

CDDH-ENV(2021)07rev1

11 June / juin 2021

STEERING COMMITTEE FOR HUMAN RIGHTS
(CDDH)

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

Updating the Manual on human rights and the environment (2nd edition)

Mise à jour du manuel sur les droits de l'homme et l'environnement (2ème édition)

COMPILATION OF CONTRIBUTIONS RECEIVED FROM CDDH-ENV MEMBERS
AND OBSERVERS¹

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

¹ Belgium, Georgia, Germany, Spain, Switzerland as well as the Office of the United Nations High Commissioner for Human Rights (OHCHR).

² *Belgique, Géorgie, Allemagne, Espagne, Suisse ainsi que le Haut Commissariat des Nations Unies aux droits de l'homme.*

TABLE OF CONTENTS / TABLE DES MATIÈRES

BELGIUM / <i>BELGIQUE</i>	3
GEORGIA / <i>GÉORGIE</i>	5
GERMANY / <i>ALLEMAGNE</i>	6
SPAIN / <i>ÉSPAGNE</i>	8
SWITZERLAND / <i>SUISSE</i>	8

OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS (OHCHR) / <i>HAUT COMMISSARIAT DES NATIONS UNIES POUR LES DROITS DE L'HOMME</i>	10
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BELGIUM/ BELGIQUE

Appendix VI: Good Practices, 3. Requiring environmental impact assessments (EIAs)

[50.] By Belgian law, EIA is mainly the responsibility of the regions, which ~~require an obligation to carry out an EIA to be carried out~~ for installations likely to have a significant effect on the environment. Projects with a substantial potential impact are automatically subject to an EIA (e.g., large combustion plants), ~~whereas for other projects, the permit-issuing authority may decide to impose an EIA on a case-by-case basis, in view of significant environmental effects.~~ At the federal level, the state is also required to carry out substantial EIAs to guarantee its effective control over potentially harmful activities. For example, Article 28 of the Law of 20.01.1999 states that "any activity in marine areas that is subject to a permit or authorisation, [...] is subject to an environmental impact assessment by the competent authority appointed to this task by the Minister, both before and after granting the permit or authorisation. The EIA is designed to assess the effects of the activities on the marine environment."

Commented [CL1]: We would like to rephrase this sentence.

Appendix VI: Good Practices, 4. Ensuring public participation and access to information on environmental matters

[63.] In Belgium ~~there is a general right of access to information and public participation in the environmental decision-making process is guaranteed by both the regions and the federal government, through their respective transpositions of Directives 2003/4/EC and 2003/35/EC, and in compliance with the Aarhus Convention. public documents, i.e. those stemming from public authorities, enshrined in Article 32 of the Constitution. Moreover~~ Thus, the specific "Law on public access to environmental information" ~~has been established to implement the procedural rights guaranteed in the Aarhus Convention and EC directives. Additionally, Belgium has enacted and the "Law on the assessment of the effects of certain plans and programmes on the environment and public participation in the elaboration of the plans and programmes relating to the environment" implement the procedural rights guaranteed by the Aarhus Convention and the European directives.~~ At the regional level, these obligations are generally incorporated into regional environmental codes. For example, in Flanders, public authorities have an active duty to disseminate some environmental information and the environmental information which environmental authorities have at their disposal must, as much as possible, be categorised, accurate, comparable and updated. Assistance must be provided to anyone who is looking for this information (e.g. information on the existence of a particular administrative document, or on where it can be found). Government documents are actively disclosed further to the (in-principle) access approval, with the exception of the individual decisions which regulate a concrete individual legal status and which apply for one or a few specific cases. ~~several acts have been passed guaranteeing comparable rights.~~

In the Brussels-Capital Region, new legislation ~~on the disclosure of information by relating to the publicity of the administration recently adopted (16/05/2019) provides in particular for the setting up of a "transparency" section on the website of the administration in charge of the environment, bringing together all the information and useful links for the public, so that they can quickly have access, in electronic form, to as much information as possible that is as up to date as possible, or so that they can easily find the useful contacts.~~

Commented [CL2]:

Article 32 of the Belgian Constitution guarantees everyone the right to consult administrative documents, except in the cases and conditions laid down by the Law. ~~Finally, the Law of 5 August 2006 created a Federal Appeal Committee for access to environmental information. Comparable procedures have also been set up at regional level, for example with the Commission of Appeal for Access to Environmental Information (CRAIE) in the Walloon Region. In Flanders, such a right is also recognised, with few grounds for refusal, which are listed in the legislation. The specific grounds for refusal of environmental information and emissions, which differ to some extent to the refusal grounds for other documents, are applied only if~~

Commented [CL3]: In English, "enfin" doesn't need to be translated.

proportionate. Applications must be replied to at the latest within twenty calendar days. In the Brussels-Capital Region, the latest available figures show 0.05% refusals of access requests for written applications (no refusals for oral applications). These refusals are essentially motivated by reasons linked to the proper functioning of justice (ongoing proceedings). None of these refusals were appealed to the Commission for Access to Administrative Documents of the Brussels-Capital Region.

Public participation in environmental permitting is also guaranteed in Flanders, where the disclosure of information to the public concerned with a view to participation in decisions on specific activities is foreseen in the public consultation procedures as laid down in the regulations regarding environmental permitting. The public consultation takes at least 30 days, during which the provided information will be available for examination by the public which may give objections or remarks. Since it takes place at an early stage, it is useful and can be fully taken into account. Pursuant to legislation, the permitting decision must contain "where appropriate, a reference to the nature of the views, comments and objections that were submitted during the public consultation into the construction in question, and the way it was handled". In the Brussels-Capital Region, the public can also consult the documents submitted to the public enquiry in the context of a permit application, for the duration of this enquiry, at the municipality where the project requiring a permit is located. This is also the case in the Walloon Region.

Public participation in a wide range of regional plans and environmental programmes is ensured in Flanders, whereby the legal acts provide for detailed provisions. This is also the case for decisions on spatial planning instruments, which can be taken on the level of the Region, Province and Municipality. Separately from these instruments, for the development of the most of policy related regional plans and programmes (on emission reduction, decontamination, etc.) the government seeks for the involvement of the target groups and other relevant actors. Public participation in regional plans and environmental programmes is ensured in Flanders, where the environmental policy contains a wide range of plans and programmes relating to the environment at sectoral, compartmental or thematic level. These plans' related Parliament Acts contain detailed provisions on participation. Apart from these instruments, there is a wide range of regional plans and programmes (on emission reduction, decontamination, etc.) for which the government mostly seeks the participation of at least the target groups and other directly involved actors. The legislation Spatial Planning, that occur on the level of the Region, Province and Municipality, involves forms of participation, whereby the draft plan is subjected to public consultation before it is established to final effect. In the Brussels-Capital Region, public participation in relation to plans and programmes is carried out during a public consultation or enquiry. This is organised by rules laid down in the legislation. Such procedures are provided for in the context of the preparation or modification of plans for air pollution control, noise control, waste prevention and management, management of the Soignes forest, allocation of CO₂ quotas, etc.

Commented [CL4]: We would like to add this.

Commented [CL5]: We would like to include this text instead of the deleted part that follows.

Appendix VI: Good Practices, 6. Providing education on environmental sustainability

[#.] In Belgium, initiatives exist at the regional level to raise citizens' awareness of the environment. The Walloon Region finances workshops in schools on public cleanliness and waste sorting, for example, or environmental education networks (CRIE for the Walloon Region, which carry out numerous actions), or one-off awareness-raising campaigns by the public authorities. Moreover, the Federal Public Service (FPS) Health, Food Chain Safety and Environment has set up initiatives aimed at young people which include:

- 1) An information platform "L'ÉCOLE DU CLIMAT / KLIMAAT OP SCHOOL" has been launched.
- 2) In order to assist teachers and students of the 3rd level of secondary school, CLIMATE COACHS have been selected and trained.
- 3) The FPS and its partners are also offering MINI-CLIMATE CONFERENCES to 3rd level secondary school pupils.

In Dutch-speaking schools, since 2001, the programme 'MOS, sustainable schools, smart schools' supports schools (teachers and school leaders) to create a sustainable learning and living environment in and around the school. MOS became part of the international Eco-Schools programme in 2004. Outstanding MOS-schools earn the Eco-School label, receive "The Green Flag" and become ambassadors within the ESD network.

In the Brussels-Capital Region, numerous tools for raising awareness of the environment have been set up for the general public such as a monthly newspaper, the website <https://environnement.brussels>, electronic newsletters, publications on all environmental topics, and a yearly environment festival bringing together associations, institutional partners and administrations. Many tools are also available to raise awareness in schools (training, support for educational teams, networks, website, newspaper, teaching tools, [eventsentertainment](#)). For example, an interactive adventure trail "BELEXPO" is available to the public, particularly schoolchildren (<https://www.belexpo.brussels/fr>).

A cooperation agreement on environmental education and sustainable development has been in force since 2011 between the French Community and the Walloon and Brussels Regions. It provides the framework for policy dialogue to support environmental education within the school system.

Commented [CL6]: Word was missing

Commented [CL7]: We would like to keep a bit more information regarding the festival.

Commented [CL8]: This translation seems to be more fitting.

GEORGIA / GÉORGIE

Introduction, para. 1

Although the main human rights instruments (the 1948 Universal Declaration of Human Rights, the 1966 International Covenants) and those at the European level (the 1950 Convention for the Protection of Human Rights and Fundamental Freedoms, the 1961 European Social Charter), all drafted well before full awareness of environmental issues arose, do not refer to the environment, today it is commonly accepted that human rights and the environment are interdependent³, even to the point that it is suggested that environmental rights belong to a "third generation of human rights"⁴ which are based on their inter-generational character.⁵

Introduction, para. 5

In 2015, at COP 21 in Paris a legally binding international treaty on climate change was adopted. The Paris Agreement sets out a global framework to hold the increase in the global average temperature to well below 2 °C above pre-industrial levels and pursue efforts to limit the temperature increase to 1,5 °C above pre-industrial levels recognizing that this would significantly reduce the risks and impacts of climate change.

Introduction, para. 12

Although at the time of the elaboration of the Convention and the Charter the environment was not a major concern, and therefore they do not contain a definition of the environment, the human rights laid down within those treaties have been interpreted as including obligations pertaining to the protection of the environment. Thus, neither the Convention nor the Charter protects the environment as such, various individual rights provided for in these treaties may be affected by the environment.

Commented [MOU9]: This reference is rather vogue, not quite clear whether it refers to environmental rights or third generation of human rights. Since, not all the "third generation rights" are based on the doctrine of intergenerational equity (and it is even referred as the third-generation human right - Kiss, A & D Shelton. 2004. International environmental law. p 12ff), it would be better to more clearly stipulate the link between environmental rights and intergenerational equity.

Commented [MOU10]: It could also be mentioned here (or alternatively in the glossary) that the Paris Agreement was the first international environmental treaty to explicitly underline the link between the climate change and human rights. (**Preamble of the Paris Agreement:**

"Acknowledging that climate change is a common concern of humankind, Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights, the right to health, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity").

Commented [MOU11]: I think that this wording needs to be reformulated, thus individual rights cannot be affected by the environment itself, but rather by the anthropogenic impact on environment, such as e.g. emissions or noise, etc. or states failure to respond to natural events (lack of public information e.g.)

Commented [MOU12]: It would be better to delete the reference to "user pays" principle, since these two principles don't have identical meaning and using them with the slash can cause misunderstanding. Polluter pays principle is broader than the user pays principle.

Polluter pays principle – "It simply means that s/he who damages the environment should bear the cost of rectifying that damage. In a broader sense producers of goods and other items should be responsible for any pollution which the process of production causes and therefore must also pay for prevention or rectification of the damage caused to the environment by such pollution." (Svitlana Kravchenko, Tareq M.R. Chowdhury, Md Jahid Hossain Bhuiyan. 27 Sep 2012, Principles of international environmental law from: Routledge Handbook of International Environmental Law Routledge, pg. 50).

User pays principle – "Variation of the polluter-pays principle that calls upon the user of a natural resource to bear the cost of running down natural capital" (EEA Glossary).

Appendix I: Glossary

Polluter/ user pays principle

The polluter/user pays principle stems from general international law. The essence of the polluter pays principle is that those who generate pollution whether it be air, sea, or other, and waste, should also be responsible for the costs of containment, avoidance or abatement of that pollution, regardless of where it occurs, and the removal and disposal of that waste if it is linked to the actions of the polluter/user. It is, *inter alia*, contained in Principle 16 of the Rio Declaration.

³ Knox J. H. and Pajan R. (2018), Introduction, *The Human Right to a Healthy Environment*, Cambridge University Press, Cambridge, p. 1. See also UN General Assembly, 'Right to a healthy environment: good practices. Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment' (30 December 2019), UN Doc. A/HRC/43/53, p. 4, paras. 11-13.

⁴ See Karel Vasak, "Human Rights: A Thirty-Year Struggle: the Sustained Efforts to give Force of law to the Universal Declaration of Human Rights", *UNESCO Courier* 30:11, Paris: United Nations Educational, Scientific, and Cultural Organization, November 1977. The "third generation of human rights" consists of those rights that concern people collectively and include the right to development, to peace and to a safe, clean, healthy and sustainable environment.

⁵ Such rights transcend the present generation; what is done now may have a significant impact on future generations. Jacobs, White & Ovey (2014), *The European Convention on Human Rights*, Oxford University Press, Oxford, Sixth Edition, p. 7.

Sustainable development principle

The guiding principle of sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs. Sustainable development recognises the need to balance environmental, social and economic concerns. (See Principles 3, 4 and 8 of the Rio Declaration.).

Commented [MOU13]: This definition matches the definition provided by the Brundtland report of 1987 (Report of the World Commission on Environment and Development: Our Common Future) – thus it might be useful to include Brundtland report in the references as well.

Appendix VI: Good Practices, 1.B

[#.] The following basic laws apply to environmental issues in Georgia: Environmental Assessment Code of Georgia (2017), the Forest Code of Georgia (2020), Waste Management Code (2014), the Law of Georgia on Ambient Air Protection (1999), Law of Georgia on Wwater (1997), Law of Georgia on Environmental Liability (2021), Law of Georgia on Wildlife (1996), Law of Georgia on Red List and Red Book (2003), Law of Georgia on Licenses and Permits (2005), the Law of Georgia on Nuclear and Radiation Safety (2012), the Law of Georgia on Radioactive Waste (2015), the Law of Georgia on Living Genetically Modified Organisms (2014), the Law of Georgia on Aquaculture (2020). Many of the laws and amendments to the laws have been prepared in accordance with the EU directives stemming from the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part. In addition, a new draft Law on Water Resources Management has been prepared according to the respective EU directives which provides a legislative base for integrated water resources management.

GERMANY / ALLEMAGNE

Introduction (Proposal to delete paragraph relating to General Assembly resolution 73/333)

Work on the issue of human rights and the environment has continued in the UN framework. In May 2018, the General Assembly adopted a resolution entitled "Towards a Global Pact for the Environment"⁶ which requested the Secretary-General to submit a report on possible gaps in international environmental law and environment-related instruments with a view to strengthening their implementation and which established an ad hoc open-ended working group, to consider the report and discuss possible options to address possible gaps in international environmental law and environment-related instruments, as appropriate, and, if deemed necessary, the scope, parameters and feasibility of an international instrument. On 30 August 2019, the General Assembly adopted resolution 73/333, entitled "Follow-up to the report of the ad hoc open-ended working group established pursuant to General Assembly resolution 72/277." The Assembly welcomed the work of the ad hoc open-ended working group as well as its report, and endorsed all its recommendations, which concern a wide range of issues related to international environmental governance and international environmental law. As follow up to this Resolution a political declaration for a United Nations high-level meeting, in the context of the commemoration of the creation of UNEP, is being prepared.

Commented [RM14]: We propose deleting this paragraph. We have doubts as to whether it is useful to mention this process on Resolution 73/333 – which is going very slowly and is likely to end without a groundbreaking result – in the context of the real successes of environmental law (and binding instruments).

Appendix I (Definition of Aarhus Convention)

Aarhus Convention

The Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters was adopted on 25 June 1998, (commonly referred to as the Aarhus Convention). Article 1 of the Aarhus Convention acknowledges "rights of access to information, public participation in decision-making, and access to justice in environmental matters in accordance with the provisions of this Convention" "[i]n order to contribute to the protection of the right of every person of present and future generations". The Convention is considered one of the cornerstones of environmental procedural rights in Europe. However, it does not contain substantial environmental rights, but assumes their existence. However, it grants cross-cutting procedural rights to members of the public and environmental NGOs, but – it does not contain legal provisions on specific

Commented [SD15]: Dieser Satz ist leider immer noch nicht richtig. Die Konvention schafft gerade substantielle übergreifende Umwelt-Verfahrensrechte und knüpft nicht an deren Existenz woanders an. Deshalb bittet das Fachreferat um den hier auch eingefügten Satz: However, it grants cross-cutting procedural rights to members of the public and environmental NGOs, but does not contain legal provisions on specific environmental sectors.

⁶ UN General Assembly, resolution A/72/L.51 of 10 May 2018 "Towards a Global Pact for the Environment".

environmental sectors. As of March 2021 there are 47 Parties to the Convention (42 Council of Europe member states), 38 Parties to the Protocol on Pollutant Release and Transfer Registers adopted on 21 May 2003 (26 Council of Europe member states) and 32 Parties to the amendment on public participation in decisions on the deliberate release into the environment and placing on the market of genetically modified organisms adopted on 27 May 2005 (26 Council of Europe member states).

APPENDIX VI, 1. Embedding environmental rights in the national policy and legal framework

[7.] Mindful of its responsibility toward future generations, the Basic Law for the Federal Republic of **Germany** imposes an obligation on the state to protect the natural foundations of life and animals by legislation and, in accordance with law and justice, by executive and judicial action, all within the framework of the constitutional order (Article 20a). The German Constitutional Court has recently affirmed in April 2021 that this Article 20a also obliges the state to protect the climate and to transition to aim at establishing climate neutrality for the sake of future generations.

APPENDIX VI, 6. Providing education on environmental sustainability

[#.] The National Action Plan on ESD was adopted in 2017 by Germany's National Platform, a steering body responsible for implementation of the Global Action Programme and now of the UNESCO Framework "Education for Sustainable Development: Towards achieving the SDGs (ESD for 2030)", and endorsed by the federal government. The main goal is to provide ESD across the education system. The Federal Ministry of Education and Research (BMBF) launched a comprehensive participatory process involving several federal ministries, the federal states (Länder) and local authorities, and stakeholders from the education community, academia, the private sector and civil society. The National Action Plan was prepared by representatives of more than 300 organisations working in six expert forums: early childhood education, schools, higher education, vocational education and training, non-formal and informal learning, and local communities.

The plan defines 130 goals and 349 measures, which are being monitored and evaluated. It targets curricula, as well as pre- and in-service educator training in formal, non-formal and informal education. The Standing Conference of the Ministers of Education and Cultural Affairs of the Länder launched a comprehensive curricular framework on ESD to support curricular development, make concrete recommendations and provide teaching and learning material. Seen as an education concept and not just as a list of topics, ESD has been or will be integrated into all Länder curricula. It is also part of initial teacher training and continuing professional development.

SPAIN / ÉSPAGNE

Appendix VI: Good Practices, 1.B

Examples of countries with framework legislation on the environment

[#.] Spain has adopted a Climate Change and Energy Transition Law which establishes the regulatory framework for Spain to move towards the goal of climate neutrality by mid-century. This law includes the necessary institutional cooperation instruments; assessment and learning tools; and a framework facilitating energy transition with channels for integrating the different sectors and incorporates all economic sectors into climate action, from energy generation and finance to primary sectors, including transport, industry and public administrations. The text sets the following targets, which can only be revised upwards, i) it determines by law, for the first time, that Spain should achieve climate neutrality no later than 2050, ii) by mid-century, Spain's

Commented [xxx16]: Pending of publication in the Official Gazette

electricity system must be 100% renewable, iii) by 2030 emissions from the Spanish economy as a whole must be reduced by 23% compared with 1990., iv) by the end of the next decade, at least 35% of final energy consumption should be from renewable sources, v) in the case of the electricity system, at least 70% must be renewable by 2030 and vi) energy efficiency measures will have to reduce primary energy consumption by at least 35%.

Examples of countries with a number of specific legislations on the environment

[26.] In **Spain**, the national Parliament has enacted a specific legislation on natural heritage and biodiversity, assessment of the effects of certain plans and programmes, coastal areas, continental water, the national parks network, environmental liability, integrated pollution prevention and control, the quality and protection of the air, waste and waste packaging, environmental noise, geological sequestration of CO₂, access to information and public participation on environmental matters; protection of aquatic ecosystems, the creation of natural river reserves and the allocation of water resources to different uses; drought plans, which distinguish between situations of scarcity and prolonged drought in order not to cause deterioration of water bodies. The regions may establish a higher level of protection to the basic legislation, but not a lower one.

SWITZERLAND / SUISSE

Introduction du Manuel révisé, au sujet des travaux en cours dans le cadre de l'ONU dans le domaine droits de l'homme et environnement (cf. p. 8 avant-dernier para.) :

The UN Special Rapporteur on human rights and the environment is mandated to examine the human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, to promote best practices of the use of human rights in environmental policymaking, to identify challenges and obstacles and to conduct country visits and respond to human rights violations.

Together with the UN Secretary General, the UN High Commissioner for Human Rights and the Directors of several UN agencies, the UN Special Rapporteur on human rights and the environment calls for the recognition of a human right to a safe, clean, healthy and sustainable environment by the UN Human Rights Council and the UN General Assembly. Consultations among States are ongoing in preparation of such a potential resolution.

Appendix VI: Good Practices, 1.A

[10.] **Switzerland's** Constitution has several provisions relating to environmental protection. In accordance with the objectives set out in Article 2, the Swiss Confederation shall promote sustainable development (para. 2) and is shall be committed to the sustainable long term preservation of natural resources (para. 4). While Article 73 of the Swiss Constitution enshrines the principle of sustainable development, Article 74 deals more specifically with environmental protection. Articles 76 to 79 treat the handling of water, forests, the protection of natural and cultural heritage and fishing and hunting.

Commented [Suisse17]: Cf. version française CDDH-ENV(2021)06.

Appendix VI: Good Practices, 1.B

[27.] **Switzerland** has enacted multiple a number of relevant environmental laws, including of which the most important one is the Environmental Protection Act, which deals with, *inter alia*, pollution control (air pollution, noise, vibrations and radiation), environmental impact assessment, environmentally hazardous substances, the handling of organisms, waste and the remediation of polluted sites. Other crucial laws are the Federal Act on the Protection of Nature and Cultural Heritage, the Water Protection Act, the Forest Act, the Federal Law on Spatial Planning, as well as the Chemicals Act, and newly the Federal Act on the Reduction of CO₂ Emissions.

Appendix VI: Good Practices, 1.C

[37.] In **Switzerland**, plans of action are ~~mainly elaborated~~contained in the national legislation processes as well as in specific strategies. Furthermore, ~~Important instruments on environmental issues include the~~a National Biodiversity Strategy is under evaluation, or the Sustainable Development Strategy.

Commented [Suisse18]: Cf. version française: « En Suisse, des programmes d'action sont élaborés dans le cadre du processus législatif national ainsi que dans des stratégies spécifiques. »

Appendix VI: Good Practices, 6

[#.] In **Switzerland**, the National Agency for Education 21 was established in 2013 as a competence centre for schools and teacher training to promote education for sustainable development (ESD) in the Swiss school system as an integrated approach that takes into account the economic, social and ecological dimensions. It supports the implementation and embedding of ESD at the level of compulsory and upper secondary schools. Teachers, school management and other stakeholders can obtain pedagogically recommended teaching materials, support and advice from education21, as well as financial support for class and school projects. Concernant la formation professionnelle initiale et supérieure, les organes responsables du développement des professions veillent à ce que les qualifications des professionnels tiennent compte des aspects du développement durable. Pour ce faire, le Secrétariat d'Etat à la formation à la recherche et à l'innovation a mis à leur disposition un outil spécifique le « Guide sur le développement durable dans la formation professionnelle », disponible depuis le mois de janvier 2021. The State Secretariat for Education, Research and Innovation is working with the responsible bodies to develop a guide to sustainable development by the end of 2020. ESD is also included in the objectives of the vocational baccalaureate: holders of the federal vocational baccalaureate are able to "think about their professional activities and experiences in terms of their relationship with nature and society" and "to exercise responsibility towards themselves, others, society, the economy, culture, technology and nature" (as defined in Art. 3, para. 3, of the Ordinance on the Vocational Baccalaureate, OMP). Furthermore, sustainable development is also a key issue for Swiss universities. A selection of examples of teaching activities undertaken by universities can be found on the website of the Rectors' Conference of the Swiss Universities (swissuniversities): <https://www.swissuniversities.ch/fr/> > Topics > University policy > Sustainability > Teaching.

Commented [Suisse19]: Ce texte ne correspond pas exactement au texte français CDDH-ENV(2021)06. Par exemple, les phrases suivantes n'ont pas été reprises (tel quel): « La Confédération soutient le centre de compétence national éducation21 qui promeut l'EDD dans une démarche intégrée prenant en compte à la fois les dimensions économique, sociale et écologique. L'EDD se conçoit comme une approche systémique globale et aborde différentes thématiques (entre autres, l'éducation à l'environnement). »

Pour la formation professionnelle, pour remplacer ce qui n'a pas été repris, nous proposons d'ajouter les deux phrases insérées dans le texte à gauche.

Appendix VI: Good Practices, 7.

[#.] In **Switzerland**, the Federal Council has proposed to regulate the conditions for whistleblowing in the Code of Obligations (rules on the employment contract). It also proposed to increase the compensation for unfair or unjustified dismissal, in particular to better protect whistleblowers. Both of these proposals failed. However, they have helped to make considerable progress on the issue in public opinion, in the public debate and with companies. Recent studies show that many companies, both large and small, are setting up internal whistleblowing systems. The protection of whistleblowers is regulated, even without express legal rules. Federal case law has indeed developed in recent years on the subject, with the Federal Court adopting several rulings on the issue. The trend is of course supported by developments in the case-law of the European Court of Human Rights. The weighing of the employer's interests against the public interest in disclosure is thus fully integrated into Switzerland's legal approach, with the public interest in disclosure may taking precedence over the employer's interest in secrecy. The principle that whistleblowing is a "cascade" process involving the employer, the authority and other recipients has also been integrated into the case law. The system is not compartmentalised and direct alerts to the authorities are possible, as well as disclosure to the media, depending on the circumstances, if this proves to be the only remedy available. According to these rules, an employee may report violations of environmental protection law by his or her employer, internally, but also, depending on the circumstances and the conditions laid down in the case law, directly to the authorities and, as a last resort, to the media

Commented [Suisse20]: Cf. la version française: « l'intérêt public à la révélation pouvant primer celui de l'employeur au secret. »

Commented [Suisse21]: Cf. la version française: "l'alerte se fait selon la « cascade » employeur, autorité, autres destinataires ».

OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS (OHCHR) / HAUT COMMISSARIAT DES NATIONS UNIES POUR LES DROITS DE L'HOMME

Preliminary remarks, section: "IS THE ENVIRONMENT PROTECTED UNDER INTERNATIONAL LAW?"

The environment is protected by international law, and multi-farious international treaties govern specific environmental issues, e.g., climate change, loss of biodiversity, and pollution. Thus, various legal obligations to protect the environment are placed upon states, e.g., duties to inform, co-operate, or limit emissions.

International Human Rights Law includes several obligations relating to the protection of the environment, as emphasized by several human rights mechanisms and human rights treaty bodies. For instance, the Convention on the Rights of the Child recognizes children's rights to seek and impart information and to have access to an education that fosters respect for the environment (Article 29), and the International Covenant on Economic, Social and Cultural Rights includes references to the environment and natural resources (see Article 11 and Article 12).

Additionally, IHL prohibits to employ methods or means of warfare which are intended, or may be expected, to cause widespread, long-term and severe damage to the natural environment.⁷

Introduction, para. 1

The environment and environmental protection have only recently become a concern of the international community. After World War II, the reconstruction of the economy and lasting peace were the first priorities; this included the guarantee of civil and political as well as social and economic human rights. However, in the subsequent half century the environment became a prominent concern, which has also had an impact on international law.⁸ Although the main human rights instruments (the 1948 Universal Declaration of Human Rights, the 1966 International Covenants) and those at the European level (the 1950 Convention for the Protection of Human Rights and Fundamental Freedoms, the 1961 European Social Charter), all drafted well before full awareness of environmental issues arose, do not refer to the environment, today it is commonly accepted that human rights and the environment are interdependent⁹, even to the point that it is suggested that environmental rights belong to a "third generation of human rights"¹⁰ which are based on their inter-generational character.¹¹

⁷ See Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977, articles 35.3 and 55; Convention on the prohibition of military or any hostile use of environmental modification techniques, 10 December 1976; Rome Statute of the International Criminal Court, 17 July 1998, article 8.2 (b), (iv); ICRC, Customary International Humanitarian Law, vol. I, Rules 43, 44 and 45

⁸ More recently adopted regional human rights treaties include a right to a healthy environment. For example, Article 24 of the African Charter on Human and Peoples' Rights of 28 June 1981 states that "all peoples shall have the right to a general satisfactory environment favourable to their development" and makes this a collective right. Furthermore, Articles 18 and 19 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol), adopted on 11 July 2003, grants women "the right to live in a healthy and sustainable environment" and "the right to fully enjoy their right to sustainable development". The Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (San Salvador Protocol) of 17 November 1988 recognises, in its Article 11, that "everyone shall have the right to live in a healthy environment". Article 28(f) of the Association of Southeast Asian Nations (ASEAN) Human Rights Declaration (AHRD), signed on 18 November 2012 proclaims the right to a "safe, clean and sustainable environment" as part of the right to an adequate standard of living. Article 38 of the Arab Charter on Human Rights, which entered into force on 15 March 2008, recognises the right to a "healthy" environment.

⁹ Knox J. H. and Pajan R. (2018), Introduction, *The Human Right to a Healthy Environment*, Cambridge University Press, Cambridge, p. 1. See also UN General Assembly, 'Right to a healthy environment: good practices. Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment' (30 December 2019), UN Doc. A/HRC/43/53, p. 4, paras. 11-13.

¹⁰ See Karel Vasak, "Human Rights: A Thirty-Year Struggle: the Sustained Efforts to give Force of law to the Universal Declaration of Human Rights", *UNESCO Courier* 30:11, Paris: United Nations Educational, Scientific, and Cultural Organization, November 1977. The "third generation of human rights" consists of those rights that concern people collectively and include the right to development, to peace and to a safe, clean, healthy and sustainable environment.

¹¹ Such rights transcend the present generation; what is done now may have a significant impact on future generations. Jacobs, White & Ovey (2014), *The European Convention on Human Rights*, Oxford University Press, Oxford, Sixth Edition, p. 7.

Commented [OHCHR22]: Perhaps useful to include a few references in the footnotes here to the relevant obligations, e.g. from the Paris Agreement, Convention on Biological Diversity, and the Stockholm/Basel/Rotterdam and Minamata Conventions.

Commented [OHCHR23]: See references to the Human Rights Committee and the Committee on the Elimination of Discrimination Against Women below. Additional examples include the Committee on the Rights of the Child, which has identified climate change as one of the biggest threats to children's health and has urged States parties to put children's health concerns at the centre of their climate change adaptation and mitigation strategies and has emphasized that States have a responsibility to protect children from environmental harm (General comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health, para. 50.)

Commented [OHCHR24]: As noted below in footnote 4, several regional instrument also refer to human rights and the environment.

Commented [OHCHR25]: Regarding the protection of the environment in relation to armed conflicts, it is worth noting that the International Law Commission has developed draft principles on "Protection of the environment in relation to armed conflicts", which were adopted on first reading in 2019:

[Protection of the environment in relation to armed conflicts — Analytical Guide to the Work of the International Law Commission — International Law Commission \(un.org\)](#)

In addition, see Human Rights Council resolution 46/7 on Human rights and environment (2021): "Recognizing the benefits of seeking to mitigate and minimize the negative effects of pollution and other forms of environmental degradation in situations of armed conflict and post-conflict contexts, and expressing its deep concern at the threats posed to the effective enjoyment of human rights by persons in vulnerable situations, including children, women and girls, youth, persons with disabilities, older persons, indigenous peoples, local communities, refugees, internally displaced persons and migrants,"

See also ICRC, Guidelines on protection of natural environment in armed conflict (2020), <https://www.icrc.org/en/document/guidelines-protection-natural-environment-armed-conflict-rules-and-recommendations-relating>

Commented [OHCHR26]: Perhaps this could be reframed as "The environment and environmental protection have increasingly become a concern of the international community"?

Commented [OHCHR27]: In footnote 4 outlining regional instruments, suggest to include also the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement), which entered into force on 22 April 2021.

Article 1 of the Agreement states that "The objective of the present Agreement is to guarantee the full and effective implementation in Latin America and the Caribbean of the

Introduction, para. 2

In 1972 the first UN Conference on the Human Environment took place in Stockholm, which marked the beginning of legal recognition of the interdependence between respect for human rights and the protection of the environment. Indeed, the preamble to the Stockholm Declaration proclaims that “both aspects of man’s environment, the natural and manmade, are essential to his well-being and to the enjoyment of basic human rights – even the right to life itself”. The first principle of the Stockholm Declaration stressed that “Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being, and he bears a solemn responsibility to protect and improve the environment for present and future generations”. Today it is clearly acknowledged that there is a link between human dignity, human rights and the protection of the environment.¹²

Commented [OHCHR28]: Suggest updating to “human dignity, human rights and the protection of the environment”

Introduction, para. 8.

In the 1980s the international community ~~UN realized that there was a~~ emphasized the need to reconcile economic development with environmental protection.¹³ The 1992 Rio de Janeiro Conference on Environment and Development (UNCED) – also known as the Earth Summit – developed and adopted the first agenda for Environment and Development, namely Agenda 21. The Declaration adopted during the Rio Conference also focused on the link that exists between human rights and the environment in terms of procedural rights (Principle 10):

Commented [OHCHR29]: Would suggest “international community” here as this was a decision by States and noting extensive stakeholder engagement with the process.

Introduction, para. 7

Work on the issue of human rights and the environment has continued in the UN framework. Several human rights mechanisms have addressed human rights and the environment within the context of their mandates. For instance, the Human Rights Committee in its General Comment 36 on the right to life notes that “Implementation of the obligation to respect and ensure the right to life, and in particular life with dignity, depends, inter alia, on measures taken by States parties to preserve the environment and protect it against harm, pollution and climate change caused by public and private actors.” In 2018, Committee on the Elimination of Discrimination Against Women, issued its General Recommendation No. 37 on gender dimensions of disaster risk reduction in the context of climate change.

Commented [OHCHR30]: Additional references available at: OHCHR, Frequently Asked Questions on Human Rights and Climate Change (2021): https://www.ohchr.org/Documents/Publications/FSheet38_FAQ_HR_CC_EN.pdf

Commented [OHCHR31]: 2018, UN Doc. CCPR/C/GC/36, para. 62.

The Human Rights Council has issued a number of resolutions on human rights and the environment. In its resolution 46/7 (March 2021), the Human Rights Council noted that “more than 155 States have recognized some form of a right to a healthy environment in, inter alia, international agreements or their national constitutions, legislation or policies”. The Human Rights Council has also addressed the issue of the impact of climate change in the framework of its work on human rights and the environment, particularly in its resolutions 16/11 (adopted in 2011), 19/10 (adopted in 2012), 25/21 (adopted in 2014), 28/11 (adopted in 2015), 31/8 (adopted in 2016), 34/20 (adopted in 2017) and 37/8 (adopted in 2018). In resolution 40/11 in March 2019, the Human Rights Council (HRC) affirmed the critical role of environmental activists and human rights defenders in protecting vital ecosystems, addressing climate change, attaining the sustainable development goals and ensuring that no-one is left behind.

In 2019, the United Nations Environment Assembly adopted Resolution 4/17, on promoting gender equality and the human rights and empowerment of women and girls in environmental governance, which is the first UNEA resolution with a specific focus on human rights.

The UN Secretary-General’s Call to Action for Human Rights, issued in 2020, includes a focus on rights of future generations and climate justice, highlighting as a key action going forward to: “increase United

¹² UN General Assembly, ‘Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment’ (24 January 2018) UN Doc. A/HRC/37/59, § 16; UN Economic and Social Council, ‘Human Rights and the Environment’ Final report prepared by Mrs. Fatma Zohra Ksentini, Special Rapporteur’ (6 July 1994), UN Doc. E/CN.4/Sub.2/1994/9, §§ 31, 54, 124, 178. Daly E. and May J. R. (2019), “Exploring environmental justice through the lens of human dignity”, *Widener Law Review* Vol. 25, p. 177; Introductory Report to the High-Level Conference “Environmental Protection and Human Rights” (Strasbourg, 27 February 2020), prepared at the request of the Steering Committee for Human Rights (CDDH) by Elisabeth LAMBERT, CNRS Research Director, SAGE Research Unit, University of Strasbourg.

¹³ The 1980 World Conservation Strategy of the International Union for the Conservation of Nature was the first report to include a very brief chapter on the new concept “sustainable development”. The UN then initiated the creation of an independent commission, the World Commission on Environment and Development (WCED) whose main report “Our Common Future” strongly influenced the Earth Summit in Rio de Janeiro in 1992 and the third UN Conference on Environment and Development in Johannesburg in 2002. Also, it is credited with crafting the most prevalent definition of “sustainability” which builds on the three pillars: economic growth, environmental protection and social equality.

Nations support to Member States at field level for laws and policies that regulate and promote the right to a safe, clean, healthy and sustainable environment, and for effective individual access to justice and effective remedies for environment-related concerns".

In May 2018, the General Assembly adopted a resolution entitled "Towards a Global Pact for the Environment"¹⁴ which requested the Secretary-General to submit a report on possible gaps in international environmental law and environment-related instruments with a view to strengthening their implementation and which established an ad hoc open-ended working group, to consider the report and discuss possible options to address possible gaps in international environmental law and environment-related instruments, as appropriate, and, if deemed necessary, the scope, parameters and feasibility of an international instrument. On 30 August 2019, the General Assembly adopted resolution 73/333, entitled "Follow-up to the report of the ad hoc open-ended working group established pursuant to General Assembly resolution 72/277." The Assembly welcomed the work of the ad hoc open-ended working group as well as its report, and endorsed all its recommendations, which concern a wide range of issues related to international environmental governance and international environmental law. As follow up to this Resolution a political declaration for a United Nations high-level meeting, in the context of the commemoration of the creation of UNEP, is being prepared.

Introduction, para. 8

Another important achievement of the Rio Conference was an agreement on the UN Framework Convention on Climate Change (UNFCCC) with the aim to "stabilize greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system" (Article 2). A Protocol to the Convention was subsequently concluded in 1997 in Kyoto which contained legally binding obligations for developed countries to reduce their greenhouse gas emissions in the period 2008–2012. As of 28 October 2020, 147 Parties deposited their instrument of acceptance, therefore the threshold for entry into force of the Doha Amendment was achieved. The amendment entered into force on 31 December 2020. In 2015 at COP 21 the Paris Agreement - legally binding international treaty on climate change was adopted. The Paris Agreement sets out a global framework to hold the increase in the global average temperature to well below 2 °C above pre-industrial levels and pursue efforts to limit the temperature increase to 1,5 °C above pre-industrial levels recognizing that this would significantly reduce the risks and impacts of climate change. In its preamble, the Paris Agreement calls on States Parties to "respect, promote and consider their respective obligations on human rights" when taking action to address climate change.

Appendix VI:

Protecting environmental activists and whistle-blowers

Appendix VII: Useful Websites

United Nations Office of the High Commissioner for Human Rights

OHCHR and Climate Change:

<https://www.ohchr.org/EN/Issues/HRAndClimateChange/Pages/HRCClimateChangeIndex.aspx>

OHCHR, Frequently Asked Questions on Human Rights and Climate Change (2021):

https://www.ohchr.org/Documents/Publications/FSheet38_FAQ_HR_CC_EN.pdf

Universal Human Rights Index:

<https://uhri.ohchr.org/en/>

The Universal Human Rights Index, which is available in all six UN languages, includes observations and recommendations from UN human rights mechanisms, and includes a dedicated search theme of "environment and human rights".

Appendix VIII: Further reading

¹⁴ UN General Assembly, resolution A/72/L.51 of 10 May 2018 "Towards a Global Pact for the Environment".

Commented [OHCHR32]: More information available at: The Secretary-General's [Call to Action for Human Rights](#)

Commented [OHCHR33]: See Adoption of the Paris Agreement, decision 1/CP.21 (2015) Preamble: "Acknowledging that climate change is a common concern of humankind, Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights, the right to health, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity".

Commented [I34]: Proposal from OHCHR:

Regarding the section focusing on environmental human rights defenders, it may be useful to add a reference/footnote to Human Rights Council Resolution 40/11, Recognizing the contribution of environmental human rights defenders to the enjoyment of human rights, environmental protection and sustainable development (2019), A/HRC/RES/40/11. As noted in the background paper prepared for the meeting, the Special Rapporteur on the situation of human rights defenders has also issued a specific report on environmental human rights defenders, (2016) A/71/281.

Commented [OHCHR35]: Additional resources that could be added here:

- Analytical study on the promotion and protection of the rights of persons with disabilities in the context of climate change (2020), [A/HRC/44/30](#)
- Realizing the rights of the child through a healthy environment (2020, available [here](#))
- Summary of the panel discussion on women's rights and climate change: climate action, good practices and lessons learned (2019) [A/HRC/42/26](#)
- Analytical study on gender-responsive climate action for the full and effective enjoyment of the rights of women (2019) [A/HRC/41/26](#)
- Analytical study on addressing human rights protection gaps in the context of migration and displacement of persons across international borders resulting from the adverse effects of climate change and supporting the adaptation and mitigation plans of developing countries to bridge the protection gaps (2018), [A/HRC/38/21](#)
- Summary of the panel discussion on human rights, climate change, migrants and persons displaced across international borders (2017), [A/HRC/37/35](#)
- Analytical study on the relationship between climate change and the full and effective enjoyment of the rights of the child (2017), [A/HRC/35/13](#)
- Analytical study on the relationship between climate change and the human right of everyone to the enjoyment of the highest attainable standard of physical and mental health (2016), [A/HRC/32/23](#)

6. Bodansky, Daniel/ Brunnee, Jutta/ Hey, Ellen: The Oxford Handbook of International Environmental Law, Oxford University Press (2008)

Commented [OHCHR36]: Suggest to add Boyd, David, "The Environmental Rights Revolution", UBC Press 2011