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COMITE EUROPEEN DES DROITS SOCIAUX**

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International Federation for Human Rights (FIDH) v. France
Complaint No. 240/2024

COMPLAINT

Registered at the Secretariat on 18 March 2024

Collective complaint

relating to access to drinking water in Guadeloupe and chlordecone poisoning in the French West Indies

Department of Social Rights

Directorate General of Human Rights
and Rule of Law
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hereby submit a collective complaint against France, based on Articles 11, 17§1, 30, 31 and E of the revised European Social Charter, **with a request for priority processing and immediate measures.**

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PART 1. ADMISSIBILITY OF THE COLLECTIVE COMPLAINT

I. Request for priority in the examination of the complaint

Rule 26 of the Rules of Procedure of the European Committee of Social Rights (hereinafter “the Rules”) reads:

“Complaints shall be registered with the Secretariat in the order in which they are received. The Committee shall deal with complaints in the order in which they become ready for examination. It may, however, decide to give priority to the examination of a particular complaint.”

Accordingly, the Committee may give priority to investigating a situation by reason of its serious nature.¹

In this case, the collective complaint concerns a serious infringement of the most fundamental rights.

It is alleged that more than 380 000 people in Guadeloupe have been deprived of drinking water as a result both of ongoing and prolonged supply cuts that disrupt the distribution network and of constant, multi-factorial pollution of the water, in particular by chlordecone, a highly dangerous pesticide. The consequences of this situation are far-reaching and getting worse all the time. Concluding that the situation constitutes a health emergency, various United Nations bodies have been urging the Contracting State since 2021, and in particular in 2023, to take emergency measures, which it is currently refusing to implement.

Also complained of is the lack of effective preventive and curative measures for more than 665 000 people whose health has been exposed to the harmful consequences of chlordecone in Martinique and Guadeloupe.

It follows that the present collective complaint concerns matters that are urgent and very serious, both quantitatively and qualitatively.

The complainant organisation therefore respectfully asks the Committee to give priority to this complaint and to pay particular attention to the request for immediate measures attached thereto.

II. Contracting State

On 9 March 1973, France ratified the European Social Charter of 1961 (ETS No. 35).

On 7 May 1999, France ratified the revised European Social Charter of 1996 (ETS No. 163), accepting all the paragraphs (98).

On 7 May 1999, France also ratified the 1995 Additional Protocol to the Charter providing for a system of collective complaints (ETS No. 158), although it has not yet made a declaration enabling national NGOs to submit such complaints.

France has therefore accepted all the provisions referred to in this collective complaint and their enforceability.

¹ Committee, Defence for Children International (DCI) and Others v. Spain, Complaint No. 206/2022, Decision on the admissibility and immediate measures, 19 October 2022. In this case, the complainant organisation argued that the situation was serious because of the number of people involved (around 1 800 children and other vulnerable groups) and the seriousness of the allegations.

“France is a Republic, indivisible, secular, democratic and social. It shall ensure the equality of all citizens before the law, without distinction of origin, race or religion. It shall respect all beliefs.”

The Constitutional Council has recognised the principle of the oneness of the French people as having constitutional value (CC, 15 June 1999, decision no. 99-412 DC).

The Preamble to the Constitution of 27 October 1946 further provides that:

“France shall form with its overseas peoples a Union founded upon equal rights and duties, without distinction of race or religion.”

In this respect, Article 72-3 of the Constitution of 4 October 1958 states that:

“The Republic shall recognise the overseas populations within the French people in a common ideal of liberty, equality and fraternity.”

Article 73 of the Constitution reads:

“In the overseas *départements* and regions, statutes and regulations shall be automatically applicable. They may be adapted in the light of the specific characteristics and constraints of such communities.”

Law No. 2017-256 of 28 February 2017 on genuine equality in the overseas territories and introducing provisions in the social field reads:

“The Republic shall recognise the right of overseas populations to genuine equality within the French people.”

According to these principles, all French citizens, united, indivisible and equal before the law, enjoy the same rights, including on the basis of international commitments made by France.

To hold otherwise would be to undermine the fundamental principles referred to above and, furthermore, would amount to discriminatory treatment based on place of residence and would thus be contrary to France’s international commitments. In this respect, discrimination is prohibited, *inter alia*, by:

- Article 2 of the International Convention on the Elimination of All Forms of Racial Discrimination (ratified on 28 July 1971);
- Article 14 of the European Convention on Human Rights (ratified on 3 May 1974);
- Article 2.2 of the International Covenant on Economic, Social and Cultural Rights (ratified on 4 November 1980);
- Article 2 of the Convention on the Rights of the Child (UNCRC, ratified on 7 August 1990);
- Article 21 of the Charter of Fundamental Rights of the European Union (adopted on 12 December 2007 and which became legally binding for the EU and its Member States with the entry into force of the Lisbon Treaty in December 2009).

In addition, although only the 1988 Additional Protocol supplementing the social and economic rights of the 1961 Charter has been the subject of a declaration, France has stated that:

“This Protocol shall apply not only to the French metropolitan territory (Article 9, paragraph 1) but also to the French overseas departments.”

Clearly, then, the Government intends this instrument to apply to the whole of its territory, with no reference to any “local requirements” that might limit its application.

Similarly, the national reports submitted by France to the ECSR as part of its periodic reporting procedure mention measures taken in the overseas territories:

- in the 21st report (2022): reference to the National Child Protection Strategy.⁴
- in the 20th report (2021): reference to the National Child Protection Strategy.⁵
- in the 19th report (2020): reference to the National Child Protection Strategy.⁶
- in the 18th report (2019): reference to the right to housing, in particular as regards assessing the criteria for adequate housing and responsibilities in this area.⁷
- in the 12th report (2013): reference to the right to safe and healthy working conditions, the right to protection of health, the right to social security, the right to social and medical assistance and the right to protection against poverty and social exclusion.⁸

It is clear, too, that the allegations made in this complaint (see Part 2./I. below) relate to the right to health protection (Article 11), the rights of children and young persons to social, legal and economic protection (Article 17), the right to protection against poverty and social exclusion (Article 30) and the right to housing (Article 31). These rights are among the points highlighted by the Government of France in its reports to illustrate improvements in its policies and the conformity of its actions with the level of protection that is to be afforded these rights under the Charter.

It appears that, by mentioning its action in the overseas *départements* and regions in this way, France has demonstrated its tacit recognition of the applicability of the Charter to these territories and, by the same token, its willingness to submit its social and economic policies in the overseas territories to the Committee for assessment.

The Committee is justified, therefore, in taking an interest in events occurring in the French overseas *départements* and regions, and more specifically in Guadeloupe and Martinique, and in hearing collective complaints concerning them.

V. Subject of the complaint

⁴ 21st report on the implementation of the European Social Charter submitted by the Government of France (2022), pp. 20-21: "The decree of 17 August 2021 containing various provisions relating to the compensation of practising, retired or trainee healthcare professionals requisitioned during the Covid-19 epidemic was adopted on this basis, re-clarifying the procedures for requisitioning and compensating professionals, particularly in the case of mobilisation in French overseas territories".

⁵ 20th report on the implementation of the European Social Charter submitted by the Government of France (2021), p. 53: "This Strategy will be put in place from 2020 through a multi-year contractual arrangement with the *départements*. It concerns 30 *départements* in metropolitan France and the overseas territories for the first year, with €80 million in state funding."

⁶ 19th report on the implementation of the European Social Charter submitted by the Government of France (2020), p. 38: "This Strategy will be put in place from 2020 through a multi-year contractual arrangement with the *départements*. It concerns 30 *départements* in metropolitan France and the overseas territories for the first year, with €80 million in state funding."

⁷ 18th report on the implementation of the European Social Charter submitted by the Government of France (2019), p. 84: "Of the 36 million dwellings in France, 420 000 are considered unfit for habitation in metropolitan France, with a further 10 000 or so in the overseas *départements*. (...)."

⁸ 12th report on the implementation of the European Social Charter by the Government of France (2013), pp. 27, 34, 66, 73, 110, 128, 130, 131, 132, 143, 144, 157, 171, 180, 181 and 219.

This complaint provides information on a twofold collective issue in the French West Indies: the violation of the right to drinking water and sanitation in Guadeloupe and the poisoning of the populations of Guadeloupe and Martinique with chlordecone.

In Guadeloupe, up to 80% of the water produced is lost through leaks in the networks. When water is available, it is not drinkable because of obsolescent pipes (which have not been properly maintained for 30 years), inadequate sanitation (80% of wastewater treatment plants are not up to standard) and chlordecone pollution.

In Guadeloupe and Martinique, water, soil, food and more than half a million people in the French West Indies (>665 000 people, >90% of the population of the two islands), including at least 380 000 women, are contaminated with chlordecone. There is no guaranteed provision in terms of preventive measures to trace chlordecone or curative measures to detoxify people's bodies and, by the end of 2023, only 45 people had been compensated for the harm they had suffered.

This complaint is directed against France on the grounds that it is not fulfilling, or at any rate not fulfilling satisfactorily, its obligations under:

- Article 11 taken alone and/or in conjunction with Article E of the Charter;
- Article 17§1 a) taken alone and/or in conjunction with Article E;
- Article 30 taken alone and/or in conjunction with Article E;
- Article 31 taken alone and/or in conjunction with Article E.

The violation of the right to drinking water and sanitation in Guadeloupe and chlordecone poisoning in Guadeloupe and Martinique have resulted in a whole host of serious violations of people's human rights, in particular the right to drinking water, the right to a safe, clean and healthy environment, as well as the fundamental social and economic rights guaranteed by the Charter and linked in particular to health, the right of the family to social, legal and economic protection, education, housing and protection against poverty.

In addition, while the Charter requires that the rights enshrined in the Charter be enjoyed in a non-discriminatory manner, in many respects the lack of effective enjoyment of the above-mentioned economic and social rights due to lack of effective access to drinking water and sanitation and to chlordecone poisoning – to a degree beyond anything seen in metropolitan France – amounts to discrimination against the French overseas populations and, more specifically, against the French West Indian population, who are economically vulnerable and mostly of African descent (see Part 4/VI below).

These rights are enshrined both in French law and in numerous international instruments signed, ratified, endorsed and promoted by France, in particular:

In international law:

- the International Convention on the Elimination of All Forms of Racial Discrimination (CERD, ratified on 28 July 1971);
- the European Convention on Human Rights (ECHR, ratified on 3 May 1974);
- the International Covenant on Economic, Social and Cultural Rights (ratified on 4 November 1980);
- the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, ratified on 14 December 1983);
- the Declaration on the Right to Development (adopted by the United Nations General Assembly on 4 December 1986 by 146 votes, including France's);
- the Convention on the Rights of the Child (UNCRC, ratified on 7 August 1990);

- the Charter of Fundamental Rights of the European Union (adopted on 12 December 2007);
- the Convention on the Rights of Persons with Disabilities (CRPD, ratified on 18 February 2010);
- the United Nations General Assembly Resolution of 28 July 2010, recognising the right to water as a fundamental right, and
- the United Nations General Assembly Resolution of 27 July 2022, declaring access to a clean, healthy and sustainable environment a universal human right. France was among the states that supported the adoption of these two historic resolutions.

In French law:

- the Preamble to the Constitution of 1946;
- the 2004 Charter for the Environment, forming part of the “constitutional bloc” through the constitutional amendment of 1 March 2005 (decisions 2008-564 DC of 19 June 2008 and 2014-394 QPC of 7 May 2014);
- the Law on Water and Aquatic Environments (LEMA) of 30 December 2006 and the Environment Code;
- Law of 15 April 2013, amending Article L.115-3 of the Social Action and Family Code (so-called “Brottes Law”);
- the Law for Genuine Equality in the Overseas Territories of 14 February 2017;
- the Order of 22 December 2022 on access to and quality of water intended for human consumption transposing the EU Drinking Water Directive of 16 December 2020 which introduces new rules to protect human health from the risks of contamination of drinking water. In particular, it reaffirms the right to access to drinking water for all in all territories, including overseas.
- Decree No. 2022-1721 of 29 December 2022 specifying that daily water consumption must be between fifty and one hundred litres per person per day, available in the home.

In view of the repeated violations of the fundamental rights of the population in Guadeloupe and Martinique, the FIDH hereby submits this collective complaint to your Committee.

PART 2. STATEMENT OF FACTS AND PROCEEDINGS

I. Statement of facts

A. **Drinking water in Guadeloupe**

Over the last 30 years, the problems regarding access to drinking water have continued to worsen in Guadeloupe, reaching intolerable levels in the 2010s and culminating in 2020 with the outbreak of the Covid-19 pandemic. Poorly maintained, polluted, badly managed and suffering from obsolescence, the water network is regularly cut off and up to 80% of water is lost before it reaches the tap.⁹

1. Cuts in water supplies

Cuts in water supplies are a daily occurrence. They last for days, often weeks, and sometimes more than a month. The authorities have introduced an ongoing programme of rolling shutoffs, alternating between different areas to avoid widespread disruption across the territory as a whole.¹⁰ In practice, the schedules are disregarded, causing the population to suffer even more frequent supply cuts, which affect access to water both in private homes and in public institutions.

Such cuts seriously disrupt people's lives, as well as public institutions such as hospitals and schools, with the result that patients and pupils are not being cared for in compliance with minimum health standards. Water shortages also have an impact on businesses in every sector, particularly tourism, which is a mainstay of the local economy. So, although it is estimated that a quarter of the population are hit by supply cuts in their homes, the issue actually affects the entire population.

2. Non-drinkability of water

There is no guarantee, moreover, that, when it is available, the water will be drinkable. Combined with the shortcomings of the sanitation systems and the scandal of soil pollution by chlordecone, an extremely toxic pesticide, the situation is catastrophic for humans and the environment alike. When the water reaches the tap, it is unfit for human consumption: residues from pipes and chlordecone have been found in tap water in some municipalities, and faecal matter has been detected in tap water, including even in hospitals.¹¹

In addition to the damage to people's health, there are serious economic consequences: paradoxically, the water is the most expensive in France, both at the tap and in supermarkets.

3. Causes of water problems

Since water is naturally plentiful in Guadeloupe, the only possible explanation for this situation is **poor governance on the part of utility companies, local authorities and the state**, which has primary and ultimate responsibility for water management under international and European human rights law. The local and national authorities, who are constantly being alerted to the situation, have taken a number of remedial measures, but have failed to put in place effective, fair and sustainable solutions, or to compensate users for the harm they have suffered.

⁹ Gestion de l'eau : la Cour des comptes alerte sur "la situation alarmante" des territoires ultramarins - Guadeloupe la 1ère (francetvinfo.fr) ; Rapport public thématique La gestion quantitative de l'eau en période de changement climatique (ccomptes.fr) [in French only]

¹⁰ Economic, Social and Environmental Council (CESE), Opinion, La gestion de l'eau et de l'assainissement dans les Outre-mer, October 2022, published in the Official Journal of the French Republic, p. 25; Human Rights Defender, Rapport Services publics aux Antilles : garantir l'accès aux droits, 2023, p. 9. [in French only]

¹¹ Le Centre hospitalier de Basse-Terre en eaux troubles - Guadeloupe la 1ère (francetvinfo.fr) ; L'eau des robinets de l'hôpital souillée par des matières fécales (franceantilles.fr) [in French only]

These allegations are based on official data, in particular the interministerial audit¹² which, as far back as 2018, concluded that there was a significant public health crisis and a major public safety issue, as well as an environmental scandal, a finding that was confirmed and reinforced by the parliamentary inquiry¹³ in 2021.

This audit by the Ministry of Ecological Transition and Solidarity, the Ministry of Overseas France and the Ministry of Action and Public Accounts went so far as to conclude:

“Guadeloupe needs to emerge from the systemic crisis facing its public drinking water service. The human and financial cost of this crisis is considerable: a major daily constraint for Guadeloupeans, risks to the health and safety of the population, suffocating effect on the island’s economy, whether in industry, SMEs [small and medium-sized enterprises] or tourism, etc. Guadeloupe’s image has not suffered greatly to date, as the exact situation as regards drinking water on the island is not yet well known beyond its shores. But what image would the island have if, in the future, legal action were to be taken for non-compliance with European legislation on the distribution of drinking water, and what impact would such action have on tourist numbers, bearing in mind that tourism is the mainstay of the island’s economy?” (Page 98)

B. Chlordecone in Guadeloupe and Martinique

Chlordecone was used in the French West Indies as a pesticide in banana plantations from 1972 to 1993, despite awareness of its extreme toxicity, in order to support improved rates of agricultural production. Although its manufacture and use were banned in the United States in 1975, and the World Health Organization (WHO) warned as early as 1979 that the product was dangerous, it was not banned in France until 1990, and continued to be used in the French West Indies by ministerial dispensation until 1993.

Today, chlordecone is still present in water, soil and food. The entire food chain is contaminated.

In his January 2022 report,¹⁴ the United Nations Special Rapporteur on the right to a healthy environment, David Boyd, with the assistance of the United Nations Special Rapporteur on toxic substances, Marcos Orellana, listed Guadeloupe and Martinique among France’s “**sacrifice zones**” because of the extreme levels of chlordecone pollution to which the territories have been exposed.

“The Special Rapporteur describes the ongoing toxification of people and the planet, which is causing environmental injustices and creating “sacrifice zones”, extremely contaminated areas where vulnerable and marginalized groups bear a disproportionate burden of the health, human rights and environmental consequences of exposure to pollution and hazardous substances.”¹⁵

¹² Audit on drinking water in Guadeloupe / Recent reports / IGO reports / Publications - Ministry of the Interior (interieur.gouv.fr) [in French only]

¹³ Rapport d'enquête n°4376 - 15e législature - Assemblée nationale (assemblee-nationale.fr) [in French only]

¹⁴ A/HRC/49/53: Right to a clean, healthy and sustainable environment: non-toxic environment - report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment | OHCHR, paragraph 41

¹⁵ *Ibid.*, Summary, page 1

II. Affected persons

A. Drinking water in Guadeloupe

More than 380 000 people across Guadeloupe, of all ages and socio-economic backgrounds, regularly find themselves without access to drinking water and, as a result, without decent housing. With more than a third of the population living below the poverty line, the most vulnerable residents pay the heaviest price, including pregnant women, children, the elderly and people with disabilities.

In addition to private individuals, unexpected water supply cuts affect all public services, in particular health facilities and schools. Hospitals, clinics and laboratories do not have the resources to operate in compliance with minimum hygiene standards in normal times, and even less so since the outbreak of Covid-19 in the archipelago in February 2020. As regards shops, hotels and restaurants, the water supply cuts are also having a serious impact on businesses in all sectors, particularly tourism, the mainstay of the local economy.

While it is estimated that at least a quarter of the population of Guadeloupe does not have access to water every day because of supply cuts, the fact is that the entire population of Guadeloupe is deprived of access to drinking water due to the multiple sources of ongoing water contamination across the entire territory.

B. Chlordecone in Guadeloupe and Martinique

According to the authorities, 95% of the population of Guadeloupe and 92% of the population of Martinique are contaminated with chlordecone. These figures come from the two French government agencies responsible for such matters, the national public health agency and the National Agency for Food, Environmental and Occupational Health and Safety.¹⁶

This means at least 665 000 people are affected in total.

Agricultural workers were particularly exposed. According to the gender-based division of labour that prevailed at the time, men cut the bunches of bananas, while women deposited - usually with their bare hands and without masks - the chlordecone at the foot of the banana trees and carried the harvested bunches on their heads, hips and backs to the storage sheds.

Today, however, the entire population of the West Indies, men, women and children, are affected through the contamination of water, soil and food. Chlordecone is a carcinogen and, in men, is responsible for one of the highest rates of prostate cancer worldwide. A neurotoxicant, chlordecone increases the risk of premature birth and affects children's cognitive and behavioural development. An endocrine disruptor, chlordecone also increases the risk of female hormonal disorders.¹⁷

III. State response

A. Drinking water in Guadeloupe: the DOM Water Plan (PEDOM)

In 2023, addressing various UN bodies, France spoke of strengthening the DOM Water Plan (PEDOM) to remedy the water crisis in Guadeloupe and the overseas territories.

¹⁶ Chlordécone aux Antilles : les risques liés à l'exposition alimentaire | Anses - Agence nationale de sécurité sanitaire de l'alimentation, de l'environnement et du travail [National Agency for Food, Environmental and Occupational Health and Safety] [in French only]

¹⁷ Etude Kannari, IMPRÉGNATION DE LA POPULATION ANTILLAISE PAR LA CHLORDÉCONE ET CERTAINS COMPOSÉS ORGANOCHLORÉS EN 2013/2014, Santé Publique France, 2018 [in French only]

As noted in its Concluding Observations by the UN Committee on the Elimination of Discrimination against Women (CEDAW),¹⁸ however, the effectiveness of the PEDOM has been limited:

- In 2023, the situation was actually worse than when the PEDOM was launched in 2016, and was continuing to worsen. For example, in 2017, 70% of treatment plants were not up to standard. By 2023, nearly 80% of these plants were not up to standard.
- The Plan is underfunded:
 - In 2023, the central government announced a €317 million plan for the next four years, with €83 million to come from central government, €73 million from European funds, €27 million from the Water Office and €20 million from the regional and *département* authorities.¹⁹ According to those who conducted the parliamentary inquiry, the amount of funding required is more in the region of €1.5 to 2 billion.
 - This budget is also very modest when compared, for example, with similar initiatives in Canada. In Canada, 330 000 people live in more than 600 First Nations communities. In 2019, the First Nations filed national class action suits against the Canadian government for lack of adequate access to safe drinking water. In 2021, under the auspices of the courts, the central government, which recognises that Canada's colonial history has had a profound impact on indigenous peoples and their governance,²⁰ committed to an \$8 billion settlement, including \$1.8 billion in compensation for individuals; an additional \$50 million for individuals who can show they have suffered specific harm; and \$6 billion for infrastructure (re)construction and maintenance between now and 2030.²¹
- The plan faces huge technical hurdles, so that, even if all the political, human and financial resources were successfully mobilised, the actors involved would not be able to keep to the proposed timetable. For example, in 2020, of the 5 000 leaks scheduled to be repaired by October 2020, by 15 September 2020 only half (around 2 500) had been identified and only a quarter had been repaired (source: Guadeloupe Prefecture). Realistically, therefore, it will take many years to repair the water and sanitation networks in a comprehensive and lasting manner, which means that, in the absence of emergency measures, the population will inevitably continue to be deprived of drinking water for a long time to come.
- The Plan foresees only medium- and long-term measures,²² even though the situation has reached the health emergency threshold requiring the immediate introduction of urgent measures pending complete, lasting repairs to the water and sanitation networks.

Despite the recommendations of three (3) UN Committees urging France to take urgent action in Guadeloupe, France is currently refusing to adopt such measures for the territory.

¹⁸ CEDAW, Concluding observations on the ninth periodic report of France, 30 October 2023, [CEDAW/C/FRA/CO/9](#), paragraph 37d

¹⁹ [Crise de l'eau en Guadeloupe: 317 millions d'euros seront investis sur quatre ans \(lefigaro.fr\)](#) [in French only]

²⁰ [Le Quotidien — La population autochtone continue de croître et est beaucoup plus jeune que la population non autochtone, malgré un ralentissement de son rythme de croissance \(statcan.gc.ca\)](#) [in French only]

²¹ [À propos - First Nations Drinking Water](#) [in French only]

²² [Les 53 mesures du plan eau | gouvernement.fr](#) [in French only]

B. Chlordecone in Guadeloupe and Martinique: prevention, redress and compensation

Although they have been gradually stepped up, the state measures announced for prevention, redress and compensation remain slow and inadequate.

1. Prevention and redress: Chlordecone Plan IV

In 2023, the authorities rolled out the fourth plan to combat chlordecone pollution, Chlordecone Plan IV for the period 2021-2027. The proposed measures can be viewed at the following link: "[Vivre sans « risque chlordécone » et réparer par l'action](#)". The Plan includes 47 measures over 7 years and has a budget of €130 million. In 2023, new measures were announced: aid for certain cattle breeders and fishermen, agreement to cover the additional costs of treating drinking water in 6 catchment areas, more research, more help for women and children, greater use of the compensation fund, free analysis of eggs. In response to long-standing demands from civil society, the government is making it easier for everyone to have their blood tested for chlordecone ("chlordeconemia"), by providing free testing and targeted awareness-raising campaigns, but notes that take-up of the service among the French West Indian population has been low.

To this day, people in the French West Indies still have no means of ensuring that the products they buy and consume on a daily basis are free of chlordecone, or of benefiting from treatments designed to remove chlordecone from their bodies. In particular, by setting maximum residue limits for chlordecone, the French government has taken the position that some concentration of chlordecone in food is acceptable,²³ contrary to the recommendations of the FAO and WHO, which consider that no amount of chlordecone is safe for humans to ingest daily.²⁴

In the absence of preventive measures to systematically trace chlordecone in food and corrective measures to rid the human body of chlordecone, the public seems reluctant to undergo testing that would merely create anxiety, with no means for them to effectively protect their health before or after screening.

At the same time, in their speeches, successive Ministers for Overseas France have stressed the importance of prioritising redress through action over compensation.

2. The compensation fund

In September 2018, the French President described the chlordecone pollution in the French West Indies as an "environmental scandal", saying that "the French state must accept its share of responsibility" and "move forward on the path to redress". He also said, however, that in the current state of scientific knowledge, it was not possible to confirm "to what degree the molecule poses a danger to human health, although there is assumed to be a link with premature births, delayed brain development and other pathologies". He concluded that while it would not be "responsible to talk of individual redress for everyone", there was scope for "further progress to be made on the issue of occupational diseases for people particularly exposed to the molecule". He announced that the government would start the procedure for opening the register of occupational diseases in October 2019.

²³ [Arrêté du 25 janvier 2019 modifiant l'arrêté du 30 juin 2008 relatif aux limites maximales applicables aux résidus de chlordécone que ne doivent pas dépasser certaines denrées alimentaires d'origine végétale et animale pour être reconnues propres à la consommation humaine](#) [Decree of 25 January 2019 amending the decree of 30 June 2008 on the maximum residue limits applicable to chlordecone which certain foodstuffs of plant and animal origin must comply with in order to be recognised as fit for human consumption] [in French only]

²⁴ "No acceptable daily intake (ADI) for Chlordecone has been established by the FAO/WHO Joint Meeting on Pesticide Residue": [Chlordecone \(HSG 41, 1990\) \(inchem.org\)](#)

It was not until 22 December 2021, however, that prostate cancer linked to overexposure to chlordecone was officially included in the list of occupational diseases. Although this was a key development, paving the way for individual compensation for farmers, farm workers and their children, it has been of limited value in practice, given that the entire population is contaminated.

Although women²⁵ have been the most exposed to chlordecone and make up the majority of the contaminated population, the lack of research into the impact of chlordecone on their health hinders the recognition of occupational diseases specific to them and hence their prevention, care and compensation. Unlike men, women who are victims of chlordecone do not benefit from the recognition of any specific occupational disease.

Furthermore, **although almost all (>90%) of the population of the French West Indies are contaminated with chlordecone, the pesticides compensation fund is, to this day, open only to people who can show that they were exposed to chlordecone at work and are suffering from a disease listed in the table of occupational diseases, or who can show that their child, suffering from a disease or malformation, was exposed in utero to pesticides on account of their occupational activity.** As a result, very few people are eligible for compensation from the fund, which is mainly open to men and children suffering from an illness or deformity caused by occupational or prenatal exposure to chlordecone.

In addition, the procedure is not widely known and difficult to access: victims must provide proof of occupational activity, in some cases dating back more than 20 years. To date, only 81 applications for compensation have been completed in Guadeloupe and 130 in Martinique.²⁶ By the end of 2022, only 14 people had received compensation in the French West Indies,²⁷ rising to 45 by the end of 2023: very low numbers when compared with the more than 12 000 banana workers in the French West Indies and the more than 90% of the population contaminated since the 1990s.

IV. Domestic legal proceedings

A. Drinking water Guadeloupe

The judicial response to the water problem in Guadeloupe has been ineffective in that it provides neither redress nor compensation for the harm suffered by users, nor emergency solutions to put an end to the violation of their right to water and sanitation as well as other related human rights violations.

²⁵ « On est oubliées » : les femmes antillaises, victimes invisibles du chlordécone (reporterre.net) [in French only]

²⁶ [Phyto-Victimes s'installe en Guadeloupe pour aider les victimes du chlordécone \(rci.fm\)](https://rci.fm) [in French only]

²⁷ [Rapport - Services publics aux Antilles : garantir l'accès aux droits | Rights Defender \(defenseurdesdroits.fr\)](https://defenseurdesdroits.fr), page 31 [in French only]

1. Administrative proceedings

- **May 2020: urgent application for the protection of a fundamental freedom (référé-liberté) against the main water utility company**

In May 2020, eight applicants filed a référé-liberté application with the Administrative Court of Basse-Terre to obtain water tanks and lump-sum compensation for the violation of their right to water.²⁸ The court concluded that there had been:

“a serious and manifest infringement of a fundamental freedom, namely the right of access to drinking water and sanitation, recognised as a fundamental human right” and that “their right to life and human dignity [had] been infringed”.

The court accordingly denied the request for cisterns but ordered the main water utility at the time, the Syndicat Intercommunal d’Alimentation en Eau et d’Assainissement de la Guadeloupe (SIAEAG), to supply water and to pay the applicants €300 in compensation.

- **June 2020: application for an injunction or “appropriate measures” against the main water utility company²⁹**

In June 2020, 207 users from the SIAEAG filed an application for an injunction with the Basse-Terre administrative court, asking the judge to take all appropriate measures to alleviate the problem of access to drinking water in the archipelago in the context of the pandemic. The interim relief judge concluded that, in the circumstances:

“the public authority’s failure to act is creating a clear and imminent danger to human life”, and that “the lack of access to water in a health emergency is such as to infringe the right to respect for life, as well as the right not to be subjected to inhuman or degrading treatment, relied on by the applicants”.

The judge ordered the SIAEAG, firstly, to provide each applicant with a daily pack of 6 x 1.5 litre bottles of drinking water, or equivalent, from 24 June 2020 until the end of the state of health emergency and, secondly, to pay all the applicants the sum of €1 500 in total.

In both of these cases, although the court recognised that the applicants’ right to water and sanitation and to life had been violated, and that the situation was urgent, the redress provided in no way reflected the extent of the harm suffered, nor did it offer the applicants any lasting solution.

- **September 2020: référé-liberté application to trigger the ORSEC response plan**

In September 2020, echoing the concerns felt by many Guadeloupeans, a user asked the Administrative Court of Basse-Terre to order the Prefect to activate the ORSEC plan³⁰ for tackling

²⁸ [2000384.anon_compl.pdf \(landot-avocats.net\)](#) [in French only]

²⁹ Administrative Court of Guadeloupe, order of 22 June 2020, N°2000443

³⁰ ORSEC (*Organisation de la Réponse de Sécurité Civile*) is France’s multi-purpose emergency plan for managing crises. Under the authority of the prefect, it sets out arrangements for the mobilisation, implementation and co-ordination of action by all public and private parties involved in the general protection of the population. [ORSEC plan — Wikipedia \(wikipedia.org\)](#)

natural, industrial and/or health emergencies. The court and the Conseil d'Etat dismissed³¹ the application on the ground that:

“The French state, [which] has implemented all possible emergency measures and has not committed any failures or infringed any fundamental freedoms”.

They went on to state that:

“The measures for implementing the ORSEC plan (...) can only be applied (...) in the event of an accident, disaster or catastrophe, which is not the case here, given that this situation has been going on for years.”

The interministerial instruction of 19 June 2017 relating to the development of the ORSEC drinking water plan reads as follows, however:

“This instruction and the guide it introduces aim to define the principles for organising the supply of drinking water to populations, by providing for their priority needs. These arrangements are to be implemented when the public supply and distribution network is affected by qualitative and/or quantitative disruptions of varying duration, irrespective of the cause.”³²

In addition, a prefectural decree issued by another *département*, Gironde, attests to the applicability of the mechanism, specifically mentioning among the possible scenarios for disruption of the water supply that would warrant triggering the ORSEC plan “man-made causes arising from technical inadequacies, short-sightedness, human error and accidents”.³³

Guadeloupe, which at the time was one of the *départements* in France worst affected by the pandemic and was classified as being on maximum alert, was already clearly experiencing a health crisis, moreover.

Lastly, the judge acknowledged that this “serious failure has been going on for years”, thus confirming the existence of a manifestly serious and illegal breach for which the French state could be considered liable.

2. Criminal proceedings

3.

- **2012-2019: the trial of Amélius Hernandez, former chair of the water utility company**

On 18 December 2012, in its final observations on the management of the Syndicat Intercommunal d’Alimentation en Eau et d’Assainissement de la Guadeloupe (SIAEAG) from 2005 onwards, the Guadeloupe Regional Audit Chamber criticised Amélius Hernandez, chair of the SIAEAG, one of the main water utilities at the time, for failing to manage the SIAEAG’s drinking water supply and sanitation services properly.³⁴

³¹ Administrative Court of Guadeloupe, order of 17 September 2020, N°2000815 and Conseil d’Etat, Order of 1 October 2020, N°444909: Conseil d’État, 1 octobre 2020, 444909 (pappers.fr) [in French only]

³² Instruction interministérielle du 19 juin 2017 relative à l’élaboration du dispositif ORSEC eau potable, [Interministerial instruction of 19 June 2017 on the development of the ORSEC drinking water plan], page 2. [in French only]

³³ Plan ORSEC de la Gironde, Page 10 [in French only]

³⁴ <https://www.ccomptes.fr/fr/documents/24529> [in French only]

On 18 November 2019, after a criminal trial lasting more than 12 years, Mr Hernandez was sentenced to three years' imprisonment, two of which were suspended, and a fine of €150 000 for misappropriation of public funds and cronyism in the award of government contracts. All the other defendants were acquitted.

For Guadeloupe's water users, this verdict was disappointing in that only one individual was convicted. Today, in 2024, moreover, the situation remains unresolved: users have not been compensated and there is still no drinking water available on tap.

- **February 2023: collective criminal action**

In February 2023, a collective criminal action joined by more than 160 plaintiffs was brought for:

- the offence of exposing others to an immediate risk of death or injury likely to result in permanent disability;
- the commission of a specific offence relating to the potability of water under the Public Health Code;
- and the offence of subjecting others to living conditions incompatible with human dignity.

In April, the complaint was joined by the Ligue des Droits de l'Homme.

An investigation began in May 2023 and is currently under way.³⁵

B. Chlordecone in Guadeloupe and Martinique

The judicial response in relation to chlordecone has not been satisfactory, either.

1. Criminal proceedings

In 2022, the complaints against former ministers lodged by several associations were declared inadmissible by the French Court of Justice.³⁶

On 2 January 2023, in criminal proceedings to prosecute distributors for poisoning, the judges dismissed the case after an investigation lasting 16 years. Acknowledging that there had been a "health scandal" and "environmental damage", the judges condemned the actions of the state and industrialists.³⁷ At the same time, though, they ruled that they were not criminally liable on the grounds, firstly, that the offences were time-barred and, secondly, that the scientific community and the public authorities at the time had been unaware of the consequences of chlordecone for human health. In April 2023, however, investigative journalists revealed that eight years of archives³⁸ were

³⁵ Le Monde, *Accès à l'eau potable en Guadeloupe : le parquet ouvre une enquête préliminaire*, 6 mai 2023: https://www.lemonde.fr/planete/article/2023/05/06/acces-a-l-eau-potable-en-guadeloupe-le-parquet-ouvre-une-enquete-preliminaire_6172287_3244.html?fbclid=IwAR0mOyGJ3DpEvbU1qX3X92A7J5b69bAxwXdlIuHImFuQ3AYi_GMPRqvl6_k#xtor=AL-32280270-%5Bwhatsapp%5D-%5Bios%5D [in French only]

³⁶ [Pollution au chlordécone aux Antilles : deux plaintes d'associations jugées irrecevables - Le Parisien](#) [in French only]

³⁷ [Antilles : la décision de non-lieu dans l'affaire du chlordécone n'épargne ni l'Etat ni les industriels \(lemonde.fr\)](#) [in French only]

³⁸ [Ce que disent les archives disparues du procès du chlordécone \(radiofrance.fr\)](#) [in French only]

missing from the case file,³⁹ archives which showed that warnings about the hazardous nature of this molecule had been issued as early as 1981. It will be recalled that the product was banned in the United States as far back as 1975 on the basis of documented studies, and declared a carcinogen by the WHO in 1979. An appeal is currently pending.

2. Administrative proceedings

On 27 June 2022, the Paris Administrative Court found the French government guilty of “culpable negligence” for having authorised the marketing of chlordane under different names “beyond the time frames provided for by law in the event of withdrawal of approval”. The administrative court refused, however, to compensate the 1 240 plaintiffs who were seeking compensation for anxiety-related harm, on the grounds that they had not provided “any personal and detailed evidence of the anxiety-related harm they claimed to have suffered”.⁴⁰ Anxiety is defined by the Conseil d’Etat, however, as “awareness of the high risk of developing a serious pathology and of having a reduced life expectancy”.⁴¹ An appeal has been lodged but the Paris Court of Appeal has yet to issue its ruling.

³⁹ [ENQUETE. Chlordane : les scientifiques alertaient sur les risques de cancer depuis les années 80, selon des archives retrouvées \(francetvinfo.fr\)](#) [in French only]

⁴⁰ Administrative Court of Paris, decision No. 2006925/6-2, 2107178/6-2 and 2126538/6-2, 24 June 2022, paragraphs 8, 11 and 14.

⁴¹ [Exposition à l’amiante : le Conseil d’État précise les règles de réparation du préjudice d’anxiété \(conseil-etat.fr\)](#) [in French only]

PART 3. NATIONAL AND INTERNATIONAL STANDARDS AND MECHANISMS FOR THE PROTECTION OF HUMAN RIGHTS

I. Principle of state competence

The French state and courts often argue that the management of water and sanitation is a matter for local authorities, and not the state, under Article L. 2224-7-1 of the General Code on Local and Regional Authorities.

In its General Comment No. 15, however, the UN Committee on Economic, Social and Cultural Rights points out that:

“the primary obligation for promoting and protecting the right to water rests with the national Government, which is responsible for monitoring local authorities’ performance and enabling them to perform their duties by providing them with adequate power and resources”.

“where the provision of water has been delegated to regional or local authorities, the State should ensure that these authorities do not discriminate and have sufficient resources to maintain and extend the supply and quality of their water services”⁴²

In Guadeloupe, as revealed by the 2021 parliamentary inquiry, the water crisis originated in the 28-year period⁴³ during which services were outsourced to Véolia, which failed to carry out the measures and investments required to maintain and upgrade the network, and whose hasty departure was accompanied by a reciprocal non-litigation clause signed between the company and the public institutions responsible for the services.

II. Human rights standards relating to drinking water and sanitation

The Office of the United Nations High Commissioner for Human Rights notes that under international law,⁴⁴ the key elements of the right to water and sanitation are as follows: **availability, accessibility, affordability, quality and safety, and acceptability.**

A. Availability

Firstly, availability implies that the water supply for each person must be sufficient and continuous to cover personal and domestic uses, with a sufficient number of sanitation facilities everywhere, including households, health or educational institutions, workplaces and other public places.

In Guadeloupe, however, this criterion has not been met.⁴⁵ The leakage rate is estimated at 60-80%, according to data from the Cour des Comptes dated July 2023.⁴⁶ **Accessibility in terms of regularity**

⁴² OHCHR, [Fact Sheet No.35: The right to water](#), p.32

⁴³ La Guadeloupe, l’île sans eau : Grandeur et décadence de la Générale des Eaux (blast-info.fr) [in French only]

⁴⁴ OHCHR and the right to water and sanitation, <https://www.ohchr.org/en/water-and-sanitation/about-water-and-sanitation>; Resolution adopted by the United Nations General Assembly on 25 September 2015, *Transforming our world: the 2030 Agenda for Sustainable Development*, 21 October 2015, A/RES/70/1.

⁴⁵ Franceinfo, Robinets à sec, bouteilles pour se doucher... En Guadeloupe, les habitants à bout face aux coupures incessantes d’eau courante, 29 novembre 2021 https://www.francetvinfo.fr/societe/crise-aux-antilles/reportage-robinets-a-sec-bouteilles-pour-se-doucher-en-guadeloupe-les-habitants-excedes-par-les-coupures-d-eau-incessantes_4860461.html [in French only]

⁴⁶ [Rapport public thématique La gestion quantitative de l’eau en période de changement climatique \(ccomptes.fr\)](#), page 102 [in French only]

of supply is not guaranteed, therefore. The frequency and extended duration of water cuts are such that rolling water shutoffs have been introduced, yet even here, the schedule is not adhered to in practice. The cuts affect both households and public institutions, including health facilities and schools.

B. Accessibility

The second criterion, accessibility, means that water and sanitation facilities must be accessible and safe for everyone, having regard to the specific needs of people with disabilities, women, children and the elderly.

The fact is, however, that **water is not physically accessible in Guadeloupe**. As illustrated by the Covid crisis, not everyone has access to clean water, including in hospitals. As a result, even people who are ill cannot receive proper treatment. For example, during the pandemic, when it was imperative for people to wash their hands frequently, they had no means of preventing the virus from spreading. With public services affected by these shortages,⁴⁷ it is even more difficult for people with special needs to access water.

Collective cisterns and water points or pallets of bottled water have sometimes been made available by the authorities in schools or by the roadside so that the population can stock up on water (non-drinkable in the cisterns and water points), but users must have the physical and financial means to get there, making it difficult or even impossible for the most vulnerable to access these facilities in practice.

As a result, some make the risky decision to draw water from rivers or the sea, which may be contaminated with chlordecone, or to drink untreated rainwater.

C. Affordability

Thirdly, water and water supply services must be affordable for everyone. No individual or group should be denied access to drinking water because of financial constraints.

In Guadeloupe, however, water is not affordable. Tap water, like supermarket water, is the most expensive in France. In 2021, the average price of water and sanitation in Guadeloupe was €6.52/m³, as against €4.3/m³ nationally.⁴⁸ The cost is rising all the time.⁴⁹ As a result, most households are forced to buy bottled water, which is two to three times more expensive than in metropolitan France,⁵⁰ to make up for the fact that the water is not drinkable, or to install cisterns, at their own expense, at a cost of around €3 000. Such expenditure is unaffordable for a large portion of the population, more than a third of whom live below the poverty line.

⁴⁷ For example: BFM TV, Guadeloupe : des écoles fermées "jusqu'à nouvel ordre" après une alerte sur la qualité de l'eau, 9 octobre 2023 <https://www.bfmtv.com/societe/education/guadeloupe-des-ecoles-fermees-jusqu-a-nouvel-ordre-apres-une-alerte-sur-la-qualite-de-l-eau-AD-202310090026.html> [in French only]

⁴⁸ Eau potable : dans quelle région de France est-elle la plus chère ? [https://www.vie-publique.fr/en-bref/285781-eau-potable-dans-quelle-region-de-france-est-elle-la-plus-cher#:~:text=En%20Outre%20mer%2C%20les%20écarts,%2C66%20euros%2Fm%3B\).](https://www.vie-publique.fr/en-bref/285781-eau-potable-dans-quelle-region-de-france-est-elle-la-plus-cher#:~:text=En%20Outre%20mer%2C%20les%20écarts,%2C66%20euros%2Fm%3B).) [in French only]

⁴⁹ In 2017, the average price of water and collective sanitation in Guadeloupe was €4.89/m³ compared with €3.56/m³ nationally, Source: Les entreprises de l'eau, press release of 28 November 2017.

⁵⁰ INSEE, In 2022, prices are still higher in the overseas territories than in metropolitan France, in particular for groceries, 11 July 2023; [Pourquoi une bouteille d'eau peut coûter deux à trois fois plus cher aux Antilles que dans l'Hexagone ? - Outre-mer la 1ère \(francetvinfo.fr\)](https://www.francetvinfo.fr) [in French only]

D. Quality and safety

Fourthly, international law requires states to ensure water quality and safety. This means that water for personal and domestic use must be safe and free from microbes, chemical substances and radiological health hazards. Sanitation systems must be hygienic to prevent contact with excreta.

The water supplied in Guadeloupe, however, does not meet this criterion.⁵¹ Three major sources of contamination mean that the water is undrinkable:

- obsolescent installations leading to systematic contamination of the water through heavy metals leaching into the water from faulty pipes and pollutants entering the system through leakage points;
- poor sanitation: 80% of wastewater treatment plants are not up to standard, according to data published by the Water Office in 2021. The result is contamination of water by faecal matter, including in hospitals;
- water pollution by pesticides, including chlordane. Studies show that ultra-toxic substances such as chlordane and particles of a variety of waste products are present in tap water. Ingestion of these substances has a direct, cumulative effect on the health of consumers.⁵²

Faced with a situation where the Guadeloupean population is consuming unsafe water, the French government, instead of providing water that meets the appropriate standards, merely issues occasional alerts to warn people that the water is unfit for drinking.⁵³ Between August and September 2023, at least seven official bans on water consumption - including for cooking and brushing teeth – were issued in less than a month.⁵⁴ This information is not sufficiently disseminated to the general public, however: many instances of water non-compliance listed in technical tables available on the Regional Health Agency website have not been communicated to the public in recent years, and the causes of non-compliance are not sufficiently explained. Nor are the bans accompanied by offsetting measures (distribution of drinking water, cancellation/reduction of bills, compensation) or information about the remedies available to users, despite the recommendations made by the parliamentary commission of inquiry (2021) and the opinions issued by the French Economic, Social and Environmental Council (CESE) (2022 and 2023).

E. Acceptability

The fifth criterion requires water to be acceptable, which means that water and all related facilities and services must respect cultural norms, be appropriate and take account of gender, life cycle and privacy issues.

The population of Guadeloupe frequently complains about the stench or excessive chlorine content and the variable colour of the water supplied, describing it as sometimes white and sometimes yellow or even brown.⁵⁵ People often report having to queue for hours in the sun at communal cisterns in

⁵¹ Le Monde, Chlordécone : les Antilles empoisonnées pour des générations, 6 juin 2018, https://www.lemonde.fr/planete/article/2018/06/06/chlordecone-les-antilles-empoisonnees-pour-sept-siecles_5310192_3244.html [in French only]

⁵² For example: Inserm study of 27 February 2023 in *Environmental Health*, Prenatal and childhood chlordane exposure, cognitive abilities and problem behaviors in 7-year-old children: the TIMOUN mother–child cohort in Guadeloupe | *Environmental Health* | Full Text (biomedcentral.com); The Kepone Environmental Disaster - Encyclopedia Virginia.

⁵³ Guadeloupe La 1ère, L'eau interdite à la consommation à Sainte-Anne, Saint-François et La Désirade, 2 octobre 2023, <https://la1ere.francetvinfo.fr/guadeloupe/l-eau-interdite-a-la-consommation-a-sainte-anne-saint-francois-et-la-desirade-1432787.html> [in French only]

⁵⁴ Explosion des alertes à la pollution de l'eau en Guadeloupe (rci.fm) [in French only]

⁵⁵ France info, Robinets à sec, bouteilles pour se doucher... En Guadeloupe, les habitants à bout face aux coupures incessantes d'eau courante 29 novembre 2021, <https://www.francetvinfo.fr/societe/crise-aux-antilles/reportage-robinets-a->

schools or public water points to fill jerry cans with non-drinkable water, in what amounts to a violation of their human dignity.

III. UN mechanisms

In recent years, France has been the target of a growing number of recommendations from several international bodies alarmed by the seriousness of the situation in Guadeloupe and Martinique.

A. Special procedures

In 2021, five (5) United Nations Special Rapporteurs - the Special Rapporteur on the rights to water and sanitation, the Special Rapporteur on the right to education, the Special Rapporteur on the right to a healthy environment, the Special Rapporteur on the right to housing, and the Special Rapporteur on extreme poverty - sent a joint communication to France.⁵⁶ In it, they raised questions with the French government about the responsibility of national and local authorities and public utility companies in charge of water distribution and sanitation in Guadeloupe, and detailed the numerous allegations of violations of the population's fundamental rights. To date, France has failed to respond to this communication.

In 2022, the situation was condemned by Mr David R. Boyd, United Nations Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment. His report highlights the fact that chlordecone, a carcinogen, has been detected in the blood of 90% of the population in Guadeloupe and Martinique. He urged the French government to fulfil their obligations related to ensuring a healthy environment and more specifically to "urgently detoxify sacrifice zones and eliminate environmental injustices".⁵⁷

In 2023, the UN Human Rights Council, the Committee on the Rights of the Child, the Committee on Economic, Social and Cultural Rights and the Committee on the Elimination of Discrimination against Women expressed concern about the limited access to drinking water in Guadeloupe and chlordecone pollution in the French West Indies. They all urged France to take urgent measures to address the water cuts and potability issues in Guadeloupe and to provide redress and compensation to those affected by the chlordecone pollution in Guadeloupe and Martinique.

B. The Human Rights Council

As part of its latest Universal Periodic Review⁵⁸ (UPR) conducted under the auspices of the UN Human Rights Council on 1 May 2023, France was the subject of several recommendations relating to drinking water and sanitation. In September 2023, France accepted 274 of the 355 recommendations made, including:

- the Recommendations of Vanuatu (185), Sri Lanka (186), Ireland (187) and Costa Rica (342), calling on France to guarantee the rights to water and sanitation for all persons across its territory;
- and the Recommendations of the Bahamas (34), Benin (35) and Angola (176), calling on France to take measures to guarantee access to economic, social and cultural rights in the overseas territories and to reduce inequalities with metropolitan France.

[sec-bouteilles-pour-se-doucher-en-guadeloupe-les-habitants-excedes-par-les-coupures-d-eau-incessantes_4860461.html](#)
[in French only]

⁵⁶ Full communication available at: [AL FRA \(7.2021\)](#) (ohchr.org) [in French only]

⁵⁷ Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, [A/HRC/49/53](#), 12 January 2022, paragraphs 41 and 89

⁵⁸ Report of the Working Group on the Universal Periodic Review (UPR) of France, 17 July 2023, [A/HRC/54/5](#) (un.org)

C. The Committee on the Rights of the Child

The Committee on the Rights of the Child reviewed France on 8 and 9 May 2023. In its concluding observations,⁵⁹ the Committee states:

Standard of living

41. *The Committee takes note of the National Strategy to Prevent and Reduce Poverty (2018–2022) but regrets the insufficient information provided on the impact of the strategy on reducing poverty, in particular among children. The Committee also takes note of the Five-Year Housing First and Combating Homelessness Plan (2018–2022) but remains concerned about:*

(c) Limited access to safe drinking water, and the pollution of water with chlordecone in some of the overseas territories, in particular Guadeloupe, contributing to the public health emergency; [...]

42. *The Committee draws attention to target 1.3 of the Sustainable Development Goals and recommends that the State party:*

(a) Eradicate child poverty throughout its territory and allocate the necessary human, technical and financial resources to programmes to support the children and families most in need, in particular children and families affected by the COVID-19 pandemic who are living in poverty, children in families headed by single parents or living in shanty towns, children in the overseas territories and unaccompanied migrant children; [...]

(d) Provide children in both metropolitan France and the overseas territories, in particular Mayotte, with an adequate standard of living, urgently supply the population of Guadeloupe with drinking water, pending the effective and complete repair of water and sanitation systems, and grant redress and compensation to all children who have been harmed, in particular children affected by chlordecone contamination; [...]

D. The Committee on Economic, Cultural and Social Rights

The Committee on Economic, Social and Cultural Rights reviewed France on 2 and 3 October 2023. In its concluding observations,⁶⁰ the Committee stated:

Right to water

46. *The Committee is concerned about the shortage of safe drinking water in certain regions, particularly in the overseas territories, especially Guadeloupe. It is also concerned about water pollution, including from the use of pesticides, particularly in French Guiana, Guadeloupe and Martinique, which has led to serious health problems among the population and a lack of access to safe drinking water (arts. 11 and 12).*

47. *The Committee urges the State party to:*

⁵⁹ Committee on the Rights of the Child, Concluding observations on the combined sixth and seventh reports of France, 2 June 2023, [CRC/C/FRA/CO/6-7](#).

⁶⁰ Committee on Economic, Social and Cultural Rights, Concluding observations on the fifth periodic report of France, 30 October 2023, [E/C.12/FRA/CO/5](#).

- (a) Redouble its efforts to guarantee access to safe drinking water for the entire population, in particular the most disadvantaged and marginalized groups and those living in the overseas territories and areas affected by water scarcity;*
- (b) Ensure effective protection of water resources, in particular by combating the harmful effects of pollution caused by economic activities;*
- (c) Impose sanctions and penalties on companies whose activities pollute water resources;*
- (d) Set up an adequate and sustainable wastewater management and treatment system;*
- (e) **Expand compensation programmes for people affected** by water pollution, in particular in French Guiana, Guadeloupe and Martinique;*
- (f) Develop a long-term strategy to ensure that the inhabitants of French Guiana, Guadeloupe and Martinique have access to uncontaminated water and food.*

E. The Committee on the Elimination of All Forms of Discrimination against Women

The Committee on the Elimination of All Forms of Discrimination against Women reviewed France on 17 October 2023. In its final observations,⁶¹ the Committee stated:

Health

37. [...] However, the Committee notes with concern: [...]

(c) That the pesticide chlordecone, which disproportionately affects women's health, has been detected in the blood of approximately 90 per cent of the population in Guadeloupe and Martinique;

(d) Women's limited access to drinking water in Guadeloupe, and the limited effectiveness of the Overseas Water Plan to support the creation and modernization of infrastructure; [...].

38. In line with its general recommendation No. 24 (1999) on women and health, the Committee recommends that the State party:

(c) Continue monitoring chlordecone poisoning in Guadeloupe and Martinique and provide redress to victims.

(d) Take the necessary measures to urgently supply the Guadeloupean population with adequate drinking water and sanitation, including by completing the renovation of water and sanitation systems; [...]

Despite these numerous recommendations, France has so far refused to implement emergency measures for drinking water in Guadeloupe⁶² and to extend redress and compensation measures to all those affected by chlordecone poisoning.

⁶¹ Committee on the Elimination of Discrimination against Women, Concluding observations on the ninth report of France, 14 November 2023, [CEDAW/C/FRA/CO/9](#)

⁶² [Crise de l'eau : en Guadeloupe, l'État refuse l'urgence \(blast-info.fr\)](#) [in French only]

IV. National human rights institutions

The UN Committee on Economic, Social and Cultural Rights based its concluding observations on, *inter alia*, the reports produced by national human rights institutions.

A. The Human Rights Defender

The Rights Defender's March 2023 Report entitled "Public services in the Antilles: guaranteeing access to rights"⁶³ devotes the first section to access to drinking water and makes the following recommendations:

- *Rapidly implement the commitments made to upgrade the water and sanitation networks in Guadeloupe in order to ensure access to water for all inhabitants, and, in the short term, make rolling water shutoffs more equitable;*
- *In view of the shortcomings of the water distribution service and its invoicing system, waive unpaid bills issued to private individuals before 1 January 2021, in order to restore public confidence in the water distribution service;*
- *Speed up the process of replacing water meters and move to a system whereby Guadeloupean users are billed on the basis of meter readings and the effectiveness of the drinking water distribution service;*
- *Circulate the new syndicate's service regulations to Guadeloupean users in order to ensure their buy-in and improve public information on the progress of the operations carried out by the syndicate;*
- *Standardise water prices throughout Martinique to ensure that users have equal access to drinking water;*
- *Provide more resources for on-site analysis of the quality of water taken from the network;*
- *Invite local authorities to cover the cost of bottled water when the water distributed by the networks is unfit for consumption.*

B. The National Consultative Commission on Human Rights (CNCDH)

The National Consultative Commission on Human Rights (CNCDH) report⁶⁴ to the UN Committee on Economic, Social and Cultural rights reads as follows:

40. *The CNCDH recommends that all appropriate financial measures be taken to implement the Water Action Plan.*
41. *More specifically in the overseas territories, access to water is severely hampered (regular supply cuts, water unfit for use, high prices) and has been exacerbated by the pandemic, despite the implementation of the DOM water plan in 2016 [...] In the French West Indies, water is very polluted, with more than 90% of the population contaminated by chlordecone, which infiltrates not only the soil but also food and water. Although some people have received compensation, it is still not enough. In*

⁶³ [Services publics aux Antilles : garantir l'accès aux droits - Centre de ressources et d'ingénierie documentaires de l'INSP \[in French only\]](#)

⁶⁴ https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCESCR%2FNHS%2FFRA%2F55572&Lang=en [in French only]

June 2023, the government unveiled 4 new measures to help the most vulnerable to live free of the “chlordecone risk”, in particular in the areas of agriculture, fisheries and health.

42. The CNCDH recommends that all necessary measures be taken as a matter of urgency to compensate all victims of chlordecone and to ensure that the entire population of Guadeloupe and Martinique has continuous access to drinking water.

43. The CNCDH recommends that the necessary financial and technical measures be taken so that the recently announced measures to enable people to live “chlordecone-free” may be implemented as quickly as possible.

PART 4. ALLEGED VIOLATIONS OF THE EUROPEAN SOCIAL CHARTER

I. Right to a healthy environment and right to drinking water

A. The law

The updated version of the Digest of the case law of the European Committee of Social Rights⁶⁵ states as follows:

A healthy environment

Under the Charter overcoming pollution is an objective that is to be achieved gradually. Nevertheless, States Parties must strive to attain this objective within a reasonable time, by showing measurable progress and making best possible use of the resources at their disposal.⁶⁶ The measures taken by States Parties are assessed with reference to States Parties' national legislation, regulations and undertakings entered into with regard to the European Union and the United Nations,⁶⁷ as well as in terms of how the relevant law is applied in practice.

...

Water management

In order to comply with Article 11§3 States Parties have to take preventive and protective measures concerned with water. A situation where availability of drinking water is still a problem for a significant proportion of the population is in breach of the Charter.⁶⁸

B. In the present case, in Guadeloupe

The population of Guadeloupe is denied the right to a healthy environment, in particular because of a lack of drinking water, either in sufficient quantity or of a sufficient quality. Firstly, Guadeloupe's water supply network is affected by frequent and prolonged cuts. Secondly, the water cannot be considered drinking water and hence to be satisfactory in terms of quality in the light of the right to a healthy environment. In short, the water supplied for consumption and use is not fit to drink and worse still, contains substances which are harmful to the environment. As a result, this is a situation in which the requirement for water to be available is not met.

As shown in the "Statement of facts" above (Part 2/I) and the description of the persons affected (Part 2/III), water cuts and the supply of undrinkable water affect practically the entire population, in other words over 380 000 people.

C. The situation in Guadeloupe and in Martinique

The populations of Guadeloupe and Martinique have been deprived of a healthy environment through the widespread use over the last twenty years of the pesticide chlordecone. This toxic substance pollutes the soil and water in these territories – and as a result the food –, causing poisoning risks to

⁶⁵ Updated version of the Digest of the case law of the European Committee of Social Rights – Social rights (coe.int)

⁶⁶ Marangopoulos Foundation for Human Rights (MFHR) v. Greece, Complaint No. 30/2005, decision on the merits of 6 December 2006, §§ 203 and 205

⁶⁷ Conclusions XV-2 (2001), Italy

⁶⁸ Conclusions 2013, Georgia

build up. As outlined above and noted by a parliamentary commission of inquiry on the matter, chlordecone is regarded as an endocrine-disrupting and carcinogenic substance.⁶⁹

The proportion of the population with chlordecone poisoning has reached 95% in Guadeloupe and 92% in Martinique, which amounts to at least 650 000 people. These figures come from a study published by the French national public health agency, Santé publique France.⁷⁰ The study highlights the build-up of risks of exposure to chlordecone, resulting in a particularly high diffusion. Among the risk factors are the consumption of self-produced food such as fresh fish, shellfish and molluscs, and root and tuber vegetables. These foods all come from these territories, showing that chlordecone has permeated all the elements of Guadeloupe's and Martinique's environment.

The seriousness of this situation – directly affecting almost the entire population of Guadeloupe and Martinique – is alarming. The Parliamentary Commission has called it a “health disaster” prompted by the use of an ultra-toxic pesticide. Mr David R. Boyd, the UN Special Rapporteur, has listed these territories among the areas of the world which have been “sacrificed” to extreme chlordecone pollution and urges the French Government to detoxify these sacrificed zones as a matter of urgency and eradicate environmental injustices.

It is clear from the foregoing that the right to a healthy environment, as interpreted in the light of Article 11§3 of the Charter, and the right to water, as interpreted by the Committee in the light of European and international law, have been violated:

- firstly, in Guadeloupe, because the water supply there is widely polluted and undrinkable;
- and secondly, in Guadeloupe and Martinique, because the widespread use of chlordecone has contaminated the soil, water and food, still affecting the inhabitants' environment to this day.

II. Article 11: Right to protection of health

A. In law

Article 11§3 of the Charter states as follows:

“With a view to ensuring the effective exercise of the right to protection of health, the Parties undertake, either directly or in co-operation with public or private organisations, to take appropriate measures designed inter alia:

3. to prevent as far as possible epidemic, endemic and other diseases, as well as accidents.”

In addition, Article E of the Charter reads:

“The enjoyment of the rights set forth in this Charter shall be secured without discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national extraction or social origin, health, association with a national minority, birth or other status”.

The right to health is linked to the right to life, which is enshrined in several regional and international treaties. For instance, Article 2 of the European Convention on Human Rights, to which France is a

⁶⁹ Inquiry report No. 2440 - Volume I, report on behalf of the commission of inquiry on the economic, environmental and health impact of the use of chlordecone and paraquat as agricultural insecticides in the territories of Guadeloupe and Martinique, and the public and private responsibilities resulting from the extension of their authorisation while assessing the need and the arrangements for the reparation of the losses of the victims and of these territories, published [in French only] on 2 December 2019, https://www.assemblee-nationale.fr/dyn/15/rapports/cechlordec/l15b2440-ti_rapport-enquete

⁷⁰ Kannari study [in French only]. Imprégnation de la population antillaise par la chlordécone et certains composés organochlorés en 2013/2014, pages 27 and 31.

signatory, protects the right to life. It places a positive obligation on States to take appropriate steps to safeguard the lives of those within their jurisdiction, which applies in the context of any activity, whether public or not and in particular in the case of activities which are dangerous by nature.⁷¹

The Committee has already highlighted the importance of dignity in the context of the right to protection of health provided for in Article 11.⁷²

It is worth noting that the Committee has repeatedly stated that this article also protects the right to a healthy environment.⁷³ States Parties have a positive obligation to adopt every possible measure to prevent illnesses. Account is taken of developments deriving from other international human rights instruments. For instance, the European Court of Human Rights and the European Committee of Social Rights take account of links between the Convention system and the Charter system when examining the cases referred to them and apply very similar criteria. This is the case in particular with Articles 2 and 8 of the European Convention on Human Rights, to which France is a signatory.⁷⁴ For instance, in a decision in 2013, the Committee considered that the Greek public authorities' tardiness in admitting the seriousness of the pollution of a river and its harmful effects on the surrounding population's health and its belated response exacerbated the causes of the inhabitants' ill-health and undermined efforts to prevent illness. As a result, it concluded that there had been a violation of Article 11.⁷⁵

When read in conjunction with Article E of the Charter, Article 11 implies that healthcare must be effective and affordable for all and that particularly vulnerable groups such as the homeless, persons in situations of poverty, elderly people, and persons with disabilities must be given increased protection because of their vulnerability. The Committee has pointed out that the right to protection of health includes the right of access to healthcare, and that even during pandemics, everyone must have access to healthcare without discrimination.⁷⁶

At national level, health protection is referred to in the Preamble to the French Constitution:

“[The Nation] shall guarantee to all, notably to children, mothers and elderly workers, protection of their health, material security, rest and leisure” (paragraph 11).

French law also refers to the issue of preventing health risks linked to environmental degradation. This is reflected, for example, in Article L. 1411-1 of the Public Health Code, under which the state's health policy includes promoting health in all walks of life, particularly in schools and the workplace, and reducing health risks linked to eating habits, environmental factors and living conditions liable to cause it harm.

Article L. 1321-1 of the Public Health Code is worded as follows:

“Water destined for human consumption shall be clean and healthy as this is essential for its use for drinking, the preparation and cooking of food, personal hygiene, general hygiene and cleanliness, other domestic uses in public and private spaces and the preparation of food and goods destined for human consumption in food sector companies”.

Lastly, Article L. 210-1, paragraph 3, of the Environment Code provides as follows:

⁷¹ ECHR, Grand Chamber, 30 November 2004, *Öneriyildiz v Turkey*, Application No. 48939/99, paragraph 71.

⁷² ECSR, International Federation of Human Rights Leagues (FIDH) v. France, Complaint No. 14/2003, decision on the merits of 8 September 2004, paragraph 31.

⁷³ ECSR, International Federation for Human Rights (FIDH) v. Greece, Complaint No. 72/2011, decision on the merits of 23 January 2013, paragraph 51.

⁷⁴ ECSR, Marangopoulos Foundation for Human Rights (MFHR) v. Greece, Complaint No. 30/2005, decision on the merits of 6 December 2006, paragraphs 195 and 196.

⁷⁵ ECSR, International Federation for Human Rights (FIDH) v. Greece, Complaint No. 72/2011, decision on the merits of 23 January 2013, paragraphs 130 and 153.

⁷⁶ ECSR, Validity v. Finland, Complaint No. 197/2020, 22 March 2023, paragraph 41.

“In the context of laws and regulations and previously established rights, water use belongs to everyone and all natural persons shall have the right of access to drinking water in accordance with the arrangements and for the essential purposes referred to in Article L. 1321-1 A of the Public Health Code under economically acceptable conditions for all”.

B. In the present case, in Guadeloupe

In the present case, the undrinkable nature of the water, whether caused by the disrepair of pipes which have become permeable to metal residues and bacteriological intrusions, by water treatment failures resulting in the presence of germs or by chlordecone pollution, makes it a constant, serious and direct threat to human health and life.

1. Effects on households

Firstly, the lack of drinking water in homes, public institutions and private establishments renders proper hygiene impossible and undermines the prevention of epidemics.

Because of water cuts and water pollution, people cannot wash themselves, brush their teeth, wash up, do their laundry, wash floors or bathrooms, or cook.

In particular, at the height of the pandemic in 2020 and 2021, the lack of water made it impossible to take basic protective measures and regularly wash hands, thus inevitably exposing the population to an increased risk of coronavirus infection and, more generally, to any other type of epidemic.

2. Effects on healthcare facilities

Secondly, the lack of drinking water impedes the proper functioning of healthcare facilities.

Untimely cuts and undrinkable water affect the working conditions of the entire staff of public institutions, particularly of health facilities.

Hospitals, clinics and laboratories do not have the means of ensuring that minimum health and safety standards are respected during normal times and still less in the event of epidemics (such as Covid and dengue fever). Among the problems recorded were a case of faecal matter being found in tap water in a hospital in Basse-Terre⁷⁷ and testing laboratories, which were under extreme pressure for Covid-19 testing, reporting unacceptable working conditions endangering the health of both staff and patients. There is not enough water to ensure basic hygiene standards such as the cleaning of toilet and bathroom facilities.

In a video⁷⁸ projected at the UN Water Conference on 23 March 2023, a Guadeloupean household gives their account of serious water cuts and dirty water at home and at hospitals. This average household is made up of a couple and their daughter, who has a disability. They describe the huge impact that water supply problems are having on their daily life, affecting the medical care of their daughter. This illustrates the challenges that most Guadeloupeans face, particularly the most vulnerable groups. Among other things it is reported how, in hospitals, water is rationed to 1.5 litres per day per room. The video is part of the digital campaign run by End Water Poverty.

C. In the present case, in Guadeloupe and Martinique

Chlordecone contamination has direct, serious and obvious effects on the health of:

- men: In 2019, a French study confirmed the carcinogenic potential of chlordecone and its link with prostate cancer, which is twice as common, twice more serious and three times more likely to

⁷⁷ <https://la1ere.francetvinfo.fr/guadeloupe/centre-hospitalier-basse-terre-eaux-troubles-526783.html> [in French only]

⁷⁸ End Water Poverty, “#HearingTheUnheardHRWS: Marginalised Communities Fighting for Water & Sanitation (Part 1)”, accessible [online](#), from minute 00:54 to minute 2:43, published on 27 March 2023 [consulted on 25 November 2023].

recur in the French West Indies than in metropolitan France.⁷⁹ Martinique has the highest rate in the world.

- pregnant women and children: Several studies have shown that exposure to this neurotoxic substance increases the risk of premature birth and affects children's cognitive and behavioural development.⁸⁰ Fine motor skills and recent memory have been affected in over 500 French West Indian children undergoing treatment since 2004.⁸¹
- women: In 2022, a study was published in which the link was highlighted between exposure to chlordecone, which is acknowledged to be an endocrine disruptor, and the onset of chronic illnesses such as breast cancer and cancer of the uterus, along with mortality.⁸²

Contamination also has indirect and invisible effects on health and an ultra-toxic organochlorine pesticide is liable to be the source of many other pathologies or to make them worse. Inevitably its effects on the life and the health of the population are largely undocumented. During the scandal which resulted in the ban on chlordecone (under the brand name Kepone) in the United States in 1975, studies already showed its adverse effects on neurological and reproductive systems, and on the liver, the skin and the eyes.⁸³

It is clear from the foregoing that the right to protection of health, guaranteed by Article 11 of the Charter, is being violated:

- **in Guadeloupe, because the lack of drinking water is harming the users of public services, particularly the healthcare service, and because the country's water is heavily contaminated by various sources of pollution;**
- **and in Guadeloupe and Martinique because the contamination of soil, water and foodstuffs is still having serious adverse effects on health.**

III. Article 17 §1 a): Right of children and young persons to social, legal and economic protection

A. In law

Article 17 of the Charter reads as follows:

"With a view to ensuring the effective exercise of the right of children and young persons to grow up in an environment which encourages the full development of their personality and of their physical and mental capacities, the Parties undertake, either directly or in co-operation with public and private organisations, to take all appropriate and necessary measures designed:

1.a. to ensure that children and young persons, taking account of the rights and duties of their parents, have the care, the assistance, the education and the training they need, in particular by providing for the establishment or maintenance of institutions and services sufficient and adequate for this purpose".

⁷⁹ Multigner, L., Ndong, J. R., Giusti, A., Romana, M., Delacroix-Maillard, H., Cordier, S., Jégou, B., Thome, J. P., & Blanchet, P. (2010). Chlordecone Exposure and Risk of Prostate Cancer. In *Journal of Clinical Oncology* (Vol. 28, Issue 21, p. 3457-3462). American Society of Clinical Oncology (ASCO). <https://doi.org/10.1200/jco.2009.27.2153>

⁸⁰ Study by the French National Health and Medical Research Institute, INSERM, of 27 February 2023 in *Environmental Health, Prenatal and childhood chlordecone exposure, cognitive abilities and problem behaviors in 7-year-old children: the TIMOUN mother-child cohort in Guadeloupe* | Environmental Health | Full Text (biomedcentral.com).

⁸¹ See also the review of the 3rd chlordecone plan and proposals, 2020 [in French only].

⁸² Study by Laurence Huc, toxicologist (December 2022), p.6.

⁸³ The Kepone Environmental Disaster - Encyclopedia Virginia.

Children are vulnerable persons, for whom drinking water and sanitation are essential. A lack of drinking water makes children more prone to illness and access to drinking water in schools can determine the quality of the education they are given. It is essential therefore that children have drinkable water at home and at school.

The Committee has stated that the goal of the Charter is to protect rights not merely theoretically, but also in fact.⁸⁴ In this connection, the Committee generally refers to the International Convention on the Rights of the Child, as interpreted by the UN Committee on the Rights of the Child, when it rules on allegations of violations of children's rights guaranteed by the Charter.⁸⁵ Article 28 of the UN Convention protects the right of children to education.

The situation of children deprived of water has already been condemned by the Committee, which noted that this deprivation affects both the children's health and their attendance at school and social development.⁸⁶ In the case cited, the Committee found that the State Party failed to guarantee equal access to decent housing for children living in a disadvantaged neighbourhood. It found a violation of Article 17 of the Charter read in conjunction with Article E.⁸⁷

Under Article 17, the Charter requires children to have proper access to health and education. The Committee has established a link between education and housing,⁸⁸ as it considers that the right of the child is not materially protected and effective unless the general environment makes it possible for it to be enjoyed. This implies, in particular, adequate, decent housing, i.e. housing which possesses all basic amenities such as running water.⁸⁹ It is not enough just to have water; the drinking water must be affordable for families which lack sufficient means.

Therefore, Article 11 may be read in conjunction with Article 17, such that a violation may derive from living conditions which do not encourage regular school attendance.⁹⁰

B. In the present case, in Guadeloupe

Because of frequent water cuts and undrinkable water, thousands of children are denied access to ongoing, high-quality education of a comparable level to that provided in metropolitan France.

The parliamentary inquiry of 2021 shows that on average children miss one and a half months of schooling per year because of school closures resulting from water cuts.⁹¹ The Human Rights Defender states that the number of school days in the French West Indies is lower than that of metropolitan France. In Guadeloupe, up to 20% of school days were lost in 2021 and were not made up for, and a breakdown of school canteen services⁹² formed one of the obstacles to access to education.⁹³

In 2020, 2021 and 2022, the school year began several weeks late because a large number of schools had been unable to meet the necessary health standards to respect protective measures against Covid-

⁸⁴ ECSR, International Commission of Jurists (CIJ) v. Portugal, Complaint No. 1/1998, decision on the merits, 9 September 1999, paragraph 32.

⁸⁵ ECSR, European Roma and Travellers Forum (ERTF) v. France, Complaint No. 119/2015, paragraph 70.

⁸⁶ ECSR, Defence for Children International (DCI), European Federation of National Organisations working with the Homeless (FEANTSA), *Magistrats Européens pour la Démocratie et les Libertés* (MEDEL), *Confederación Sindical de Comisiones Obreras* and International Movement ATD Fourth World v. Spain, Complaint No. 206/2022, paragraph 215.

⁸⁷ *Idem*, paragraph 294.

⁸⁸ ECSR, European Roma and Travellers Forum (ERTF) v. France, Complaint No. 119/2015, paragraph 45.

⁸⁹ *Idem*, paragraphs 73 and 124.

⁹⁰ ECSR, European Roma and Travellers Forum (ERTF) v. France, Complaint No. 119/2015.

⁹¹ [Report of the Parliamentary Commission of Inquiry on the stranglehold of private interests on water resources and its consequences – No. 4376](#) [in French only], pp. 17-18.

⁹² See for example [Baie-Mahault : cantines scolaires fermées jeudi et vendredi - Guadeloupe la 1ère \(francetvinfo.fr\)](#)

⁹³ [Rapport - Services publics aux Antilles : garantir l'accès aux droits | Défenseur des Droits](#). Findings and recommendations of the Human Rights Defender after a visit with a delegation to the French West Indies from 23 November to 3 December 2022 (defenseurdesdroits.fr) [in French only]

19. The French Economic, Social and Environmental Council (CESE),⁹⁴ which refers to the situation in Guadeloupe as one that has become a “systemic crisis” and talks of “damning findings” – noted that at the beginning of the school year in 2020, 40 primary schools, one lower secondary school and two upper secondary schools were closed because of water shortages.⁹⁵

On 9 and 10 May 2023, the UN Committee on the Rights of the Child (CRC) asked France about the short-, medium- and long-term measures it was planning to remedy the “inhuman conditions” and living “nightmare” experienced by the population of Guadeloupe because of its drinking water crisis.

In its Concluding Observations of 2 June 2023, the CRC stated as follows:

“The Committee ... remains concerned about: ...

(d) Limited access to safe drinking water and water pollution with chlordecone in some parts of the overseas territories, in particular in Guadeloupe, contributing to the public health emergency”.

In addition, “the Committee draws attention to target 1.3 of the Sustainable Development Goals and recommends that the State party ...

(d) Provide children both in metropolitan France and overseas territories with adequate standards of living ... and urgently supply the population of Guadeloupe with drinking water pending the effective and complete repair of the water and sanitation systems and grant redress and compensation to all children harmed, in particular children affected by chlordecone contamination”.

The Committee also adopted a general comment (No. 26) on children’s rights and the environment, with a special focus on climate change. This document contained more than twenty references to clean drinking water as a component of the right to the environment, in the context of a climate emergency which was already having an alarming impact on Guadeloupe and the French West Indies.⁹⁶

From the foregoing it is clear that in Guadeloupe, the right of children and young persons to social, legal and economic protection, as guaranteed by Article 17 §1 a) of the Charter, is being violated insofar as children are denied proper access to healthcare and education for reasons including the chronic shortage of drinking water in schools.

IV. Article 30: Right to protection against poverty and social exclusion

A. In law

Article 30 of the Charter reads as follows:

a. “With a view to ensuring the effective exercise of the right to protection against poverty and social exclusion, the Parties undertake: to take measures within the framework of an overall and co-ordinated approach to promote the effective access of persons who live or risk living in a situation of social exclusion or poverty, as well as their families, to, in particular, employment, housing, training, education, culture and social and medical assistance;

b. to review these measures with a view to their adaptation if necessary.”

⁹⁴ The CESE is an assembly established by constitutional law, which advises the authorities on economic, social and environmental matters. It takes part in the assessment of public policies. The Council’s work begins with the referral of a matter to it, on which it is asked to prepare an opinion, a report, a study or a resolution. Referrals may be made by the Government or the Parliament or by petition or the Council may take up a matter of its own accord.

⁹⁵ Ibid. 10

⁹⁶ Committee on the Rights of the Child, General comment No. 26 (2023) on children’s rights and the environment, with a special focus on climate change, 22 August 2023, [CRC/C/GC/26](#).

This article can be read in conjunction with Article E of the Charter on the principle of non-discrimination. In this case, a violation of these provisions will be established if the effect of the impugned law, regulation, measure or conduct is to exacerbate the situation of poverty or social exclusion or the risk of poverty of the persons concerned, to deprive them of the enjoyment of certain rights such as the right to education or to make it difficult or more difficult to access services.⁹⁷

The result is that States Parties are required to adopt measures to promote access to fundamental social rights, particularly in the areas of employment, housing, training and education and to remove any obstacles which impede such access. Living in poverty or social exclusion undermines human dignity.

There is a great deal of French administrative case law on the subject. The Conseil d'Etat for instance acknowledges the importance of the cost of water.⁹⁸ Civil case law for its part holds that public companies have an obligation of result to provide clean water for human consumption.⁹⁹

This is consistent with European case law, under which a situation in which national authorities fail to ensure the execution of a judicial decision ordering a private water supply company operating under a public concession to connect a flat to the water supply network constitutes a violation of effective access to a court under the European Convention of Human Rights.¹⁰⁰

B. In the present case, in Guadeloupe

The French National Institute for Statistics and Economic Research (INSEE) states as follows:

- “In 2022, prices were higher in the overseas *départements* than in metropolitan France, particularly for foodstuffs (including bottled water), ranging from 9% higher in Réunion to 16% in Guadeloupe. For all such *départements*, the price gaps had risen since 2015. These gaps are accounted for mainly by the high expense of goods and especially of foodstuffs, for which the prices paid by households are between 30 and 42% higher”.¹⁰¹
- “Extreme poverty is 5 to 15 times more frequent in overseas *départements* than in metropolitan France. It is also more acute.”¹⁰²
- 34.5%¹⁰³ of the population of Guadeloupe (as compared to 14.6% in metropolitan France) live below the poverty line of €1102 per month.¹⁰⁴ Half the population earn less than €1314 per month (€1310 in 2017), whereas the equivalent figure for metropolitan France is €1837 (€1700 in 2017), where prices are at least 16% higher. It can be concluded from this that at least half of Guadeloupeans do not have an adequate standard of living.

Furthermore, despite the regular and numerous water cuts, neither the water supply operator nor the authorities take any of the following measures:

- systematic water supply replacement measures;
- cancellation or reduction of water bills during disruptions;

⁹⁷ ECSR, European Roma and Travellers Forum (ERTF) v. France, Complaint No. 119/2015, paragraph 127.

⁹⁸ Conseil d'État, 14 October 2009, Municipality of Saint-Jean d'Aulps v. Syndicat des copropriétaires de l'immeuble Relais de la Terche et autre, No. 300608 [in French only].

⁹⁹ Court of Cassation, Civil Division 1, 30 May 2006, Monsieur X v. Syndicat d'Adduction d'Eau du Trégor, 03-16.335 [in French only].

¹⁰⁰ ECHR, 14 February 2008, *Butan and Dragomir v. Romania*, No. 40067/06.

¹⁰¹ En 2022, les prix restent plus élevés dans les DOM qu'en France métropolitaine, en particulier pour les produits alimentaires - Insee Première - 1958 [in French only]

¹⁰² La grande pauvreté bien plus fréquente et beaucoup plus intense dans les DOM - Insee Focus - 270 [in French only]

¹⁰³ L'essentiel sur... la Guadeloupe | Insee [in French only]

¹⁰⁴ Ibid.

- compensation for losses sustained.

Yet tap water and bottled water is the most expensive in France. In 2021, the average price of collective water supply and sanitation in Guadeloupe was €6.52/m³ compared to €4.30/m³ nationally. Costs are constantly going up. Suppliers also overcharge private customers based on estimates rather than real water consumption and put pressure on the population by claiming sometimes exorbitant amounts through garnishment from bank accounts ordered by the public revenue department (particularly when uncontrolled leaks occur) with unrealistic time limits. Many households have had to buy water tanks (costing about €3 000) to offset water shortages and/or are forced by undrinkable tap water to buy bottled water, which is two to three times more expensive than in metropolitan France.¹⁰⁵ These costs are impossible to cover for most of the population, one third of whom live under the poverty threshold.

In addition, two crucial parts of the Brottes Law of 2013 seeking to prepare for the transition to a clean energy system and setting out various provisions on the pricing of water and wind turbines are not applied in Guadeloupe, namely:

- the introduction of a solidarity fund for households and/or other measures for social pricing of water (for example “water cheques” equivalent to the “electricity cheques” given to Guadeloupe’s poorest households);
- the cancellation or reduction of bills in the event of private individuals being charged for water leaks from the public network (a major problem in Guadeloupe, where water loss through leakage can reach 80%).

The water supply system is therefore inadequate in terms of quantity and quality, frequently unavailable, physically inaccessible, unacceptable, expensive for everyone and unaffordable for a large section of the population, in breach of this article of the Charter.

On 2 and 3 October 2023, the UN Committee on Economic, Social and Cultural Rights questioned France on these inequalities.

In its Concluding Observations, it expresses its concern and recommends that France “give priority to tackling poverty and extreme poverty in the overseas territories” (paragraphs 38-39). It also expresses its concern about the shortage and poor quality of drinking water in Guadeloupe and urges France to “redouble its efforts to guarantee access to safe drinking water for the entire population” (paragraphs 46 and 47).¹⁰⁶

It is clear from the foregoing that in Guadeloupe, the right to protection against poverty and social exclusion, as guaranteed by Article 30 of the Charter, is being violated because the costs of public water and bottled water are unaffordable and disproportionate compared to the rest of the French territories.

V. Article 31.1: Right to housing

A. In law

Article 31 of the Charter states as follows:

¹⁰⁵ Report by the Human Rights Defender, *Services publics aux Antilles : garantir l'accès aux droits*, 2023, p. 9 [in French only].

¹⁰⁶ Committee on Economic, Social and Cultural Rights, Concluding observations on the fifth periodic report of France, 30 October 2023, E/C.12/FRA/CO/5, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolNo=E%2FC.12%2FFRA%2FCO%2F5&Lang=en

“With a view to ensuring the effective exercise of the right to housing, the Parties undertake to take measures designed:

1. to promote access to housing of an adequate standard”.

At international level

States Parties must guarantee everyone the right to adequate housing, which is intrinsically linked to human dignity. Several international human rights treaties enshrine this right, including Article 11 of the International Covenant on Economic, Social and Cultural Rights, Article 28 of the Convention on the Rights of Persons with Disabilities and Article 14 of the Convention on the Elimination of All Forms of Discrimination against Women.

In General Comment No. 4, the UN Committee on Economic, Social and Cultural Rights states as follows:

“An adequate house must contain certain facilities essential for health, security, comfort and nutrition. All beneficiaries of the right to adequate housing should have sustainable access to natural and common resources, **safe drinking water**, energy for cooking, heating and lighting, **sanitation and washing facilities**, means of food storage, refuse disposal, site drainage and emergency services”.¹⁰⁷

At European level

In its decision on a complaint about the situation of a neighbourhood deprived of water for decades, the European Committee of Social Rights listed the essential items for housing to meet the “adequate housing” requirement laid down in Article 31§1. These include water.¹⁰⁸ The Committee also points out that this article places obligations on States Parties in terms of accommodation of families.¹⁰⁹

In a recent judgment, the European Court of Human Rights recognised that “water was necessary for human survival and a persistent and long-standing lack of access to it could have adverse consequences for health and human dignity effectively eroding the core of private life and the enjoyment of a home”.¹¹⁰

In addition, Directive (EU) 2020/2184 of the European Parliament and of the Council of 16 December 2020 on the quality of water intended for human consumption gives a definition of access to water, focusing on its basic uses for cleaning and cooking. It was transposed into French law by Order No. 2022-1611 of 22 December 2022 on access to and the quality of water intended for human consumption, Decree No. 2022-1721 of 29 December 2022 on improving conditions of access for all to water intended for human consumption and several related regulations. Article 1 of the second decree states as follows:

“The sufficient quantity of water intended for human consumption referred to in Article L. 1321-1 A shall be understood to amount, depending on the circumstances of the persons concerned, to between fifty and one hundred litres per person per day at the person’s home or in any other place they live”.

At national level

Article L. 201-1 of the Environment Code provides that “all natural persons shall have the right of access to drinking water”.

¹⁰⁷ General comment No. 4: The right to adequate housing (art. 11 (1) of the Covenant), paragraph 8 b)

¹⁰⁸ ECSR, European Roma Rights Center (ERRC) v. Portugal, Complaint No. 61/2010, Decision on the merits, 30 June 2011, paragraph 36.

¹⁰⁹ ECSR, European Roma Rights Center (ERRC) v. Belgium, Complaint No. 185/2019, 8 December 2022, paragraph 81.

¹¹⁰ ECHR, 7 September 2020, *Hudorovic and Others v. Slovenia*, Nos. 24816/14 and 25140/14.

In addition, the French Criminal Code punishes persons who subject anyone whose vulnerability or state of dependence is known to them to working or housing conditions which are incompatible with human dignity (Article 225-14). Penalties are increased if the victims are vulnerable persons.

Furthermore, Article 3 of the Decree of 30 January 2002 on the characteristics of decent housing, implementing Article 187 of the Law of 13 December 2000 on solidarity and urban renewal, states as follows:

“Housing includes the following amenities and conveniences: ...

1. A system for the supply of drinking water situated inside the dwelling and with sufficient pressure for normal use by the occupants”.

These provisions help to secure decent living conditions, including access to a clean and adequate supply of drinking water. This body of law is applicable to all overseas territories, including Guadeloupe.

B. In the present case, in Guadeloupe

Over 170 000 households across the entire territory, made up of all generations and all socio-economic backgrounds, are regularly deprived of access to water and hence to suitable housing, as reflected by the following individual case.

In 2020, Isabelle,¹¹¹ 32, was renting a house in a rural area. She was living with a partner and expecting a child. In response to the Covid-19 epidemic, the government ordered a national lockdown from 16 March to 11 May 2020. During these 56 days, Isabelle and her partner had no access to tap water for 40 successive days. Three months pregnant, Isabelle was forced to travel to and from her mother’s house over 30 km away about twice a week to do her laundry, her washing up, take showers, meet her basic physical hygiene needs and stock up on water. During this period, a thin trickle of water was restored for two nights between 11 at night and 5 in the morning. Her partner and she spent all or part of these nights filling large numbers of water bottles and cleaning their floors and bathrooms. Isabelle notified the negligent water supplier and the local and state authorities about the logistical and financial pressures this entailed (the cost of bottled water, petrol, etc.) and all the stress that this was creating for her. In reply, the authorities stated that they were aware of the population’s needs in this emergency context, and that back-up water tanks would be distributed in the areas most affected by the water cuts. The nearest of these was set up at the primary school 2 km from Isabelle’s home. People lined up for these in long queues under the hot sun, then filled their cans with non-drinking water intended for essential needs not including consumption. In her state, Isabelle was neither capable nor willing to fetch water under these conditions for fear among other things of exposing herself to an increased risk of Covid-19 infection. She continued making return journeys to her mother’s house and decided with her partner to move house. On the day before the move, on 29 May 2020, Isabelle was rushed to hospital and sadly, after 19 weeks of pregnancy, she lost the baby. The doctors would conclude that the baby’s death was the result of a bacterial infection.

This moving example, which is unfortunately not an isolated case, illustrates that the systematic violation of the right to water and sanitation in Guadeloupe results in a series of other serious breaches of persons’ fundamental rights including the right to suitable housing, the right to health, the right to dignity and the right to life.

It is clear from the foregoing that, in Guadeloupe, the right to housing, as guaranteed in Article 31.1 of the Charter, is being violated because households are not being supplied with drinking water in a consistent and acceptable manner.

¹¹¹ The name of the victim has been changed for reasons of confidentiality.

VI. Article E: principle of non-discrimination

A. In law

Article E of the Charter reads as follows:

“The enjoyment of the rights set forth in this Charter shall be secured without discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national extraction or social origin, health, association with a national minority, birth or other status.”

The principle of non-discrimination implies both a negative obligation, demanding that it is prohibited to treat a person differently because of their identity or their association with a particular group, and a positive obligation, requiring States Parties to treat persons in a different situation differently.¹¹²

There are no situations of comparable seriousness in metropolitan France as regards access to drinking water as that which still prevails in Guadeloupe as well as other overseas *départements* such as Mayotte.

However, as demonstrated previously, the cost of water and sanitation is significantly higher than that on the European continent.

This less favourable treatment of water users in Guadeloupe is a blatant violation of the principles of equality and non-discrimination and is clearly in breach of the Constitution, Law No. 2008-496 of 27 May 2008 establishing various provisions to adjust to Community law in the area of anti-discrimination measures and the Law of 2017 promoting genuine equality in overseas *départements*.

1. On the breach of the Constitution

Pursuant to this principle, it is for the state to ensure that the same quality of public service is provided, and the same efforts are made throughout its territory. In French law, the principle of equality of users before the public services is a constitutional principle enshrined in Article 1 of the French Constitution.

For instance, in accordance with the constitutional principle of equality before the French law, the Constitutional Council has found repeatedly that different treatment of individuals was only possible if the criteria applied in the relevant legislation were “objective and rational”¹¹³ in the matter at hand and adopted in the general interest. This has also been the view of the Conseil d’Etat, whether in its individual or general decisions.¹¹⁴

In the instant case, the difference in treatment brought about cannot be justified by the general interest. Rather, by especially affecting certain categories of individual, namely the population living in Guadeloupe, this difference in treatment clashes head-on with the principle of equality before the law.

2. On the breach of the law

There is also discrimination under Law No. 2008-496 of 27 May 2008 establishing various provisions to adjust to Community law in the area of anti-discrimination measures. Article 1, paragraph 2, of this law states, in the applicable wording, that indirect discrimination is constituted by:

“a provision, criterion or practice that may appear neutral but is liable to result in a particular disadvantage on one of the prohibited grounds for some people compared to others, unless this provision, criterion or practice is objectively justified by a legitimate aim and the means for achieving this aim are necessary and appropriate”.

- **Restrictions on access to a service**

¹¹² ECSR, Autism-Europe v. France, Complaint No. 13/2002, decision on the merits, 4 November 2003, paragraph 52

¹¹³ See for example decision No. 96-375 DC, 9 April 1996, *Rec.*, p. 60, cons. 8; decision No. 97-389 DC of 22 April 1997, Law establishing various provisions on immigration [in French only].

¹¹⁴ See Conseil d’Etat, Section decision, 10 May 1974, *Denoyez et Chorques*, *Rec. Leb.*, p. 274 No. 452806 [in French only]

Article 2 of the aforementioned Law of 2008 prohibits “all direct or indirect discrimination affecting access ... to services or the supply of ... services”.

Article 5 of the law stipulates that this provision applies to public persons.

There is no doubt in the present case that access to the water supply service, which is deficient to say the least, falls within the scope of the Law of 2008.

The Conseil d’Etat has moreover already accepted a broad interpretation of the scope of these provisions (CE decision, 15 November 2017, No. 403275, *LDH*).

- **Difference in treatment on a prohibited ground**

Under Article 1, paragraph 1, of the Law of 2008, the prohibited grounds for a difference in treatment include, in particular, origin, special vulnerability deriving from economic circumstances, place of residence, state of health, loss of autonomy, disability, age and ability to express oneself in a language other than French.

Here again, the Conseil d’Etat has accepted a broad interpretation of these grounds (CE decision, 10 January 2011, No. 325268, *Madame Leveque*).

B. In the present case, in Guadeloupe

In the light of the telling findings outlined above, it is clear that the shortfall in the supply of drinking water for persons residing in Guadeloupe constitutes a difference in treatment compared to persons living in metropolitan France, disadvantaging them in a disproportionate and unwarranted manner.

The lack of any objective justification through a legitimate aim and the fact that the means deployed are not necessary and appropriate must prompt the Committee to consider that there is obvious discrimination.

It should be noted moreover that among the victims of this discrimination are children, women, elderly persons, persons with disabilities and migrants, who form groups of vulnerable persons with particular needs who are specifically protected by international law and for whom the French authorities do not seem to have any regard.

Discrimination with regard to rights between metropolitan and overseas France was noted by several states in the last Universal Periodic Review (UPR) of France, on 1 May 2023.¹¹⁵ In September 2023, France accepted 274 of the 355 recommendations made to it including:

- the Recommendations of Vanuatu (185), Sri Lanka (186), Ireland (187) and Costa Rica (342), calling on France to guarantee the rights to water and sanitation of all the people present on its territory;
- and the Recommendations of the Bahamas (34), Benin (35) and Angola (176), calling on France to take measures to guarantee access to economic, social and cultural rights in its overseas territories and to reduce inequalities with metropolitan France.

Furthermore, in October 2023, in its aforementioned Concluding Observations, the UN Committee on Economic, Social and Cultural Rights, also stated as follows:

¹¹⁵ [A/HRC/54/5 \(un.org\)](https://www.un.org/ahrc/54/5)

Overseas territories

16. The Committee is concerned about the lack of adequate resources and public policies to ensure the full enjoyment of economic, social and cultural rights in the overseas territories (art. 2 (2)).

17. The Committee recommends that the State party provide adequate financial and human resources for the administrations in the overseas departments and regions and the overseas collectivities, so that all inhabitants of the State party enjoy economic, social and cultural rights on an equal footing.

It is clear from the foregoing that the situation described is in breach of Article E because it constitutes discrimination against the population of Guadeloupe, who are denied access to a public service because of their place of residence.

PART 5. IMMEDIATE MEASURES

I. Rules of procedure

Under Rule 36 of the Rules of Procedure of the European Committee of Social Rights, the Committee may adopt immediate measures. It may indicate them at the request of a party or on its own initiative at any time, during the admissibility stage or later in the proceedings. The aim of these measures is to avoid the risk of irreparable injury or harm to the persons concerned and ensure proper respect of the rights enshrined in the Charter.

II. Case law

In a decision on admissibility and immediate measures relating to Defence for Children International (DCI), European Federation of National Organisations working with the Homeless (FEANTSA), Magistrats Européens pour la Démocratie et les Libertés (MEDEL), Confederación Sindical de Comisiones Obreras (CCOO) and International Movement ATD Fourth World v. Spain, Complaint No. 206/2022, the Committee states as follows:

12. The Committee underlines the exceptional character of immediate measures. The adoption of said measures must appear “necessary to avoid irreparable injury or harm to the persons concerned” (Rule 36§1), insofar as “the aim and purpose of the Charter, being a human rights protection instrument, is to protect rights not merely theoretically, but also in fact” (International Commission of Jurists v. Portugal, Complaint No. 1/1998, decision on the merits of 9 September 1999, §32).

13. Any request for immediate measures must establish a tangible situation in which the persons concerned by the complaint find themselves at risk of serious irreparable injury or harm (Conference of European Churches (CEC) v. the Netherlands, Complaint No. 90/2013, decision on immediate measures of 25 October 2013, §2; Association for the Protection of all Children (APPROACH) Ltd v. Belgium, Complaint No. 98/2013, decision on immediate measures of 2 December 2013, §2).

III. Reasons justifying immediate measures

A. Drinking water in Guadeloupe

The FIDH submits that the population of Guadeloupe is facing a situation of exceptional and tangible seriousness in which the persons concerned are at risk of grave and irreparable injury or harm both because of water cuts and because of undrinkable water.

As early as 2018, Maëva Barret, a mother of two young children living in Sainte-Anne gave the following account: “In our home, a shower is two bottles of cold water per person and, for the baby, we heat up some water in a pan”. In the sink, the dishes pile up and the toilet is flushed only once or twice a day. At Marie-Flore’s house at the top of a hill, the laundry has to wait for there to be enough water to get the machine to work.¹¹⁶

On 26 November 2019, in Pointe-à-Pitre, a raging fire burnt down ten houses. On arriving, the firefighters had to wait an hour before they could act because the fire hydrants had dried out.¹¹⁷ Water

¹¹⁶ https://www.sciencesetavenir.fr/nature-environnement/en-guadeloupe-le-difficile-acces-a-l-eau-dure-depuis-30-ans_126252 [magazine article in French only]

¹¹⁷ (20+) Vidéo | Facebook; see also, in French only, Guadeloupe, Incendie : On a craint le pire, faute d'eau. | DOMactu (2008) ; Bornes d'incendie : mode d'emploi (franceantilles.fr) (2013); (20+) Vidéo | Facebook (2017) and; (20+) [Prévention Incendie] Les... - Préfecture de Guadeloupe | Facebook (2020)

is also physically inaccessible to some public services such as civil protection teams. Far from being isolated, breakdowns are frequent, in both urban and rural areas. The same shortages occur several times a year.

In 2020, at the height of the Covid-19 pandemic, the alarming example of Isabelle – who was deprived of water at home for 40 days in a row – described above (Part 4 /V./B) is unfortunately not an isolated case and illustrates the fact that the systematic violation of the right to water and sanitation in Guadeloupe is a matter of life and death and clearly fails to match the definition of suitable housing and dignified living conditions.

In August 2023, in the municipality of Gourbeyre, despite the fact that it is located near water catchments, the inhabitants had access to water for a grand total of only eight nights.

In January 2024, at the peak of the tourist season and a dengue fever epidemic, there were numerous cuts which lasted several weeks. In the municipalities of St François and Ste Anne, customers were deprived of water for most of the month and endured cuts lasting 17 days in a row.¹¹⁸

In Guadeloupe, water supply cuts – often occurring as a result of water shut-off schedules not being respected – are widespread and prolonged, and affect at least a quarter of the population, which is 95 000 people. Water is rendered undrinkable by the disrepair of pipes, the breakdown of the sanitation system and pollution by chlordecone, and this problem affects the entire population, in other words 380 000 people.

Water shortages and the fact that water is often undrinkable when it is available create a constant, serious and direct threat to human health and life.

The state has itself recognised for many years that this is a major public health, public safety and environmental crisis. The state and the operator recognise the existence of rolling shut-off schedules and the technical impossibility of respecting them but refuse to take the practical emergency measures needed to alleviate the population's suffering pending the repair of the water supply and sanitation network, which will inevitably take many more years.

As a result, the lack of drinking water clearly constitutes a tangible risk of serious and irreparable injury or harm, giving rise to a series of other serious violations of persons' fundamental rights including the right to a healthy environment, the right to health, the right to suitable housing, the right to social protection and protection against poverty and social exclusion, the right to dignity and the right to life.

B. Chlordecone in Guadeloupe and Martinique

The National Agency for Food, Environmental and Occupational Health and Safety (ANSES) has issued recommendations to limit exposure to chlordecone through food consumption.¹¹⁹ These measures consist mainly in avoiding certain foodstuffs. Among other things, the Agency invites consumers to ask themselves the question every time they go shopping: is this product potentially contaminated by chlordecone? Unfortunately, as things stand, there is no official information enabling consumers to ascertain systematically and with certainty that the foodstuffs they are buying are free of chlordecone.

¹¹⁸ [Abonnés privés d'eau depuis 17 jours : colère des professionnels et des particuliers \(rci.fm\)](#) [in French only]

¹¹⁹ [Réduire son risque d'exposition à la chlordécone | ameli.fr](#) | Assuré [in French only]

The Chlordecone IV Plan provides for the “establishment of a research unit on efficient methods of detoxifying affected populations, including detoxification recommendations using herbal medicines which are available to all”,¹²⁰ but these measures have yet to be taken.

Consequently, in the absence of efficient preventive and curative measures against daily exposure to chlordecone, the FIDH argues that the populations of Guadeloupe and Martinique now face a situation of exceptional and tangible seriousness in which the persons concerned run a risk of serious and irreparable injury or harm to their health and life.

4. Immediate measures requested

In the light of the foregoing and in accordance with Article 36 §§ 1 and 2, the FIDH respectfully requests the Committee to ask the respondent state to adopt immediate measures.

Firstly, it asks the Committee to indicate to the French state that it should urgently adopt the following measures for the supply of drinking water to the population of Guadeloupe so that everyone’s essential needs are satisfied (in food, hygiene, health, housing and education):

- offset the cuts: by 30 June 2024, arrange free distribution and connection of properly equipped water tanks for all of Guadeloupe’s households, schools and health facilities – or reimbursement of the real cost of users and facilities who have already set up water tanks using their own means – following a clearly established timetable, taking account of an unambiguous and agreed ranking of needs duly communicated to the population, to be fully respected and including means of verification and redress in the event of non-compliance;
- offset the supply of undrinkable water: arrange free and immediate distribution to all households of a home water DISPENSER (once) and reusable and recyclable mineral water containers or filtering mechanisms, in quantities proportionate to the size of the household for at least one year from 1 July 2024 onwards and until the resumption of a full and normal drinking water supply service;
- offset the high cost of water and the overcharging of private individuals: cancel all bills where drinking water has not been supplied; establishment of a solidarity fund for households and/or other social water pricing measures and reduction of bills in the event of water leaks, pursuant to the Brottes Law of 2013;
- protect public health: inform the public and socio-professional partners clearly, transparently, reliably and in real time about undrinkable water so as to afford everyone better protection from the ensuing risks.

Secondly, the FIDH asks the Committee to indicate to the French state that it should urgently adopt the following measures to prevent and deal with the serious and irreparable injury or harm caused to the health of the population in Guadeloupe and Martinique:

- introduce measures to systematically trace chlordecone in foodstuffs and systematically communicate to the public guarantees that products intended for human consumption do not contain chlordecone, for example through the establishment of a “zero chlordecone” label and the appropriate labelling of food products; and

¹²⁰ Synthèse+consultation+publique+--Plan+chlordécone+IV.pdf (martinique.gouv.fr) [in French only]

- set up measures for the systematic detoxification of the human body for people who have tested positive depending on the level of chlordecone in their blood.

CONCLUSION

The situation described in this complaint is in breach of the revised European Social Charter, the case law of the European Committee of Social Rights, domestic legislation and France's commitments to regional and international human rights protection bodies.

In Guadeloupe, drinking water supplies are inadequate in terms both of quantity and of quality, often physically inaccessible, expensive for everyone and unaffordable for a large section of the population.

Although international human rights law provides for the "gradual achievement" of the right to water and takes account of the constraints caused by the limited resources available, it should be noted that the situation in the French *département* of Guadeloupe has been deteriorating for more than 30 years and that there are no situations of comparable seriousness in metropolitan France. The complainant organisation therefore considers that there has been an established and manifestly unlawful violation of the right of the population in Guadeloupe to drinking water and sanitation, combined with the resulting violations of the Charter described above.

In the light of the facts set out in this complaint, the current situation in Guadeloupe therefore constitutes a **violation of Articles 11, 17§1, 30 and 31 read alone and/or in conjunction with Article E of the revised European Social Charter.**

In Guadeloupe and Martinique, chlordecone poisoning affects more than 90% of the population, and this dangerous pesticide is still found in water, soil and food.

In the light of the facts set out in this complaint, the current situation in Guadeloupe and Martinique therefore constitutes a **violation of the right to health and consequently of Article 11 of the revised European Social Charter.**

Moreover, remedying the situation and the human rights violations described in this complaint would help to move France closer to achieving the UN Sustainable Development Goals and to overcome the historical inequalities resulting from the impact of colonisation on the full enjoyment of and equal access to human rights by the populations residing in French overseas territories.

On 22 September 2022, the Human Rights Council held a panel discussion on the negative effects of the legacy of colonialism on the enjoyment of human rights. In July, the Acting High Commissioner, Ms Al-Nashif, presented a report on racial justice and equality to the Council, highlighting that systemic racism against people of African descent persisted in large part due to misconceptions that the abolition of slavery, the end of the transatlantic trade in enslaved Africans and colonialism, and measures taken by states to date, had removed the racially discriminatory structures built by those practices and created equal societies.

Ms Al-Nashif pointed out that:

"No state has comprehensively accounted for the past or the ongoing consequences of systemic racism, including the socioeconomic and political marginalisation that shapes the lives of people of African descent in some countries."

She concluded that:

"Addressing the legacies of colonialism can contribute to overcoming inequalities within and among states and sustainable development challenges of the 21st century".

In allowing this collective complaint, the ECSR would help France to overcome the historical inequalities that exist in Guadeloupe and French overseas territories and to move closer to achieving many of the Sustainable Development Goals, including goals 1, 3, 4, 5, 6, 9, 10, 14, 15 and 16.

On the basis of the facts established by the complainant organisation, the considerations above and the documents cited, the FIDH respectfully requests that the Committee:

- (i) give the complaint priority under Rule 26 of the Rules;
- (ii) declare the complaint admissible;
- (iii) indicate the immediate measures required in accordance with Rule 36 of the Rules;
- (iv) rule that the requests for a finding of a violation by France of Articles 11, 17(1), 30 and 31 read alone and/or in conjunction with Article E of the revised European Social Charter concerning access to drinking water in Guadeloupe are admissible and well-founded;
- (v) rule that the requests for a finding of a violation by France of Article 11 of the revised European Social Charter in relation to chlordecone poisoning in the French West Indies is admissible and well-founded.

Paris, 14 March 2024

Alice MOGWE
President of the FIDH

A handwritten signature in dark ink, appearing to be 'AM', with a stylized flourish at the end.