

CDDH comments on the Parliamentary Assembly [Recommendation 2211\(2021\)](#) - ANCHORING THE RIGHT TO A HEALTHY ENVIRONMENT: NEED FOR ENHANCED ACTION BY THE COUNCIL OF EUROPE

95th meeting - 23–26 November 2021 - CDDH(2021)R95

1. The Steering Committee for Human Rights (CDDH) notes with interest Parliamentary Assembly Recommendation 2211(2021) “Anchoring the healthy environment: need for enhanced action” and the proposals contained therein to draw up additional protocols to the European Convention on Human Rights (ETS No. 5) and the European Social Charter (ETS No. 35), including the revised charter (ETS No. 163), as well as to prepare a feasibility study for a convention on environmental threats and technological hazards threatening human health, dignity and life and to revise Recommendation CM/Rec(2016)3 on human rights and business.

2. The CDDH would like to recall its previous comments regarding Recommendations 1614(2003) “Environment and human rights” and “Drafting an additional protocol to the European Convention on Human Rights concerning the right to a healthy environment”. In those comments, the CDDH recognised that neither the Convention nor its Additional Protocols expressly recognise a right to the protection of the environment but noted that the Convention system already indirectly contributed to the protection of the environment through existing Convention rights and their interpretation in the case law of the European Court of Human Rights, thereby offering a certain degree of protection in relation to environmental issues. In this respect, the CDDH recalls the obligations of member States under the European Convention on Human Rights and the development of the case-law by the European Court of Human Rights and national courts, that foster the interconnection between the protection of the environment and human rights. This is also shown in the “Manual on human rights principles emerging from the case-law of the European Court of Human Rights and the conclusions and decisions of the European Commission of Human Rights”, updated by the CDDH in June 2021.

3. The CDDH is also aware that the international debate on the right to a healthy environment has evolved significantly in the last decade, and notes in particular the adoption of Resolution 48/13 by the United Nations Human Rights Council recognising the right to a clean, healthy and safe environment. In this respect, under the aegis of the Georgian Presidency of the Committee of Ministers, the CDDH organised in February 2020 a High-level Conference on Environmental Protection and Human Rights. The Final Declaration presented by the Georgian Presidency refers, *inter alia*, to the need to upgrade the pan-European legal standards in this field.

4. Finally, the CDDH notes that it is currently mandated by the Committee of Ministers to develop a non-binding instrument of the Committee of Ministers (e.g. recommendation, guidelines). The work on the elaboration of the non-binding instrument is ongoing and is expected to be concluded by 30 June 2022. In addition, the CDDH has already initiated discussion on possible further work in this area including the preparation of a study on the need for and feasibility of a further instrument or instruments on human rights and the environment, bearing in mind the Recommendation 2211(2021) of the Parliamentary Assembly.

5. As regards more specifically the recommendation to revise Recommendation CM/Rec(2016)3 on human rights and business, the CDDH, at its 95th meeting (23 – 26 November 2021) finalised a Report on the implementation of this Recommendation, with a view to transmitting it to the Committee of Ministers. The Report concluded, *inter alia*, that the question how business enterprises conduct environmental and human rights due diligence as well as the question how victims of human rights and environmental adverse impacts access remedies require closer examination. The CDDH intends therefore to pursue, in the framework of its mandate during the next quadrennium, its examination of the implementation of Recommendation CM/Rec(2016)3 on human rights and business, including on these aspects, before making proposals about its possible revision. The concepts of due diligence and corporate responsibility with respect to environment are also currently being examined by the CDDH and its drafting group CDDH-ENV in the context of the elaboration of a non-binding instrument on human rights and the environment.