

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

**The need for and feasibility of a further instrument or instruments in the field of
human rights and the environment**

[DRAFT] PROGRESS REPORT

I. Introduction

1. The CDDH terms of reference for 2024-2027 require it to prepare a “Study on the need for and feasibility of a further instrument or instruments in the field of human rights and the environment”. These terms of reference supplemented the Committee of Ministers’ earlier invitation to the CDDH, “in the context of its ongoing work on human rights and the environment to consider the need for and feasibility of a further instrument or instruments, bearing in mind [Parliamentary Assembly] [Recommendation 2211 \(2021\)](#) [entitled “Anchoring the right to a healthy environment: need for enhanced action by the Council of Europe”]”.¹ The deadline for completion of this deliverable, as set in the terms of reference for 2024-2027, is 30 June 2024.

2. The present progress report sets out the current state of the CDDH’s work on this issue. For reasons that will be explained, the CDDH has not finalised its Study ahead of the deadline and will ask for this deadline to be extended until 31 December 2024.

II. The work of the CDDH Drafting Group on human rights and environment (CDDH-ENV)

3. The CDDH established its Drafting Group on human rights and environment (CDDH-ENV) in December 2020 to complete three tasks: (i) update the Manual on Human Rights and the Environment; (ii) prepare a non-binding instrument on human rights and the environment; and (iii) consider the need for further work in this field (an instruction that was later superseded by the CDDH’s terms of reference for 2024-2027). On the basis of preparatory work conducted by the CDDH-ENV, the CDDH adopted the updated [Third Edition of the Manual on Human Rights and the Environment](#) in June 2021 and finalised a draft Committee of Ministers recommendation to member States on human rights and the protection of the environment in June 2022.² In September 2022, the CDDH-ENV turned to the third limb of its mandate.

4. The CDDH-ENV began this work by holding a two-day exchange of views with independent experts and representatives of the Parliamentary Assembly and the European Committee of Social Rights.³ It subsequently held another five meetings. In May 2023, members of the CDDH-ENV also participated in the High-level Conference on the right to a clean, healthy and sustainable environment in practice, organised by the Icelandic Presidency of the Committee of Ministers with the support of the CDDH secretariat.⁴

5. At its final meeting in March 2024, the CDDH-ENV adopted a draft CDDH report on the need for and feasibility of a further instrument or instruments on human rights and the environment, subject to final technical revisions that were completed by written procedure. The understanding was that this draft would be presented to the CDDH at its 100th meeting from 25 to 28 June 2024, with a view to its adoption and transmission to the Committee of Ministers. The draft report prepared by the CDDH-ENV can be found [here](#).

III. The rulings of the European Court of Human Rights in three cases concerning climate change

6. On 9 April 2024, the Grand Chamber of the European Court of Human Rights (the Court) delivered rulings in three climate change cases.⁵ Even if these rulings relate to cases specifically concerning climate change, whereas the CDDH is looking at the wider issue of human rights and the environment, they are relevant to a number of fundamental issues that are addressed in the draft report prepared by the CDDH-ENV. These include, for example, the questions of extraterritorial jurisdiction over the environmental impact of actions or omissions occurring on the

¹ See the decisions taken at the 1416th meeting of the Ministers’ Deputies, 3 November 2021, doc. CM/Del/Dec(2021)1416/3.1.

² Adopted by the Committee of Ministers as [CM/Rec\(2022\)20](#) in September 2022.

³ The programme of the exchange of views can be found [here](#).

⁴ The programme of the conference can be found [here](#) and the proceedings, [here](#).

⁵ *Verein Klimaseniorinnen Schweiz and Others v. Switzerland*, application no. 53600/20 ([press release](#)); *Carême v. France*, application No. 7189/21 ([press release](#)); and *Duarte Agostinho and Others v. Portugal and 32 Others*, application no. 39371/20 ([press release](#)); see also <https://www.echr.coe.int/w/grand-chamber-rulings-in-the-climate-change-cases>.

national territory, individual victim status, and the standing of civil society organisations in proceedings before the Court, as well as evidentiary issues relating to proof of causation. A full understanding of the exact meaning and full implications of the Court's rulings, including their possible effects on potential cases concerning environmental issues other than climate change, will require detailed examination and discussion.

7. Following the delivery of these rulings, the CDDH Bureau held an online meeting to consider their consequences for the finalisation of the CDDH Study on the need for and feasibility of a further instrument or instruments in the field of human rights and the environment. At the outcome of its discussions, the Bureau decided that the CDDH would not be invited to adopt its study on the need for and feasibility of a further instrument or instruments in the field of human rights and the environment at its June meeting. Instead, the CDDH would be invited to:

- take note of the draft report prepared by the CDDH-ENV;
- share observations on the issues that it addresses, particularly in the light of the Court's climate change rulings;
- express any preliminary or final positions regarding possible conclusions, preferred instruments, or policy recommendations that could be reflected in the eventual CDDH study;
- adopt a report to the Committee of Ministers on progress in its work on this issue, with a request for extension of the deadline for the feasibility study until 31 December 2024.

The aim would then be for the CDDH to adopt the feasibility study at its plenary meeting foreseen for 26-29 November 2024.

8. At its June meeting, the CDDH followed the approach that it had been invited to take by the Bureau. The observations shared on the issues contained in the draft report prepared by the CDDH-ENV and on the implications of the Court's rulings, as well as positions expressed on possible conclusions, preferred instruments, or policy recommendations, will be reflected in a draft CDDH Study on the need for and feasibility of a further instrument or instruments in the field of human rights and the environment. This text will be prepared in advance of the CDDH's November 2024 meeting, with a view to its adoption at that meeting and transmission to the Committee of Ministers. *[TO BE REFINED AND COMPLETED IN ACCORDANCE WITH DISCUSSIONS AT THE 100th CDDH MEETING]*

IV. Conclusion

9. As a result of the foregoing, the CDDH concludes that more time is needed properly to complete its Study on the need for and feasibility of a further instrument or instruments in the field of human rights and the environment. In particular, there is a need for careful consideration of the implications of the Court's climate change rulings and subsequent drafting of a text reflecting these aspects. Accordingly, the CDDH has not adopted this Study at its meeting in June 2024. Instead, it intends to do so at its meeting in November 2024.

10. The CDDH therefore requests the Committee of Ministers to extend the deadline for this deliverable until 31 December 2024.