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ENERGY TRANSITION LEGAL FRAMEWORK IN COLOMBIA



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1. GENERAL LEGAL FRAMEWORK IN COLOMBIA

In Colombia, which is a centralist state, the legal framework for the energy transition is mainly established by the laws issued by the Congress. In terms of energy transition, the legal framework is established by the National Development Plans. The National Development Plan (hereinafter “NDP”) is the bill submitted by the elected president to Congress for approval with its government plan. The central idea of the NDP is to serve as a road map for the execution of the proposals that the president-elect promoted in his campaign.

The NDP 2010-2014¹ was the first NDP that developed regulations concerning the energy transition, the use of renewable energies and the use of Non-Conventional Renewable Energy Sources (hereinafter “NCRES”). It was under the guidelines of this NDP that Law 1715 of 2014, which establishes the legal framework and instruments for the promotion, development, and use of NCRES, came into force. The three NDPs that followed the 2010-2014 period, also developed certain postulates on energy transition, including the current NDP, which we will discuss in depth in the following section.

Nevertheless, before the entry into force of the NDP, Colombia already had some laws regulating environmental aspects that, even today, are related to some precepts of the energy transition. For example, Law 99 of 1993, which creates the Ministry of the Environment, reorganizes the Public Sector in charge of the management and conservation of the environment and renewable natural resources, organizes the National Environmental System, SINA, and establishes other provisions., Law 142 of 1994, which regulates domiciliary public utilities in Colombia and Law 143 of 1994, which regulates the electricity sector in Colombia. These regulations remain effective and highly pertinent to the energy transition as they set the legal framework that any new regulation must follow when attempting to modify the issues they govern.

¹ National Development Plan 2010-2014. Recovered from: <https://colaboracion.dnp.gov.co/CDT/Normatividad/ley145016062011.pdf>

Finally, Colombia has four entities that have great influence over all the projects and regulations that are planned to be carried out in terms of energy transition which are:

- (i) The National Council for Economic and Social Policy (hereinafter “NCESP”) acts as an advisory body to the Government in all aspects related to the economic and social development of the country. To this end, it coordinates and guides the agencies in charge of the economic and social direction of the Government, through the study and approval of documents on the development of general policies that are presented in session.
- (ii) The Ministry of Mines and Energy issues regulations on energy matters and oversees the development and execution of initiatives on hydrocarbons, energy, mining, and renewable energies.
- (iii) The Ministry of Environment and Sustainable Development also issues regulations to define the National Environmental Policy and promote the recovery, conservation, protection, planning, management, use, and exploitation of renewable natural resources, to ensure sustainable development and guarantee the right of all citizens to enjoy and inherit a healthy environment.
- (iv) The Mining-Energy Planning Unit plans integrally, with an intersectional approach, the country’s mining and energy development and leads the management of sectoral information for a just energy transition.

2. ANALYSIS OF THE APPLICABLE LEGAL FRAMEWORK TO THE ENERGY TRANSITION

a. Just Energy Transition Mandate

To begin with, it is important to highlight that Colombia has one of the cleanest energy matrices in the world. According to ENEL figures, 66% of the energy in Colombia comes from water resources, while 30% comes from thermal resources such as gas, coal, and fuel oil and 4% from other sources. While this has a clearly positive environmental side, it also has a negative side. Because much of Colombia’s energy comes from hydro resources, the Colombian electricity matrix is highly dependent on the country’s meteorological conditions. This dependence generates problems, such as the one currently experienced in the capital and other regions in May 2024, leading to energy crises. Therefore, it is vital for Colombia to generate NCRES that can complement and supplement existing energy sources.

The document that establishes the basis of the NDP² defines the concept of just energy transition as a significant change in a country’s energy system, influenced by factors such as energy policy, structure, scale, economics, emerging energy technologies and sources, and consumer behaviours and preferences. Although this document is not legally binding, it is understood to be the conceptual framework on which the NDP is based. Therefore, the NDP, which is a national order law, should aim to fulfil the goals and objectives set forth in this document. This strategy was proposed to mitigate and adapt to climate change and is based on new approaches to the efficient use of natural resources.

According to the document that establishes the basis of the NDP the concept of just energy transition has three essential elements: (i) energy generation from non-conventional renewable energy sources, (ii) energy security and reliability, and (iii) closing energy gaps. The three elements mentioned above complement each other. For example, to close energy gaps, the use of non-conventional renewable energy sources is necessary to expand system coverage, achieve the use of cleaner energy sources, and improve the quality of service provision. Likewise, energy security plays a transversal role since it guarantees the existence of a gas supply and the energy required for energy security and reliability during the transition. On the other hand, the basis of the NDP 2022-2026, which was adopted by Law 2294 of 2023, is the duty of governmental articulation and concurrence to enforce ethnic rights and encourage the participation of communities in the energy transition. Based on these main elements, the NDP 2022/2026 has the following specific objectives:

1. Promote the integration of NCRES, such as hydrogen and offshore wind energy, developing and implementing the respective pathways.
2. Define and implement regulations and market mechanisms to develop new power plants.
3. Create regulatory frameworks and programs to democratize energy generation and valorise

² National Development Plan 2022-2026 Basis. Recovered from <https://colaboracion.dnp.gov.co/CDT/Prensa/Publicaciones/plan-nacional-de-desarrollo-2022-2026-colombia-potencia-mundial-de-la-vida.pdf>

resources such as solid waste and biogas, as well as explore biomass, geothermal and ocean energy.

4. Prioritize the use of local energy resources to progressively replace thermoelectric plants with renewable sources, guaranteeing the stability of the electricity system through storage systems. To expand gas service coverage and promote energy diversification in difficult areas, the Energy and Gas Regulatory Commission will implement the necessary adjustments. Evaluate the supply and demand of gas and crude oil to make decisions that ensure energy security for all and promote the efficient use of hydrocarbons. Improve the recovery factor of fields in exploitation and develop support programs to improve the execution of exploratory contracts.
5. Encouraging the use of cleaner energy for cooking and improving the quality and efficiency of electricity service. Community and business participation will be key in these processes. In parallel, small-scale self-generation systems will be installed in subnormal areas, using NCRES as part of the Electricity Grid Normalization Program. A regulated model of energy communities will also be established for individuals and entities to contribute to the electricity value chain, with financial support from the government to promote this model. To ensure basic service to the most vulnerable strata, digital technologies will be adopted to manage consumption efficiently, along with a review of the subsidy based on the ability to pay. Additionally, an intersectoral program will be implemented to replace the use of firewood and promote cleaner energy alternatives in Indigenous and Afro-Colombian communities, coordinating with local authorities and reviewing the governance of the energy solutions fund to centralize financing for energy transition projects. Also, the creation of an institute to research and develop clean energy generation technologies is being considered. There will be efforts to integrate communities in areas with high wind or solar potential, increasing legal transfers to facilitate investments that improve their quality of life.

In compliance with one of its essential pillars, the NDP creates energy communities. These communities are based on specific cultural, ethnic, territorial, and productive characteristics. This allows Colombian citizens to participate in the electricity value chain as consumers and generators, through associative, cooperative, or other schemes. Specifically, Article 235 of the NDP of 2022-2026 establishes that the peasant, black, Afro-Colombian, Raizal and Palenquero communities that are constituted as Energy Communities, may be beneficiaries of public resources for the financing of investment, operation, and maintenance of infrastructure, based on the targeting criteria defined by the Ministry of Mines and Energy.

Also, Article 54 of Law 143 of 1994 regulates the obligation of self-generators, companies that sell surplus electric energy, and private legal entities that deliver or distribute, in any way, among their partners and/or associates, the electric energy they produce, to pay the transfer under the terms of Article 45 of Law 99 of 1993, which will be calculated on the gross sales for own generation, according to the tariff established by the Energy and Gas Regulatory Commission for such purpose. Moreover, Article 233 of the NDP of 2022-2026 adds three paragraphs to this Article. Specifically, the added paragraph 7 establishes that the resources collected from the transfer payments will be destined for the financing of projects defined by the ethnic communities located in the departments of influence of the generation projects.

Besides the NDP for 2022-2026, Colombia has issued Law 2189 of 2021. This Law promotes the country's low-carbon development through the establishment of minimum goals and measures for carbon neutrality and climate resilience and it develops the concept of just energy transition in two different areas. In the labour area, it establishes the so-called just transition of the workforce. On the

one hand, this strategy is based on recognizing the need to address the impacts on the workforce involved in the transition to carbon neutrality and the move to green economies and green jobs. In this sense, the Ministry of Labor is leading the development of a 2023 Strategy for Just Workforce Transition to a resilient, low-carbon economy.³ The strategy will be focused on improving the quality of life and the social and economic inclusion of the population, ensuring that no one is left behind. On the other hand, in the field of education, it proposes to incorporate climate change in formal education (preschool, primary and secondary, middle and higher education) and education for work and human development by 2030, within the framework of institutional autonomy.

Moreover, Decree 2236 of 2023 was enacted to further define and regulate Law 2294 of 2023 of the National Development Plan 2022 - 2026 in relation to Energy Communities within the framework of the just energy transition in Colombia. Decree 2236 establishes a set of regulations aimed at promoting the generation, commercialization, and use of energy from unconventional renewable sources, renewable fuels, and distributed energy resources. It particularly emphasizes the importance of "collective self-generation" as a primary avenue for communities to produce energy and meet their service needs. This governmental initiative paves the way for the presentation and implementation of community-led energy projects, thus driving the desired energy transition. Moreover, community participation in these projects not only fosters social development but also facilitates access to basic services. Together with associated social programs and educational campaigns, this Decree significantly contributes to progress towards a more sustainable and equitable energy model with its new concept of Energy Communities.

Finally, the NCESP issued a concept defining the just energy transition. NCESP documents lack binding effect since NCESP is a collegial body, of a supra-ministerial nature, and without legal personality, hence its actions do not have the legal capacity to create or to be subject to obligations. However, the concepts issued by the NCESP often have great influence in Congress and other institutions with legal powers, as these are the recommendations made by the national government on socio-economic issues. Additionally, these concepts often serve as the frameworks that guide the legal actions of the ministries. According to the Ministry of Mines and Energy, the just energy transition refers to the gradual process of replacing the use of fossil energy sources with renewable energy sources, which guarantees energy sovereignty and reliability, as well as the economic stability of the country, while contributing to the mitigation of the effects of the climate crisis.

In conclusion, Colombia's electricity matrix needs the country to make a just energy transition as a matter of extreme urgency. In recent years, Colombia has made significant progress in this area and has multiple future projects that it seeks to implement. Although there are still many projects to be executed and several gaps to be filled. However, it is reasonable to conclude that Colombia is on the right path towards a just energy transition..

b. Specific Rights Established in the Applicable Laws

The legal framework in Colombia contemplates several rights that are relevant to the energy transition. These rights are established both in legislation and in the Constitution.

Article 79 of the Constitution recognizes the right of all citizens to enjoy a healthy environment.⁴ This implies that policies and decisions related to the energy transition must consider the protection

³ Strategy for Just Workforce Transition 2023. Recovered from: <https://www.minambiente.gov.co/cambio-climatico-y-gestion-del-riesgo/transicion-justa-de-la-fuerza-laboral/>

⁴ COLOMBIA. Political Constitution of 1991. Article 79.

of the environment and the health of the population. The development of the constitutional right to a healthy environment has two main aspects. On the one hand, the constitutional right to a healthy environment implies that policies and regulations related to energy must consider their environmental impact. This includes the environmental impact assessment of energy projects, the adoption of measures to mitigate possible negative impacts, and the promotion of clean and sustainable technologies. On the other hand, the aforementioned right guarantees community participation in decisions that may affect the environment. This means that in the context of the energy transition, spaces must be created for citizens to participate in policy formulation, project evaluation and energy-related decision-making. The Just Energy Transition Roadmap is an example of the promotion of the participation of citizens in this process.

In addition to this, the Constitution protects the right to private property⁵ which should be respected in the planning of the management and use of natural resources to guarantee their sustainable development, conservation, restoration, or substitution,⁶ another State's duty imposed by the Constitution.

Legally, Law 2169 of 2021 seeks to promote the country's low-carbon development by establishing minimum goals and measures for carbon neutrality and climate resilience. Through this Law, the government foresees benefits to be analysed and implemented by each Ministry of the country. Some of these benefits are those related to the conservation of biodiversity and water resources, good agricultural practices and clean production, reduction of greenhouse gas emissions, implementation of green hydrogen projects, and sustainable urban development, among others.

Also, Law 1715 of 2014 materialized the tax benefits to which holders of new investments in NCRES are entitled. The first of these benefits consists of an income tax deduction of 50% on the investment in NCRES. The second benefit guarantees an accelerated depreciation (20% per year) of the machinery, equipment, and civil works necessary for the reinvestment, investment, and operation of the generation with NCRES. The third benefit grants an exclusion from indirect consumption tax on the purchase of equipment, elements, machinery, and services destined for production and use. Finally, the fourth benefit grants an exemption from payment of customs duties on elements, machinery and equipment destined for the production and use of NCRES.

Another fundamental right in the energy transition process in Colombia has to do with the right of access to information. Law 1712 of 2014 regulates Transparency, understood as the Right of Access to National Public Information, and dictates other provisions. According to this Law, in the exercise of the fundamental right of access to information, any person may know about the existence of and access to public information in the possession or under the control of the obligated entities. Access to information may only be restricted exceptionally. Exceptions shall be limited and proportional, shall be contemplated in the law or the Constitution and shall be in accordance with the principles of a democratic society. Specifically, Article 5 of this Law determines that its scope of application covers public entities, state enterprises and entities that administer parafiscal assets. Therefore, it is understood that the transparency and information requirements established by this Law apply to the tax reduction processes established by Law 1715 of 2014 which is not exclusively applicable to energy matters.

⁵ Ibidem. Article 58.

⁶ Ibidem. Article 80.

c. Rights of Indigenous People

Indigenous communities in Colombia have a right to be consulted concerning measures that may affect their rights. This process is supported by international and legal frameworks, specifically by Convention 169 of the International Labor Organization (ILO), ratified by Colombia in Law 21 of 1991, and by the Political Constitution of Colombia of 1991. It is essential to discuss prior consultation as the foremost participation mechanism in Colombia for ensuring the rights of indigenous peoples. Prior consultation is a citizen participation mechanism that seeks to guarantee the right of ethnic communities to be consulted before decisions that may affect their territories, natural resources, or cultural life are made.

Prior consultation is framed within the principle of citizen participation enshrined in Article 1 of the Constitution, which establishes participation as one of the pillars of Colombian democracy. In addition, Article 330 of the Constitution establishes the recognition of the country's ethnic and cultural diversity, and Article 7 of ILO Convention 169 establishes the right of indigenous communities to participate in decisions that affect them.

Likewise, Law 21 of 1991 and Law 70 of 1993 recognize and protect the rights of the black and indigenous communities in Colombia, including the right to prior consultation. This consultation must be carried out in a prior, free, informed, good faith, and culturally appropriate manner, with the objective of obtaining the consent of the affected communities before adopting measures that may affect them. It must be noted that prior consultation is a process that intends to reach agreements between the interested party and the communities, but it does not mean that the project cannot be developed without the approval of the community.

As in Brazil, Colombia recognizes the ancestral lands of indigenous peoples and establishes mechanisms to protect them. However, unlike what happens in Brazil, the recognition of indigenous ancestral lands has been created through the jurisprudential development of the Constitutional Court⁷ and does not come directly from the Constitution. Prior consultation is the mechanism established by Colombian law to guarantee the protection of these ancestral lands. Thus, any energy transition project planned to be executed in indigenous territory must have the prior approval of such community, under the terms established by the prior consultation.

Bearing in mind that the closing of energy gaps and the participation, especially of subjects of special protection, are fundamental elements of the NPD, it becomes evident the key role of prior consultation in the energy transition.

In legal matters, paragraph 8 of Article 3 of Law 2169 of 2021 recognizes the central role of population groups with special constitutional protection regarding knowledge, differentiated impact, and actions for mitigating and adapting to climate change. Additionally, Article 35 of this Law repeals Article 10 of Law 1955 of 2019 and amends Article 223 of Law 1819 of 2016. The revised article specifies the allocation of the national carbon tax collection starting from the fiscal year 2023. This allocation is divided equally: 50% goes towards managing coastal erosion, reducing deforestation and monitoring, conserving water sources, and protecting, preserving, restoring, and sustainably using strategic areas and ecosystems. The remaining 50% is allocated to finance the Comprehensive National Program for the Substitution of Illicitly Used Crops. However, paragraph 1 of the same article prioritizes projects to be developed in municipalities under the Development Programs with a Territorial Approach and benefits ethnic groups such as indigenous peoples, black, Afro-Colombian, Raizal and Palenquero communities, and the Rrom people.

⁷ COLOMBIA. Constitutional Court. Judgement SU 217 of 2017. Magistrate deciding: María Victoria Calle Correa.

In conclusion, prior consultation, and the mechanism for financing ethnic populations, established in Law 2169 of 2021, constitute instruments that seek to materialize the principles of integration and participation established by ILO Convention 169 in its articles 30 and following, within its part IX.

The 1991 Political Constitution of Colombia establishes specific rights for women, including: (i) non-discrimination as a general clause (Article 13), (ii) non-discrimination on the basis of gender (Article 13), (iii) the adequate and effective participation of women in decision-making levels of the Public Administration (Article 40), (iv) equality of rights and opportunities in relation to men (Article 43), and (v) to receive assistance and protection from the State in situations of pregnancy and childbirth (Article 43), particularly for women heads of households (Article 43), and in the workplace (Article 53). In this manner, Colombia provides clear guidelines that must be respected and promoted by the National Government.

In addition to the constitutional framework that protects women, the Congress of the Republic of Colombia adopted the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) through Law 51 of 1981. This treaty was subsequently ratified and entered into force in 1982. This treaty constitutes a fundamental part of Colombia's legal framework and that of other signatory countries, as it contemplates a series of measures of various kinds that the States Parties must adopt to condemn and eliminate discrimination against women in spheres as diverse as education, political life, nationality, employment, healthcare, economic and social life, rural development, equality before the law, marriage, and family life.

In the same vein, Colombia ratified in 2005 the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) through Law 984 of 2005. This protocol, in broad terms, provides tools for implementing the application of the Convention on the Elimination of All Forms of Discrimination against Women.

The Constitutional Court has also repeatedly pronounced on the condition of women in the country. Through its Sentence C-667 of 2006, the Constitutional Court recognized that women are subjects of special constitutional protection. On this matter, it stated:

"1. Women are subjects of special protection, of reinforced protection, within our constitutional normative body. Consequently, they do not find themselves in the same constitutional situation as men, who, while being subjects of constitutional protection, do not enjoy special or reinforced protection. 2. In order to comply with the aforementioned constitutional mandate to protect and guarantee the rights of women in a special and reinforced manner, the Constitution itself, international treaties, and constitutional jurisprudence have determined the use of "affirmative actions," measures in favour of certain persons or groups of special protection, without having to extend the resulting benefit to other persons or groups, without this constituting a violation of Article 13 of the Constitution."⁸

This recognition of subjects of special protection obliges the Colombian State to provide reinforced protection or shelter with the purpose of achieving real and effective equality. Women living in territories designated for mining-energy activities also face specific impacts, ranging from modifications to their geographical conditions in the inhabited territory to unequal access to energy resources. Hence, the an urgent need to adopt a differential approach within the framework of the energy transition.

⁸ COLOMBIA. Constitutional Court. Judgement C-667 of 2006. Magistrate deciding: Jaime Araújo Rentería.

As part of a Just Energy Transition, one of the fundamental pillars and principles is binding social participation, which aims to create energy communities so that they can participate in the electricity value chain as consumers and generators. In this citizen participation, the Colombian government has adopted a differential approach that provides greater visibility to women and girls within the framework of the cooperation sought.

In accordance with Article 3 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW):

"States Parties shall take in all fields, in particular in the political, social, economic, and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men."

The National Government has formulated the Just Energy Transition in line with this provision by engaging in dialogues with women from different regions in which guidelines for a gender-focused energy transition have been defined.

Not only this but, in regulatory matters, several provisions can be found that consider this gender focus that must be adopted in the energy transition. An example of this is found in Law 2169 of 2021, a law that promotes the country's low-carbon development through the establishment of minimum goals and measures in terms of carbon neutrality and climate resilience, among others. Its most relevant provisions concerning gender equality are the following:

- ◇ **Article three:** Establishes (i) the recognition of the central role played by women and population groups with special constitutional protection concerning knowledge, the differentiated impact and actions regarding mitigation and adaptation to climate change and (ii) recognition and enforcement of human rights within national climate action, to reduce inequalities and inequities due to the differentiated effects of climate change as pillars of the energy transition in Colombia.
- ◇ **Article seven:** The Article provides a set of goals in different areas for the implementation of actions related to climate change in Colombia until the year 2030. These goals encompass various domains such as planning, information, science, technology, innovation, economic and financial instruments, education, training, and awareness. In the field of Education, Training, and Awareness, three goals related to a gender perspective are defined: (i) creating integrating processes of training, education, and awareness with a focus on human rights, gender, ethnic, and intergenerational aspects into climate change policies and regulations; (ii) defining and implementing strategies in the Integrated Territorial Climate Change Management Plans ("PIGCCT") and Sectoral Integrated Climate Change Management Plans ("PIGCCS") to integrate processes of training, education, and awareness with a focus on human rights, intergenerational, gender, ethnic, and differential perspectives and (iii) designing and implementing pedagogical strategies within the framework of the National School of Environmental Education ("SAVIA") to raise awareness and educate the citizenry about the causes and consequences of climate change, strengthening civic competencies for effective participation in climate action.

The 2022-2026 NDP also emphasizes the adoption of a gender-differential approach within Chapter 4, which focuses on Productive Transformation, Internationalization, and Climate Action. The National Government aims to develop a Reindustrialization Policy, aimed at closing productivity

gaps, strengthening production linkages, and diversifying both domestic and exportable energy offerings. Through this Reindustrialization Policy, it is anticipated that the energy transition will create opportunities for sustainable investments, drive demand for transitional input industries, support production processes with clean energy, and promote domestic production of sustainable transportation and mobility solutions. The NDP underscores that this policy will be guided by an intersectional, gender-sensitive, and sustainability-oriented approach. Moreover, it will prioritize regional integration with Latin America and the Caribbean, where collaborative efforts against gender discrimination and exclusion in the energy sector are underway alongside Colombia.

In summary, regarding the component of the principle of binding social participation, Colombia is in the process of adopting a gender-differential approach. This approach not only prioritizes the increased involvement of individuals and communities historically affected by projects in the mining-energy sector, as well as the energy transition but also acknowledges the fundamental role of women in the energy transition process. This reinforces not only women's participation as citizens with binding involvement but also equity, democratization, and extensive knowledge. Overall, it can be asserted that Colombia is indeed aligned with gender equality and women's rights. The country is gradually and consistently adopting the general international standards concerning women's rights and gender equality, but this process continues to evolve..

The national regulatory framework that currently regulates the participation of all actors responsible for climate change is the National Climate Change Policy (hereinafter the "NCCP"), issued by the Ministry of Environment and Sustainable Development. Among the objectives of the NCCP is "to incorporate climate change management in public and private decisions to advance in a climate-resilient and low-carbon development path that reduces the risks of climate change and allows taking advantage of the opportunities it generates".⁹ This makes the role of business and civil society significant since the implementation of the policy requires the articulation of various actors within five strategic lines and four instrumental lines. In this context, the ecosystem management and conservation plan,¹⁰ which is one of the strategic plans of the NCCP, states that "strategies to prevent environmental degradation and encourage restoration are crucial in the business plans of private companies and their value chains."

The other strategic elements that make up the NCCP and its objectives are outlined as follows:

- ◇ Enable climate change management at the territorial and sectoral levels, through a set of plans composed of 1) the nationally determined contribution, for which a five-year update frequency has been defined within the Paris Agreement; 2) national climate change strategies; 3) sectoral comprehensive climate change management plans; and 4) territorial comprehensive climate change management plans.
- ◇ Align the data collected and produced by ministries, administrative departments and research institutes with the needs to generate the corresponding analyses for decision-making and incorporate climate change within the programs of the National Science, Technology and Innovation System to promote the technological innovation required to achieve a low-carbon and climate-resilient economy, supporting the territorial and sectoral strategies of the NCCP.

⁹ National Climate Change Policy 2017. Recovered from: <https://www.minambiente.gov.co/wp-content/uploads/2022/01/9.-Politica-Nacional-de-Cambio-Climatico.pdf>

¹⁰ Ecosystem Management and Conservation Plan 2024. Recovered from: <https://www.minambiente.gov.co/direccion-de-bosques-biodiversidad-y-servicios-ecosistemicos/planes-y-programas-de-conservacion-2/>

- ◇ Strengthen climate change adaptation and mitigation capacities using formal, informal, and non-formal education methodologies. The need to generate spaces for coordination and joint work between the institutions of the different sectors and the civil society organizations involved in the issue is recognised since the strengthening of the different actors in terms of education and training qualifies the participation, they may have in the management of climate change.
- ◇ Mobilize financial resources from different sources for the required climate change adaptation and greenhouse gas mitigation activities, including funding related to research, technology transfer, awareness raising and capacity building; and move towards low-carbon and climate-resilient development; all the above should be articulated with existing planning, management, regulatory and financial instruments.

Undoubtedly, the role of civil society and business in this set of guidelines is evident. This is due to the fact that, beyond governmental guidelines, because of political commitments on climate change, the instrumental guidelines seek to ensure compliance with adaptation and mitigation objectives through the coordination of efforts among the different actors involved. For this reason, explicit mention is made of these when it is stated in the NCCP that it is necessary to "generate spaces for coordination and joint work between the institutions of the different sectors and civil society organizations involved in the issue"; "link academia and the business sector in the processes of elaborating comprehensive sectoral and territorial climate change management plans at both the departmental and large city levels"; seek resources from the private sector, particularly from households, businesses and the financial sector.

Legally, on the one hand, article 16 of Law 2169 of 2021 regulates the mandatory reporting of carbon neutrality: the equivalence to zero between anthropogenic emissions and removals of Greenhouse Gases (hereinafter "GHG"). Specifically, the aforementioned Article establishes an obligation for legal entities, public, private, or mixed, that meet the criteria established by the Ministry of Environment and Sustainable Development, considering, among others, the level of GHG emissions and the size of the companies, must report their direct and indirect GHG emissions and the information and documentation for the preparation of GHG inventories.

On the other hand, Article 17 of the same Law created the National Registry for the Reduction of Emissions and Removal of Greenhouse Gases (hereinafter "NREG"). With the creation of the NREG, every person, natural or legal, public, private or mixed, that intends to opt for payments for results or similar compensations, as a consequence of mitigation initiatives that generate GHG emission reductions and removals in the country, is obliged to obtain the registry.

In conclusion, in Colombia, there is no specific law intended to establish due diligence obligations on private actors in the context of the transition. However, different rules in the general framework, set up different requirements intended to prevent and provide reparation to human rights violations flowing from business activities.

f.
Impact
Assessments

According to Article 2.2.2.3.4.1 of Decree 1076 of 2015, interested parties in the construction and operation of electric power generation plants must conduct an Environmental Assessment of Alternatives. Regarding its content, this diagnosis must have a general description of the alternatives for the location of the project, work or activity, environmentally characterizing the area of interest and identifying the special management areas, as well as the characteristics of the social and economic environment for each alternative presented.

In Colombia, when a project requires an environmental license, the interested party is required to conduct an environmental impact assessment. This environmental impact assessment is regulated by article 2.2.2.3.5.1. and it must be understood as the basic instrument for making decisions on projects, works or activities that require an environmental license and shall be required in all cases in which, in accordance with the law and these regulations, it is required.

3. CONCLUSIONS

It is important to highlight that Colombia has one of the cleanest electricity generation matrixes in the world, with a low contribution of greenhouse gases. However, at present, Colombia's energy supply, despite being very clean, depends largely on hydrological sources, which makes Colombia vulnerable to weather changes. Therefore, investment in NCRES is a vitally important issue in Colombia's energy transition.

Hence, the energy transition in Colombia has a series of variables that go beyond simply relating to a reduction of the harmful effects of climate change. Consequently, the definition and implementation of the Just Energy Transition concept is a great initiative, which in addition to safeguarding the environment, promotes a transition to renewable energies in a gradual, inclusive, and participatory manner. Although certain aspects still need to be further regulated, such as the integration of the private sector into the transition, in general terms, the existing legal and extra-legal guidelines provide a robust framework.

Finally, it can be concluded that Colombia has a broad regulation that contemplates the rights of communities, women and information and is focused on the process of a just energy transition.



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