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**STEERING COMMITTEE FOR HUMAN RIGHTS
(CDDH)**

**DRAFTING GROUP ON HUMAN RIGHTS AND ENVIRONMENT
(CDDH-ENV)**

**Drafting proposals for a preliminary text of
a non-binding instrument on human rights and the environment**

***Rédaction de propositions pour un texte préliminaire d'un instrument non
contraignant sur les droits de l'homme et l'environnement***

**COMPILATION OF CONTRIBUTIONS RECEIVED FROM CDDH-ENV MEMBERS
AND OBSERVERS¹**

***COMPILATION DES CONTRIBUTIONS REÇUES DES MEMBRES ET DES
OBSERVATEURS DU CDDH-ENV²***

¹ Austria, Germany, Spain, Switzerland.

² Autriche, Allemagne, Espagne, Suisse.

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AUSTRIA / AUTRICHE

General comment:

As a general comment we would like to suggest considering a definition of the scope of “environment” or “environmental protection”; the draft elements do not consistently use “qualifiers” when they refer to the environment (sometimes “healthy and protected”, sometimes “healthy”, ...).

ad § 5 of the operative part:

The 1993 Lugano Convention on Civil Liability for Damage Resulting from Activities Dangerous to the Environment has not yet entered into force.

In view of the very broad obligation to compensate for damage contained therein we would like to suggest the following wording:

„~~consider signing~~ ~~sign~~ and/or ~~ratifying~~, and fully ~~implementing~~, Council of Europe Convention on Civil Liability for Damage Resulting from Activities Dangerous to the Environment (Lugano Convention) (ETS No. 150) and the Council of Europe Convention on the Protection of the Environment through Criminal Law (Strasbourg Convention) (ETS No. 172);“

Appendix

ad § 10:

“Member States should pay particular attention to effect of environmental degradation on people in vulnerable situations and on members of marginalized groups, e.g., by developing disaggregated data ~~and intensify scientific research~~ on the specific effects of environmental harm on different segments of the population. They should take additional measures to protect the rights of those who are most vulnerable to, or at particular risk from, environmental harm, taking into account their needs, risks and capacities.”

ad § 14:

„Particularly in detention environments, States should protect individuals from prohibited treatment and provide them with adequate standards of healthcare. This includes measures to protect a prisoner from the harmful effects of passive smoking ~~as well as measures for harm reduction~~.“

ad §§ 28 and 29:

Purpose and scope of these paragraphs are not clear. It should be clarified that they do not refer to criminal proceedings.

ad § 31:

“Particularly in dangerous industries, where health and safety risks, such as exposure to environmental pollution, cannot be eliminated, member States should, in addition to taking preventive and protective measures, provide for ~~compensation~~ ~~either a reduction of working hours or additional paid holidays for workers engaged in such occupations~~.“

(i.e. wording of Article 2 § 4 revESC).

ad § 37:

“In light of non-discrimination, member States should take measures to prevent segregation on ~~racial~~ any grounds **of discrimination** in environmentally hazardous areas, assist in improving living conditions and the environment, and ensure that housing is located in ecologically healthy surroundings.”

ad § 42:

„Member States should ~~regulate the private industry~~ create an enabling framework for the private industry to ensure compliance with its human rights obligations related to the environment. In particular, member States should regulate business enterprises to protect against human rights abuses resulting from environmental harm, inter alia, by applying such measures as may be necessary to require business enterprises domiciled or operating in their territorial jurisdiction to respect human rights throughout their operations.”

ad § 43:

With regard to the recommendation to implement due diligence, we would like to suggest that it takes into account the OECD Guidelines for Multinational Enterprises and the OECD Guidance on Due Diligence for Corporate Responsibility (published in 2018) in order to ensure consistency of international standards.

ad § 49:

We suggest to clarify that this recommendation focuses on administrative proceedings concerning authorisations of installations and plants and so on. Our experts are very reluctant vis à vis such a recommendation on proceedings before ordinary courts.

While there is to be a public hearing during the main trial and everyone – also members of groups and civil society organisations – can attend it, not every citizen or organisation has the right to actively participate as a party in criminal proceedings. The participation of a third-party who is neither plaintiff nor defendant nor intervener of one of the parties on the basis of his/her own legal interest would interfere with the basic principles of the law of civil procedure.

ad § 54:

„Member States should explore all possible partnerships with a view to mainstreaming the environmental dimension in the domestic activities for the promotion and protection of human rights. In particular, National Action Plans under the UN Guiding Principles on Business and Human Rights **or the Network of National Contact Points under the OECD-Guidelines for multinational enterprises** could set up suitable structures, mechanisms and processes to ensure responsible business conduct in respect of both human rights and environment.”

ad chapter VII (Additional proposals):

We would like to propose the following introduction:

“People at risk of poverty and social exclusion, children, the elderly, persons with disabilities or those in poor health may show increased sensitivity to environmental stressors and therefore experience

more acute impacts than other groups subject to the same level of exposure. They are therefore specifically vulnerable in the context of the environmental crisis.”

We would also like to propose a separate paragraph on the specific situation of women and girls as they are not necessarily included in the group of “persons in vulnerable situations”.

ad para. concerning rights of older persons (page 14):

“[#.] Amongst other things, a proposal could take into account the United Nations Principles for Older Persons and the ~~Vienna~~ **Madrid** International Plan of Action on Ageing.”
(2002 Madrid Action Plan is the latest instrument of that kind, Vienna has been adopted in 1982).

GERMANY / ALLEMAGNE

[Preamble] [12]

Welcoming the increased recognition of the right to a healthy and protected environment in national constitutions and various regional human rights instruments, and affirming that the exercise of human rights helps can help to protect the environment and to promote sustainable development;

Commented [RM1]: Which “various regional human rights instruments” are meant here? It is doubted that there is an increased recognition in such instruments.

[Preamble] [15]

Expressing grave concern about the disproportionate and/or discriminative effect environmental degradation may have on the rights of those who are in vulnerable situations and on marginalized groups and conscious of the need for States to respect, promote and consider obligations on human rights, such as the right to health, the rights and knowledge of indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situation, under their jurisdiction;

[Appendix]

[Environmental ~~Impact Assessments~~ (EIAS)]

7. Member States should introduce appropriate procedures requiring environmental ~~impact assessments~~ ~~(EIAS)~~ of proposed activities that are likely to have significant adverse effects on the environment with a view to avoiding or minimizing such effects, taking into account vulnerable people, places and ecosystems.

[Protection of ~~environmental~~ human rights defenders]

46. Member States should respect the right of everyone to promote and protect a safe, clean, healthy and sustainable environment, necessary for the enjoyment of a vast range of human rights. Member States should ensure an enabling legal framework and a conducive political and public environment for human rights defenders, enabling individuals, groups, civil society organisations and national institutions for the protection and promotion of human rights (NHRIs) to freely carry out activities, on a legal basis, consistent with international law and standards, to strive for the protection and promotion of all human rights and fundamental freedoms. Member States should additionally take measures to protect ~~environmental~~ human rights defenders from violations committed by both State and non-State actors.

[Protection of indigenous communities and their environment]

50. Member States should ensure the protection of indigenous people and traditional communities, particularly by recognizing the rights of ownership and possession of the peoples

Commented [RM2]: A clarification as to what communities are meant seems to be helpful.

concerned over the lands which they traditionally occupy and the rights of the peoples concerned to the natural resources pertaining to their lands.

SPAIN / ESPAGNE

[Appendix]

[Prevention]

3. Member States should take the appropriate measures to ensure that dangerous activities and and chemicals with hazardous properties which can cause harm to human health and the environment, biological diversity and landscape, pose a threat to social cohesion and deteriorate working conditions are phased out or reduced to a minimum~~substances which are likely to cause pollution, pose a threat to health and social cohesion, deteriorate working conditions or affect the natural environment, biological diversity and landscapes, are reduced to a minimum~~. They should ensure the availability of adequate facilities for the environmentally sound management of such activities ~~and substances~~, by innovation towards safe and sustainable substances, and ensure that the persons involved in the management of such activities or substances take such steps as are necessary to prevent pollution arising from such management and, if such pollution occurs, to minimize the consequences thereof for human health and the environment.

[Environmental Impact Assessments (EIAs)]

1. Member States should introduce appropriate procedures requiring environmental impact assessments (EIAs) of its proposed activities that are likely to have significant adverse effects on the environment with a view to avoiding or minimizing such effects, taking into account vulnerable people, places and ecosystems. Moreover Member States should integrate strategic environmental assessment (SEA) into their plans and programmes at the earliest stages in order to lay the groundwork for sustainable development. SEA can be an effective tool for climate change policies and transition towards a circular economy, by introducing these goals into development planning.

35. In light of the right to a healthy environment, member States are encouraged to develop and regularly update sufficiently comprehensive environmental legislation and regulations; take specific steps, such as modifying equipment, measuring air quality properly, introducing threshold values for emissions and environmental objectives for air quality, in order to measuring air quality, to protect citizens's health, prevent air pollution ~~at local level and to and help to~~ reduce it on a local and global scale; ensure that environmental standards and rules are properly applied, through appropriate supervisory machinery; inform and educate the public, including pupils and students at school, about both general and local environmental problems; assess health risks through epidemiological monitoring of the groups concerned; take preventive and protective measures to ensure access to safe drinking water and sanitation; take measures to guarantee food safety; prevent soil contamination; adopt regulations and legal rules on the prevention and reduction of noise pollution; adopt regulation to prevention of waste and for the proper management of waste according to hierarchy principle, adopt proper measures to prevent illegal shipment of waste, especially hazardous waste, protect their population against the consequences of nuclear accidents taking place abroad and having an effect within their territory; prevent related hazards for communities living in an area of risk due to nuclear power plants, and; ban the use, production and sale of asbestos and products containing it and take measures to manage correctly their wastes

SWITZERLAND / SUISSE

Nous aimerions souligner les commentaires généraux suivants :

Commented [xxx3]: Pursuant to Resolution 64/1992 adopted by the General Assembly on 28 July 2010 it is recognized the right to safe and clean drinking water and sanitation as a human right that is essential for the full enjoyment of life and all human rights. In the same vein, the 2009 Report of the Independent Expert on the issue of human rights obligations related to access to safe drinking water and sanitation, Catarina de Albuquerque, highlights the relationship between the right to sanitation and the right to health, citing as a particular example, among others, the Protocol on Water and Health (1999) of the United Nations Economic Commission for Europe. The report sets out the following obligations related to access to water and sanitation: availability, quality, physical accessibility, affordability and acceptability.

· D'une manière générale, la proposition semble être un document assez complet qui peut apporter une valeur ajoutée si sa structure est améliorée, si sa formulation devient plus cohérente et si son objectif est plus clair. La question est de savoir dans quelle mesure le document apporte une valeur ajoutée par rapport au manuel qui contient déjà les principes existantes.

· Objectif et mise en œuvre : Il est très important de clarifier l'objectif de cet instrument non-contraignant (p.ex., est-ce qu'il est destiné à codifier les principes généraux et à servir de cadre ou est-ce qu'il est destiné à compiler des étapes concrètes de mise en œuvre ? Est-ce que cet instrument est destiné à refléter de manière assez complète les obligations existantes dans le domaine des droits de l'homme et l'environnement ou est-ce qu'il est destiné à refléter des nouvelles propositions ?). Dans ce contexte, il convient également de clarifier à qui s'adressent les recommandations (p. ex., y a-t-il une distinction entre les états qui ont ratifié une certaine Convention et les états qui n'ont pas ratifié ladite Convention, notamment la Charte sociale ?). De plus, il est également important d'adresser la question de la mise en œuvre (p. ex. quelles sont les mesures concrètes à prendre après l'adoption de l'instrument ?). Actuellement, le texte manque encore des paragraphes sur le but et les objectifs ainsi que des détails concernant la mise en œuvre de cet instrument. Nous proposons donc d'ajouter des paragraphes/phrases sur ces sujets.

· Structure et cohérence : Il est important d'améliorer la structure du document et la cohérence du contexte. Dans ce contexte, il convient d'éviter des répétitions (cela également pour éviter d'éventuelles contradictions dans le document) et des lourdeurs (p.ex. en renvoyant au manuel si possible). De plus, la préambule contient des points opérationnels et vice versa. En outre, la relation entre les différents chapitres est à clarifier et, dans ce contexte, il convient également d'adapter les titres. Enfin, il semble important d'assurer un équilibre entre les sujets adressés (p.ex. désastres environnementaux versus effets nocifs du tabagisme passif).

· Codification des principes environnementaux : La codification des principes environnementaux présente un risque de régression en termes d'ambitions parce que la langue à négocier sera une proposition de compromis. Une telle régression est dans tous les cas à éviter. Il est donc nécessaire de discuter la question de la codification ou du renoncement à celle-ci au sein du groupe (CDDH-ENV). Dans ce contexte, il est également indispensable de clarifier l'objectif de l'instrument non contraignant parce que cet objectif est, entre autres, décisif pour la réponse à cette question.

· Origine/source des principes : Dans quelle mesure la nature des différentes sources des principes sont-elles prises en compte et mentionnées dans le document (p.ex. nombre des ratifications des Conventions ou entrée en vigueur des Conventions ou pas [en particulier, Lugano Convention et Strasbourg Convention]) ? Y a-t-il une distinction entre les états qui ont ratifié une certaine Convention et les états qui n'ont pas ratifié ladite Convention, notamment la Charte sociale ?

· Intégration dans des processus existants : Il est important d'intégrer l'instrument envisagé dans le processus international existant dans le domaine des droits de l'homme et l'environnement (p.ex. quel est la relation avec le processus au niveau de l'ONU ? Quelle lacune, le cas échéant, l'instrument cherche-t-il à combler ? Comment complète-t-elle Aarhus et contribue-t-elle aux ODD ?) Nous vous prions de trouver les commentaires détaillés sur le texte dans le document en annexe :

**Drafting proposals for
a preliminary text of a non-binding instrument on the existing principles of human rights and
the protection of the environment**

Commented [Suisse4]: Generally speaking the proposal seems a fairly comprehensive document that can add value if its structure would be improved, its wording would become more coherent and if its objective would be clearer. The question is to what extent the document adds value to the manual which already incorporates existing principles. At present, it partly reflects obligations under international law, including customary international law, sometimes in modified wording, then also obligations from the Convention and the Social Charter without added value, recommendations that rather reflect examples of implementation, and finally new or additional recommendations that can bring effective added value. Besides it is not clear how this document provides an added value to already existing adopted outcomes, f.ex. SDGs or Aarhus. The relation with other processes and work on the same subject matter is unclear. How does it relate to the work of the UN Special Rapporteur on Human rights and the environment and the UN in general.

Commented [Suisse5]: Overall there is an imbalance in the text. Some paras are very specific and concrete, others are too vague. It is not clear whether this document deals more with general principles or whether it tries to define specific and concrete implementation measures? As we are dealing with recommendations or guidelines only, how does the process intend to ensure implementation? What are the measures envisaged to assess progress in the countries? What are the follow up and review measures that are envisaged? See e.g. recommendation no 41.

Non-binding instrument (e.g., recommendation, guidelines) on human rights and the protection of the environment

[Preamble] [2.bis]

Convinced that the human rights are intertwined with and interdependent on the environment in which humans live and that environmental harm interferes with the enjoyment of human rights, and the exercise of human rights helps to protect the environment and to promote sustainable development;

[Preamble] [4.]

Recalling the essential role of the system of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5, "the Convention") in the effective protection of human rights in Europe, including– the case law of the European Court of Human Rights ("the Court"), [especially with regard to Articles 2 (Right to life), Article 3 (Prohibition of torture or to inhuman or degrading treatment), Article 6 (Right to a fair trial), Article 8 (Right to respect for private and family life), Article 10 (Freedom of expression), Article 11 (Freedom of assembly and association), Article 13 (Right to an effective remedy) and Article 1 (Protection of property) of the Protocol No. 1 to the Convention];

[Preamble] [6.]

Having regard to the European Social Charter, opened for signature in 1961 (ETS No. 35) and revised in 1996 (ETS No. 163), (hereafter "the Charter"), [in particular interpretation of Article 11 (Right to protection of health) as including the inclusion of the right to a healthy environment as part of Article 11 (Right to protection of health), as well as Article 2 (Right to just conditions of work), Article 3 (Right to safe and healthy working conditions) and Article 31 (Right to housing), as well as the relevant conclusions and decisions of the European Committee of Social Rights] when applicable;

[Preamble] [11.]

Resolves to consider further the potential of the Council of Europe instruments in this field;

[Preamble] [15.]

Expressing grave concern about the disproportionate and/or discriminative effect environmental degradation may have on the rights of those who are in vulnerable situations and on marginalized groups and conscious of the need for States to respect, promote and consider obligations on human rights of women, the right to health, the rights and knowledge of indigenous peoples, local communities, migrants, children, elderly people, members of indigenous peoples and traditional communities, persons with disabilities, members of national, ethnic religious or linguistic minorities, displaced persons, migrants, people living in poverty and other and people in vulnerable situations, under their jurisdiction;

[Preamble] [16.]

Emphasizing the vital role of women in environmental and sustainable development matters and the need to promote gender equality and the empowerment of women;

[Preamble] [17bis.]

Conscious of the need for States to respect the rights and knowledge of indigenous peoples and traditional communities.

[Preamble] [18.]

Underscoring the positive, important and legitimate roles of all human rights defenders, including environmental human rights defenders, in independently promoting the realisation of all human rights,

Commented [Suisse7]: The text misses the information on how this instrument relates to the broader work HR and the environment, in particular with respect to the work of the UN Special Rapporteur on human rights and the environment and the broader UN context.

Commented [Suisse6]: La question est encore ouverte, mais il faut constater qu'en état ce texte s'apparente à une recommandation. Voir le texte ci-dessous p. 5 "Recommends that the governments of the member States..."

Commented [Suisse8]: Il nous semble important de rappeler déjà ici de manière générale l'interdépendance entre l'environnement et les droits humains.

Commented [Suisse9]: Est-ce qu'il est indispensable de lister tous ces articles qui figurant déjà dans le manuel?

Commented [Suisse10]: Est-ce qu'il est indispensable de lister tous ces articles qui figurant déjà dans le manuel?

Commented [Suisse11]: Formulation à tempérer pour tenir compte du fait que tous les Etats membres du CdE n'ont pas ratifié la Charte sociale (CSE). C'est le cas de la Suisse. Les conclusions et décisions du Comité européen des droits sociaux ne sont pas opposables à un Etat qui n'est pas Partie à la CSE

Commented [Suisse12]: Ce § est un point "opérationnel" de l'instrument, il ne devrait pas figurer dans le Préambule. Il devrait être placé plus bas ou alors supprimé.

Commented [Suisse13]: Le document ne mentionne pas que les femmes sont particulièrement touchées. Si le document mentionne d'autres groupes de population, il faudrait aussi ajouter un paragraphe sur le genre. La formulation proposée dans le texte est largement fondée sur le rapport du rapporteur spécial John Knox "Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment (2018)": "Those who are at greater risk from environmental harm for either or both reasons often include women, children, persons living in poverty, members of indigenous peoples and traditional communities, older persons, persons with disabilities, national, ethnic, religious or linguistic minorities and displaced persons." (para. 22, p.8)

Commented [Suisse14]: Le droit à la santé fait partie des droits de l'homme qui sont déjà mentionnés.

Commented [Suisse15]: Ce paragraphe mélange différents sujets (p.ex. l'attention spécifique accordée aux groupes particulièrement touchés et le *knowledge of indigenous people and traditional communities*). Nous proposons de traiter les deux sujets séparément et d'adresser le sujet *knowledge of indigenous people and traditional communities* après le paragraphe qui concerne l'importance de la science.

including their contribution to the public debate by disseminating information and ideas on matters of general public interest such as health and the environment;

[Preamble] [19.]

Welcoming the vital role of non-State actors, including civil society, economic actors, indigenous peoples and traditional communities, cities, regions and other subnational authorities in the protection of the environment,

[Preamble] [20.]

Recalling the High-level Conference on Environmental Protection and Human Rights (27 February 2020, Strasbourg) and the Final Declaration by the Georgian Presidency of the Committee of Ministers, noting in particular that the said Declaration acknowledged that “climate change, extinction of species, loss of biodiversity, pollution and the overall degradation of the earth’s ecosystems have a profound global impact on the enjoyment of human rights and require the widest possible cooperation by all Council of Europe Member States,” that “the protection of the environment and the protection of human rights are interconnected: one cannot be achieved without the other, nor at the expense of the other. Life and well-being on our planet is contingent on humanity’s collective capacity to guarantee both human rights and a healthy environment to future generations,” and that “the Council of Europe has a key role to play in mainstreaming the environmental dimension into human rights and pursue a rights-based approach to environmental protection.”

[Preamble] [20.]

Bearing in mind the United Nations 2030 Agenda for Sustainable Development, including Sustainable Development Goals 3 (“Good health and well-being”), 6 (“Clean water and sanitation”), 7 (“Affordable and clean energy”), 11 (“Sustainable cities and communities”), 12 (“Responsible consumption and production”), 13 (“Climate action”), 14 (“Life below water”), and 15 (“Life on land”) which are of universal application;

[Preamble] [24.]

Convinced that the human rights are intertwined with and interdependent on the environment in which humans live and that environmental harm interferes with the enjoyment of human rights, and the exercise of human rights helps to protect the environment and to promote sustainable development;

[Preamble] [26.]

Affirming that this [non-binding instrument] recalls the existing standards and practices in the field of human rights and the environment, and supports the raising of awareness that human rights norms require the protection of the environment, so as to achieve tangible results for affected individuals and communities;

[Preamble] [27.]

Being convinced that full and equal enjoyment of the protection of the environment by all members of democratic societies directly contributes to the increased enjoyment of all human rights;

[Operative part] [28.]

Recommends that the governments of the member States in order to implement this non-binding instrument:

1. review-examine their national legislation and practice and consider reviewing them if they are not consistent to ensure that they comply with the recommendations, principles and further guidelines set out in the appendix, and evaluate the effectiveness of the measures taken at regular intervals;

Commented [Suisse16]: It would be interesting to highlight what the UN is doing with respect to the defenders like UNEP.

Commented [Suisse17]: How is it related to the Brundtland Report 1987 and the definition of Sustainable Development?

Commented [Suisse18]: It is not clear what is the relation between this instrument and the Agenda 2030. See: [OHCHR | Sustainable Development Goals and Human Rights](#)

The very important SDG 16 and 17 for this work is not mentioned at all. Alongside a wide range of social, economic and environmental objectives, the 2030 Agenda promises “*more peaceful, just and inclusive societies which are free from fear and violence*” with attention to democratic governance, rule of law, access to justice and personal security (in Goal 16), as well as an enabling international environment (in Goal 17 and throughout the framework). It therefore covers issues related to all human rights, including economic, civil, cultural, political, social rights and the right to development.

Commented [Suisse19]: Nous proposons d’ajouter un paragraphe au sujet des travaux du Rapporteur spécial des Nations Unies sur les droits de l’homme et l’environnement. En particulier les 16 Principes-cadres relatifs aux droits de l’homme et à l’environnement.

Commented [Suisse20]: Beyond that, the instrument also refers to firm state obligations, including of customary international law

Commented [Suisse21]: Why limit this statement to democratic societies?

Commented [Suisse22]: Ce point se recoupe, au moins partiellement, avec le § que nous avons surligné en jaune ci-dessus.

Commented [Suisse23]: Expliciter ici et non pas seulement au ch. 7 ci-dessous (... implementation of this non-binding instrument) que cet instrument est non-binding.

Commented [Suisse24]: Certes il s’agit ici d’éléments pour un instrument non contraignant, mais ce paragraphe est très « prescriptif ». Par exemple, « comply » a un caractère contraignant qui n’est pas idéal avec un instrument de soft law. Nous proposons donc de le nuancer (cf. propositions ci-contre).

A thorough review of national legislation on this very broad topic will require tremendous time and resources. If the recommendation actually refers to formal review or evaluation processes covering the complete system than it needs a comprehensive process. Especially for evaluation processes, further guidance would be needed. Recommendation no. 2 could be understood in such a sense as that it might suffice if the recommendations, principles and guidelines are duly taken into account in ordinary legislative (review) processes. Some clarification on this point seems necessary.

2. ensure, by appropriate means and action, a wide dissemination of this recommendation among competent authorities and stakeholders, with a view to raising awareness of member States' obligations under the European Convention on Human Rights and when applicable the European Social Charter to protect the environment and contribute to the realisation of their obligations;
3. share examples of good practices related to the implementation of this recommendation with a view to their inclusion in a shared information system, to be established and maintained by the Council of Europe, and which is to be accessible to the public, including through reference to existing information systems;
4. [for states parties to the European Social Charter, consider signing and ratifying the 1995 Additional Protocol to the European Social Charter providing for a System of Collective Complaints (ETS No. 158) and to consider recognising the right of national NGOs fulfilling the criteria mentioned therein to lodge collective complaints before the European Committee of Social Rights;]
5. consider signing and/or ratifying, and fully implementing, Council of Europe Convention on Civil Liability for Damage Resulting from Activities Dangerous to the Environment (Lugano Convention) (ETS No. 150) and the Council of Europe Convention on the Protection of the Environment through Criminal Law (Strasbourg Convention) (ETS No. 172);
6. consider signing and/or ratify, and fully implementing the United Nations Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) and the protocol thereto (Protocol on Pollutant Release and Transfer Registers);
7. examine, within the Committee of Ministers, the implementation of this non-binding instrument (e.g. Recommendation or guidelines) three [five] years after its adoption.

[Appendix]

Relevant general principles

[No harm]

1. Member States should take all appropriate and effective measures to prevent, reduce and control the environmental impacts originating from their area of jurisdiction and control on the enjoyment of human rights in areas beyond national control, and cooperate internationally to address transboundary environmental degradation, e.g., through bilateral, regional or multilateral arrangements.

[Intergenerational equity]

2. Member States should protect, conserve and sustainably use the environment and natural resources for the benefit of present and future generations of humankind, on the basis of equity. The present generations should strive for sustainable development and preserve living conditions, particularly the quality and integrity of the environment, and should conduct their activities in recognition of the importance of protectiing natural systems, in the interest of future generations.

[Prevention]

3. Member States should take the appropriate measures to ensure that dangerous activities and substances which are likely to cause pollution, pose a threat to health and social cohesion, deteriorate working conditions or affect the natural environment, biological diversity and landscapes, are reduced in an appropriate way to a minimum. They should ensure the availability of adequate facilities for the environmentally sound management of such activities and substances, and ensure that the persons involved in the management of such activities or substances take such steps as are necessary to prevent pollution arising from such management and, if such pollution occurs, to minimize the consequences thereof for human health and the environment.

Commented [Suisse25]: Formulation à tempérer pour tenir compte du fait que tous les Etats membres du CdE n'ont pas ratifié la Charte sociale (CSE). C'est le cas de la Suisse. Les conclusions et décisions du Comité européen des droits sociaux ne sont pas opposables à un Etat qui n'est pas Partie à la CSE

Commented [Suisse26]: Est-ce qu'il existe déjà des détails concernant ce system (p.ex. en ce qui concerne le reporting des états membres) ?

Commented [Suisse27]: Voir aussi la deuxième remarque sur la page de titre (p. 1).

What will be the indicators for measuring progress made?
What will be the form of such a review?

Commented [Suisse28]: Les thématiques des spillovers, c'est-à-dire les effets de nos activités à l'étranger, la cohérence des politique, les évaluations de la durabilité, les principes RSE ainsi que les achats publics (public procurement) devraient être mieux pris en compte.

Commented [Suisse29]: La codification des principes environnementaux présente un risque de régression en termes d'ambitions parce que la langue à négocier sera une proposition de compromis. Une telle régression est dans tous les cas à éviter.

Il est nécessaire de discuter la codification des principes dans l'instrument ou le renoncement à celle-ci. Dans ce contexte, il est également indispensable de clarifier l'objectif de l'instrument non contraignant parce que cet objectif est, entre autres, décisif pour la réponse à la question de la codification ou le renoncement à celle-ci.

Commented [Suisse30]: The title is to be discussed, because this is not about the classic no harm-rule according to *trail smelter* (which is an absolute obligation), but about a transboundary component of the principle of prevention (cf. e.g. Art. 194 para 2 UNCLOS).

Commented [Suisse31]: Le droit international public interdit seulement «significant transboundary harm». Dans quelle mesure cette disposition va au-delà du droit international public et dans quelle mesure les états membres seraient obligés d'éviter toute pollution transfrontalière ?

Commented [Suisse32]: What exactly does this mean? Does it refer to intergenerational equity only (as the rest of the paragraph suggests) or does it refer to intragenerational equity alike (within and between states)?

Commented [Suisse33]: Ce document s'adresse aux états et non pas aux individus.

Commented [Suisse34]: What does this mean ?

Commented [Suisse35]: Vu qu'il s'agit ici des Principes généraux, nous proposons de supprimer la 2^e phrase du §.

[Precaution]

4. Member States should take precautionary measures according to their capabilities to anticipate, prevent or minimize the causes of environmental degradation and mitigate its adverse effects.

5. Where there are threats of serious or irreversible damage to the environment, member States shall ~~may~~ not use the lack of full scientific certainty as a reason for postponing cost-effective measures to prevent environmental degradation.

[Polluter-pays]

6. Member States should endeavour to promote the internalization of environmental costs and the use of economic instruments, taking into account that the operator whose activity has caused the environmental damage or the imminent threat of such damage is to be held financially liable, in order to induce operators to adopt measures and develop practices to minimise the risks of environmental damage so that their exposure to financial liabilities is reduced. The polluter should bear the expenses of carrying out pollution prevention and control measures decided by public authorities to ensure that the environment is in an acceptable state. The cost of these measures should be reflected in the cost of goods and services which cause pollution in production and/or consumption. Such measures should not be accompanied by subsidies that would create significant distortions in international trade and investment.

[Environmental Impact Assessments (EIAs)]

7. Member States should introduce appropriate procedures requiring environmental impact assessments (EIAs) of its proposed activities that are likely to have significant adverse effects on the environment with a view to avoiding or minimizing such effects, taking into account their impact on the enjoyment of human rights, in particular those of vulnerable people, places and ecosystems.

[Non-discrimination and equality]

8. Member States should ensure the enjoyment of the rights and freedoms set forth in the Convention and when applicable the Charter without discrimination on any ground, including human rights related to the environment. Member States should take all appropriate measures, including positive action, to protect against environmental harm that results from or contributes to discrimination.

10. Member States should pay particular attention to effect of environmental degradation on people in vulnerable situations, ~~and~~ on members of marginalized groups, on members of traditional or minority groups, e.g., by developing disaggregated data on the specific effects of environmental harm on different segments of the population. They should take additional measures to protect the rights of those who are most vulnerable to, or at particular risk from, environmental harm, taking into account their needs, risks and capacities.

II. Drafting proposals based on the principles emerging from the case law of the European Court of Human Rights as reflected in the updated draft Manual on Human Rights and the Environment

Drafting proposals for a non-binding instrument:

[Environmental disasters and the right to life]

11. Member States should take appropriate steps to protect the right to life from interference by public authorities as well as threats posed by other (private) persons or activities that are not directly connected with the State.

12. In order to safeguard the right to life, member States should put into place a legislative and administrative framework to prevent threats to life in the context of dangerous activities and in cases of natural disasters, e.g., by making regulations which take into account the special features of a situation or an activity and the level of potential risk to life; placing particular emphasis on the public's right to

Commented [Suisse36]: La Déclaration de Rio prévoit (principe 15): « Pour protéger l'environnement, des mesures de précaution doivent être largement appliquées par les Etats selon leurs capacités. (...) »

Commented [Suisse37]: À aligner avec la formulation des déclarations de Stockholm et de Rio. Cf. également OECD, *The Polluter Pays Principle: Definition, Analysis, Implementation* (OECD Publishing 2008) 5.

Commented [Suisse38]: Revoir cette phrase qui peut donner l'impression que les subventions ne sont pas autorisées. Vérifier également si c'est le bon endroit pour cette phrase.

Commented [Suisse39]: Ceci est également requis par les organismes environnementaux de l'ONU. Nous proposons que ce paragraphe mentionne à titre d'exemple les groupes de population particulièrement touchés : « ... women, children, persons living in poverty, members of indigenous peoples and traditional communities, older persons, persons with disabilities, national, ethnic, religious or linguistic minorities and displaced persons. » (cf. rapport du rapporteur spécial John Knox "Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment (2018)" para. 22, p. 8.

Commented [Suisse40]: Répétition de certains principes déjà énoncés au chapitre I. au sujet des principes généraux De manière générale, la relation et la coordination ne sont pas claires entre les principes généraux du chapitre I et ceux des chapitres II. (jurisprudence de la Cour EdH) et III. (pratique du Comité européen des droits sociaux).

Commented [Suisse41]: How is this standing in relation to the Sendai Framework on DRR?

Commented [Suisse42]: What kind of activities does this paragraph concern, as the title refers to environmental disasters only. Or should it be harmful/dangerous activities and natural disasters instead? What kind of dangerous activities are meant (for example, nuclear power plants and chemical factories etc.)?

information concerning such activities, and; providing for appropriate procedures for identifying shortcomings in the technical processes concerned and errors committed by those responsible.

[Unhealthy detention environment and the right to freedom from inhuman or degrading treatment]

13. Particularly in detention environments, States should protect individuals from prohibited treatment and provide them with adequate standards of healthcare. This includes measures to protect a prisoner from the harmful effects of passive smoking.

[Environmental harm and the right to respect for private and family life and the home]

14. Member States should ensure that environmental harm, stemming from State or non-state activities, does not have a harmful effect on, or seriously risks the enjoyment of, private and family life, home, ~~and correspondence~~.

19. Member States should ensure that environmental harm stemming from their activities does not ~~infringe upon~~ affect the enjoyment of the right to property. Additionally, protection of the individual right to the peaceful enjoyment of one's possessions may require the public authorities to poursuivre les atteintes non justifiées au droit de propriété et ensure certain environmental standards.

[Right to receive and impart information and ideas on environmental matters]

20. Member states should take appropriate measures to ensure, in accordance with Article 10 of the Convention, that the right to freedom of expression can be effectively enjoyed. The right to freedom of expression includes freedom to hold opinions and to receive and impart information and ideas without interference by public authorities. In the particular context of the environment, there exists a strong public interest in enabling individuals and groups to contribute to the public debate by disseminating information and ideas on matters of general public interest such as health and the environment.

21. Restrictions by public authorities on the right to receive and impart information and ideas under Article 10, including on environmental matters, must be prescribed by law and follow a legitimate aim. Measures interfering with this right must be proportionate to the legitimate aim pursued and a fair balance must therefore be struck between the interest of the individual and the interest of the community as a whole.

[Right to assemble and associate to collectively act in the interest of environmental matters]

22. Member states should take appropriate measures to ensure, in accordance with Article 11 of the Convention, that the right to freedom of assembly and association can be effectively enjoyed. The ability to form a legal entity in order to act collectively in a field of mutual interest is one of the most important aspects of this right and includes the unobstructed peaceful assembly and association related to environmental matters.

[Access to information on environmental matters]

24. As part of the appropriate steps to safeguard the right to life and the right to private and family life, member States should ~~to~~ ensure a right of access to information in relation to environmental issues by adequately informing the public about any life threatening emergencies, including natural disasters, as such that people can make informed decisions on the risks posed to themselves and their relatives.

(The CDDH-ENV members may consider whether appropriate to add here based on the Aarhus Convention)

[Member States should ensure that public authorities possess and update environmental information and ensure that environmental information available to the public is transparent and easily and effectively accessible through public telecommunications networks. Additionally, member States should take measures to disseminate environmental legislation, policy documents and proposals, international treaties, conventions and agreements and other significant international documents on environmental issues, and should encourage operators whose activities have a significant impact on the environment to inform the public regularly of the environmental impact of their activities and products.]

Commented [Suisse43]: There is an imbalance with respect to the level of the issue that is addressed. Para 14 speaks of the protection of individuals in a prison from passive smoking. In contrast, there is para 12 that targets the protection from natural disasters. It is questionable and needs to be discussed whether we should include the protection of individuals in a prison from passive smoking in this instrument. This question is already covered by the manual.

Commented [Suisse44]: Paras 20 and 21 relate and strongly overlap with the subsequent paras on the right to information (like for example on para 24 and following). There is a general question as to whether Aarhus covers the access to information already? What is the added value in these paragraphs?

Commented [Suisse45]: Il faudrait préciser explicitement la possibilité de manifestations pacifiques.

25. When public authorities engage in dangerous activities which they know involve adverse risks to health, member States should establish an effective and accessible procedure to enable individuals to seek all relevant and appropriate information.

[Decision-making on environmental matters and public participation in them]

26. When making decisions which relate to the environment, member States should take into account the effect it might have on the enjoyment of the rights laid down by the Convention, and should allow the public to make representations in relation to such decisions.

(The CDDH-ENV members may consider whether appropriate to add here based on international instruments)

[Member States should adopt specific strategies and targeted policies to ensure that every member of society has adequate opportunities to effectively participate in decision-making processes related to environmental matters, and ensure that the public participation is taken into account in the decision due. This includes, *inter alia*, public participation in decisions on specific activities, public participation concerning plans, programmes and policies relating to the environment and, participation during the preparation of executive regulations and/or generally applicable legally binding normative instruments.]

[Environmental risks and access to court]

28. Member States should be mindful that the right to a fair trial includes the right to access to a court. Member States should ensure that applicants, in case of serious, specific and imminent environmental risks, may invoke Article 6 if the danger reaches a degree of probability which makes the outcome of the proceedings directly decisive for the rights and freedoms as set forth in the Convention or civil rights of the individuals concerned.

29. Member States should enable applicants to appeal to a court once they consider that their rights and interests have not been given sufficient weight in the decision-making processes on environmental and economic policy.

I. Drafting proposals based on principles emerging from conclusions and decisions of the European Committee of Social Rights as reflected in the Manual on Human Rights and the Environment

Drafting proposals for a non-binding instrument:

[Environmental pollution and the right to just conditions of work]

31. Particularly in dangerous industries, where health and safety risks, such as exposure to environmental pollution, cannot be eliminated, member States should, in addition to taking preventive and protective measures, provide for compensation.

[Environmental pollution and the right to safe and healthy working conditions]

32. Member States should effectively adopt, enforce and monitor legislation on safety and security at the workplace to ensure that workers are not affected by environmental pollution. They should provide precise and plausible explanations and information on developments in the number of occupational accidents and on measures taken to ensure the enforcement of regulations and hence to prevent accidents.

[Right to a healthy environment]

33. Member States should ensure that the measures they take as part of the right to protection of health include the prevention and removal of the causes of ill-health resulting from environmental threats.

34. When there are reasonable grounds for concern regarding the potentially dangerous effects of environmental pollution on human health, member States should take precautionary measures.

Commented [Suisse46]: See comment on Aarhus above.

Commented [Suisse47]: That is very vague. What is intended with this paragraph? What is the specific issue?

Commented [Suisse48]: This sections is basically covering SDG 16
Here you find a good example on how the work on HR is embedded in the SDGs:
[TransformingOurWorld.pdf \(ohchr.org\)](https://www.ohchr.org/Documents/TransformingOurWorld.pdf)

Commented [Suisse49]: Does this recommendation refer to a right of objection and appeal in planning approval procedures or to an abstract judicial review of norms? The second version (below) seems clearer.
There are pending cases before the ECtHR which concern this question. Accordingly, it should be discussed to what extent we should provide guidance / make recommendations on this question.

Commented [Suisse50]: Mentionner en préambule à ce chapitre que ces principes extraits de la pratique du Comité européen des droits sociaux ne sont applicables qu'aux Etats qui sont Parties à la Charte sociale.
Si la structure du document devrait être basée sur le contenu substantiel des principes plutôt que leur origine/source, il faudrait également indiquer à un endroit approprié que les principes extraits de la pratique du Comité européen des droits sociaux ne sont applicables qu'aux Etats qui sont Parties à la Charte sociale.

Commented [Suisse51]: To whom?

Commented [Suisse52]: La question des expositions à la pollution dans le cadre professionnel n'est pas vraiment abordée. Les maladies d'origine professionnelles ont souvent des causes liées à la pollution attribuable aux procédés polluants dans le milieu de travail. Des effets combinés avec les expositions environnementales sont par exemple souvent plausibles. La mise en œuvre et l'application des lois en matière de protection de la santé au travail ne sont pas mentionnées (à l'exception de celles spécifiques à la prévention des accidents du travail) dans le texte. Cela donne un outil qui aborde la pollution de façon large mais malheureusement sans aborder un contexte d'exposition très important pour les travailleurs et les travailleuses. Le texte devrait aborder de façon spécifique les expositions d'origine professionnelle et la prévention des maladies professionnelles.

Commented [Suisse53]: Please compare to the outcomes of the Stockholm Conference on the Human Environment

The lack of full scientific certainty should not be used as a reason for postponing appropriate measures.

35. In light of the right to a healthy environment, member States are encouraged to develop and regularly update sufficiently comprehensive environmental legislation and regulations; take specific steps, such as modifying equipment, introducing threshold values for emissions and measuring air quality, to prevent air pollution at local level and to help to reduce it on a global scale; ensure that environmental standards and rules are properly applied, through appropriate supervisory machinery/mechanisms; inform and educate the public, including pupils and students at school, about both general and local environmental problems; assess health risks through epidemiological monitoring of the groups concerned; take preventive and protective measures to ensure access to safe drinking water; take measures to guarantee food safety; adopt regulations and legal rules on the prevention and reduction of noise pollution; protect their population against the consequences of nuclear accidents taking place abroad and having an effect within their territory; prevent related hazards for communities living in an area of risk due to nuclear power plants, and; ban the use, production and sale of asbestos and products containing it.

36. In light of non-discrimination, member States ~~are~~ should ensure equal access to the protection of health and adopt prevention policies and protective measures to ensure that environmental pollution does not stem from or contribute to discrimination. Member States should address the specific problems faced by affected communities, disadvantaged and/or vulnerable groups, to ensure they do not live in unhealthy environments.

[Right to housing and the environment]

37. In light of non-discrimination, member States should take measures to prevent segregation on racial grounds in environmentally hazardous areas, assist in improving living conditions and the environment, and ensure that housing is located in ecologically healthy surroundings.

IV. Education and awareness

[...]

[Public awareness on environmental matters]

39. Increasing the public awareness of environmental matters should continue into adulthood, and member States should design, implement and promote regular national awareness-raising initiatives at all levels and through diverse forms of media. These initiatives should aim to increase awareness and understanding among the general population, of the different forms of environmental challenges, its causes and effects (e.g., on health and well-being), of how to prevent and respond to them (e.g., through conservation, sustainable use, risk preparedness), and of the harm they generate for individuals and society.

[...]

[Civil society]

40. Member States are encouraged, as far as possible, to enable non-governmental organisations (NGOs) and/or representatives of civil society promoting environmental protection and meeting any requirements under national law, to participate in the decision-making process. They are encouraged to make consultation and collaboration with NGOs and civil society a common practice when drafting legislation, policies and action plans at national, regional and local levels, with a view to protecting and promoting human rights and the environment.

Commented [Suisse54]: Is there a need to repeat this and if yes, should it be the same wording as in paragraph 5?

Commented [Suisse55]: This paragraph is a collection of various requirements, some of which are already listed above or below in different wording or only have an exemplary character and limited normative content. We suggest splitting up this paragraph, deleting what is already covered and packing the individual parts into meaningful units, taking into account the requirements of consistency of form, and of subject matter.

Commented [Suisse56]: Ajouter la question des *Electromagnetic radiations* à un endroit opportun du document.

Commented [Suisse57]: Déjà couvert plus haut par les §§ 8 à 10.

Commented [Suisse58]: Pourquoi seulement sur la base de la race ? Par exemple, mentionner aussi l'origine ethnique.

Commented [Suisse59]: L'éducation et la sensibilisation sont aussi des principes (cf. par ex. les principes-cadres à ce sujet du RS ONU droits de l'homme et environnement) → on ne comprend pas bien pourquoi cela fait l'objet d'un chapitre séparé par rapport aux trois chapitres précédents sur les principes ? Ou alors il faudrait renommer ces trois chapitres précédents « legal principles » ?

Commented [Suisse60]: Overlaps with Aarhus and preceding paragraphs here.

Commented [Suisse61]: This also includes economic actors, indigenous people and traditional communities, cities and regions.

[Non-State actors and subnational entities]

41. Member States should take the necessary measures to encourage the implementation of this non-binding instrument (e.g., Recommendation or guidelines) by non-State actors and subnational entities, including National Human Rights Institutions and civil society, economic actors, indigenous people and traditional communities, cities and regions taking into account their vital role in the protection of the environment.

[Business and human rights related to the environment]

42. Member States ~~should be encouraged to adequately~~ regulate the private industry to ensure compliance with its human rights obligations related to the environment. In particular, member States should regulate business enterprises to protect against human rights abuses resulting from environmental harm, *inter alia*, by applying such measures as may be necessary to require business enterprises domiciled or operating in their territorial jurisdiction to respect human rights throughout their operations.

43. Member States should apply such measures as may be necessary to encourage or, where appropriate, require that business enterprises domiciled or conducting substantial activities within their jurisdiction apply human rights due diligence throughout their operations and activities, in order for those businesses to avoid causing or contributing to adverse human rights impacts through environmental harm, to address such impacts when they occur and to seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships.

44. ~~Member States should ensure the effective implementation of their obligations under Articles 6 and 13 of the European Convention on Human Rights and other international and European human rights instruments, to grant to everyone access to a court in the determination of their civil rights, as well as to everyone whose rights have been violated under these instruments as a result of environmental harm, an effective remedy before a national authority, including where such violation arises from business activity.~~

~~[Alternative: Member States should, as part of providing protection against business-related human rights abuse resulting from environmental harm, take appropriate steps to ensure, through judicial, administrative, legislative or other appropriate means, that when such abuses occur within their territory and/or jurisdiction those affected have access to effective remedy.]~~

45. Member States à la Convention sur la protection de l'environnement par le droit pénal (1998) should adopt appropriate measures as may be necessary to enable them to impose criminal or administrative sanctions or measures on legal persons on whose behalf an environmental violation has been committed, either intentionally or negligently, by their organs or members thereof or by any other representative.

[Protection of environmental human rights defenders]

46. Member States should respect the right of everyone to promote and protect peacefully a safe, clean, healthy and sustainable environment, necessary for the enjoyment of a vast range of human rights. Member States should ensure an enabling legal framework and a conducive political and public environment for human rights defenders, enabling individuals, groups, civil society organisations and national institutions for the protection and promotion of human rights (NHRIs) to freely carry out activities, on a legal basis, consistent with international law and standards, to strive for the protection and promotion of all human rights and fundamental freedoms. Member States should additionally take measures to protect environmental human rights defenders from violations committed by both State and non-State actors.

Commented [Suisse62]: Do the paras cover extraterritorial effects?

Commented [Suisse63]: Here and in the subsequent paras: How would the member states specifically address this issue? Regulatory measures?

What is the exact difference in content between paras 42 and 43?

Commented [Suisse64]: As the drafting proposals for a preliminary text also focus on responsible business conduct with regard not only to human rights but also the environment, references to the OECD Guidelines for Multinational Enterprises which are the oldest and most comprehensive international standard for responsible business conduct respectively the OECD Guidances on Due Diligence for Responsible Business Conduct should be added particularly in para. 43 respectively the relevant footnote 123

Commented [Suisse65]: La Suisse n'a pas ratifié la Convention sur la protection de l'environnement par le droit pénal (1998) citée en note de bas de page 126, dont l'article 9, " Responsabilité des entreprises ", constitue la base de la déclaration.

II. Other measures

Drafting proposals for a non-binding instrument:

[Participation and inclusion of youth in environmental matters]

47. Member States should adopt policies or measures designed to promote youth participation related to environmental matters, including the participation of young people belonging to vulnerable and minority groups. They should consider that environmental problems are of primary concern to the young people who will be obliged in the future to cope with the consequences of past mistakes, and take into account their diverse needs, circumstances and aspirations[; consult them and provide them with the opportunity to present their perspectives in the decision-making process on government decisions], and; create opportunities for intergenerational dialogue in order to encourage mutual respect and co-operation]. They should also encourage and support initiatives by young people which promote sustainable development and environmental protection.

[Restorative sanctions]

48. Member States are encouraged to consider including restorative sanctions as part of effective remedies, with the aim of reinstating or restoring damaged or destroyed components of the environment, or to introduce, where reasonable, the equivalent of these components into the environment.

[Broadened locus standi before national courts]

49. Member States are invited to consider broadening the *locus standi* before national courts and tribunals with respect to human rights related to the environment, granting any group, foundation or association which, according to its statutes, aims at the protection of the environment, the right to participate in proceedings.

[...]

53. In developing their legislations, policies, strategies and actions, Member States could build upon and implement the existing legal instruments, principles and activities of the Council of Europe.

54. Member States should explore all possible partnerships with a view to mainstreaming the environmental dimension in the domestic activities for the promotion and protection of human rights. In particular, Action Plans on Corporate Social Responsibility promoting the OECD Guidelines for Multinational Enterprises and National Action Plans under the UN Guiding Principles on Business and Human Rights could set up suitable structures, mechanisms (such as the National Contact Points for the OECD Guidelines for Multinational Enterprises) and processes to ensure responsible business conduct in respect of both human rights and environment.

55. Member States should consider monitoring the impact of the measures taken, for instance by developing, where appropriate, human rights indicators to measure their impact in the context of the environment.

[Coordination among member States related to environmental matters]

56. Effective coordination should be developed so that Member States of the Council of Europe have greater collective impact in international fora where environmental issues are addressed, building upon the Council of Europe's approach and added value.

57. The member States could consider a common approach to contributing to the UN 2030 Agenda for Sustainable Development, starting with good health and well-being (Goal 3). Greater collective action at the European level would set a global precedent and reduce the foreseeable risk of irreparable harm to the human rights of future generations.

Commented [Suisse66]: Quelle est la relation entre ce chapitre et les autres?

Commented [Suisse67]: Cf. la formulation en para. 40 ci-dessus.

Commented [Suisse68]: De quelle sorte de sanctions s'agit-il (p.ex. des sanctions individuelles dans le style « Magnitsky », des sanctions interétatiques, des sanctions économiques, politiques ou autres etc.) ?

Commented [Suisse69]: Comment est-ce que la légitimation serait conçue en détail ? Est-ce que ça signifie pour la condition d'être personnellement concerné ?

Commented [Suisse70]: *Could build upon the existing legal instruments?*

Commented [Suisse71]: What kind of indicators exist, how can we measure them, what do they cover?

Commented [Suisse72]: Coordination is too strong, exchange could be possible.

Commented [Suisse73]: That is all part of the discussion under the HLPF and the processes there on how to reach the goals of the Agenda 2030 collectively.

Commented [Suisse74]: Why is SDG 3 the main SDG for this work? We miss the justification here. Such prioritisation among the SDGs does not seem appropriate.

VII. Additional proposals suggested during the first meeting of the Drafting Group on Human Rights and Environment

(The proposals considered below are, contrary to the other proposals in this document, no drafting proposals yet. A small, non-exhaustive paragraph of sources is mentioned under each heading to indicate some of the instruments/developments that could be an inspiration or part of the potential formulation of such drafting proposals at a later stage.)

[Rights of Children]

[#.] Children, ~~the elderly, those in poor health or with unhealthy behaviours~~, may demonstrate increased sensitivity to environmental stressors and therefore experience more acute impacts than a healthy adult subject to the same level of exposure. Children are therefore a specific vulnerable group in the context of the environmental crisis.

[Rights of older persons]

[#.] ~~Children, t~~The elderly, ~~those in poor health or with unhealthy behaviours~~, may demonstrate increased sensitivity to environmental stressors and therefore experience more acute impacts than a healthy adult subject to the same level of exposure. Older persons are therefore a specific vulnerable group in the context of the environmental crisis.

Commented [Suisse75]: Pour les questions environnementales, il serait probablement judicieux d'aborder d'une façon ou d'une autre les personnes/groupes présentant des vulnérabilités particulières (personnes âgées, personnes avec déficit respiratoire...) qui pourraient être affectées de façon disproportionnée par les expositions environnementales. Par exemple, on pourrait adresser ces groupes dans un paragraphe propre et cela de manière non-exhaustive afin d'assurer qu'on n'oublie pas certaines groupes vulnérables (p.ex. les migrants, réfugiés de climat, cf. CCPR, Teitiota c. Nouvelle-Zélande, CCPR/C/127/D/2728/2016). Au moins, le paragraphe devrait mentionner tous les grands groupes, comme par exemple les femmes, les membres des peuples autochtones et des communautés traditionnelles, etc. Voir également le rapport du rapporteur spécial John Knox "Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment (2018)": "Those who are at greater risk from environmental harm for either or both reasons often include women, children, persons living in poverty, members of indigenous peoples and traditional communities, older persons, persons with disabilities, national, ethnic, religious or linguistic minorities and displaced persons." (para. 22, p.8) En outre, un consensus se dégage entre les différents mécanismes de l'ONU pour la protection des différents groupes vulnérables que la dégradation de l'environnement, en particulier le changement climatique, présentent un risque clair pour la jouissance effective des droits de l'homme (cf. Déclaration sur les droits de l'homme et les changements climatiques du CEDAW, CESCR, MWC, CRC, CRPD, HRI/2019/1).

Commented [Suisse76]: Here, we read these proposals as principles. We need to clarify if we are dealing with principles or if we are looking for implementation measures?

Commented [Suisse77]: Les droits des **personnes âgées** font l'objet d'une disposition spécifique ci-dessous.

Commented [Suisse78]: Critères/groupes de personnes à laisser tomber car ils ne sont pas suffisamment concrets. De plus, il s'agit d'un *wording* assez paternaliste.

Commented [Suisse79]: Les droits des enfants font l'objet d'une disposition ci-dessus.