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ANNEX

Neighbourhood, Development and International Cooperation Instrument (NDICI) – Global Europe

Exceptional Assistance Measure regarding Ecuador

1. IDENTIFICATION

Action: Addressing socio-environmental conflicts in Ecuador

Action Reference: NDICI CR 2022 / 36

Cost: EUR 2 000 000 (European Union (EU) contribution).

Budget Line: 14 02 03 10

Duration: Maximum 18 months. The authorising officer responsible may decide to extend this period twice by a further period of up to six months, up to a total maximum duration of 30 months, under the conditions laid down in Article 23(6) of Regulation (EU) 2021/947.

Lead service: FPI

2. ACTION SUMMARY

Ecuador's stability is currently being harshly tested. In June 2022, protests plunged the country into further uncertainty, paving the way for a deepening political crisis that has yet to abate. Although also joined by city dwellers, the June protests were mostly driven by indigenous groups. Their discontent is based on several issues ranging from rising inflation and worsened social inequalities to longstanding concerns on the negative impact caused by the extractive industry – the thematic focus of this FPI intervention. The expansion of extractive industries on indigenous territories continues to be one of the main drivers of conflict and of ecological disasters that are affecting, in particular but not only, indigenous communities.

There is currently a window of opportunity to de-escalate tensions and support negotiating parties to find a lasting solution, on the basis of the recent advances made. Following the June protests, the government agreed to a 90-day truce to enter into a dialogue with indigenous organisations, accompanied by the bishops' conference as guarantor. Dialogue processes were organised around ten thematic tables, one of them focusing on energy and natural resources. On the 14 October 2022, Ecuador's government and indigenous groups reached 218 agreements, including ten for thematic table two on 'energy and natural resources'. In addition, a recent ruling of the Constitutional Court of Ecuador recognised for the first time the right of indigenous communities to have the final decision over oil, mining and other

extractive projects that affect their land. This is one of the most powerful legal precedents on Free, Prior and Informed Consent (FPIC). Ecuador is also State party to the Escazu Agreement which entered into force on 22 April 2021 and which guarantees the full and effective rights of access to information, public participation, access to justice and cooperation on socio-environmental matters. The agreement offers a solid basis to strengthen multi-stakeholder dialogue and participation in the country and effective protection of human rights defenders.

Taking advantage of these advances, the action aims to contribute to the prevention and peaceful resolution of socio-environmental conflicts due to natural resource extraction in Ecuador through, inter alia, the strengthening of human and nature rights defenders' individual and collective organisational capacities, including dialogue among communities, with the private sector and with the authorities, and of the legal and regulatory frameworks, protocols and mechanisms affecting socio-environmental rights in areas affected by extractive activities.

3. BACKGROUND AND RATIONALE

3.1 BACKGROUND

Growing social inequalities, high levels of poverty, and unprecedented levels of violence have fuelled unrest and general discontent, with heavy-handed government responses, all of which has been putting Ecuador's stability to test. This comes in the aftermath of the COVID-19 pandemic, which hit Ecuador particularly hard, resulting in an unparalleled humanitarian emergency. The government's management of the health crisis proved weak in a context of an important economic downturn. The 2019 protests against austerity were renewed in June 2022, leaving six people dead, 335 injured and an estimated economic damage of USD 10 million. Human Rights groups, including Amnesty International, stated that the government made use of excessive force and arbitrary detentions against protestors. The June demonstrations were the biggest the country witnessed since 2019, when tens of thousands of people marched on Quito. The United Nations, the European Union and several embassies urged both sides to reach a compromise.

The protests come amidst a general escalation of criminality and violence in the country (including altercations between citizens and security forces), which many observers consider a demonstration of a fractured society that risks being deepened if its root causes are not tackled. The murder rate in 2021 was double that of the previous year, including due to a drug-fuelled crime wave that has produced scores of horrors never seen before in the country. Prisons have been gripped by brutal massacres, with gangs violently struggling for control over drug networks in the country.

One of the most contentious issues within this complex context concerns the relation between the extractive industries, indigenous peoples and the state. On the one hand, extractive projects in the Andean region, including in Ecuador, have often resulted in human rights abuses for indigenous peoples stemming from asymmetrical power relations and the absence of an international and national regulatory system to hold transnational corporations to account. The challenge lies in the difficulties – unwillingness according to some observers – on the part of state authorities to ensure that indigenous peoples' territorial and autonomy rights, which are guaranteed by the Constitution, are upheld and respected in practice. The

state-led, resource dependent model of development pursued by the government has often resulted in an opposition between its national and international obligation to protect communities and the environment on the one hand, and the real and perceived benefits stemming from natural resource extraction and from attracting private investors for economic development, on the other. Hastened and weakly managed consultation processes and the lack of timely responses to individual and collective requests for consultation, responses and solutions brought forth by communities in general and indigenous peoples in particular has meant that they have been more likely to resort to protests and confrontations, with both the government and extractive industries, to claim their rights. Reportedly heavy-handed responses from governments have posed significant risks for indigenous peoples and for the protection of their human and environmental rights and, by extension, to the political and economic stability of the country. Women, especially indigenous women, have been facing particular hardships, including, threats, intimidation, and sexual violence. More than half of all acts of violence recorded by Global Witness have been perpetrated by the police, military, or security personnel, and many women environmental defenders are increasingly branded as ‘terrorists’. With violence levels never witnessed before in the country, dialogue spaces few and far between, weak administrative and judicial institutions, and an overall lack of capacity to peacefully resolve conflicts, notably around natural resources and the environment, the country’s stability will continue to be tested.

Nevertheless, the recent agreements between the government and indigenous groups present an opportune opening to support the country in preventing the resurgence of socio-economic and environmental conflicts. Despite some shortfalls, there is a positive momentum that must be sustained so that the quest for energy and natural resources can be made compatible with indigenous peoples’ rights, expectations and aspirations and with the establishment of appropriate institutional arrangements, with the aim of ensuring the stability and peace in the country.

3.2 RATIONALE FOR CRISIS RESPONSE ACTIONS UNDER THE RAPID RESPONSE PILLAR OF THE NEIGHBOURHOOD, DEVELOPMENT AND INTERNATIONAL COOPERATION INSTRUMENT

The risk of renewed violence due to the negative impact caused the expansion of extractive industries on indigenous territories and a weak state response to uphold and protect the rights of indigenous peoples, in a context of growing inequalities and economic hardship, and exacerbated by an increasingly polarised society constitute an exceptional and unforeseen situation in the sense of Article 4(4) (a) of the NDICI Regulation. An adequate response cannot be provided under any other European Union Instrument due to the urgency with which the funds are required and due to available resources already being firmly committed.

Annex IV, paragraph 1, second paragraph, points (a), (n), (o) and (q) of Regulation (EU) 2021/947 specifically provides for the use of the NDICI rapid response pillar to (a) support, through the provision of technical and logistical assistance, the efforts undertaken by international, regional and local organisations and by state and civil society actors in promoting confidence-building, mediation, dialogue and reconciliation, transitional justice, women’s and youth empowerment, in particular with regards to community tensions and protracted conflicts; (n) support for measures to promote and defend respect for human rights and fundamental freedoms, democracy and the rule of law, and the related international instruments; (o) support for socio-economic measures to promote equitable access to, and

transparent management of, natural resources in a situation of crisis or emerging crisis, including peacebuilding, and (q) support for measures to promote the development and organisation of civil society and its participation in the political process, including measures to enhance the role of women in such processes and measures to promote independent, pluralist and professional media.

3.3 RISKS AND ASSUMPTIONS

RISKS	LIKELIHOOD (High/Medium/ Low)	MITIGATION STRATEGY
Political risks		
Ecuador reaches a level of political and economic instability that leads to a governance crisis. Actors involved could assume roles in a conflict that are neither peaceful nor respectful of human rights. In this scenario, project implementation could be significantly affected.	Medium-high	Monitor the implementation of the agreements reached at the dialogue and negotiation roundtables formed since the June 2022 strike, specifically the agreements established around the “expansion of the extractive mining/oil frontier, auditing and integral reparation for socio-environmental impacts for the protection of territories, water sources and fragile ecosystems”.
Operational risks		
A breakdown in the agreements reached between the state and communities which could lead to renewed protests and violence, and paralyse any subsequent dialogue efforts and processes. Lack of unity or joint vision amongst the various indigenous groups.	Medium	The project includes the monitoring of government initiatives on extractive concessions and state compliance with national and international obligations. Advocacy and dialogue activities will be adapted accordingly. The project will seek to engage all major indigenous representatives/groups.
Minimum levels of security cannot be guaranteed for the personnel involved in the project. Security risks for human rights defenders involved in the action may increase.	Low	Security protocols for the project's personnel will be established, and lines of communication with relevant actors identified and maintained. The action will also integrate a conflict sensitive and do no harm approach, and ensure that human rights defenders are

RISKS	LIKELIHOOD (High/Medium/ Low)	MITIGATION STRATEGY
		adequately protected.
Renewed health restrictions due COVID-19 (social distancing, limits on social gatherings, etc.)	Medium	Flexible and adaptable working arrangements will be built into the project and bio-sanitary measures ensured, as required.

4. OBJECTIVES

4.1 OVERALL OBJECTIVE

The overall objective of the action is to contribute to the prevention and peaceful handling of socio-environmental conflicts due to natural resource extraction in Ecuador.

4.2 SPECIFIC OBJECTIVES

- 4.2.1 To implement peacebuilding and peaceful consultation processes in affected areas to avoid the escalation of crises and violence; and
- 4.2.2 To strengthen dialogue and social participation processes between affected communities, organisations and groups, and with national entities in charge of monitoring and guaranteeing compliance with human rights and the rights of nature.

5. ACTION COMPONENTS AND EXPECTED RESULTS

The main expected results/outcomes include:

Expected Result (1): Human and nature’s rights defenders’ individual and collective organisational capacities are strengthened, including on dialogue and peaceful consultation processes among communities and between communities and authorities.

Activities (indicative):

- 5.1.1 Develop a toolbox with action and response protocols for internal and external threats, and train human and nature’s rights defenders in the application of the protocols;
- 5.1.2 Develop and disseminate materials and products in rural territories with information about extractive issues;
- 5.1.3 Train relevant authorities and communities on negotiation and dialogue techniques.

Expected Result (2): Interdisciplinary support (on, inter alia, alternative conflict resolution mechanisms, strategic litigation, and other specialist support) is provided to individuals and communities from an intercultural and gender-responsive perspective.

Activities (indicative):

- 5.2.1 Provide legal support and sponsorship focusing on alternative conflict resolution mechanisms and contentious procedures to communities and organisations affected by extractive projects;
- 5.2.2 Strengthen the capacities of relevant stakeholders on peaceful conflict resolutions models.

Expected Result (3): Advocacy at national and international levels for the transformation of the legal and regulatory frameworks, protocols and practices that discourage the generation and acceleration of socio-environmental conflicts in areas affected by extractive activities is strengthened.

Activities (indicative):

- 5.3.1 Provide a forum for monitoring, oversight and concertation support on conflicts caused by extractive activities at national level;
- 5.3.2 Strengthen the capacities of ministerial inspectors on national standards for monitoring and the application of international commitments;
- 5.3.3 Implement a national and international campaign to raise awareness about extractive activities in Ecuador.

6. IMPLEMENTATION

6.1 IMPLEMENTATION MODALITIES

The Commission will ensure that the appropriate EU rules and procedures for providing financing to third parties are respected, including review procedures, where appropriate, and compliance of the action with EU restrictive measures¹.

6.1.1 Grant: direct award (direct management)

(a) Purpose of the grant

The grant will be used to achieve specific objectives 4.2.1 and 4.2.2 through expected results 1, 2 and 3.

(b) Type of applicants targeted

The type of applicants targeted for this direct award are international and national non-governmental organisations.

(c) Justification of a direct grant

Under the responsibility of the Commission's authorising officer responsible, the recourse to an award of a grant without a call for proposals is justified because **the action entails crisis management aid as referred to in Article 195(a) and as defined in Article 2(21) of the Financial Regulation** at the date of the Financing Decision.

¹ www.sanctionsmap.eu Please note that the sanctions map is an IT tool for identifying the sanctions regimes. The source of the sanctions stems from legal acts published in the Official Journal (OJ). In case of discrepancy between the published legal acts and the updates on the website, it is the OJ version that prevails.

6.2 INDICATIVE BUDGET

The total European Union contribution under this Financing Decision **will not exceed EUR 2 000 000**. A breakdown among components is provided hereunder, and is indicative.

Indicative budget breakdown

Components	EU contribution (amount in EUR)	Indicative third party contribution, in currency identified
Component 1: European support to help prevent/address socio-environmental conflicts in Ecuador composed of 6.1.1 – Direct grant (direct management)	2 000 000	N.A.
Total	2 000 000	N.A.

6.3 ORGANISATIONAL SET-UP AND RESPONSIBILITIES

The action shall be implemented under direct management. It will be devolved and sub-delegated to the **European Union Delegation in Ecuador**, with the support of the Commission for the conclusion of the contracts implementing the action.

6.4 PERFORMANCE AND RESULTS MONITORING AND REPORTING

The day-to-day technical and financial monitoring of the implementation of this action will be a continuous process and part of the implementing partner's responsibilities. To this aim, the implementing partner shall establish a permanent internal, technical and financial monitoring system for the action and elaborate regular progress reports (not less than annual) and final report. Each report shall provide an accurate account of implementation of the action, difficulties encountered, changes introduced, as well as the degree of achievement of its results (outputs and outcomes) as measured by corresponding indicators, using as reference the Logframe matrix. The report shall be laid out in such a way as to allow monitoring of the means envisaged and employed and of the budget details for the action. The final report, narrative and financial, will cover the entire period of the action implementation.

The Commission may undertake additional project monitoring visits both through its own staff and through independent consultants recruited directly by the Commission for independent monitoring reviews (or recruited by the responsible agent contracted by the Commission for implementing such reviews).

6.5 EVALUATION

Having regard to the nature of the action, an evaluation will not be carried out for this action or its components.

The Commission may, during implementation, decide to undertake such an evaluation for duly justified reasons either on its own decision or on the initiative of the partner.

The financing of the evaluation shall be covered by another measure constituting a financing decision.

6.6 AUDIT

Without prejudice to the obligations applicable to contracts concluded for the implementation of this action, the Commission may, on the basis of a risk assessment, contract independent audits or expenditure verification assignments for one or several contracts or agreements.

The financing of the audit shall be covered by another measure constituting a financing decision.

6.7 COMMUNICATION AND VISIBILITY

The 2021-2027 programming cycle has adopted a new approach to pooling, programming and deploying strategic communication and public diplomacy resources.

It will remain a contractual obligation for all entities implementing EU-funded external actions to inform the relevant audiences of the Union's support for their work by displaying the EU emblem and a short funding statement as appropriate on all communication materials related to the actions concerned. This obligation will continue to apply equally, regardless of whether the actions concerned are implemented by the Commission, partner countries, service providers, grant beneficiaries or entrusted or delegated entities such as UN agencies, international financial institutions and agencies of EU member states.

The 2022 "Communicating and Raising EU Visibility: Guidance for external actions" reference document shall be used to establish the appropriate contractual obligations.

7. COMPLEMENTARITY, COORDINATION AND FOLLOW-UP

The action will build on and complement existing EU interventions, notably the Responsible Business Conduct in Latin America and the Caribbean regional programme² and the direct support provided to human rights defenders through the European Instrument for Democracy and Human Rights. Additional funding within the framework of the European Instrument for Democracy and Human Rights is being sought to run in parallel to the action, focusing on strengthening the capacities of state institutions to establish sustainable dialogue processes, and early warning and conflict prevention mechanisms. Both of these actions will feed into longer-term support planned as of the second semester of 2023 on national dialogue processes, which will be implemented by the German Agency for International Cooperation (GIZ).

² The Responsible Business Conduct project in Latin America and the Caribbean (RBCLAC), funded by the European Union (EU) and implemented in collaboration with the Organization for Economic Cooperation and Development (OECD) and the Office of the High Commissioner of The United Nations for Human Rights (OHCHR), aims to promote smart, sustainable and inclusive growth in the EU and in Latin America and the Caribbean, by supporting responsible business conduct practices, in line with the UN, ILO and OECD instruments. The execution of the project revolves around three main pillars that facilitate the achievement of its objectives in the region. These pillars are the following: (a) Support governments in selected countries in the development and/or implementation of National Plan of Action on Business and Human Rights / responsible business conduct; (b) Improve the understanding and due diligence to identify, prevent and address adverse impacts on human rights, decent work and the environment; and (c) Facilitate the exchange of experiences and lessons learned and develop joint initiatives that promote responsible business conduct practices.