused conflict between governments, corporations and civil society. The Roundtable of Social Affairs, Mining and Energy, and Environment for Peace (MSMEA) is a network of numerous CSOs, trade unions, and syndicates (in particular from the mining and energy sector) that creates a space for local, regional and national coordination in the mining and energy sector. Through regional and national proposals, the MSMEA promotes a new energy and environmental mining model. One of its fundamental

<sup>22</sup> Based on an interview with a representative of Dejusticia, 15 February 2019 and research of the Facultad de Jurisprudencia Universidad del Rosario Bogotá, Colombia, November 2019.



objectives is the transition of public policies on mining and energy towards a more deliberative and democratic character, respecting the rights of workers, the environment, and people affected by mining and energy projects, thus contributing to establish peace. This also includes the demand for an energy transition towards the use of more renewable energy by considering a just structural transition that also respects the concerns of workers from the mining and energy sector. The MSMEA mainly operates through regular regional and national meetings with representatives of all participating organisations, where current affairs are discussed and common proposals are jointly formulated. These are presented directly to political decision-makers or made public using the media.<sup>23</sup>

#### 2.4.7 Klimaforum Latinoamérica Network (KLN)

The Klimaforum Latinoamérica Network (KLN) is a thematic network of individual persons, CSOs, universities and think tanks. It promotes more ambition in climate policy through education and information. It also organises participatory events such as workshops and conferences and publishes statements with proposals on how to be more ambitious in Colombian climate policies. In accordance with its major objective of creating a carbon-free society, KLN supports its members to participate and have influence in political decision making. KLN was closely involved in the process of the Talanoa Dialogue in Colombia.<sup>24</sup> In October 2018, the network organised the First Climate Action Week in Bogotá. This was a space for dialogue on climate action between civil society actors, the private sector, academics, and regional and local governments. Besides academic presentations, dialogue forums and panels, a workshop for the creation of new alliances between civil society stakeholders was organised in the context of the Climate Action Week. This aimed to strengthen individual members of civil society and CSOs in their actions regarding climate protection and adaptation, as well as in their influence on national climate policy.<sup>25</sup>

<sup>23</sup> Interview with representatives from MSMEA, 13 February 2019.

<sup>24</sup> Interview with Prof. Manuel Guzman (KLN), 14 February, 2019.

<sup>25</sup> Klimaforum Latinoamérica Network. Diálogo Talanoa. <http://laredkln.org/acciones-climaticas/dialogo-talanoa>, accessed 12 August 2020.

## 2.5 Practices and examples of climate-related participation<sup>26</sup>

### 2.5.1 Formulation and implementation of the National Climate Change Policy Framework (PNCC)

In 2014, the process of the formulation of the National Climate Change Policy Framework (PNCC) started. The PNCC included, among other policies, the Colombian Low Carbon Development Strategy (ECDBC), the National Climate Change Adaptation Plan (PNACC), and the National REDD+ Strategy (ENREDD+) (Ministerio de Ambiente y Desarrollo Sostenible - MADS, 2017).

The MADS organised workshops involving the five Regional Climate Change Hubs (NRCCs) (there were five at that time, and the others haven't been established yet (see Chapter 2.5.2) , research institutes of the environmental sector, CSOs with national scope, trade associations and unions, and representatives of different national governmental institutions during the process for the formulation of the PNCC in 2014. In 2015, the attendance was extended to involve indigenous communities, and Afro and Raizal communities. The cooperation between state institutions, the private sector and CSOs was important for the government for the implementation of mitigation and adaptation measures that should be, in the best case, developed and financed jointly between the state and the private sector. Several workshops aimed to receive inputs from the participants regarding content, structure, and the focus of the policies to be developed. After the policies were formulated, they were presented to the members of the National Environmental Council (CNA) and published online with the possibility to comment on them during the last week of August 2016.

The PNCC was finally adopted by the Colombian Intersectoral Commission on Climate Change (CICC) in the late 2016. The "Climate Change Management Law" was approved in 2018. These include, among others, the National Climate Change Governance System (SISCLIMA), the Intersectoral Commission on Climate Change (CICC), the NRCCs, the Comprehensive Sectoral Climate Change Management Plans (PIGCCS), and the Comprehensive Territorial Climate Change Management Plans (PIGCCT, see Chapter 2.2). Furthermore, Law 1931 of 2018 introduced a new participatory entity, the National Climate Change Council (CNCC). This is a permanent consultation body of the CICC, which shall provide advice, recommendations, and suggestions for decision-making through the participation of the private sector, CSOs, academia, international organisations and the congress.

### 2.5.2 Colombia's Intended National Determined Contribution (INDC) and National Determined Contribution (NDC) process

On 22<sup>nd</sup> April 2016, Colombia signed the Paris Agreement and the bill for its national ratification was unanimously accepted in the Congress of the Republic, through Law 1844 of 2017. This law was revised by the constitutional court which, through Judgment C-048 of 2018, concluded that both the Paris Agreement and its implementing law are fully in accordance with Colombian constitutional provisions. Subsequently, the country ratified the agreement on 13<sup>th</sup> July 2018. Thirty days later, Colombia formally became part of the Paris Agreement. On 7<sup>th</sup> September

<sup>26</sup> Based on research of the Facultad de Jurisprudencia Universidad del Rosario Bogotá, Colombia, November 2019.

2015, Colombia presented its Intended National Determined Contribution (INDC) to the UNFCCC Secretariat.

The preparation phase of Colombia's INDC ran parallel to the formulation of the PNCC, which began one year earlier in 2014. Both processes had many interconnections. At the beginning of the process, participation was limited to the purpose of gaining the needed technical information for the formulation of the INDC. Therefore, the Ministry of the Environment and Sustainable Development (MADS) mainly involved other sector's ministries, the National Planning Department (DNP), the Institute of Hydrology, Meteorology and Environmental Studies (IDEAM), and trade unions. The draft INDC was then published online for a month and a half and open for public comments. These comments were answered one by one and all information on the process was made available online.<sup>27</sup> Furthermore, several meetings and workshops were carried out in Bogotá and other cities of the country, where further inputs were received (Ministerio de Ambiente y Desarrollo Sostenible - MADS, 2017).

Regarding GHG mitigation, the collecting of input information for the INDC was made in parallel with the collection of information for the Colombian Low Carbon Development Strategy (ECDBC) and eight Sectoral Action Plans for mitigation (PAS). For this, macroeconomic assumptions, GHG emission baselines, and technical studies were prepared based on inputs from more than 200 participants from stakeholders such as unions (including ANDI, ANDESCO, ACOGEN, CCCS, CAMACOL), governmental decision makers (ministries and DNP), scientists (Universidad Nacional de Colombia and Universidad de los Andes), research institutes, and multilateral agencies (including the World Bank, UNDP, USAID). Furthermore, MADS published an online survey on its website for approximately a month and a half between May and July 2015. MADS also organised two discussion workshops with representatives of civil society organisations supported by the World Wildlife Fund (WWF) and the Fundación Natura (16<sup>th</sup> June and 5<sup>th</sup> August 2015).

Regarding adaptation to climate change, Colombia had been developing the Colombian National Climate Change Adaptation Plan (PNACC) and adaptation plans for different sectors and territories since 2011. On this basis, the adaptation chapter of the INDC was developed. Therefore, it was necessary to identify measures out of these plans that would be integrated into the INDC. For this purpose, workshops were organised with adaptation experts, CSOs, research institutes, representatives of unions and ministries, and the DNP. MADS formulated ten specific measures based on the outputs generated in these workshops that were included in the INDC. These were published on the MADS website and were open for comments.

Finally, multiple workshops, roundtables and work sessions were held with actors from different sectors starting from March 2015, with the purpose of consulting sector experts, both from the government and from the unions. Likewise, regional workshops (Barranquilla, Medellín, Pereira, Neiva and Cali) were convened in regions with the support of the Regional Climate Change Hubs (NRCC).

In the final stage, the GHG mitigation measures and adaptation measures were merged with measures of implementation to form Colombia's INDC. No additional

<sup>27</sup> See: [www.minambiente.gov.co/index.php/component/content/article?id=1784:plantilla-cambio-climatico-46#documentos-relacionados](http://www.minambiente.gov.co/index.php/component/content/article?id=1784:plantilla-cambio-climatico-46#documentos-relacionados), accessed 27 April 2020.

participation process was carried out for Colombia's first National Determined Contribution (NDC), because, when Colombia ratified the Paris Agreement the INDC was converted into the NDC without any changes.

Thus, in summary, it has to be acknowledged that during the formulation of the Colombian INDC, around 50 consultation spaces were created between March and September 2015 for discussion with different stakeholders on both policy and technical inputs and defining the goals. The Colombian INDC explicitly integrated a section on the "Nationally Determined Contribution Planning Process", which recognises the importance of informing citizens about climate change management to ensure that their concerns are reflected in the policies.

However, it is important to mention that all of these discussion forums were strongly dominated by experts and sectoral interest groups. Environmental NGOs and CSOs were underrepresented, excluding some technical inputs from experts from WWF or the Fundación Natura. Normal citizens and grassroots groups from the regions were hardly involved at all, excluding the opportunity to submit comments online. However, many CSOs were not aware of the opportunity to submit online comments as it was not promoted actively by the government. Furthermore, according to a representative of the NGO The Nature Conservancy, the real involvement of NGOs and CSOs began quite late in the process when inputs from other sectors were already integrated into the draft document. Instead of including the inputs of NGOs and CSOs as equal to those from other sectors from the very beginning, MADS organised a workshop where only prominent national NGOs and CSOs were invited. There, the draft INDC was presented and the NGOs and CSOs only had the opportunity to ask questions and to give some comments. According to The Nature Conservancy, at the time of this workshop, the INDC was very "advanced. In fact, the document they presented was almost, or very similar, to the one that was finally published"<sup>28</sup>.

<sup>28</sup> Interview with a representative of The Nature Conservancy, 30<sup>th</sup> September 2019.

## 2.6 Barriers to participation

### 2.6.1 Fundamental barriers

#### Faltering peace negotiations

Colombia has a long history of civil war and internal violent conflicts between the state, paramilitary groups, criminal organisations, and communist guerrilla groups. Due to this violent history, many Colombians have faced physical and psychological threats, and there is mistrust between different parts of the society, conflicting parties and the regional and national governments which has increased over the years. However, the former Colombian government of President Juan Manuel Santos started a long-awaited peace process by negotiating with one of the biggest Colombian guerrilla groups, the Revolutionary Armed Forces of Colombia (FARC). After the first peace agreement between the national government and the FARC was rejected by the Colombian population through a referendum in October 2016, the two conflicting parties agreed on a revised agreement in November 2016 with the backing of the congress and without holding a second referendum.

Since then, the peace process has become the most important issue with highest priority in Colombian domestic policy, on the one hand, giving Colombians hope for a more peaceful and non-violent future, and on the other, leaving the country in a stage of transition and fragility. Understandably, this historic upheaval has led to the fact that other political issues like for example climate change have been considered as less important by the government and various parts of the society.<sup>29</sup>

Despite the progress made by the peace process, violent conflicts between several breakaway groups of the FARC and other left-wing guerrilla groups on the one hand, and paramilitary groups and the government on the other, continued. Furthermore, the peace negotiations with the last remaining active guerrilla group, the National Liberation Army (ELN), was stopped by the government in early 2018 due to ongoing violent attacks and because the ELN rejected the condition of a permanent ceasefire (Heidelberg Institute for International Conflict Research, 2019).

The violent conflicts in some regions are still at the stage of a limited war for regional predominance and resources between several non-state armed groups such as neo-paramilitary groups, drug cartels, and left-wing militants. These violent confrontations also affect civilian populations through forced displacements and recruitment, restricted mobility, minefields, and a general reduction of security (Heidelberg Institute for International Conflict Research, 2019).

After the elections in 2018, Iván Duque Marquez became the new Colombian president. He is a critic of the peace agreement that was negotiated by the previous government and shows less interest in reopening the peace process. The ongoing insecurity and conflicts are a fundamental threat to the participation of civil society.

#### Security of local communities and environmental defenders

Due to its long history of conflict and violence, the security of Colombian citizens has always been a serious problem. After the first signs of improvements of

<sup>29</sup> Interview with a representative of the National Planning Department of Colombia (*Departamento Nacional de Planificación, DNP*), 13 July 2017.

the security situation after the peace process progressed in 2016, security threats to local communities and especially to social and environmental defenders have been increasing again recently. Community leaders, human rights and environmental activists, and even representatives from local authorities have been frequently targeted by armed groups.

Colombia is the most dangerous country in the world for environmental defenders (Global Witness, 2020). Besides putting individuals' lives in severe danger, this situation of course also represents a major barrier for political participation in civil society. People who participate in environmental decision-making processes may be threatened or harassed for promoting their demands and causes. Especially those at the local level who speak up for environmental justice and protest against environmental degradation caused by agribusiness, mining, dams, oil extraction, and infrastructure projects are facing severe threats, ranging from verbal and violent attacks to murder. Hence, many people who actively participate and are critical in environmental decision-making processes and even citizens that are not activists and only participate in consultations put themselves and their families at risk of being targeted by violent attacks.

The Colombian state does not have an effective judicial system of investigation and sanction to prevent and prosecute such crimes adequately. The government cannot guarantee the security of its citizens. It is not enabling the rule of law in all parts of the country and is putting only limited effort into changing this situation. In some cases, the Colombian state itself is even involved in the violent conflicts. For example, there has been an ongoing conflict, including violent confrontation, over resources between several indigenous groups and the government since 2005 (Heidelberg Institute for International Conflict Research, 2019).

Colombia's recent signing of the Escazú Agreement, which includes the requirement to better protect the rights and the security of environmental defenders, is however a good sign and gives some hope for improvements in the security of Colombian environmental defenders in the future. However, as experiences have shown that implementation and enforcement of rules and laws is problematic in Colombia, the signing of the agreement alone will not be enough. Much more effort will be needed to reduce this lack of security which has historic roots.

### 2.6.2 Legal barriers

#### Shortcomings in the execution of laws and implementation of agreements

From a legal perspective, the Colombian constitution from 1991 contains many participatory mechanisms that aim to enable citizens to be involved in political decision-making in the country, including elections, plebiscites, referendums, public consultations, and the rights to call for legislative initiatives and to recall political mandates. At first glance, the constitution describes a highly participatory, inclusive country with mechanisms that can be described as good practices of participation. However, the constitution often uses ambiguous terms and expressions that impede uniform interpretation and jurisprudence (Mina Paz, 2005).



As mentioned in Chapter 2.4.2, besides the constitution, many other Colombian legislative texts generally offer opportunities for civil society participation in different contexts. Therefore, in the context of legal barriers to participation, it is mainly not the legislation itself, but its lack of enforcement and implementation that represents a major threat for civil society participation. On paper, these legally prescribed participatory instruments seem to be ambitious and in accordance with major criteria of good practices of participation. However, a closer look at the implementation of these instruments reveals the paradoxical situation in Colombia, where a highly developed legislative and judicial foundation stands in stark contrast to the reality of disregard of participation rights.<sup>30</sup> Furthermore, many legal texts that prescribe civil society participation miss detailed procedural rules for the implementation of the participation, leading to the use of many different and inconsistent formats for civil society to participate.

The practice of non-compliance is not only the case when it comes to legal texts, but also official agreements with public authorities are often not implemented in practice. An example of this is the common agreements between the state and the Permanent Coordination Board with Indigenous Peoples and Organisations (MPC). Although the government has to monitor compliance with these agreements according to the law (Decree 1397 of 1996), 1,290 agreements are still waiting to be implemented since its establishment in 1991.<sup>31</sup>

**Restriction of participation rights through jurisdiction**

In some cases, the legislator or jurisdiction also strongly restricts participatory rights. A prominent example for this is the popular consultations, which are mechanisms of citizen participation prescribed by the Colombian constitution that have been often used in the context of environmental matters. In popular consultations, citizens are summoned to decide on some aspects of special importance in administrative and legislative decision-making. Popular consultations can be national, departmental, municipal, on the district level or local. In the case of a national popular consultation, the Colombian president, with the previous endorsement of the congress and supported by the signatures of all the ministers, is in charge of consulting the people when a decision to be taken is of national significance. In the case of popular consultations at the district, departmental, municipal or local levels, the decision to convene them is made by the governors and mayors.<sup>32</sup> They can also be initiated by citizen initiatives backed by signatures.<sup>33</sup>

In the context of environmental and climate matters, especially municipal popular consultations on extractive projects have gained importance in recent years. For example, between 2009 and 2018 more than seven popular consultations on mining projects were conducted, which all resulted in more than 90% of the attendees voting against a specific mining project or against mining within their territory in general. However, the national government and multinational

<sup>30</sup> Focus group workshop Colombia, 13 February 2019.

<sup>31</sup> Ibid.

<sup>32</sup> Subgerencia Cultural del Banco de la República. Consulta popular., [www.banrepcultural.org/blaavirtual/ayudadetareas/politica/consulta\\_popular](http://www.banrepcultural.org/blaavirtual/ayudadetareas/politica/consulta_popular), accessed 24 August 2020.

<sup>33</sup> Consulta popular explicada fácilmente en Colombia en solo tres pasos. Revista Semana Sostenible, <https://sostenibilidad.semana.com/impacto/articulo/consulta-popular-explicada-facilmente-en-colombia-en-solo-tres-pasos/38327>, accessed 24 August 2020.

companies have not always recognised these results, arguing that mining is of national public interest and decisions on it have to be taken at national level (Dietz, 2018). Following these arguments, the constitutional court has recently denied the legality and conformity of these consultations and their results with the constitution (Constitucional Court of Colombia, 11 october 2018, Sentence SU-095, El Espectador, 2018). This can be seen as a severe setback regarding the participation of civil society in environmental decision making in Colombia.

**2.6.3 Structural and institutional barriers**

**Competencies and capacities of responsible authorities**

After the new Colombian president Iván Duque Marquez was elected in 2018 and the following change of government, it took a long time to fill the relevant positions with adequate staff in certain ministries. Consequently, competent executives and leaders were missing in some key departments of the environmental ministry. This was also the case in the department that is responsible for climate change. When the Paris Agreement was ratified by Colombia, the INDC that was already presented in 2016 was converted into the NDC without revising it. Therefore, it was very hard for civil society to follow the process of NDC development for a long period because no information was released by the ministry. Therefore, many experts from Colombian CSOs expect that the opportunity for civil society to participate in the process of revising the NDC will also be restricted to the minimum required.<sup>34</sup>

Especially on the regional level, responsible authorities do not always have the capacity to make reasonable decisions on complex topics such as climate change. An example for this is some Regional Climate Change Hubs (NRCCs). They are usually made up of personnel from public and private institutions at the local, departmental, regional and/or national level from different backgrounds. Even though they are responsible for the development of actions of adaptation to climate change and mitigation of GHGs emissions within their territories, they are often missing expert knowledge on these topics. This lack of capacity also impedes the meaningful participation of civil society because reasonable statements from citizens and CSOs cannot be professionally evaluated and integrated into the final decisions.<sup>35</sup>

**Technical debate on climate change, lack of awareness for participation rights and lack of trust**

Professional CSOs in Colombia generally have a high capacity to deal with environmental issues and to initiate change and transformation within society. However, raising interest among the general population and stimulating social mobilisation is easier with topics that affect people directly, for example mining, contamination of rivers and deforestation. For many Colombians, the topic of climate change is still not a trigger for mobilisation.

The debate on climate change is very technical. Predominantly academics, consultants, and professional environmental NGOs (including international NGOs

<sup>34</sup> Focus group workshop Colombia, 13 February 2019.

<sup>35</sup> Focus group workshop Colombia, 13 February 2019.



with limited links to Colombian civil society) address the topic. They usually present the topic using vague and ambiguous language that does not give the general population and smaller CSOs the feeling of being involved.<sup>36</sup> Furthermore, many of the supporting documents for participatory processes are too long and highly technical, making it difficult for citizens and local decision makers to participate appropriately.

Furthermore, smaller CSOs still have a lack of knowledge about participation rights and mechanisms, coupled with a lack of capacity to use them. Additionally, many CSOs do not have trust in the participation processes and they do not believe that their inputs will be considered in the final decisions. Therefore, although to a certain extent civil society participation processes in environmental and climate matters are implemented in Colombia and there are legal and administrative mechanisms for every Colombian citizen to intervene in political decision-making, the rates of involvement by the different social actors are still very low.<sup>37</sup>

2.6.4 Process-related barriers

Missing standards for civil society participation

Even though Colombian legislation requires that there has to be public participation in many cases, there are no universal mandatory regulations on how the participation has to be implemented (see Chapter 2.4.2). Because of this, the authorities that are responsible for the design and adoption of public policies on climate change have often used formats that are not in line with best practice in public participation. Within the framework of this investigation, interviews on the participation processes of several climate change plans and policies were conducted with representatives from different ministries. From this, it can be concluded that open citizen participation processes have not always been implemented within the processes of development and implementation of public climate change plans and policies. Although there were certain opportunities to participate in most cases, the participation processes were not based on a structured, transparent process that gives CSOs the opportunity to have real influence on the decisions. In most of the cases, the authorities used unspecific formats, such as “workshops”, “meetings” or “forums” with different stakeholders or published information on the process online without spreading this information actively. Furthermore, public participation happened at very different stages of the processes, often when they were already quite advanced and basic decisions had already been taken. This gives civil society limited opportunity to have real influence on the decisions.<sup>38</sup>

Limited representation of civil society within participation processes

It is obvious that generally the same CSOs participated within the participation processes in all processes regarding the development of climate-related policies and plans that were developed in Colombia in recent years. These are mostly large, prestigious, and consolidated NGOs that operate nationwide and have their headquarters in Bogotá, such as WWF, The Nature Conservancy and the Fundación Natura. These NGOs have historically been involved in the design and creation of

36 Focus group workshop Colombia, 13 February 2019.  
37 Based on research of the Facultad de Jurisprudencia Universidad del Rosario Bogotá, Colombia, November 2019.  
38 Based on research of the Facultad de Jurisprudencia Universidad del Rosario Bogotá, Colombia, November 2019.

policy instruments on environmental and climate issues. In most of the processes, there were hardly any smaller, grassroots organisations that tend to be weaker in the field of advocacy and with less technical expertise, but more presence in remote regions of the country. This means that most of the processes were conducted without a real representation and reflection of Colombia’s civil society.<sup>39</sup>

Different understanding of the purpose of participation between the state and civil society

In the rare cases where authorities that are responsible for the design of climate change policies do directly invite CSOs to participate in an early stage of the development, this is usually to develop instruments with a high technical and scientific content. Environmental authorities therefore often only invite CSOs that have a sufficient technical and professional capacity to deliver technical knowledge that is necessary for the development of the specific instrument. For example, The Nature Conservancy was involved from the very beginning in the development of the Guide to Ecosystem-based Climate Change Adaptation and participated at different workshops organised by the authorities. However, according to The Nature Conservancy, their role in this process was not to represent the positions and claims of civil society, but rather to verify and evaluate the developed measures from a scientific perspective. Other CSOs were not involved in the process.<sup>40</sup>

This shows that the state and CSOs often have a very different understanding of the purpose of participation. While the state sees CSOs mostly as a supplier of needed information, knowledge and data, CSOs mainly aim to participate to express their views and demands, and to have real influence on the decisions that are to be made.

39 Based on research of the Facultad de Jurisprudencia Universidad del Rosario Bogotá, Colombia, November 2019.  
40 Based on research of the Facultad de Jurisprudencia Universidad del Rosario Bogotá, Colombia, November 2019.

2.7 Assessment of the environment and opportunities to participate

This chapter illustrates the results of an assessment of the situation and conditions for civil society participation in environmental and especially climate decision making in Colombia (Table 5 and Figure 1). The assessment is based on the analysis made in the previous chapters and evaluations from Colombian civil society experts derived from interviews.

Table 5: Assessment of the environment and opportunities to participate in climate policies in Colombia

Criterion 1 Fundamental requirements

Indicators	Scores	Score
<b>a.Stability and peace</b> (What is the intensity of ongoing conflicts?) <sup>41</sup>	0 = high intensity of conflict (limited war or war going on) 1 = medium (violent crisis going on) 2 = low intensity of conflict (non-violent crisis or dispute going on) 3 = very low intensity of conflict (no dispute, crisis or war going on)	0
<b>b. Anti-corruption and transparency</b> (What is the perceived level of corruption?) <sup>42</sup>	0 = highly corrupted, CPI of 0 1 = corrupt, CPI equal to or under 50 2 = clean, CPI higher than 50 3 = very clean, CPI of 100	1 (37/100)
<b>c. Security of environmental defenders</b> (Are environmental defenders secure from threats?) <sup>43</sup>	0 = alarmingly weak security for environmental defenders (more than one murder documented) 1 = weak security for env. defenders (one murder documented) 2 = Environmental defenders are somewhat secure (no murders documented)	0
<b>d. Political commitment</b> (Is political participation of civil society related to the environment and climate backed by high-level political bodies and decision makers?)	0 = no 1 = yes, to some extent 2 = yes, fully	0
	Max. score: 10	1

<sup>41</sup> This indicator and related scoring is based on the Conflict Barometer 2018 by HIIK ([www.hiik.de/conflict-barometer/?lang=en](http://www.hiik.de/conflict-barometer/?lang=en), accessed 23 April 2020). The Conflict Barometer uses a five-level model, defining disputes and non-violent crises as non-violent conflicts with a low conflict intensity, violent crises as violent conflicts with medium conflict intensity and limited wars and wars as violent conflicts with high conflict intensity.

<sup>42</sup> This indicator and related scoring is based on the Corruption Perception Index 2019 by Transparency International ([www.transparency.org/cpi2019](http://www.transparency.org/cpi2019), accessed 27 April 2020). According to Transparency International a scoring of zero means “highly corrupt” and 100 is “very clean”. The scoring “1=corrupt” and 2=clean” was set by UfU. Transparency International defines corruption as the “abuse of entrusted power for private gain”, whereas “transparency is about shedding light on rules, plans, processes and actions. (...) “It is the surest way of guarding against corruption, and helps increase trust in the people and institutions on which our futures depend.” ([www.transparency.org/what-is-corruption](http://www.transparency.org/what-is-corruption), accessed 23 April 2020).

<sup>43</sup> This indicator and related scoring is based on the Global Witness Report “At what cost? which documents the murder of land and environmental defenders in 2017 ([www.globalwitness.org/en/campaigns/environmental-activists/at-what-cost](http://www.globalwitness.org/en/campaigns/environmental-activists/at-what-cost), accessed 23 April 2020). It is important to note that the absence of murder does not mean that there are no other threats, attacks or harassments of environmental defenders and activists.

Criterion 2 Enabling legislation

Indicators	Scores	Score
<b>a. Commitment to international conventions and agreements</b> (Did the country sign and ratify (accept, approve, accede to) the Aarhus Convention or the Escazú Agreement, requiring civil society participation related to the environment and climate?)	0 = no, neither signed, nor ratified (accepted, approved, acceded to) 1 = signed, but not ratified (accepted, approved, acceded to) 2 = ratified (accepted, approved, acceded to)	1
<b>b. National laws requiring the proactive participation of civil society</b> (To what extent does/do • the constitution, • national framework laws regarding environment and climate, • strategic environmental assessment laws, • or climate-related sectoral laws (regarding energy, industry, transport, forest or land use)  obligate the state or state agencies at national level to proactively seek the participation of civil society in decision-making related to the environment and climate, going beyond the official notification of participatory events?) <sup>44</sup>	0 = none of the laws assessed 1 = a few of the laws assessed 2 = most of the laws assessed 3 = all laws assessed	1
<b>c. National laws requiring timely participation</b> (To what extent does/do • the constitution, • national framework laws regarding environment and climate, • strategic environmental assessment laws, • or climate-related sectoral laws (regarding energy, industry, transport, forest or land use)  require timely participation (before a decision is made and so that there is enough time for a public authority to consider the public comments) of civil society in decision-making related to the environment and climate?)	0 = none of the laws assessed 1 = a few of the laws assessed 2 = most of the laws assessed 3 = all laws assessed	2

<sup>44</sup> If there is a primary act requiring participation that affects several subordinates laws the latter are counted as well.

<p><b>d. National laws requiring information regarding the participation process</b> (To what extent does/do</p> <ul style="list-style-type: none"><li>the constitution,</li><li>national framework laws regarding environment and climate,</li><li>strategic environmental assessment laws,</li><li>or climate-related sectoral laws (regarding energy, industry, transport, forest or land use)</li></ul> <p>require all information relevant to decision-making processes relating to the environment and climate to be made available to civil society, without civil society having to make an official information request?)</p>	<p>0 = none of the laws assessed 1 = a few of the laws assessed 2 = most of the laws assessed 3 = all laws assessed</p>	<p>1</p>
<p><b>e. National laws requiring the consideration of civil society's comments</b> (To what extent does/do</p> <ul style="list-style-type: none"><li>the constitution,</li><li>national framework laws regarding environment and climate,</li><li>strategic environmental assessment laws,</li><li>or climate-related sectoral laws (regarding energy, industry, transport, forest or land use)</li></ul> <p>require the state or state agencies at the national level to take due account of civil society's comments in decision-making relating to the environment and climate?)</p>	<p>0 = none of the laws assessed 1 = a few of the laws assessed 2 = most of the laws assessed 3 = all laws assessed</p>	<p>1</p>
<p><b>f. National laws requiring notification of civil society on the decision made along with the reasons and considerations on which the decision is based</b> (To what extent does/do</p> <ul style="list-style-type: none"><li>the constitution,</li><li>national framework laws regarding environment and climate,</li><li>strategic environmental assessment laws,</li><li>or climate-related sectoral laws (regarding energy, industry, transport, forest or land use)</li></ul> <p>require the state or state agencies at the national level to promptly inform civil society about the decision and provide a written response explaining which comments were taken into account as well as giving reasons for dismissing others?)</p>	<p>0 = none of the laws assessed 1 = a few of the laws assessed 2 = most of the laws assessed 3 = all laws assessed</p>	<p>0</p>
<p>Max. score: 17</p>		<p>6</p>

Criterion 3 Supporting governance & structures

Indicators	Scores	Score
<p><b>a. Governance structure</b> (Is there an institutional body or mechanism, such as a committee, division or centre, supporting and coordinating participation processes relating to the environment and climate?)</p>	<p>0 = no 2 = yes</p>	<p>2</p>
<p><b>b. Institutional coordination &amp; cooperation</b> (Are national participation processes relating to the environment and climate coordinated across different vertical and horizontal political levels?)</p>	<p>0 = no 1 = there is weak coordination and cooperation 2 = there is good coordination and cooperation 3 = there is very good coordination and cooperation</p>	<p>1</p>
<p><b>c. Financial resources</b> (Are civil society actors financially supported to participate in environmental/climate policy, e.g. through an allowance, reimbursement of travel costs or funding of staff members?)</p>	<p>0 = no 1 = yes, to some extent 2 = yes, fully</p>	<p>0</p>
<p>Max. score: 7</p>		<p>3</p>

Criterion 4 Qualitative participation processes<sup>45</sup>

Indicators	Scores	Score
<p><b>a. Early participation</b> (At what stage was civil society involved in the process?)</p>	<p>0 = only after most of the decisions have been made 1 = after the first draft of the document/plan/strategy 2 = directly from the beginning</p>	<p>1</p>
<p><b>b. Broad, inclusive invitation</b> (Was a wide variety of representatives of civil society (CSOs and wider public) invited to participate, including for instance those representing youth, gender, indigenous groups, and minority ethnic groups?)</p>	<p>0 = no civil society representatives invited 1 = not a wide variety invited, just a few selected CSOs 2 = either just CSOs or just the wider public invited 3 = yes, a wide variety invited</p>	<p>1</p>

<sup>45</sup> The scoring represents the averaged evaluation of some recent national participation processes relating to the environment and climate in each country, described in detail in the respective chapters of this study.

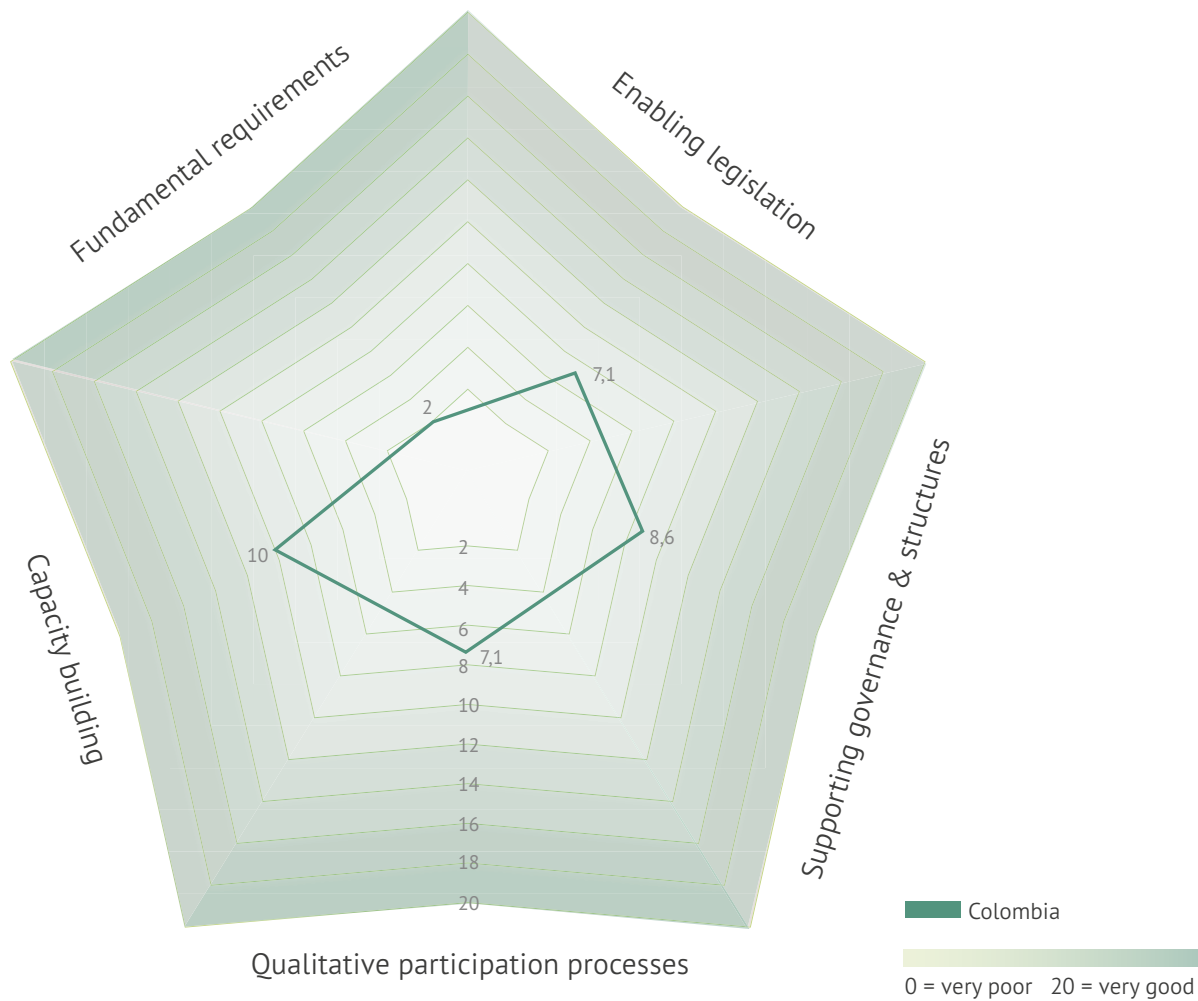
<b>c. Timely invitation</b> (Was civil society invited early enough to participate?)	0 = some days in advance 1 = less than one month in advance 2 = more than one month in advance	1
<b>d. Adequate participation formats</b> (How was civil society involved in the process?)	0 = through information 1 = through consultation 2 = through several interactive formats, fostering dialogue and collaboration	0
<b>e. Transparency and information</b> (Was information about the technical background and the participation process available to civil society?)	0 = no 1 = yes, to some extent 2 = yes, a lot of information	1
<b>f. Available documentation</b> (Was documentation about the discussions and results available to civil society?)	0 = no 1 = yes, to some extent 2 = yes, fully	1
<b>g. Transparent review of recommendations</b> (Were recommendations and views from civil society reviewed in a transparent manner?)	0 = no 1 = yes, to some extent 2 = yes, fully	1
<b>h. Evaluation and feedback process</b> (Was there an evaluation and feedback process regarding the participation procedure?)	0 = no 2 = yes	0
	Max. score: 17	6

Criterion 5 Capacity building

Indicators	Scores	Score
<b>a. Environmental education</b> (Is national formal and non-formal environmental and climate education offered to the public?)	0 = no 1 = yes, some education on offer 2 = yes, a lot of education on offer	1
<b>b. Public awareness raising on participation rights and opportunities</b> (Is information about public participation rights and opportunities available to the public?)	0 = no 1 = yes, to some extent 2 = yes, fully	1

<b>c. CSO capacity building on climate change, climate policy, policy dialogue, organisational development, cooperation and networking</b> (Is there capacity building on topics such as climate change, climate policy, policy dialogue, organisational development, cooperation or networking for CSOs?)	0 = no 1 = yes, some capacity building available 2 = yes, a lot of capacity building available	1
<b>d. Capacity building on participation and stakeholder engagement for governments</b> (Is there capacity building on participation and stakeholder engagement for national governments and state officials?)	0 = no 1 = yes, some capacity building available 2 = yes, a lot of capacity building available	1
	Max. score: 8	4
Max. total score	59	20

Figure 1: Assessment of the environment and opportunities to participate in climate policies in Colombia (scaled to a maximum of 20 points)







## 2.8 Strengthening civil society involvement

One main objective of the project “Strengthening Civil Society for the Implementation of National Climate Policy” is to foster and improve the conditions and possibilities for civil society to participate in national climate policy. This chapter therefore presents recommendations derived from the analysed status quo, including identified barriers and challenges that impede effective participation in Colombia. The following takeaways are country-specific and aim to provide guidance for national policy makers, other stakeholders relevant for climate-related policy making and participation such as international institutions and donors, and civil society itself.

The identified entry points on how to improve the participation of civil society (organisations) were grouped into five areas of action: fundamental requirements, enabling legislation, supporting governance and structures, qualitative participation processes, and capacity building.



### 2.8.1 Fundamental requirements

#### Ensure security for citizens and environmental defenders

The long history of violent conflicts and repressions in Colombia is so complex and fundamental that it is hardly possible to give suitable recommendations here that offer satisfying solutions for the problems related to them. Nevertheless, in the context of the participation of civil society in political decision-making, it cannot be stressed enough how important it is to ensure personal security from repression and physical threats for all citizens in the country as a top priority. This most definitely includes those who want to participate in decision-making processes and to express their opinions and demands such as environmental and human rights defenders. Therefore, the peace negotiations, the fight against the violation of human rights, and the strengthening of the rule of law have to be pushed forward steadily by both national and international actors.

Colombia already has passed some laws that in theory have the potential to contribute to the protection of environmental defenders such as the constitutional right to a healthy environment. Nevertheless, Colombia is still one of the most dangerous countries in the world for environmental defenders (see Chapter 2.3). Therefore, Colombian legislation and jurisdiction must be further strengthened in terms of building strong and effective rules to protect environmental defenders in accordance with international human rights law. Furthermore, it is important to reinforce the execution of existing laws, and to ensure the fast and independent investigation of all violations of the rights of environmental defenders, the prosecution of alleged perpetrators, and the creation of effective remedies and penalties (Knox, 2017). Several international standards and guidelines can be used as a blueprint. An important step would be the fast ratification of the Escazú Agreement, including the obligation to better protect environmental defenders' rights and its comprehensive incorporation into national law. The institutions to be set up as part of the implementation of the Escazú Agreement such as the planned Compliance Committee can exert outside pressure on Colombia to fulfil its obligations. Furthermore, national and international CSOs and networks need

support in helping environmental defenders to ensure their own security by empowering them through trainings and employing effective advocacy (Earthrights International, 2018). Real improvements in political participation can only be achieved if the personal security of all citizens of Colombia is increased.



### 2.8.2 Enabling legislation

#### Ratify and implement the Escazú Agreement

Colombia's recent signature of the Escazú Agreement is already an important first step in strengthening environmental participation rights in the country. However, the Escazú Agreement is still not legally in force from signature alone. The agreement only acquires its status as a legally binding international treaty whose non-compliance can be sanctioned when 11 countries of the region have signed and ratified it. Therefore, Colombia should ratify the agreement quickly and ensure its full and comprehensive incorporation into national law. All existing legislation and procedures on environmental participation have to be revised and mainstreamed with the obligations of the agreement. This includes all regulations and practices related to the access to environmental information, participation in environmental decision-making, access to justice in environmental matters, and the protection of environmental defenders. A full implementation of the agreement's requirements contributes sustainably and comprehensively to a major improvement in Colombia's civil society.

#### Define clear legal procedures for public participation and make them mandatory

Although there are several participatory mechanisms in Colombia and the implementation of participation is required by many laws and decision-making processes, the procedural details of these processes are not regulated or standardised. Therefore, a national regulation on the implementation of mechanisms and opportunities for environmental participation is required that legally defines the public participation procedures in environmental and climate policies, plans and programmes. This should include clear legal guidelines on which stages of the decision-making process have to include participation to be implemented by the state, including the indication of a clear timeline for its realisation. The guidelines should be in line with the requirements of the Escazú Agreement and orientated on good international practice in public participation. The conformance with these guidelines should be mandatory for every state institution. This allows citizens, CSOs and other stakeholders to track and understand the decision-making processes and to participate in all relevant stages of the process. This enhances the impact of the participation, strengthens trust, acceptance, and mutual understanding, and gives public instruments and decisions a greater legitimacy.



### 2.8.3 Supporting governance and structures

#### Define competencies and responsibilities clearly

Even though the Colombian National Climate Change Policy (PNCC) is quite complex and comprehensive, it fails to define clear competencies and responsibilities. In particular, a clear determination between different governmental levels (such as

national or regional) is missing. Therefore, the revision of the Colombian Climate Change Governance System (SISCLIMA) should be used to incorporate such a clear definition of responsibilities and tasks. Especially the forthcoming formulation of territorial development plans and action plans of the Regional Autonomous Authorities depends on a clearly determined distribution of competencies. In the context of civil society participation, it is important to make this distribution of competencies transparent and information on it openly accessible to the public. This guarantees that those who aim to participate in decision-making processes know which institution they can turn to.

**Budget strengthening for environmental participation**

In Colombia, the design and implementation of participation activities with CSOs and the public and private sectors in the context of climate policies is funded by national and international sources. The leading entity in financing the development of climate policies including the implementation of participation procedures is the Ministry of the Environment (MADS). However, especially at the level of the departments, the budgets for the implementation of participation procedures are low and the budget from MADS has been also reduced year by year. It is therefore necessary to increase the budgets from regional environmental authorities and MADS to guarantee the implementation of civil society participation, in particular to enable them to finance the development of qualitative participatory bodies and mechanisms in the regions.



**2.8.4 Qualitative participation process**

**Facilitate access to target-group specific information**

It is essential for the public to get access to all relevant information that is needed to fully understand the decision-making process to achieve effective participation. In this sense, it has to be recognised as positive that information on most of the instruments and policies on climate change in Colombia is available and processed for consultation on the websites of MADS and other competent entities. Additionally, it is possible to access all information related to environmental issues in Colombia through the right to petition, defined in Article 23 of the constitution, and regulated in detail in Article 74 of Law 99 of 1993. Accordingly, any citizen can request information related to climate change and get a response within a period of 10 business days. However, the information available is often highly technical and hard for non-experts to understand. To enable citizens and CSOs to participate effectively, it is essential to provide free information in easy, citizen-friendly language, processed in formats that are easy to access. Therefore, the state should provide non-technical summaries of all relevant information and manuals for citizens with background knowledge on instruments of climate change policies. Furthermore, it is important to move forward in the creation of new dissemination channels for information and to provide information adapted to the needs of different target groups to allow broader participation.

**Inclusion of a broader range of civil society stakeholders**

Only a very small number of CSOs participated in the participation processes on national climate policies in Colombia over the last few years. These were mainly

large NGOs with a high level of technical knowledge, a national scope and their headquarters in the capital Bogotá. They do not sufficiently reflect the diversity of Colombian civil society. Smaller CSOs and CSOs from other parts of the country or organisations with lower capacities and budgets were hardly involved in any of the participation processes. Therefore, it is important to open the participation to enable a real representation of Colombia’s civil society. This can be done by actively inviting a broad range of CSOs to participate, and by spreading information about the processes via many different channels. To enable real participation, it is also necessary to review the standards for comments of the different actors in a way that climate participation is not simply a formal requirement that legitimises the process, but an opportunity for civil society actors to express their concerns, fears and ideas. The state should not merely see the participation of CSOs as a source of additional technical knowledge and data, but instead the interests and concerns of civil society actors should be taken into account in every step of the decision-making process. The state should especially promote the participation of vulnerable communities and representatives of ethnic groups and should actively support them to do so, such as is the case with the Permanent Coordination Board with Indigenous Peoples and Organisations (MPC), representatives of black communities, and women’s organisations.

**Increase transparency and traceability of decision-making processes**

To increase the transparency and traceability of decision-making processes on climate policies, all relevant steps of the participation processes should be documented and stored in institutional archives. This contributes to continuity in their implementation also when the government changes. Furthermore, it enables a long-term record of all practices, allowing the evaluation of the processes and the assessment of the real influence of participation in the final texts of the policies. Moreover, it facilitates the replication of good practice by other authorities and other governments, the identification of opportunities for process improvement to allow the design of instruments with greater legitimacy and understanding for their application, and the identification and prevention of corruption.

**Use upcoming political processes as an opportunity for strengthening participation in climate policies**

The NDCs are currently being updated to be presented to the UNFCCC in 2020 in accordance with Article 4 of the Paris Agreement. This is an opportunity to review, strengthen and enhance the participation process carried out by the government during the development of the INDC, taking policy, regulatory and institutional advances that can facilitate greater participation opportunities. In this context, it is important to create more and broader spaces for dialogue between the Ministry of Foreign Affairs (Cancillería de Colombia), MADS and civil society actors, which allow for the real participation of civil society and the private sector in the adoption of negotiating positions for international instruments.

Likewise, new opportunities for the participation of civil society, allowing CSOs to reach out to decision makers on national, territorial and municipal levels should be created, not only in the formulation of climate policies, but also in the implementation of their associated measures and instruments. This will allow CSOs

to turn to the authorities at the appropriate time to intervene and really influence the development and implementation of instruments, measures and action plans.



Capacity building

**Capacity building on formal and informal participation mechanisms**

In Colombia, the existing formal participation mechanisms are little known and rarely used by both civil society actors and public officials. Additionally, the informal formats that have often been used by authorities such as “workshops” or “meetings”, do not always have legal validity to guarantee the fundamental right to participate in the terms in which it is outlined by the constitution. Therefore, a national dialogue is required on the concept of environmental participation, its mechanisms and defining clear rules for its implementation. In this sense, it is essential to promote spaces for capacity building and strengthening of knowledge on formal participation mechanisms with both public officials and with civil society actors.

**Enhance media coverage and education on climate policies and civic rights**

The media have huge potential to provide a large number of actors with information on climate change, climate policies, and civic rights. Awareness raising can be enhanced through social media campaigns on national instruments and policies and thus be able to directly reach citizens in the whole country, especially young people. Likewise, school-based and professional education should integrate climate change and climate policies as well as civic rights into their curriculums. Furthermore, educational training for journalists and social leaders should be promoted as they are responsible for disseminating information to citizens and have to face the challenge of communicating this topic properly and accessibly.

National climate policy planning in Colombia

5 key measures to ensure civil society's participation is meaningful, effective and long-term

- 1 Ensure security and observance of human rights for all citizens:**  
Citizens who want to participate in environmental decision-making need to be protected from physical and psychological threats and a disregard of their human rights. Reinforce the implementation of existing laws for the protection of citizens, ensure fast and independent investigation of all human rights violations, prosecute alleged perpetrators, and create effective remedies and penalties for human rights violations.
- 2 Ratify and fully incorporate the Escazú Agreement into national law:**  
Colombia should ratify the Escazú Agreement quickly to ensure that it becomes legally binding for all state parties. Ensure the agreement's full and comprehensive incorporation into national law, including the revision of all existing legislation and procedures on environmental participation and ensure their mainstreaming with the obligations of the agreement.
- 3 Define clear legal procedures for public participation and make them mandatory:**  
Create clear legal guidelines on the implementation of participation mechanisms that define at which stages of the decision-making process state institutions are obliged to implement participation processes, including a clear definition of all procedural steps and the indication of a clear timeline for their realisation.
- 4 Include a broader range of civil society actors and increase transparency and traceability of decision-making processes:**  
Open participation processes to a broader range of civil society actors to enable real representation of Colombia's civil society. Actively invite a broad range of CSOs and spread information about the processes via many different channels adapted to specific target groups. In particular promote the participation of vulnerable communities and representatives of ethnic groups, and actively support their participation. Document all relevant steps of the participation processes and make the documentation publicly accessible to allow higher transparency in decision-making.
- 5 Increase capacity building for formal and informal participation mechanisms:** Promote opportunities for capacity building and increasing knowledge on formal participation mechanisms with public officials and civil society actors.



### 3 Conclusions

Civil society participation in climate-related policy-making can contribute to enhance the quality and ambition of climate policy. Thus, it is especially needed at a time when most countries are currently obligated to revise their NDCs, which will determine climate-related policies for the following years

Since 2011, Colombia has developed various climate policies and strategies, integrated into a comprehensive National Climate Change Policy framework (PNCC) and has established an extensive governance system regarding climate change management (SISCLIMA). In this context, many new national climate strategies and plans were formulated (ECDBC, PNACC, ENREDD +, PAS, PIGCCS, PIGCCT and EICDGB) and new institutions and entities for climate change management were created on different levels (CICC, CNCC and the NRCCs). Based on these major efforts to adapt institutional arrangements to the needs of the international climate policy regime and to face the national and regional challenges of climate change, it can be concluded that climate change has been a topic of increasing priority for recent Colombian governments. The newly established institutions and entities regarding climate change, especially the CNCC and the NRCCs involve civil society actors and thus support civil society participation to a certain extent. However, while SISCLIMA strengthens institutional coordination and cooperation between different vertical and horizontal political levels regarding climate policy, this coordination and cooperation is rather weak when it comes to civil society participation. Furthermore, Colombian institutions' budgets to enable the participation of civil society are quite low. Therefore, despite the newly established climate policy institutions, Colombia performs only modestly in regards to governance structures in this study's assessment of the environment and opportunities to participate, with a score of 3/7.

However, the most obvious and most severe drawback for the participation of civil society in Colombia is the alarmingly weak security situation for Colombia's citizens due to decades of civil war and internal violent conflicts, as well as persecution, stigmatisation, violent attacks and murders of community leaders and defenders of environmental and human rights. Against this background, it is hardly surprising that Colombia scores very poorly regarding the fundamental requirements for participation in the assessment (1/10). Despite the fundamental threats that Colombian citizens are constantly facing, it is remarkable and admirable how strongly and courageously Colombian civil society leaders, organisations and networks are still continuously fighting for their rights and driving social and environmental change in their country.

In addition to these very adverse conditions, further circumstances impede full and effective participation of civil society in climate policies. When it comes to legislation, the shortcomings are not that obvious at first glance. Colombian legislation generally includes many participatory mechanisms and opportunities and it has to be recognised as positive that it is possible to access all information related to environmental issues through the constitutional right to petition. Additionally, most of the climate policy strategies and plans developed include processes for the participation of stakeholders and civil society to a certain extent. However, missing procedural details and standards for the implementation of mechanisms

and procedures impede the effective participation of civil society in most of the political and administrative decision-making processes. The participation formats that are implemented by the government and administration in the context of the development of climate policies are not usually based on the principles of best participation practice because the obligations to do so are missing within Colombian legislation. Therefore, despite many existing legislative regulations that include participation rights, Colombia also performs rather modestly in the assessment of its legal requirements (6/17). Only a few of the laws fulfil the assessed criteria for effective civil society participation including proactive participation, distribution of information about the participation process, consideration of the comments of civil society in the decision-making, and information of civil society about the decisions that were made.

Although information on most of the instruments and policies on climate change is available in Colombia and processed for consultation on the websites of the responsible authorities, in most cases, the information is highly technical and not adapted to the needs of different target groups. Furthermore, the authorities don't spread this information actively. Limited knowledge and weak capacity for exercising legally required participatory mechanisms are further barriers for citizens and CSOs to effectively participate. There are few efforts for capacity building in the use of participation mechanisms for both civil society and representatives of authorities, leading to a rather moderate performance of Colombia within the qualitative assessment regarding capacity building (4/8). This, and the fact that only a limited number of civil society actors are actively invited to participate in the procedures, leads to the situation that civil society participation in Colombia is not very inclusive. In most cases, only the same mostly large, prestigious, and consolidated NGOs that operate nationwide and have their headquarters in Bogotá were invited to participate. The focus of these NGOs is mostly on nature conservation and their links to Colombian civil society are rather weak. Smaller CSOs and especially CSOs from other parts of the country are hardly involved in any of the processes. Moreover, the involvement of these NGOs occurred relatively late in most of the processes, after other stakeholders such as representatives of the economy had already participated and contributed to the draft decisions. This gives the impression that the Colombian government favours economic interests over those of civil society. Lastly, most of the participation formats used for civil society participation focus more on information than on giving CSOs and NGOs the possibility to have real influence on the final decisions. Therefore, Colombia scores rather poorly also in the evaluation of participatory procedures (6/17).

For the improvement of the situation of civil society participation in Colombia in general, including participation in climate policy, the most urgent step would be to sustainably improve the security situation in the country. At the same time, this will be the most complex and difficult challenge bearing in mind Colombia's historic and present situation of instability. The peace process, the resolution of violent conflicts, and the strengthening of Colombian legislation and jurisdiction, including the reinforcement of the execution of existing laws, ensuring fast and independent investigation of all legal violations, effective prosecution of alleged perpetrators, and the creation of effective remedies and penalties, are challenges for generations and of historic proportions. However, civil society participation in



Colombia will always be threatened severely without far-reaching improvements in these areas.

In contrast, relatively small adjustments have the potential to lead to sustainable improvements regarding Colombia's legislation on (environmental) participation, and regarding the implementation of participatory procedures. Colombia's legal system already includes many notable positive starting points for the promotion of the participation of civil society and many participatory mechanisms. The consequent promotion and implementation of these and the development of mandatory legal guidelines for participation procedures, based on the principles of international good practice, would be measures with major positive impacts for civil society participation in the country. The ratification and implementation process of the Escazú Agreement has the potential to be a driving force for supporting this.

As of 2019, most of the instruments and policies regarding climate change in Colombia, including the NDC, have already been designed. The main role of the participation of civil society will be in monitoring their implementation in the coming years. Furthermore, according to Article 4 of the Paris Agreement, the NDCs will have to be revised during 2020. These processes can be used as opportunities to critically revise and monitor past participation processes, while adjusting and improving future processes to be more in line with international best practice, thereby giving Colombia's civil society the opportunity to really influence their domestic and international climate policies.

Overall, the results of our study emphasise the need for further and more vigorous efforts to strengthen civil society participation in climate-related policies worldwide. Although other crises currently seemingly overshadow the relevance of climate protection and civil society participation, it is more important than ever to involve the perspectives of those most affected. Civil society actors must actively demand participation and decision-making power and governments should provide them with opportunities to be involved. This is necessary to improve the quality, effectiveness and ambition of climate-related policies. Tackling climate change is a common goal and can only be achieved if all countries combine their efforts and are willing to learn from each other.

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# Appendix

Detailed evaluation scheme with indicators and scoring options

## Criterion 1 Fundamental requirements

Indicators	Scores
<b>a. Stability and peace</b> (What is the intensity of ongoing conflicts?) <sup>46</sup>	0 = high intensity of conflict (limited war or war going on) 1 = medium (violent crisis going on) 2 = low intensity of conflict (non-violent crisis or dispute going on) 3 = very low intensity of conflict (no dispute, crisis or war going on)
<b>b. Anti-corruption and transparency</b> (What is the perceived level of corruption?) <sup>47</sup>	0 = highly corrupted, CPI of 0 1 = corrupt, CPI equal to or under 50 2 = clean, CPI higher than 50 3 = very clean, CPI of 100
<b>c. Security of environmental defenders</b> (Are environmental defenders secure from threats?) <sup>48</sup>	0 = alarmingly weak security for environmental defenders (more than one murder documented) 1 = weak security for env. defenders (one murder documented) 2 = Environmental defenders are somewhat secure (no murders documented)
<b>d. Political commitment</b> (Is political participation of civil society related to the environment and climate backed by high-level political bodies and decision makers?)	0 = no 1 = yes, to some extent 2 = yes, full
	<b>Max. score: 10</b>

<sup>46</sup> This indicator and related scoring is based on the Conflict Barometer 2018 by HIIK ([www.hiik.de/conflict-barometer/?lang=en](http://www.hiik.de/conflict-barometer/?lang=en), accessed 23 April 2020). The Conflict Barometer uses a five-level model, defining disputes and non-violent crises as non-violent conflicts with a low conflict intensity, violent crises as violent conflicts with medium conflict intensity and limited wars and wars as violent conflicts with high conflict intensity.

<sup>47</sup> This indicator and related scoring is based on the Corruption Perception Index 2019 by Transparency International ([www.transparency.org/cpi2019](http://www.transparency.org/cpi2019), accessed 27 April 2020). According to Transparency International a scoring of zero means “highly corrupt” and 100 is “very clean”. The scoring “1=corrupt” and 2=clean” was set by UfU. Transparency International defines corruption as the “abuse of entrusted power for private gain”, whereas “transparency is about shedding light on rules, plans, processes and actions. (...) “It is the surest way of guarding against corruption, and helps increase trust in the people and institutions on which our futures depend.” ([www.transparency.org/what-is-corruption](http://www.transparency.org/what-is-corruption), accessed 23 April 2020).

<sup>48</sup> This indicator and related scoring is based on the Global Witness Report “At what cost? which documents the murder of land and environmental defenders in 2017 ([www.globalwitness.org/en/campaigns/environmental-activists/at-what-cost](http://www.globalwitness.org/en/campaigns/environmental-activists/at-what-cost), accessed 23 April 2020). It is important to note that the absence of murder does not mean that there are no other threats, attacks or harassments of environmental defenders and activists.

## Criterion 2 Enabling legislation

Indicators	Scores
<b>a. Commitment to international conventions and agreements</b> (Did the country sign and ratify (accept, approve, accede to) the Aarhus Convention or the Ezcazú Agreement, requiring civil society participation related to the environment and climate?)	0 = no, neither signed, nor ratified (accepted, approved, acceded to) 1 = signed, but not ratified (accepted, approved, acceded to) 2 = ratified (accepted, approved, acceded to)
<b>b. National laws requiring the proactive participation of civil society</b> (To what extent does/do <ul style="list-style-type: none"> <li>the constitution,</li> <li>national framework laws regarding environment and climate,</li> <li>strategic environmental assessment laws,</li> <li>or climate-related sectoral laws (regarding energy, industry, transport, forest or land use)</li> </ul> obligate the state or state agencies at national level to proactively seek the participation of civil society in decision-making related to the environment and climate, going beyond the official notification of participatory events?) <sup>49</sup>	0 = none of the laws assessed 1 = a few of the laws assessed 2 = most of the laws assessed 3 = all laws assessed
<b>c. National laws requiring timely participation</b> (To what extent does/do <ul style="list-style-type: none"> <li>the constitution,</li> <li>national framework laws regarding environment and climate, strategic environmental assessment laws, or climate-related sectoral laws (regarding energy, industry, transport, forest or land use)</li> </ul> require timely participation (before a decision is made and so that there is enough time for a public authority to consider the public comments) of civil society in decision-making related to the environment and climate?)	0 = none of the laws assessed 1 = a few of the laws assessed 2 = most of the laws assessed 3 = all laws assessed

<sup>49</sup> If there is a primary act requiring participation that affects several subordinates laws the latter are counted as well.

<p><b>d. National laws requiring information regarding the participation process</b> (To what extent does/do</p> <ul style="list-style-type: none"><li>the constitution,</li><li>national framework laws regarding environment and climate,</li><li>strategic environmental assessment laws,</li><li>or climate-related sectoral laws (regarding energy, industry, transport, forest or land use)</li></ul> <p>require all information relevant to decision-making processes relating to the environment and climate to be made available to civil society, without civil society having to make an official information request?)</p>	<p>0 = none of the laws assessed 1 = a few of the laws assessed 2 = most of the laws assessed 3 = all laws assessed</p>
<p><b>e. National laws requiring the consideration of civil society's comments</b> (To what extent does/do</p> <ul style="list-style-type: none"><li>the constitution,</li><li>national framework laws regarding environment and climate,</li><li>strategic environmental assessment laws,</li><li>or climate-related sectoral laws (regarding energy, industry, transport, forest or land use)</li></ul> <p>require the state or state agencies at the national level to take due account of civil society's comments in decision-making relating to the environment and climate?)</p>	<p>0 = none of the laws assessed 1 = a few of the laws assessed 2 = most of the laws assessed 3 = all laws assessed</p>
<p><b>f. National laws requiring notification of civil society on the decision made along with the reasons and considerations on which the decision is based</b> (To what extent does/do</p> <ul style="list-style-type: none"><li>the constitution,</li><li>national framework laws regarding environment and climate,</li><li>strategic environmental assessment laws,</li><li>or climate-related sectoral laws (regarding energy, industry, transport, forest or land use)</li></ul> <p>require the state or state agencies at the national level to promptly inform civil society about the decision and provide a written response explaining which comments were taken into account as well as giving reasons for dismissing others?)</p>	<p>0 = none of the laws assessed 1 = a few of the laws assessed 2 = most of the laws assessed 3 = all laws assessed</p>
	<p><b>Max. score: 17</b></p>

Criterion 3 Supporting governance & structures

Indicators	Scores
<p><b>a. Governance structure</b> (Is there an institutional body or mechanism, such as a committee, division or centre, supporting and coordinating participation processes relating to the environment and climate?)</p>	<p>0 = no 2 = yes</p>
<p><b>b. Institutional coordination &amp; cooperation</b> (Are national participation processes relating to the environment and climate coordinated across different vertical and horizontal political levels?)</p>	<p>0 = no 1 = there is weak coordination and cooperation 2 = there is good coordination and cooperation 3 = there is very good coordination and cooperation</p>
<p><b>c. Financial resources</b> (Are civil society actors financially supported to participate in environmental/climate policy, e.g. through an allowance, reimbursement of travel costs or funding of staff members?)</p>	<p>0 = no 1 = yes, to some extent 2 = yes, fully</p>
	<p><b>Max. score: 7</b></p>



Criterion 4 Qualitative participation processes<sup>50</sup>

Indicators	Scores
<b>a. Early participation</b> (At what stage was civil society involved in the process?)	0 = only after most of the decisions have been made 1 = after the first draft of the document/ plan/strategy 2 = directly from the beginning
<b>b. Broad, inclusive invitation</b> (Was a wide variety of representatives of civil society (CSOs and wider public) invited to participate, including for instance those representing youth, gender, indigenous groups, and minority ethnic groups?)	0 = no civil society representatives invited 1 = not a wide variety invited, just a few selected CSOs 2 = either just CSOs or just the wider public invited 3 = yes, a wide variety invited
<b>c. Timely invitation</b> (Was civil society invited early enough to participate?)	0 = some days in advance 1 = less than one month in advance 2= more than one month in advance
<b>d. Adequate participation formats</b> (How was civil society involved in the process?)	0 = through information 1 = through consultation 2 = through several interactive formats, fostering dialogue and collaboration
<b>e. Transparency and information</b> (Was information about the technical background and the participation process available to civil society?)	0 = no 1 = yes, to some extent 2 = yes, a lot of information
<b>f. Available documentation</b> (Was documentation about the discussions and results available to civil society?)	0 = no 1 = yes, to some extent 2 = yes, fully
<b>g. Transparent review of recommendations</b> (Were recommendations and views from civil society reviewed in a transparent manner?)	0 = no 1 = yes, to some extent 2 = yes, fully
<b>h. Evaluation and feedback process</b> (Was there an evaluation and feedback process regarding the participation procedure?)	0 = no 2 = yes
	<b>Max. score: 17</b>

<sup>50</sup> The scoring represents the averaged evaluation of some recent national participation processes relating to the environment and climate in each country, described in detail in the respective chapters of this study.

Criterion 5 Capacity building

Indicators	Scores
<b>a. Environmental education</b> (Is national formal and non-formal environmental and climate education offered to the public?)	0 = no 1 = yes, some education on offer 2 = yes, a lot of education on offer
<b>b. Public awareness raising on participation rights and opportunities</b> (Is information about public participation rights and opportunities available to the public?)	0 = no 1 = yes, to some extent 2 = yes, fully
<b>c. CSO capacity building on climate change, climate policy, policy dialogue, organisational development, cooperation and networking</b> (Is there capacity building on topics such as climate change, climate policy, policy dialogue, organisational development, cooperation or networking for CSOs?)	0 = no 1 = yes, some capacity building available 2 = yes, a lot of capacity building available
<b>d. Capacity building on participation and stakeholder engagement for governments</b> (Is there capacity building on participation and stakeholder engagement for national governments and state officials?)	0 = no 1 = yes, some capacity building available 2 = yes, a lot of capacity building available
	<b>Max. score: 8</b>
<b>Max. total score</b>	<b>59</b>

In 2015, Colombia, alongside many other countries, adopted the Paris Agreement to limit global warming and its impacts. However, current national commitments (Nationally Determined Contributions (NDCs)) are inadequate to keep the rise in global temperature in this century well below 1.5 °C above pre-industrial levels. Time is running out, and rapid and far-reaching shifts across all sectors are required. Civil society actors play a crucial role in developing and implementing climate policies because they act as nature's advocate and voice, driven by the desire to protect the environment and preserve healthy living conditions for human beings.

The purpose of the comprehensive study "Civic space for participation in climate policies in Colombia, Georgia and Ukraine" was to investigate the environment and conditions for climate-related participation and specific examples of participatory policy making in Colombia, Georgia and Ukraine. The analysis explores how national civil society is being involved in national political processes related to the Paris Agreement, such as the revision of the NDC. The study also identifies concrete country-specific barriers that prevent meaningful, effective and long-term participation, and gives advice for overcoming these barriers. This report presents the results of the country analysis of Colombia.

More information in the full study



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