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STEERING COMMITTEE FOR HUMAN RIGHTS
COMITÉ DIRECTEUR POUR LES DROITS
(CDDH)

DRAFTING GROUP ON HUMAN RIGHTS AND ENVIRONMENT
GROUPE DE RÉDACTION SUR LES DROITS L
L'ENVIRONNEMENT
(CDDH-ENV)

Revised text of the draft Recommendation on
Human rights and the environment

including the comments received from member States and Observers¹

Promotion and protection of human rights
by ensuring a clean, healthy and sustainable environment

¹ Czech Republic, France, Georgia, Germany, Netherlands, Norway, Poland, Russian Federation, Spain, Switzerland, United Kingdom, European Commission, Conference of INGOs, International Commission of Jurists, OHCHR

[PREAMBLE]

The Committee of Ministers,

[1.] Considering that the aim of the Council of Europe is to achieve a greater unity between its members, *inter alia*, by promoting common standards and carrying out activities in the field of human rights and fundamental freedoms;

[2.] Recalling member States' obligation to secure to everyone within the freedoms defined in the European Convention on Human Rights (ETS No. 5) (hereafter " the Convention ") and the protocols thereto, including providing an effective remedy before a national authority for violation of those rights and freedoms, and where relevant their obligations arising from the European Social Charter (ETS No. 35) (hereafter " the European Social Charter) (revised) (ETS No. 163) (hereafter " the European and international human rights instruments ;

[Préambule] [2]

« Rappelant l' obligation des États membres de garantir à toute personne les droits et libertés définis dans la Convention européenne des droits de l'homme et ses protocoles, y compris une voie de recours effectif devant une autorité nationale en cas de violation de ces droits et libertés, et, lorsqu' leurs obligations qui découlent, de la Charte sociale européenne (STE n° 35) (ci-après " la Charte sociale européenne (révisée)) (STE n° 163) (ci-après " la Charte de droits sociaux ") instruments européens et internationaux de droits de l'homme ;

Commented [GC1]: FRANCE

[2.] Rappelant l' obligation des États membres de garantir à toute personne les droits et libertés définis dans la Convention européenne des droits de l'homme et ses protocoles, y compris une voie de recours effectif devant une autorité nationale en cas de violation de ces droits et libertés, et leurs obligations qui découlent, le cas échéant, de la Charte sociale européenne (STE n° 35), de la Charte sociale européenne (révisée) (STE n° 163) (ci-après « la Charte sociale »), et d' autres instruments européens et internationaux de protection des droits de l'homme ;

Commented [GC2]: SUISSE

[3.] Reaffirming that all human rights are universal, indivisible, interdependent and interrelated and should be enjoyed by everyone without discrimination;

[XX] Recalling states obligations and commitments under multilateral environmental instruments and agreements on climate change such as the UNFCCC and the Paris Agreement,

–[XY] Reaffirms the Paris Agreement temperature goal of holding the increase in the global average temperature to well below 2 °C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5 °C above pre-industrial levels.

Commented [A3]: NORWAY Existing obligations in the fields of climate and environment should be referred to, and a reference to the Paris Agreement and the climate framework, including the temperature goal, should be included here.

[4.] RUSSIAN FEDERATION

To delete paragraph 4 since the Resolution mentioned in it is nonconsensual.

[5.] Aware that loss of biodiversity, depletion of natural resources and chemical pollution bring serious challenges for societyⁱⁱ, that climate change is one of the most pressing and serious threats to present and future generationsⁱⁱⁱ, and that warming should be limited to 1.5°C above pre-industrial levels^{iv};

[or]

Recognizing that measures to anticipate, prevent or minimize the loss of biodiversity, depletion of natural resources, chemical pollution and the causes of climate change, including reducing greenhouse gas emissions, and their impact, contribute to the better enjoyment of human rights;^v

[or]

[5.] Aware that loss of biodiversity, depletion of natural resources and chemical pollution bring serious challenges for societyⁱⁱ, that climate change is one of the most pressing and serious threats to

Commented [U5]: GEORGIA We would like to suggest to include the first proposed wording.

Commented [SVJ6]: CZECH REPUBLIC Both alternatives are acceptable, the second being more general. As to the first, the Glasgow climate pact confirms the resolve to pursue efforts to limit the temperature increase to 1.5 °C.

present and future generations^{vii}, and that warming should be limited to 1.5°C above pre-industrial levels^{viii};

[5.] Aware that loss of biodiversity, depletion of natural resources and ~~chemical~~ pollution bring serious challenges for society^{ix}, that climate change is one of the most pressing and serious threats to present and future generations^x, and that warming should be limited to 1.5°C above pre-industrial levels;

[5.] Aware that loss of biodiversity, depletion of natural resources and chemical pollution bring serious challenges for society^{xi}, that climate change is one of the most pressing and serious threats to present and future generations^{xii}, and that global average temperature increase ~~warming~~ should be limited to well below 2°C, pursuing efforts to limit the temperature increase to 1.5°C above pre-industrial levels;

[5.] Aware that loss of biodiversity, depletion of natural resources and chemical pollution bring serious challenges for society^{xiii}, that climate change is one of the most pressing and serious threats to present and future generations^{xiv}, and that warming should be limited to 1.5°C above pre-industrial levels^{xv};

[or]

Recognizing that measures to anticipate, prevent or minimize the loss of biodiversity, depletion of natural resources, chemical pollution and the causes of climate change, including reducing greenhouse gas emissions, and their impact, contribute to the better enjoyment of human rights;^{xvi}

Recognizing that measures to anticipate, prevent or minimize the loss of biodiversity, depletion of natural resources, chemical pollution and the causes of climate change, including reducing greenhouse gas emissions, and their impact, contribute to the better enjoyment of human rights;^{xvii}

[5.] ~~Conscients que la perte de biodiversité, l'épuisement des ressources naturelles et la pollution chimique posent de défis sérieux à la société^{xviii} que le changement climatique est l'une des menaces les plus urgentes et les plus graves pour les générations actuelles et futures^{xix}, et que le réchauffement devrait être limité à 1,5 °C par rapport aux niveaux préindustriels~~

[ou]

Reconnaissant que les mesures visant à anticiper, prévenir ou réduire au minimum la perte de biodiversité, l'épuisement des ressources naturelles, la pollution chimique et les causes du changement climatique, y compris la réduction des émissions de gaz à effet de serre, et leur impact, contribuent à une meilleure jouissance des droits de l'homme ;

PP5 –We would prefer language closer to that agreed in the HRC resolution; in terms of the second paragraph, both have the word "at climate change" but the two is not the same (e.g. the HRC resolution "environmental degradation" in general, as well as enjoyment of them). We also question whether the measures set out in the second para would improve the enjoyment of all human rights e.g. freedom of expression, freedom from torture, right to a fair trial, right to education etc. We would ~~can contribute to the~~ "ability to better enjoy some human rights".

[Préambule] [5]

Nous avons une préférence pour la formulation qui protège l'environnement et la jouissance des droits de l'homme. Nous pensons qu'il serait bénéfique de proposer de limiter le réchauffement à 1.5°C par rapport aux niveaux préindustriels. Nous proposons la formulation suivante :

« Reconnaissant que les mesures visant à anticiper, prévenir ou réduire au minimum la perte de biodiversité, l'épuisement des ressources naturelles, la pollution chimique et les causes du changement climatique, y compris la réduction des émissions de gaz à effet de serre afin de limiter le réchauffement à 1.5°C par rapport aux niveaux préindustriels, et leur impact, contribuent à une meilleure jouissance des droits de l'homme. ; »

[5.] RUSSIAN FEDERATION

1. To d e p l a e r t a e g r a p h 5
R a t i o n a l e

Commented [A7]: NORWAY We suggest a more updated text in line with HRC Resolution 48/13 (preambular paras) and [Kunming Declaration](#), clarifying that we are facing several and interrelated threats:

"Acknowledging that the unprecedented and interrelated threats posed by climate change, biodiversity loss, the unsustainable management and use of natural resources, the pollution of air, land and water, the unsound management of chemicals and waste to present and future generations and that they have negative implications, both direct and indirect, for the effective enjoyment of all human rights "

Commented [A8]: EUROPEAN COMMISSION This should not be limited to chemical pollution.

Commented [A9]: EUROPEAN COMMISSION The grading of "serious challenges and serious threats" is connected, biodiversity loss and climate change are interdependent, and depletion of water and arable land e.g. is also one of the most pressing and serious threats to present and future generations. Following the UN's usual refer to "the triple pledge, a biodiversity loss and po to present and future ge

Commented [TF10]: NETHERLANDS Preference for this alternative because it is stronger than the latter. Text suggestions because the reference to 1.5°C does not match what is said in the Paris Agreement.

Commented [RM11]: GERMANY Preference for this (more meaningful) alternative.

Commented [FA(p12): GERMANY This reflects only one aspect. Mitigation measures themselves must also respect human rights, this should equally be reflected in the wording.

Commented [A13]: EUROPEAN COMMISSION The level of ambition seems too low in this statement.

Commented [GC14]: SUISSE

Commented [Suisse15]: A priori, cette alternative rédigée de manière positive doit être préférée car elle met mieux en relation la protection de l'environnement et la jouissance des droits humains. De plus, cette alternative est plus intemporelle. Par ailleurs, l'alternative n° 1 est plus complète. Nous proposons de combiner les deux alternatives.

Commented [GC16]: UK

Commented [GC17]: FRANCE

According to this paragraph warming should be limited to 1.5 °C above average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit temperature increase to 1.5°C above pre-industrial levels.

On the other hand, the indication of specific measures aimed at combating beyond the scope of the Committee of Ministers Recommendation.

The alternative paragraph is also unacceptable since it is taken from PP7 of HRC on the Mandate of the Special Rapporteur on the promotion and protection of human rights in the context of climate change (A/HRC/48/L.27).

It also duplicates the content of

5. Recognizing that measures to anticipate, prevent or minimize the loss of biodiversity, depletion of natural resources, chemical pollution and the causes of climate change, including reducing greenhouse gas emissions, and their impact, contribute to the better enjoyment of human rights;

[5.] Aware that loss of biodiversity, depletion of natural resources and chemical pollution bring serious challenges for society², that climate change is one of the most pressing and serious threats to present and future generations³, and that global warming should be limited to below or 1.5°C above pre-industrial levels to secure the enjoyment of human rights⁴;

And for

Recognizing that measures to anticipate, prevent or minimize the loss of biodiversity, depletion of natural resources, chemical pollution and the causes of climate change, including reducing greenhouse gas emissions, and their impact, contribute to are necessary for the better enjoyment of human rights;⁵

[6.] Acknowledging the growing threats to the environment and the urgent need to act in an ambitious and concerted manner at the global, and regional and national levels to better ensure its sustainability and protection;⁶

[6.] Acknowledging the growing threats to the environment and the urgent need to act in an ambitious and concerted manner at the global, and regional and national level to better ensure its sustainability and protection;⁶

² High Level International Conference on Human Rights and Environment 2020, Strasbourg):

' ' Climate loss biodiversity, depletion of natural resources and chemical pollution bring new challenges for society, Governments and the European Court of Human Rights. How will the Court take account of these issues when interpreting the ECHR in future cases relating to the environment?'

³ UN Human Right Council, Resolution 48/13 on "The human right to a clean, healthy and sustainable environment" adopted on 8 October 2021, preamble:

" Recognizing that environmental degradation, climate change and unsustainable development constitute some of the most pressing and serious threats to the ability of present and future generations to enjoy human rights, including the right to life, "

⁴ Paris Agreement adopted on 12 December 2015 at the twenty-first session of the Conference of the Parties to the United Nations Framework Convention on Climate Change held in Paris from 30 November to 13 December 2015:

"Article 2

1. This Agreement, in enhancing the implementation of the Convention, including its objective, aims to strengthen the global response to the threat of climate change, in the context of sustainable development and efforts to eradicate poverty, including by:

(a) Holding the increase in the global average temperature to well below 2°C above pre-industrial levels and pursuing 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; "

⁵ Shortened from PP7 of HRC resolution on the Mandate of the Special Rapporteur on the promotion and protection of human rights in the context of climate change (https://undocs.org/a/hrc/48/l.27) and added the mention of biodiversity/natural resources/chemical pollution.

⁶

Commented [OHCHR18]: May wish to refer to "pollution" without qual
Special Rapporteur on human rights and environment 2019 report regarding air pollution (A/HRC/40/55) and upcoming report regarding toxic-free environments to live, work, study and play: <https://www.ohchr.org/EN/Issues/Environment/SREnvironment/Pages/ToxicFree.aspx>

In addition, could update critical for the effecti

Commented [BDJ19]: CONFERENCE DES OING
Among new challenges, one might also note the emergence of zoonotic diseases.

See, e.g.,

" Despite having their origin, major reasons behind the emergence and spread of zoonotic pandemics are related to activities such as habitat fragmentation, deforestation, biodiversity loss, intensive agriculture and livestock farming, uncontrolled urbanization, pollution, climate change and bushmeat hunting and trading. It is important to focus on environmental and climatic factors that are involved in the emergence of such pandemics involving novel human pathogens and viruses in part i <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8005368/>.

" The ongoing pandemic caused by zoonotic SARS-CoV-2, has important links to biodiversity loss and ecosystem health. These links range from anthropogenic activities driving zoonotic disease emergence and extend to the pandemic affecting biodiversity conservation, environmental policy, ecosystem services, and multiple conservation
f a c [https://www.thelancet.com/journals/lanplh/article/PIIS2542-5196\(21\)00258-8/fulltext](https://www.thelancet.com/journals/lanplh/article/PIIS2542-5196(21)00258-8/fulltext)

Commented [GC20]: GEORGIA

Commented [GC21]: CONFERENCE DES OING

[6.] Acknowledging the growing threats to the environment and the urgent need to act in an ambitious and concerted manner at the global, and regional, and national level to better ensure its sustainability and protection;

Commented [GC22]: CONFERENCE DES OING

[7.] Bearing in mind that 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 mindful of taking intergenerational equity into account in State actions;^{xxi}

[7.] Gardant à l'esprit que la vie et le bien-être sur notre planète dépendent de la capacité collective de l'humanité à garantir à la fois les droits de l'homme et un environnement sain propre, sain et durable aux générations futures, et soucieux de prendre en compte l'équité intergénérationnelle dans les actions de l'Etat ;

Commented [Suisse23]: Le libellé de la Rés. ONU 48/13 citée au para. 4 devrait être systématiquement repris.

[7.]

[7.] Bearing in mind that life and well-being on our planet is contingent on humanity's collective capacity to guarantee both human rights and a healthy environment for present and future generations and mindful of taking intragenerational and intergenerational equity into account in State actions;⁷

Commented [GC24]: RUSSIAN FEDERATION The meaning of the word combination "intergenerational" paragraph 7 is not clear. It needs clarification.

Commented [GC25]: CONFERENCE DES OING

[8.] Recalling United Nations General Assembly Resolution 70/1 of 25 September 2015, entitled "Transforming the 2030 Agenda for Sustainable Development", in which the Assembly adopted the Sustainable Development Goals which are integrated and indivisible and balance the three dimensions of sustainable development: the economic, social and environmental;^{xxii}

[9.] RUSSIAN FEDERATION

1. To reform paragraph 9 follows:
"Recalling the work of the United Nations Special Rapporteur on Human Rights and the Environment, in particular the Framework Principles on Human Rights and the collected good practices in the implementation of the human right to a safe, clean, healthy and sustainable environment;⁷

Rationale

The Framework Principles on Human Rights and the Environment (2018) were adopted by the Special Rapporteur HRC on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment at the international level.

[9.] Recalling the work of the United Nations Special Rapporteur on Human Rights and the Environment, in particular the *Framework Principles on Human Rights and the Environment* (2018) and the collected good practices in the implementation of the human right to a safe, clean, healthy and sustainable environment (2019);

[9.] Recalling the work of the United Nations Special Rapporteur on Human Rights and the Environment, in particular the *Framework Principles on Human Rights and the Environment* (2018) and the collected good practices in the implementation of the human right to a safe, clean, healthy and sustainable environment (2019);

Commented [OHCHR26]: Perhaps use full title here (as also used in the endnotes): Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment

⁷ Chairmanship of the Committee of Ministers, *Joint Declaration on human rights and the environment by the outgoing and incoming Presidencies of the Committee of Ministers, Decl(15/05/2020)*, 15 May 2020:

"The outgoing (Germany and Germany) presidencies of the Committee of Ministers of the Council of Europe,

Acknowledging the growing threats to the climate and the environment and the urgent need to act in an ambitious and concerted manner at the global level to better ensure their sustainability and protection; "

⁷ Chairmanship of the Committee of Ministers, *Joint Declaration on human rights and the environment by the outgoing and incoming Presidencies of the Committee of Ministers, Decl(15/05/2020)*:

'Bearing in mind that 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: '

Les Club des Juristes, Draft Project of the Preamble of the Pact for the Environment' (Paris, 24 June 2017), 'Mindful of conducting actions guided by intragenerational and intergenerational equity, '

[10.] Underlining the Council of Europe's commitment to environmental protection in the elaboration of the 1979 Convention on the Conservation of European Wildlife and Natural Habitats (Bern Convention, ETS No. 104), the 1993 Convention on Civil Liability for Damage Resulting from Activities Dangerous to the Environment (ETS No. 150) and the 1998 Convention on the Protection of the Environment through Criminal Law (ETS No. 172);^{xxiii}

[10.] Soulignant l'engagement du Conseil de l'Europe

Commented [Suisse27]: Ne faudrait-il pas remonter le § 10 et le placer avant le § 8 ? Il s'agit en effet d'instrument régionaux développés par le CdE et, qui plus est, d'instruments juridiquement contraignants qui ont été développés avant les instruments politiques de l'ONU mentionnés aux § 8 et 9.

[10.] **RUSSIAN FEDERATION**

The Convention on Civil Liability for Damage Resulting from Activities Dangerous to the Environment (ETS No. 150) and the 1998 Convention on the Protection of the Environment through Criminal Law (ETS No. 172) have not entered into force to date (more than 100 States Parties to the former and 14 to the latter). They should be therefore redrafted in the text of

Commented [Suisse28]: Ne faudrait-il pas ajouter la Convention d'Aarhus, qui est un instrument important développé par le CdE ?

[10.] Building on Underlining the Council of Europe's commitment which has resulted in the elaboration of the 1979 Convention on the Conservation of European Wildlife and Natural Habitats (Bern Convention, ETS No. 104), the 1993 Convention on Civil Liability for Damage Resulting from Activities Dangerous to the Environment (ETS No. 150), and the 1998 Convention on the Protection of the Environment through Criminal Law (ETS No. 172) and the 2000 Landscape Convention (ETS No. 176);⁸

Commented [GC29]: CONFERENCE DES OING

[11.] Noting the increased recognition of some form of the right to a healthy environment in, inter alia, international instruments and national constitutions, legislation and policies and various regional human rights instruments;^{xxiv}

PP11 – We are cautious regarding “recognition”, which just hasn't been universally recognised. It is not laudable to prefer to see a more factually accurate statement as a right to a healthy environment has been included in a number of international instruments.

Commented [NT(p30): GERMANY] Rather undifferentiated, could be further backed by references (eg Art. 24 Banjul Charter if collective or peoples' rights are meant).

Commented [GC31]: UK

[11.] Notant la reconnaissance accrue d'une certaine forme du droit à un environnement sain propre, sain et durable, notamment dans les instruments internationaux, dans divers instruments régionaux relatifs aux droits de l'homme et les constitutions, législations et politiques nationales ainsi que dans divers instruments régionaux relatifs aux droits

Commented [GC32]: SUISSE

Commented [Suisse33]: Respecter la hiérarchie des instruments et textes mentionnés

[11.] **RUSSIAN FEDERATION**

To depict as a right in itself this is a controversial statement and it is impossible of the increased recognition of some form of the right to a healthy environment.

[12.] Recalling Parliamentary Assembly Recommendations 1431 (1999) on future action to be taken by the Council of Europe in the field of environment protection, 1614 (2003) on the environment and human rights, 1885 (2009) on drafting an additional protocol to the European Convention on Human Rights concerning the right to a healthy environment, and the 2012 Declaration on the right to a healthy environment: need for enhanced action by the Council of Europe”, which proposed to draw up an additional protocol to the European Convention on Human Rights (ETS No. 5) on the right to a safe, clean, healthy and sustainable environment, to draw up an additional protocol to the European Social Charter (ETS Nos. 35 and 163) on the right to a safe, clean, healthy and sustainable environment, to prepare a feasibility study for a “5P” convention on environmental threats and technological threatening human health, dignity and life, and to revise Committee of Ministers Recommendation CM/Rec(2016)3 on Human Rights and Business;

Commented [GC34]: RUSSIAN FEDERATION It is inappropriate to rephrase paragraph 2 they did not delete the whole paragraph 2 development. Therefore modification of “standard” seems incoherent.

[13.] Expressing grave concern about the disproportionate effect environmental degradation may have on the rights of those who are in vulnerable situations and conscious of the need for States to pay particular attention to respecting, promoting and considering obligations on human rights in such situations;^{xxv}

⁸

Chairmanship of the Committee of Ministers, *Joint Declaration on human rights and the environment by the outgoing and incoming Presidencies of the Committee of Ministers, Decl(15/05/2020)*.

[15.] Recalling the obligations under the United Nations Convention on the Rights of the Child which requires its States Parties to take into consideration the dangers and risks of environmental pollution to ensure that children enjoy the highest attainable standard of health and which implies heightened obligations on States to protect children from foreseeable harm;^{xxx}

PP15 - This is not contained in the CRC or its OPs, so it should not be described as an obligation. The supporting reference is to a decision of the Committee on the Rights of the Child. Such decisions are not binding, and so does not necessarily constitute international law.

[15.] Recalling the obligations under the United Nations Convention on the Rights of the Child which requires its States Parties to take into consideration the dangers and risks of environmental pollution to ensure that children enjoy the highest attainable standard of health and which implies heightened obligations on States to protect children from foreseeable harm;^{xxx}

[15.] Rappelant les obligations découlant de la Convention des Nations Unies relative aux droits de l'enfant, qui exige de ses États Parties qu'ils prennent en considération les dangers et les risques de la pollution de l'environnement afin de garantir que les enfants jouissent du meilleur état de santé possible et qui implique selon le Comité des droits de l'enfant des obligations accrues pour les États de protéger les enfants des dommages prévisibles ;

[15.] Recalling the obligations under the United Nations Convention on the Rights of the Child which requires its States Parties to take into consideration the dangers and risks of environmental pollution to ensure that children enjoy the highest attainable standard of health and which implies heightened obligations on States to protect children from foreseeable harm;¹⁰

[16.] Emphasizing the vital role of women in environmental and sustainable development matters and, in this respect, the need to promote gender equality and the empowerment of women;^{xxxi}

16.] Soulignant le rôle vital important des femmes en matière d'environnement durable et, à cet égard, la nécessité de promouvoir l'égalité de genre et l'autonomisation des femmes ;^{xxxi}

[16.] Emphasizing the vital role of women in environmental and sustainable development matters and, in this respect, the need to promote gender equality and the empowerment of women;^{xxxi}

[16.] Emphasizing the vital role of women in environmental and sustainable development matters and, in this respect, the need to promote gender equality and the empowerment of women;^{xxxi}

[16.] Emphasizing the vital role of women in environmental and sustainable development matters and, in this respect, the need to promote gender equality and the empowerment of women;^{xxxi}

[16.] RUSSIAN FEDERATION

To insert a footnote after the paragraph 16 with the meaning of "gender equality" as it is set out in the CoE Gender Equality Strategy 2018-2023, p.5. "Gender equality entails equal rights for women empowerment, responsibility and participation, in all spheres of public and private life. (Council of Europe Gender Equality Strategy 2018-2023, p.5)."

[16.] Recalling the obligations under the UN Convention on the Elimination of All Forms of Discrimination against Women and emphasizing the vital role of women in environmental and

¹⁰ Convention on the Rights of the Child (20 November 1989), 1577 UNTS 3, Art. 24; Decision adopted by the Committee on the Rights of the Child, at its eighty-eight session (6-24 September 2021), under the Optional Protocol to the Convention on the Rights of the Child on a communications procedure in respect of Communication No. 107/2019

9.13 [...] The Committee consider particularly impacted by the effects of climate change, both in terms of the manner in which they experience such effects as well as the potential of climate change to affect them throughout their lifetime, in particular if immediate action is not taken. Due to the particular impact on children, and the recognition by States parties to the Convention that children are entitled to special safeguards, including appropriate legal protection, states have heightened obligations to protect children from foreseeable harm.³⁰

³⁰ Preamble; A/HRC/31/52, para. 81, CRC Report of the 2016

Commented [A40]: NORWAY This wording seems too restrictive, and "degradation" could be more correct to encompass climate change, biodiversity loss, depletion of natural resources and pollution? The documents referred to do seem to use the wording "pollution"?

Commented [GC41]: UK

Commented [OHCHR42]: May wish to include following references in the endnote:

Human Rights Council resolution 45/30 (2020) Rights of the child: realizing the rights of the child through a healthy environment, available at <https://undocs.org/A/HRC/RES/45/30>

Joint commitment by Heads of United Nations Entities to promote the right of children, youth and future generations to a healthy environment and their meaningful participation in decision-making at all levels, in relation to climate action and climate justice (June 2021), available at <https://www.sparkblue.org/system/files/2021-06/210615%20STEP%20UP%20-%20Joint%20Commitment%20by%20Heads%20of%20UN%20Entities.pdf>

Commented [Suisse43]: Nous proposons de reprendre les termes de

Commented [Suisse44]: Ce passage ne ressort pas directement de la CDE, m Comité des droits de l' e procédure de communication. Nous proposons dès lors de nuancer ce passage.

Commented [BDJ45]: CONFERENCE DES OING Note also the IPCC 1.5SR, Technical Summary and Chapter 5, at pp. 44, 447. "The impacts of 1.5°C of warming would disproportionately affect disadvantaged and vulnerable populations through food insecurity, higher food prices, income losses, lost livelihood opportunities, adverse health impacts and population displacements . . ."

Commented [GC46]: SUISSE

Commented [Suisse47]: Souligner le rôle et l'engagement des jeunes lutte en matière d'environnement serait bienvenu, dans un nouveau para.

Commented [Suisse48]: On ne sait pas encore ce que deviendront les références contenues dans les notes de bas de page dans la version finale de la recommandation. Si elles devaient être publiées et

Commented [KA49]: POLAND propose replacing the "gender "eequuaalliitty" bwei t and men"

Commented [OHCHR50]: Here would suggest to include following references in the endnote:

Commented [FA(p51): GERMANY Suggest to add that women and girls are often more affected by the negative implications of CC and environmental

Commented [GC52]: CONFERENCE DES OING

sustainable development matters and, in this respect, the need to promote gender equality and the empowerment of women;¹¹

[16.] Recalling the obligations under the UN Convention on the Elimination of All Forms of Discrimination against Women and emphasizing the vital role of women in environmental and sustainable development matters and, in this respect, the need to promote gender equality and the empowerment of women;

Commented [GC53]: CONFERENCE DES OING

[17.] Stressing the fundamental importance of science and education for sustainable development and mindful that education and public awareness on environmental matters play an important role in the development of respect for human rights and the environment;^{xxxvi}

[17.] Stressing the fundamental importance of science and education for sustainable development and mindful that education and public awareness on environmental matters play an important role in the development of respect for human rights and the environment;^{xxxvii}

Commented [OHCHR54]: Suggest to include reference in endnote to CRC Article 29(e) as also referenced in endnote xxxix

[17.] Soulignant l'importance fondamentale que revêtent la science et l'éducation en vue du développement durable et consciente que l'éducation et la sensibilisation du public aux questions environnementales jouent un rôle primordial important dans le développement du respect des droits de l'homme et de l'environnement

Commented [GC55]: SUISSE

Préambule [17]

« Soulignant l'importance fondamentale que revêtent la science et l'éducation en vue du développement durable et consciente que l'éducation et la sensibilisation du public aux questions environnementales jouent un rôle important dans le développement d'un meilleur respect des droits de l'homme et de l'environnement ; »

Commented [GC56]: FRANCE

[17.] Stressing the fundamental importance of science and education for sustainable development, recalling the obligations of States to take decisions based on the best available science, and mindful that education and public awareness on environmental matters play an important role in the development of respect for human rights and the environment;¹²

Commented [BDJ57]: CONFERENCE DES OING

[18.] Underscoring the positive, important and legitimate roles of all human rights defenders, including environmental human rights defenders, in promoting the realisation of all human rights, including their

For best available science: see, e.g., Paris Agreement, preamble for an effective and progressive response to the urgent threat of climate change on the basis of the best available scientific knowledge" see Rees v. The United Kingdom, no. 9532/81, para. 47 (1986); Cossey v. The United Kingdom, no. 10843/84, para. 40 (1990); Fretté v. France, no. 36515/97, para. 42 (2002); cf. Oluic v. Croatia, no. 61260/08, paras. 29-31 (2010).

¹¹ UN General Assembly, resolution A/70/L.1 of 25 September 2015 "Transforming our world: the 2030 Agenda for Sustainable Development", preamble, 3.
Le Club des Juristes, Draft Project "Global Pact for the Environment", 'Emphasizing the vital role of women in sustainable development matters and the need to promote gender equality and the empowerment of women,'

¹² Le Club des Juristes, Draft Project "Global Pact for the Environment", 'Stressing the fundamental importance of science and education for sustainable development' 'Convention on Biological Diversity' (5 June 1992), 1760 UNTS 69, Art. 13.

UN Human Rights Council, 'Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment', Annex A (January 2018) UN Doc. A/HRC/37/59, p. 10:

'Framework principle 6

States should provide for education and public awareness on environmental matters.

Commentary

15. States have agreed that the education of the child shall be directed to, among other things, the development of respect for human rights and the natural environment. Environmental education should begin early and continue throughout the educational process. It should increase and nature, help them to appreciate and enjoy the natural world and strengthen their capacity to respond to environmental challenges.

16. Increasing the public awareness of environmental matters should continue into adulthood. To ensure that adults as well as children understand environmental effects on their health and well-being, States should make the public aware of the specific environmental risks that affect them and how they may protect themselves from those risks. As part of increasing public awareness, States should build the capacity of the public to understand environmental challenges and policies, so that they may fully exercise their rights to express their views on environmental issues (framework principle 5), understand environmental information, including assessments of environmental impacts (framework principles 7 and 8), participate in decision-making (framework principle 9) and, where appropriate, seek remedies for violations of their rights (framework principle 10). States should tailor environmental education and public awareness programmes to the culture, language and environmental situation of particular

students' understanding of the

environmental situation of particular

contribution to the public debate by disseminating information and ideas on matters of general public interest such as health and the environment;^{xxxviii}

PP18 – consistent UK position is to oppose referendums to ‘environmental human rights’
strongly prefer ‘human rights defenders working on

Commented [GC58]: UK

[18.] Underscoring the positive, important and legitimate roles of all human rights defenders, including environmental human rights defenders, in promoting the realisation of all human rights, including their contribution to the public debate by disseminating information and ideas on matters of general public interest such as health and the environment;^{xxxix}

Commented [OHCHR59]: Here may wish to add e.g. “and undertake all measures necessary to ensure the rights, protection and safety of all human rights defenders, including environmental human rights

[18.] RUSSIAN FEDERATION
To refop anu à gr æp h 1 8

(Modelled on Human Rights Council resolution 40/11):

“[18.] Underscoring the positive, important and legitimate roles of all human rights defenders, including environmental human rights defenders, civil society institutions in promoting the realisation of all human rights, including their contribution to the public debate by disseminating information and ideas on matters of general public interest such as health and the environment;

“3. Urges all States to take all measures necessary to ensure the rights, protection and safety of all persons, including environmental human rights defenders, who exercise, inter alia, the rights to freedom of opinion, expression, peaceful assembly and association, online and offline, which are essential for the promotion and protection of human rights and the protection and conservation of the environment;”

<https://undocs.org/A/HRC/RES/40/11>

[19.] RUSSIAN FEDERATION
To refop anu à gr æp h 1

Commented [GC60]: CZECH REPUBLIC

[19.] Recognising the vital role of relevant non-State actors, including civil society, indigenous peoples and local communities, as well as cities, regions and other subnational authorities in the protection of the environment.

[19.] Recognising the vital role of non-State actors, including civil society, youth, indigenous peoples and local communities, as well as cities, regions and other subnational authorities in the protection of the environment;^x

[20.] Recalling the United Nations Guiding Principles on Business and Human Rights, which underscore the responsibility of all business enterprises to respect human rights;

Commented [GC61]: GERMANY

[20.] Recalling the United Nations Guiding Principles on Business and Human Rights, which underscore the responsibility of all business enterprises to respect human rights, including the responsibility to prevent, mitigate and remediate adverse human rights impacts;

Commented [GC62]: SUISSE

[20.] Rappelant les Principes directeurs des Nations Unies relatifs aux entreprises et aux droits de l'homme ainsi que les Principes directeurs des entreprises multinationales, Q C D E soulignent la responsabilité de toutes les entreprises commerciales en matière de respect des droits de l'homme et de l'environnement

Commented [GC63]: SUISSE

[20.] Recalling the United Nations Guiding Principles on Business and Human Rights, which underscore the responsibility of all business enterprises to respect human rights;

Commented [64]: CONFERENCE DES OING
a. avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts where
b. seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts

[21.] 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 which acknowledged that climate change, extinction of species, loss of biodiversity, pollution and the overall degradation of the earth's ecosystems have a profound impact on human rights and require the widest possible cooperation by all Council of Europe member States, and that the Council of Europe has a key role to play in mainstreaming the environmental dimension into human rights and pursuing a rights-based approach to environmental protection;^{xii}

Commented [GC65]: RUSSIAN FEDERATION
To refop anu à gr æp h s

Commented [GC66]: RUSSIAN FEDERATION
To refop anu à gr æp h s

[22.] Taking note of the High Level International Conference on Human Rights and Environmental Protection “Human Rights and Environmental Protection”, organised by the Ministry of Foreign Affairs of Georgia and hosted by the European Court of Human Rights, which underlined that a clean environment is a precondition to the enjoyment of human rights: the full enjoyment of everyone's health, quality private and family life or home, depends on healthy ecosystems and their benefits to people;^{xiii} (Rationale: There is not such condition in the international law.)

PP22 - We can't accept that a healthy environment of human rights, is a precondition to the whatever this conference may have said. All individuals are entitled to enjoy their human rights whatever the conditions. And an unhealthy environment does not negate the possession or enjoyment of e.g. the right to freedom from torture, right to a fair trial, right to education etc. And even in terms of some ESC rights, e.g. the highest attainable standard of physical and mental health, these are still to be progressively realised and are deliberately phrased to be contextually achievable.

Commented [GC67]: UK

[23.] Reaffirming that the Convention and the Charter are living instruments which must be interpreted in the light of present-day conditions;^{xliii}

Commented [GC68]: RUSSIAN FEDERATION
To delete paragraph 23.

Rationale: we shouldn't give already existing commonly accepted international documents

[23.] Réaffirmant que la Convention et la Charte sociale sont des instruments vivants qui doivent être interprétés à la lumière des conditions actuelles;

Commented [GC69]: SUISSE

Préambule [23]

« Réaffirmant que la Convention et la Charte sont des instruments vivants qui doivent être interprétés à la lumière des conditions actuelles ; »

Commented [GC70]: FRANCE

[24.] Affirming that this non-binding instrument recalls the existing standards contained, inter alia, in the Convention and the Charter and their interpretation by the European Court of Human Rights and the European Committee of Social Rights in the field of human rights and the environment, and supports the raising of awareness of the interdependence and mutual reinforcement of the norms of human rights and environmental protection;^{xliv}

[24.] Affirmant que le présent instrument non contraignant rappelle les normes existantes contenues, entre autres, notamment dans la Convention et la Charte sociale et leur interprétation par la Cour européenne des droits de l'homme et le Comité européen des droits sociaux dans le domaine des droits de l'homme et de protection de l'environnement ;

Commented [GC71]: SUISSE

Commented [GC72]: SUISSE

Commented [GC73]: SUISSE

[25.] Taking note in this regard of the *Manual on human rights and the environment* containing principles emerging from the case-law of the European Court of Human Rights and decisions and conclusions of the European Committee on Social Rights, published by the Council of Europe in 2006 and subsequently updated in 2012 and 2021, which shows that the Convention and the Charter already offers a considerable degree of protection in relation to environmental issues although even if they do not expressly recognised a right to the protection of the environment;^{xlv}

Commented [GC74]: GERMANY

[25.] Taking note in this regard of the *Manual on human rights and the environment* containing principles emerging from the case-law of the European Court of Human Rights and decisions and conclusions of the European Committee on Social Rights, published by the Council of Europe in 2006 and subsequently updated in 2012 and 2021, and the *Guide to the case-law of the European Court of Human Rights on Environment updated on 31 August 2021*, which shows that the Convention and the Charter already offers a considerable degree of protection in relation to environmental issues although they do not expressly recognised a right to the protection of the environment;

Commented [GC75]: CZECH REPUBLIC

RUSSIAN FEDERATION

To add a new paragraph after paragraph 25 reading:

“ Bearing in mind that the Convention and the Charter have no Articles specifying general protection of the environment as such and, therefore, the crucial element which must be present in determining whether environmental pollution has adversely affected one of the rights safeguarded by the Convention and the Charter is the existence of a harmful effect on such a right, and not simply the general deterioration of the environment. »

To make a footnote to this new paragraph reading:

“ Decision of the ECHR in the case " Kirtatos v. Greece "; complaint No. 4152) ” .

[26.] Convinced that people have 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 that everyone is entitled to an environment in which those rights and freedoms can be fully realized;^{xlvi}

[26.] Convaincu que **les personnes ont toute personne** le droit fondamental à la liberté, à l'égalité et à des conditions de vie adéquates, dans un environnement d'une qualité permettant une vie de dignité et de bien-être, et que toute personne a droit à un environnement dans lequel ces droits et libertés peuvent être pleinement réalisés ;

Commented [Suisse76]: Parallélisme avec la deuxième partie de la phrase

PP26 - This is quasi-operative, as it essentially recognises that the right to adequate living conditions includes a right to an environment of a quality that permits dignity and well-being. We would also need to be clear what "freedom, equality and solidarity" means in the context of the existing treaties. We would instead propose: "Convinced that people should have..... and that everyone should be entitled to an environment in which those rights and freedoms can be fully realised"

Commented [Suisse77]: Ce passage va plus loin que les sources citées sous la note xxi et que le paragraphe 1 du Dispositif. On ne peut guère faire figurer dans le Préambule un texte plus "fort" qu'un élément du Dispositif. Si le paragraphe 1 du Dispositif est maintenu, ce passage peut être supprimé dans le Préambule.

[27.] [Conscious that the primary responsibility for protecting the environment and human rights rests with member States.^{xlviii}]

Commented [GC78]: UK

...

Commented [SVJ79]: CZECH REPUBLIC We wonder whether it would not be suitable also to allude to people displaced by the effects of climate change.

Préambule [27]

Nous n'avons pas d'objection à l'ajout de ce para

Commented [GC80]: FRANCE

[27.] [Conscious that the primary responsibility for protecting the environment and human rights rests with member States **including ensuring that business enterprises do not infringe on human rights, and conscious that international and cross border cooperation among member States is necessary to reach this objective.**¹³]

Commented [GC81]: CONFERENCE DES OING

[OPERATIVE PART]

Recommends that the governments of the member States:

1. [Recognize the right to a clean, healthy and sustainable environment as a human right that is derived from and inherent in existing international human rights instruments and is important for the enjoyment of human rights;^{xlviii}]

Commented [MEPA82]: GEORGIA Since there is no global agreement explicitly recognizing a right to a clean, healthy and sustainable environment, as well as no such agreement on European level, and the principles derive mostly from the interpretations of the agreements, maybe it would be better to delete this reference.

[Recognize the right to a clean, healthy and sustainable environment as a human right that ~~is derived from and inherent in existing international human rights instruments and~~ is important for the enjoyment of human rights;^{xlix}]

Commented [TF83]: NETHERLANDS Better to stick to the phrasing in the HRC Resolution.

[Recognize the right to a clean, healthy and sustainable environment as a human right that is derived from and inherent in existing international human rights instruments and is important for the enjoyment of human rights **and foster international discussion as to the exact function and contents of this right** ;]

Commented [GC84]: GERMANY

[Recognize the right to a clean, healthy and sustainable environment as a human right that is derived from and inherent in existing international human rights instruments and is important for the enjoyment of human rights;]

Commented [A85]: EUROPEAN COMMISSION Perhaps the text intend human rights' ?

[Recognize the right to a clean, healthy and sustainable environment as a human right that is derived from and inherent in existing international human rights instruments and is important for the enjoyment of human rights;]^{li}

Commented [KA86]: POLAND suggest deleting *inherent in* or replacing it *related to*. A/HRC/48/13, OP2: *Notes* that the right to a clean, healthy and sustainable environment is related to other rights, and existing international law

[Recognize the right to a clean, healthy and sustainable environment as a human right that is derived from and inherent in existing international human rights instruments and is important for the enjoyment of human rights;]^{lii}]

Commented [OHCHR87]: Could also include reference to Human Rights Council resolution 48/13 in the endnote here.

¹³ Final Declaration by the Georgian Presidency of the Committee of Ministers, Environmental Protection and Human Rights, High-Level Conference organised under the aegis of the Georgian Presidency of the Committee of Ministers (Strasbourg, 27 February 2020):

‘ ‘ Development of National Policies and Actions
The primary responsibility for protecting the environment and human rights rests with Member States. ’ ’

[Recognize the right to a clean, healthy and sustainable environment as a human right that is derived from and inherent in existing international human rights instruments and is important for the enjoyment of human rights;^{liii}]

[Recognize the right to a clean, healthy and sustainable environment as a human right that is derived from and inherent in existing international human rights instruments and is important for the enjoyment of human rights and foster international discussion as to the exact function and contents of this right;^{liv}]

[reconnaitre que le droit à un environnement qui découle des instruments internationaux et de divers instruments régionaux existants relatifs aux droits de l'homme, qui leur est inhérent et qui est important pour la jouissance des droits de l'homme^{lv}]

OP1 – This is problematic as it recognises the right as a component of existing rights (albeit not specifying what these are). We should aim to stick as close as possible to language used in the UNHRC resolution and ensure that it is described as a *Recognizes that all individuals have the right to a safe, clean, healthy and sustainable environment as a human right that is important for the enjoyment of human rights; Notes that the right to a safe, clean, healthy and sustainable environment is related to other rights that are*

RUSSIAN FEDERATION

To delete paragraph 1.

~~Ratification~~ The right to a "clean, healthy and sustainable environment" is a right recognized in existing international human rights treaties (including the Aarhus Convention) and is a human right in this context seems unfounded from regulation.

1. [Recognize the right to a safe, clean, healthy and sustainable environment as a human right that is also derived from and inherent in existing international human rights instruments and is essential important for the enjoyment of other human rights;¹⁴]

RUSSIAN FEDERATION

To rephrase paragraph 2

~~" 2. examine their national legislation and practice and consider reviewing them if they are not consistent with the recommendations, principles and further guidance set out in the appendix"~~

2. examine their national legislation and practice and consider reviewing them if they are not consistent with the recommendations, principles and further guidance set out in the appendix;^{lvi}

OP2 – We would prefer to soften ~~where appropriate~~ ^{where appropriate} ~~to be considered~~ ^{to be considered} the

Commented [A88]: NORWAY Recommending the member States to recognize a right to a clean, healthy and sustainable environment in a recommendation within the framework of the Council of Europe, could, especially through the link to the European Convention on Human Rights, be seen to imply effects beyond that of the Human Rights Council' political recognition without legally binding effects in Resolution 48/13. It is also uncertain what the long term consequences will be of including a recognition of a right to a clean, healthy and sustainable environment in several non-binding instruments. Consequently, we should carefully consider whether to include a recommendation referring to such a right, and if so, how to phrase it in order to avoid more extensive effects.

Commented [GC89]: GERMANY

Commented [Suisse90]: La formulation n'est pas très claire et c'est dommage car ce paragraphe est central dans la recommandation: veut-on recommander aux Etats membres de reconnaître le droit à un environnement propre, sain et durable dans leur ordre juridique interne à la lumière des développements du droit international ? Ou veut-on demander aux Etats de reconnaître que le droit à l'environnement découle d'instruments internationaux ou régionaux déjà adoptés ?

La première option paraît claire et constituerait une recommandation précise. La seconde pas vraiment et on voit difficilement ce que les Etats pourraient en faire. On ne peut en effet pas décréter, après coup, que le contenu de ces instruments a changé: soit ils contenaient dès le début (même implicitement) le droit à un environnement propre, sain et durable, soit ils ne l'ont jamais contenu. Et si on ne leur demande pas de reconnaître le droit à un environnement propre, sain et durable dans leur ordre juridique interne, on ne voit pas très bien quelle mesure concrète les Etats seraient appelés à prendre sur la base de cette recommandation.

Commented [Suisse91]: Redondance. « Découler de » et « inhérent » expriment la même idée.

Commented [GC92]: UK

Commented [93]: CONFERENCE DES OING, as a matter of urgency, and secure throughout all branches of state authorities

Commented [GC94]: UK

¹⁴ UN Human Rights Council, ' Report of the Special Rapporteur on the issue of human rights obligations r of a safe, clean, healthy and sustainable environment' t A n E n v i r o n m e n t a m e n t a m e n t w o r k P r i n c i p l e s o (24 January 2018) UN Doc. A/HRC/37/59;

" 16. Even without formal recognition, the term "the human right to a healthy environment to the environmental aspects of the entire range of human rights that depend on a safe, clean, healthy and sustainable environment. The use of the term in this way — and, for that matter, the adoption of a resolution recognizing the right — does not change the legal content of obligations that are based on existing human rights law. [. . .] "

2. examine **and review** their national legislation and practice **to ensure and consider reviewing them** if they are **not** consistent with the recommendations, principles and further guidance set out in the appendix;¹⁵

Commented [95]: CONFERENCE DES OING
Note: the appendix includes legal obligations so it is insufficient to simply consider reviewing if national law and practice is inconsistent

3. ensure, by appropriate means and action, a wide dissemination **and adoption** of this recommendation among competent authorities and stakeholders;¹⁶

Commented [GC96]: CONFERENCE DES OING

4. share examples of good practices related to the implementation of this recommendation **through all appropriate means**, including through workshops and other events;^{lvii}

Commented [GC97]: GEORGIA

share examples of good practices related to the implementation of this recommendation, including through workshops and other events;^{lviii}

Commented [OHCHR98]: Here may wish to add reference to engagement with and submissions to human rights mechanisms, including the Universal Periodic Review

RUSSIAN FEDERATION

To rephrase **paragraph 4**

4. share examples of good practices related to **protection of clean, healthy and sustainable environment** ~~the implementation of this recommendation,~~ including through workshops and other events; ”

4. share examples of good practices related to the implementation of this recommendation, including through workshops and other events **and make this information accessible to the public, including through reference to existing information systems**

Commented [GC99]: CONFERENCE DES OING

4. de partager des exemples de bonnes pratiques liées à la mise de la présenter e recommandation, y compris par le biais **de séminaires,** d'atelier événements d'autres

Commented [GC100]: SUISSE

5. 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 consider recognising the right of national non-governmental organisations (NGOs) fulfilling the criteria mentioned therein to lodge collective complaints before the European Committee of Social Rights;^{lx}

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 **consider recognising** the right of national non-governmental organisations (NGOs) fulfilling the criteria mentioned therein to lodge collective complaints before the European Committee of Social Rights;¹⁷

Commented [GC101]: CONFERENCE DES OING

¹⁵ Similar wording in *Recommendation CM/Rec(2016)3 of the Committee of Ministers to member States on human rights and business*:

“ Recommends that the governments of the member States: 1. review their national legislation and practice to ensure that they comply with the recommendations, principles and further guidance set out in the appendix, and evaluate the effectiveness of the measures taken at regular intervals; ”

¹⁶

Similar wording in *Recommendation CM/Rec(2016)3 of the Committee of Ministers to member States on human rights and business (Adopted by the Committee of Ministers on 2 March 2016 at the 1249th meeting of t*

“ Recommends that the governments of the member States: [...] 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 the corporate responsibility to respect human rights and contribute to their realisation; ”

¹⁷ Similar wording in *Recommendation CM/Rec(2018)11 of the Committee of Ministers to member States on the need to strengthen the protection and promotion of civil society space in Europe*, Appendix, para. l:

“ Member States should:

[...]

k. 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. ”

6. consider signing and/or ratifying, and fully implementing, the Convention of the Council of Europe on Access to Official Documents (CETS No. 205);¹⁸

Dispositif [6]

Nous nous interrogeons sur la mention au dispositif de la recommandation de la Convention du Conseil de l'Europe sur l'accès aux documents publiés (Aarhus Convention) (CETS n° 205), sachant que

Commented [A102]: NORWAY Those who have or will sign and/or ratify are obliged to fully implement it. We should therefore rephrase to avoid recommending to them only to *consider* full implementation

Commented [GC103]: FRANCE

- consider signing and/or ratifying, and fully implementing, the Convention of the Council of Europe on Access to Official Documents (CETS No. 205);¹⁸

Commented [GC104]: CONFERENCE DES OING

7. consider signing and/or ratifying, 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;¹⁹

consider signing and/or ratifying, 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;¹⁹

Commented [A105]: NORWAY Those who have or will sign and/or ratify are obliged to fully implement it. We should therefore rephrase to avoid recommending to them only to *consider* full implementation.

Commented [OHCHR106]: Could also add reference in endnote to new rapid response mechanism to protect environmental defenders established under the Aarhus Convention (October 2021), Decision VII/9 on a rapid response mechanism to deal with cases related to article 3 (8) of the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters:

https://unece.org/sites/default/files/2021-11/ECE.MP_PP_2021_RRM_CRP.8_3.pdf

consider signing and/or ratifying, 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, [Convention on Environmental Impact Assessment in a Transboundary Context \(Espoo Convention\)](#), [UN Framework Convention on Climate Change, and its Paris Agreement](#), [the Convention on Biological Diversity and its Protocol](#), [the Convention on International Trade in Endangered Species of Wild Fauna and Flora \(CITES\)](#), [the Council of Europe Convention on the Conservation of European Wildlife and Natural Habitats](#), [the Vienna Convention for the Protection of the Ozone Layer and its Montreal Protocol](#), [the Stockholm Convention on Persistent Organic Pollutants](#), [the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal](#), [the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade](#), [the Convention on Long-range Transboundary Air Pollution and its Protocols](#), [the Council of Europe Convention on Civil Liability for Damage resulting from Activities Dangerous to the Environment](#), [the Council of Europe Convention on the Protection of the Environment through Criminal Law](#), [the United Nations Convention on the Law of the Sea](#);¹⁹

Commented [GC107]: CONFERENCE DES OING

¹⁸ Final Declaration by the Georgian Presidency of the Committee of Ministers, Environmental Protection and Human Rights, High-Level Conference organised under the aegis of the Georgian Presidency of the Committee of Ministers (Strasbourg, 27 February 2020):

" States which have not yet done so should consider signing and ratifying, inter alia, the 1998 Aarhus Convention of the United Nations on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters and the 2010 Tromsø Convention of the Council of Europe on Access to Official Documents which guarantee public scrutiny of decision-making on environmental issues. "

¹⁹

Final Declaration by the Georgian Presidency of the Committee of Ministers, Environmental Protection and Human Rights, High-Level Conference organised under the aegis of the Georgian Presidency of the Committee of Ministers (Strasbourg, 27 February 2020)

" States which have considered signing and ratifying, inter alia, the 1998 Aarhus Convention of the United Nations on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters and the 2010 Tromsø Convention of the Council of Europe on Access to Official Documents which guarantee public scrutiny of decision-making on environmental issues. "

8. examine, within the Committee of Ministers, the implementation of this recommendation no later than five years after its adoption.^{lxviii}

OP8 – It would be helpful to understand how this para would work in practice. Presumably there is no reporting obligation, but we would not wish to support a mandatory review of national law to consider if it is consistent with a 'right to a clean environment'.

Commented [GC108]: UK

RUSSIAN FEDERATION

In paragraph 8 we are not sure about the necessity of the creation of a review mechanism for the "implementation" of the Recommendation. We believe that such a mechanism would contradict the very nature of the Recommendation as a non-legally binding document. It is therefore proposed to delete paragraph 8.

[APPENDIX]

[General principles]

1. In the implementation of the present recommendation, member States should ensure the respect of general principles arising from international law in the field of environment, such as the "no harm" principle^{lxiv}, the principles of prevention^{lxv} and precaution^{lxvi}, the "polluter pays" principle^{lxvii}, and take into account the need for intergenerational equity^{lxviii}.

no harm" principle

Commented [NT(p109): GERMANY These are largely inter-state rules whose relevance in the context of human rights protection should be further explained and methodologically underpinned.

AP1 – Content, though the para would benefit from an exhaustive list of which principles are included. We would certainly want to see non-retroactivity included, not least to prevent historical acts falling within the scope of this.

1. Dans la mise en œuvre de la présente recommandation, respect des principes généraux découlant du droit international dans le domaine de l'environnement (découlant du droit international de l'environnement), tels que le principe « d'absence de dommage »^{lxix}, les principes de prévention^{lxx} et de précaution^{lxxi}, le principe du « pollueur-payeur »^{lxxii}, et tenir compte de la nécessité d'une équité intergénérationnelle^{lxxiii}.

Perhaps in the following direction: "When interpreting and applying human rights in the context of environmental degradation and climate change, and depending on the circumstances, States may take into consideration the general principles of international environmental law in a contextual interpretative approach."

Commented [GC110]: UK

Commented [Suisse111]: Les notes xxxii à xxxv sont introuvables.

Principes généraux [1]

Il nous semble que « should ensure » devrait être traduit par « devraient garantir ».

Commented [GC112]: FRANCE

RUSSIAN FEDERATION

The meaning of the word combination in paragraph 1 is not clear. It needs ratification clarification.

We believe that the reference to the principles of the "polluter pays" principle in paragraph 1. Unlike the other principles listed in this paragraph, its inclusion in the list of «principles of international law in the field of environment» is not justified.

of the "polluter pays" sh

[APPENDIX]

The principles, recommendations and further guidance set out in the appendix are based partly on legally binding existing obligations in international law, multilateral and regional agreements in the field of climate and environment, the European Convention on Human Rights and jurisprudence from the European Court of Human Rights, and partly on non-legally binding sources. -The fact that they are all phrased as recommendations do not in any way der

St

Commented [A113]: NORWAY The fact that this is a recommendation and not legally binding obligations, but nevertheless refers to existing obligations based on international law, the ECHR and jurisprudence deriving from it, poses challenges with regard to the wording to be used in describing Member States' actions in the field of human rights and environment. Obligations are to be respected, while using the word "should" throughout the Appendix could be interpreted as implying a softer approach to the fulfilment of obligations.

[General principles]

2. Where decisions of public authorities restrict the right to respect for private and family life, the right to property, the right to receive and impart information and ideas, the right to freedom of peaceful assembly and the right to freedom of association, including with respect to environmental matters, member States should ensure that those decisions are prescribed by law, pursue a legitimate aim and are necessary in a democratic society, striking a balance between the interest of the individual and the general interest, as set out in the European Convention on

We therefore propose introducing a brief introductory remark that makes it clear that the legal effects of these existing obligations are not altered by this recommendation.

We could also consider using other wording, such as "are expected to" on points which refer to legal obligations.

Human Rights (hereinafter "Member States") enjoy a principle of a wide margin of appreciation in how this balance should be struck in cases relating to environmental matters.

2. Lorsque les décisions et mesures des autorités publiques en matière d'environnement restreignent les droits et libertés individuels d'une personne et familiale, le droit à la propriété, le droit de recevoir et de communiquer des informations et des idées, le droit à la liberté de réunion pacifique et le droit à la liberté d'association, y compris en matière d'environnement, les États membres devraient veiller à ce que ces décisions soient prévues par la loi, poursuivent un but légitime et soient nécessaires dans une société démocratique, en assurant un équilibre entre l'intérêt de l'individu et l'intérêt général, comme le prévoit la Convention européenne des droits de l'homme (ci-après « la Convention »). Les États membres jouissent en principe d'une large marge d'appréciation quant à la manière dont cet équilibre doit être atteint.^{lxxiv}

2. Where decisions of public authorities restrict a person's individual rights, including the right to respect for private and family life, the right to property, the right to receive and impart information and ideas, the right to freedom of peaceful assembly and the right to freedom of association, including with respect to environmental matters, member States should ensure that those decisions are prescribed by law, pursue a legitimate aim and are necessary in a democratic society (striking a balance between the interest of the individual and the general interest, as set out in the European Convention on Human Rights (hereinafter "the Convention")). Member States enjoy a wide margin of appreciation in how this balance should be struck.

3. Lorsque les mesures prises par les États membres pour préserver l'environnement entraînent une ingérence dans les droits et libertés individuels, les États membres devraient veiller à ce que ces mesures soient prévues par la loi, poursuivent un but légitime et sont nécessaires dans une société démocratique.

3. Where measures taken by member States to preserve the environment lead to an interference with individual rights and freedoms, member States should ensure that the measures are prescribed by law, pursue a legitimate aim and are necessary in a democratic society.

4. Member States should ensure the enjoyment of the rights and freedoms set forth in the Convention and, when applicable, the European Social Charter and the revised European Social Charter (hereinafter, including in relation to the environment, without discrimination on any ground.^{lxxv}

4. Les États membres devraient garantir la jouissance sans discrimination des droits et libertés énoncés dans la Convention et, le cas échéant, dans la Charte sociale européenne et la Charte sociale européenne révisée (ci-après « la Charte »), y compris en matière d'environnement sans discrimination aucune.^{lxxvi}

5. Member States should ensure access without discrimination, *inter alia*, to information and justice in environmental matters, as well as to participation in environmental decision-making, to environmental education and to environmental benefits.^{lxxvii}

Member States should ensure access without discrimination, *inter alia*, to information and justice in environmental matters, as well as to participation in decision-making, to environmental education and to environmental benefits.^{lxxviii}

5. Les États membres devraient garantir l'accès sans discrimination, entre autres, à l'information et à la justice en matière d'environnement, ainsi qu'à la participation au processus décisionnel, à l'éducation à l'environnement et aux avantages environnementaux.^{lxxx}

6. Member States should take adequate 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.^{lxxx}

RUSSIAN FEDERATION
To rephrase paragraph 6

Commented [TF114]: NETHERLANDS Because the previous sentence only mentions environmental matters as an example, it cannot be said in general that High Contracting Parties enjoy a wide margin of appreciation.

Commented [Suisse115]: Les restrictions visées ici sont bien celles « en matière d'environnement ».

Commented [116]: One doesn't balance individual versus collective rights; one balances the interest served by the expression against the interest harmed by the expression.

Commented [GC117]: CONFERENCE DES OING

Commented [Suisse118]: Ce paragraphe ce recoupe avec le paragraphe précédent. Nous proposons de conserver seulement le paragraphe 2 qui est plus explicite.

Commented [RM119]: GERMANY Slightly unclear: Is this meant to require an additional legitimate aim next to "preserving the

Commented [Suisse120]: Cette note est introuvable.

Commented [GC121]: GEORGIA

Commented [GC122]: RUSSIAN FEDERATION
The meaning of the word combination "environment paragraph 5 is not clear." It needs clarification.

Commented [OHCHR123]: Would suggest updating to "meaningful" paragraph 5

Commented [Suisse124]: Cette note est introuvable.

“ 6. Member States should take the rights of those who are most vulnerable to, or at particular risk from, environmental harm, taking into account their needs, risks and capacities.

6. Member States should take adequate 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.^{bxxxj}

7. Member States should ensure equality between women and men and the systematic integration of the gender equality dimension in the framework of securing a clean, healthy and sustainable environment and mainstream this dimension into the planning, developing, implementing and monitoring of their environmental legislation, strategies, policies and actions.

~~7. Member States should ensure equality between women and men and the systematic integration of the gender equality dimension in the framework of securing a clean, healthy and sustainable environment and mainstream this dimension into the planning, developing, implementing and monitoring of their environmental legislation, strategies, policies and actions.~~

8. Taking into consideration their vital role in the protection of the environment, member States should consult and cooperate in the implementation of this recommendation with non-State actors and subnational entities, including civil society, economic actors, indigenous peoples and local communities, cities and regions.^{bxxxk}

8. En tenant compte de leur rôle vital essentiel dans la protection de l'environnement, les États membres devraient se consulter et coopérer avec des acteurs non étatiques et les entités infranationales, notamment la société civile, les acteurs économiques, les peuples autochtones et les communautés locales, les villes et les régions.

RUSSIAN FEDERATION

To rephrase paragraph 8

Taking into consideration their vital role in the protection of the environment, member States should if they deem it necessary, may consult and cooperate in the implementation of this recommendation with non-State actors and subnational entities, including civil society, economic actors, indigenous peoples and local communities, cities and regions.

9. Member States should ensure that the mandate given to National Human Rights Institutions (NHRIs) to protect and promote human rights is as broad as possible and covers linkages between human rights and the environment and that that NHRIs can operate independently, in an effective manner and in a climate of impartiality, integrity, transparency and fairness.^{bxxxl}

RUSSIAN FEDERATION

To rephrase paragraph 9

Member States should ensure consider that the mandate given to National Human Rights Institutions (NHRIs) to protect and promote human rights is as broad as possible and covers the links between human rights and the environment, and that these NHRIs can act independently, effectively and in an atmosphere of impartiality, integrity, transparency and fairness.

9. Member States should ensure that the mandate given to National Human Rights Institutions (NHRIs) to protect and promote human rights is as broad as possible and covers linkages between human rights and the environment and that NHRIs can operate independently, in an effective manner and in a climate of impartiality, integrity, transparency and fairness.^{bxxxm}

[Environmental harm and the right to life]

10. Member States should take appropriate steps to protect the right to life, including from threats posed by environmental harm caused by other private actors or activities that are not directly connected with the State.^{bxxxn} In particular:

Commented [OHCHR125]: Could also add reference here in endnote to Human Rights Council resolution 47/24 (2021) regarding the impact of climate change on the rights of people in vulnerable situations.

[OHCHR | The impact of climate change on the rights of people in vulnerable situations](#)

Commented [GC126]: POLAND

Commented [Suisse127]: Ce texte n'est optimal, il fait un grand mélange entre différents groupes et entités.

Commented [OHCHR128]: See also statement adopted at the 2020 Global Alliance of National Human Rights Institutions Annual Conference, *Climate Change: The role of National Human Rights Institutions*

https://ganhri.org/wp-content/uploads/2021/02/EN_AC_Statement_for_consultation.pdf

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

Commented [A129]: NORWAY Should this point include "and participation in decision-making"? Ref. the Aarhus Convention Article 6.

b. Where loss of life may be the result of dangerous activities or natural disasters, member States should promptly initiate an independent and impartial investigation and, in case of violation of the right to life, provide for remedies.^{lxxxvii}

b. Lorsque la perte d'une vie peut résulter pourrait être liée à des/pourrait avoir un lien de causalité avec des activités dangereuses ou des catastrophes naturelles, les États membres devraient rapidement ouvrir une enquête indépendante et impartiale et, en cas de violation du droit à la vie, prévoir des recours.

Commented [Suisse130]: Dans la version française, le wording « peut résulter » prête à confusion et n'est pas assez précis. A tout le moins, il faudrait écrire « pourrait » résulter.

AP10 -We could probably live with it to the extent it reflects existing case law. The most contentious issues are jurisdictional (e.g. liability for transboundary harm) and on the merits we are seeking to avoid automatically equating environmental harm to a breach. Can we add some 'where appropriate' or 'so far as possible'.

Commented [GC131]: UK

RUSSIAN FEDERATION
To rephrase paragraph 10

Member States should take appropriate steps to protect the right to life, including from threats posed by environmental harm caused also by other private actors or activities that are not directly connected with the State".

The meaning of the word combined in paragraphs 10a, 10b and 11 is not clear. It needs clarification.

It is unclear in paragraph 10b from whom the independent investigation is initiated by the states. It needs to be clarified.

activities" in

Paragraphe [10] Atteintes à l' environnement et droit à la vie

« Les États membres devraient prendre des mesures appropriées pour protéger le droit à la vie, y compris contre les menaces que représentent les atteintes à l'environnement causées par d'autres acteurs ou activités privés qui ne sont pas directement liées à l'État. [...]

Commented [GC132]: FRANCE

10. Member States should take appropriate steps to respect and protect the right to life, including from threats posed by environmental harm caused by agents of the State or by other private actors or activities that are not directly connected with the State.²⁰ In particular:

Commented [GC133]: CONFERENCE DES OING

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

11. Member States should ensure that environmental harm, stemming from State or non-state activities, does not have a directly harmful effect on, or seriously risks the enjoyment of, private and family life or home.^{lxxxviii}

AP11 and AP12 – Very broad and sweeping statements. Can we narrow by adding 'as appropriate / where possible'

Commented [GC134]: UK

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

Commented [GC135]: CONFERENCE DES OING

²⁰ Council of Europe, updated Manual on Human Rights and the Environment (third edition 2021), Section A, Chapter I, para. (a):
' (a) The protected under Article 2 of the Convention. This Article does not solely concern deaths resulting directly from the actions of the agents of a State, but also lays down a positive obligation on States to take appropriate steps to safeguard the lives of those within their jurisdiction. This means that public authorities have a duty to take steps to guarantee the rights of the Convention even when they are threatened by other (private) persons or activities that are not directly connected with the State. '

[Environmental harm and the protection of property]

12. Member States should ensure that environmental harm stemming from their activities does not affect the exercise of the right to property.^{lxviii}

12. Member States should ensure that environmental harm stemming from their activities does not affect the exercise of violate the right to property.

12. Member States should ensure that environmental harm stemming from their activities, and under certain circumstance, from the activities of private actors does not affect the exercise of the right to property.

12. Les États membres devraient veiller à ce que les atteintes à l'environnement découlant de leurs activités résultant d'activités étatiques ou non étatiques ? ne portent pas atteinte à propriété.

RUSSIAN FEDERATION

To rephrase **paragraph 12**

" 12. Member States should ensure that environmental harm stemming from or from those of non-state actors does not affect the exercise of the right to property.

12. Member States should ensure that environmental harm stemming from their activities or from the activities of private actors within their jurisdiction does not affect the exercise of the right to property.

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

13. Bearing in mind that 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,^{xc} 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, with particular regard to environmental human rights defenders.^{xcii}

Paragraphe [13] Droit de recevoir et de communiquer des informations et des idées sur les questions d'environnement

Le renvoi à l'article 10 de la Convention EDH ne nous semble pas nécessaire. Il faudrait éventuellement inclure un renvoi aux articles de la Convention dans tous les paragraphes où cela serait pertinent (paragraphes 11 et 12 notamment).

RUSSIAN FEDERATION

To rephrase **paragraph 13**

13. Bearing in mind that 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, 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, with particular regard to environmental human rights defenders.

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

14. 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.^{xciii} 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^{xciii} and includes the unobstructed peaceful assembly and association related to environmental matters.^{xciv}

RUSSIAN FEDERATION

To rephrase **paragraph 14**

14. 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

Commented [TF136]: NETHERLANDS " a f f e c t overly broad, and would mean States cannot take action which infringes on the exercise of the right to property, even when justified.

Commented [NT(p137): GERMANY Positive obligations doctrine as regards the horizontal dimension also applicable in the context of Art. 1 Prot. No. 1 to the ECHR.

Commented [Suisse138]: En ce qui concerne la protection de la propriété, la jurisprudence de la Cour prévoit-elle l'obligation de mesures positives non seulement lorsque les atteintes sont causées par des activités étatiques, *mais aussi non étatiques* ?

Commented [GC139]: CONFERENCE DES OING

Commented [GC140]: CONFERENCE DES OING

Commented [GC141]: FRANCE

aspects of this right and includes the unobstructed peaceful assembly and association related to **i.a. environmental matters** .

[Access to information on environmental matters]

15. As part of the appropriate steps to safeguard the right to life and the right to respect for private and family life, member States should ensure a right of access to information in relation to environmental issues **and by** adequately informing the public, in an understandable way, 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.^{xcv | xcvl}

Paragraphe [15] Accès aux informations sur les questions environnementales

Pourquoi ne mentionner que le droit à la vie et le droit au respect de la vie privée et familiale ?

« Dans le cadre des mesures appropriées pour sauvegarder le droit à la vie et le droit au respect de la vie privée et familiale, les États membres devraient garantir un droit d'accès aux informations en ce qui concerne les questions environnementales, en informant le public de manière adéquate et compréhensible de toute situation d'urgence mettant en danger la vie des personnes, y compris les catastrophes naturelles, afin que les personnes puissent prendre des décisions en connaissance de cause sur les risques encourus par elles-mêmes et leurs proches. »

15. As part of the appropriate steps to safeguard the right to life and the right to respect for private and family life, member States should ensure a right of access to information in relation to environmental issues **in line with the Aarhus Convention** by adequately informing the public, in an understandable way, 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**.²¹

16. Member States should ensure that public authorities possess and update environmental information which is relevant to their functions and ensure that environmental information available to the public is transparent 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.^{xcvii}

RUSSIAN FEDERATION

16. Member States should ensure that public authorities possess and update environmental information which is relevant to their functions and ensure that environmental information available to the public is

²¹ Council of Europe, *updated Manual on Human Rights and the Environment* (third edition 2021), Section A, Chapter V, paras. (e), (f), (g):

‘ ‘ **Articles 2 and 8 of the Convention** may however impose a specific positive obligation on public authorities to **ensure a right of access to information in relation to environmental issues** in certain circumstances.

(f) This obligation to ensure access to information is generally complemented by the positive obligations of the public authorities to provide information to those persons whose right to life under Article 2 or whose right to respect for private and family life and the home under Article 8 are threatened. The Court has found that in the particular context of dangerous activities falling within the responsibility of the State, special emphasis should be placed on ensuring that the public is adequately informed about any life threatening emergencies, including natural disasters.

(g) Access to information is of importance to individuals because it can allay their fears and enables them to assess the environmental danger to which they may be exposed.

Guerra and Others v. Italy (Judgment) (19 February 1998), ECHR Application no. 116/1996/735/932, para. 60:

‘ ‘ 60. La Cour rappelle que des atteintes sévères des personnes et les privent de la jouissance de leur domicile de manière à nuire à leur vie privée et familiale (voir, *mutatis mutandis*, l'arrêt López Ostra précité, p. 54, § 51). En l'espèce, les requérantes ont allégué que les autorités locales n'ont pas fourni d'informations essentielles qui leur auraient permis de prendre des mesures pour elles et leurs proches du fait de continuer à résider sur le territoire de Manfredonia, une commune aussi exposée au danger en cas d'accident dans l'enceinte de l'usine.

La Cour constate donc que l'Etat a garanti le droit de requérantes au respect de leur vie privée et familiale, au mépris de l'article 8 de la Convention. Par conséquent, il y a eu violation de cette disposition.

Commented [GC142]: RUSSIAN FEDERATION
19. The section « **Access to information on environmental matters** » of the Annex (paragraphs 15-18) reproduces almost entirely the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, of 25 June 1998 (Aarhus Convention). The Convention has a limited number of Parties, mainly from EU Member States. At the same time, it provides for a number of provisions that are not entirely obvious, such as the obligation of the authorities to make environmental information available to the public «without the need to show a legal or other interest» for such information (paragraph 18). It is therefore proposed to rephrase paragraphs 16, 17 and 18

Commented [A143]: NORWAY These are separate and supplementary obligations, according to the citations from the Manual in the footnote. The right of access to information is different from and not fulfilled by the State's adequately informing about particular immediate and severe risks.

Commented [OHCHR144]: Here may wish to also include reference to:

Committee on the Elimination of Discrimination against Women, general recommendation No. 37 (2018) on the gender-related dimensions of disaster risk reduction in the context of climate change, in which the Committee underscored the urgency of mitigating climate change and highlighted the steps that needed to be taken to achieve gender equality in order to reinforce the resilience of individuals and communities to climate change and disasters

Human Rights Committee General Comment 36 on the right to life, para. 62:

“ 62. Environmental degradation and unsustainable development constitute some of the most pressing and serious threats to the ability of present and future generations to enjoy the right to life. The obligations of States parties under international environmental law should thus inform the content of article 6 of the Covenant, and the obligation of States parties to respect and ensure the right to life should also inform their relevant obligations under international environmental law. 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. States parties should therefore ensure sustainable use of natural resources, develop and implement substantive environmental standards, conduct environmental impact assessments and consult with relevant States about activities likely to have a significant impact on the environment, provide notification to other States concerned about natural disasters and emergency situations.

Commented [GC145]: FRANCE

Commented [GC146]: CONFERENCE DES OING

transparent and effectively accessible through public telecommunications networks. Additionally, member States should take measures to disseminate make environmental legislation, policy documents and proposals, international treaties, conventions and agreements and other significant international documents on environmental issues available, 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.

16. Les États membres devraient veiller à ce que les autorités publiques possèdent et mettent à jour des informations sur l'environnement pertinentes pour leurs fonctions et à ce que les informations sur l'environnement mises à la disposition du public soient transparentes et effectivement accessibles par les réseaux de télécommunications publics. En outre, les États membres devraient prendre des mesures pour diffuser la législation, les documents et propositions de politique générale, les traités, conventions et accords internationaux et autres documents internationaux importants sur les questions d'environnement, et encourager opérateurs les acteurs privés dont les activités ont un impact important sur l'environnement à informer régulièrement le public de l'impact environnemental de leurs activités et produits.

Commented [GC147]: SUISSE

AP16 - Useful to define what is meant by 'transparent information'. Transparent attitude of the public authority and the act of making it available in the first place, rather than the nature of the information. If referring to the writing style and level of content and how easy it is for the audience to understand, then surely some information that a public authority chooses to place in the public domain will be more technical than other types of information. There may be simple texts, but also datasets and scientific information that ordinary readers may find inaccessible but scientists might find invaluable. The Aarhus Convention in Article 5 talks about making the way the information is made available transparent, which is a different matter entirely (e.g. clearly signposted on websites, brought together in portals, information hubs etc.).

Commented [GC148]: UK

17. 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.^{xviii}

RUSSIAN FEDERATION

17. When public authorities states 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".

AP17 - This is broad and potentially goes beyond the Aarhus Convention. Is it limited by the environmental context of the instrument? Are we assuming that the harm to health derives from an activity that affects the environment and therefore fits into Aarhus Convention Article 2(3)(c)? ("The state of human health and safety, conditions of human life, cultural sites and built structures, inasmuch as they are or may be affected by the state of the elements of the environment or, through these elements, by the factors, activities or measures referred to in subparagraph (b) above;")

Commented [GC149]: UK

Paragraphe [17] Accès aux informations sur les questions environnementales

« Lorsque les autorités publiques s'engagent dans des activités dangereuses dont elles savent qu'elles comportent des risques néfastes pour la santé, les États membres devraient établir une procédure efficace et accessible pour permettre aux individus concernés de rechercher toutes les informations pertinentes et appropriées. »

Commented [GC150]: FRANCE

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

Commented [GC151]: CONFERENCE DES OING

18. Member States should guarantee the right of everyone, without distinction on any ground, to have access, on request, to official documents concerning environmental information held by public authorities. They should ensure that public authorities, in response to a request for environmental information, make such information available to the public, within the framework of national legislation, without the need to show a legal or other interest.^{xix}

RUSSIAN FEDERATION

18. Member States should guarantee the right of everyone, without distinction on any ground, to have access, on request, to official documents concerning environmental information held by public authorities. ~~They should ensure that public authorities, in response to a request for environmental information, make such information available to the public, within the framework of national legislation, without the need to show a legal or other interest”~~ .

Member States should, in accordance with international obligations in this respect, guarantee the right of everyone, without distinction on any ground, to have access, on request, to official documents concerning environmental information held by public authorities. They should ensure that public authorities, in response to a request for environmental information, make such information available to the public, within the framework of national legislation, without the need to show a legal or other interest.

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

19. When making decisions which have the potential of affecting the environment, member States should take into account the interests of individuals who may be affected and should allow the public to make representations in relation to such decisions, within the framework of the national legislation.^c

19. Lorsqu'ils prennent des décisions susceptibles d'avoir une incidence sur l'environnement, les Etats membres devraient tenir compte des intérêts des personnes susceptibles d'être affectées et permettre au public de faire des observations dans le cadre des processus décisionnels sur ces décisions dans le cadre de la législation nationale.

RUSSIAN FEDERATION

To rephrase **paragraph 19**

“ 19. When making decisions which have the potential of affecting the environment, member States should take into account the interests of individuals who may be affected and should allow the public to make representations participate or be represented in relation to such decisions, within the framework of the national legislation.

19. When making decisions which have the potential of affecting the environment, member States should take into account the interests of individuals who may be affected or may have a legitimate interest and should allow and facilitate the public to make representations in relation to such decisions, within the framework of the national legislation.

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

RUSSIAN FEDERATION

To rephrase **paragraph 20**

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

20. Member States should ensure that every member of society affected or likely to be affected or having an interest has adequate opportunities to effectively participate in decision-making processes related to environmental matters, and ensure that the results of the public participation is taken into account in the decision. This includes, *inter alia*, public participation in decisions on specific activities, public participation concerning plans, programmes and policies relating to the environment and, where

Commented [TF152]: NETHERLANDS The Aarhus Convention guarantees rights to this effect, but includes a number of grounds for the refusal of access to information. This phrasing is therefore overly broad.

Commented [GC153]: SUISSE

Commented [GC154]: CONFERENCE DES OING

Commented [RM155]: GERMANY This recommendation is far-reaching. E.g. in the relevant EU rules (mostly) only those directly affected are involved. A more restricted wording could help not to create discrepancies with applicable legislation. Otherwise the question could arise as to whether the current rules for (locally limited) disclosure / interpretation / discussion are sufficient to really create "adequate opportunities" for everyone.

appropriate, participation during the preparation of executive regulations and/or generally applicable legally binding normative instruments.

20. Les États membres devraient veiller à ce que chaque membre de la société ait des possibilités adéquates de participer efficacement aux processus décisionnels relatifs aux questions d'environnement, et veiller à ce que les résultats de la participation du public soit prise en compte dans la décision. Cela comprend, entre autres, la participation du public, notamment des jeunes, aux décisions relatives à des activités spécifiques, la participation du public aux plans, programmes et politiques relatifs à l'environnement et, le cas échéant, la participation à l'élaboration de règlements exécutifs et/ou d'instruments normatifs contraignants d'application générale.

Commented [Suisse156]: Mentionner explicitement la participation des jeunes dans le paragraphe, en référence au paragraphe 24 ci-dessous.

Commented [GC157]: SUISSE

Paragraphe [20] Processus décisionnel en matière d'environnement et part

« Les États membres devraient veiller à ce que chaque membre de la société ait des possibilités adéquates de participer efficacement aux processus décisionnels relatifs aux questions d'environnement, et veiller à ce que les résultats de la participation du public soient prise en compte dans la décision. Cela comprend, entre autres, la participation du public aux décisions relatives à des activités spécifiques, la participation du public aux plans, programmes et politiques relatifs à l'environnement et, le cas échéant, la participation à l'élaboration de règlements exécutifs et/ou d'instruments normatifs contraignants d'application générale. »

Commented [GC158]: FRANCE

21. Member States should introduce appropriate procedures requiring environmental assessment of its proposed activities that are likely to have significant adverse effects on the environment with a view to avoiding, preventing or reducing and, if possible, offsetting such effects. With a view to promoting sustainable development and ensuring a high level of environmental protection, Member States should, through strategic environmental assessment (SEA) integrate environmental considerations into the preparation and adoption of plans and programmes which are likely to have significant effects on the environment.²¹

RUSSIAN FEDERATION

To rephrase **paragraph 21**

21. Member States should introduce appropriate procedures requiring environmental assessment of its proposed activities that are likely to have significant adverse effects on the environment with a view to avoiding, preventing or reducing and, if possible, offsetting such effects. ~~With a view to promoting sustainable development and ensuring a high level of environmental protection, Member States should, through strategic environmental assessment (SEA) integrate environmental considerations into the preparation and adoption of plans and programmes which are likely to have significant effects on the environment.~~

Paragraphe [21]

« Les États membres devraient mettre en place des procédures appropriées exigeant des évaluations environnementales ~~des activités de celles de leurs activités qui sont~~ susceptibles d'avoir des effets négatifs importants sur l'environnement, dans le but d'éviter, de prévenir ou de réduire et, si possible, de compenser ces effets. En vue de promouvoir le développement durable et d'assurer un niveau élevé de protection de l'environnement, les États membres devraient, par le biais de l'évaluation environnementale stratégique (EES), intégrer les considérations environnementales dans la préparation et l'adoption des plans et des programmes qui sont susceptibles d'avoir des incidences notables sur l'environnement. »

Commented [GC159]: FRANCE

21. Member States should introduce appropriate procedures requiring environmental assessment of its proposed activities ~~and those of private actors that~~ are likely to have significant adverse effects on the environment with a view to avoiding, preventing or reducing and, if possible, offsetting such effects. With a view to promoting sustainable development and ensuring a high level of environmental protection, Member States should, through strategic environmental assessment (SEA) integrate environmental considerations into the preparation and adoption of plans and programmes which are likely to have significant effects on the environment.²²

Commented [GC160]: CONFERENCE DES OING

²² Convention on Biological Diversity (5 June 1992), 1760 UNTS 69:

Article 14. Impact Assessment and Minimizing Adverse Impacts

1. Each Contracting Party, as far as possible and as appropriate, shall:

Paragraphe [22]

La formulation de ce paragraphe pourrait être simplifiée. Nous suggérons la reformulation suivante :

« Lorsque les autorités publiques ont à se prononcer sur des questions complexes de politique environnementale et économique, les États membres devraient veiller à ce que le processus décisionnel comporte des enquêtes et des études appropriées afin de prévoir et d'évaluer à l'avance les effets sur l'environnement et de permettre aux autorités publiques de trouver un juste équilibre entre les divers intérêts en jeu. Les États membres devraient garantir l'accès du public aux conclusions de ces études et aux informations permettant au public d'évaluer le danger auquel il est exposé. »

22. Member States should ensure that where public authorities have to determine complex issues of environmental, public health and economic policy, the decision-making process should involve appropriate investigations and studies in order to predict and evaluate in advance the effects on the environment and to enable them to strike a fair balance between the various conflicting interests at stake. Member States should ensure public access to the conclusions of such studies and to information which would allow the public to assess the danger to which they are exposed.

23. Member States are encouraged, as far as possible, to enable civil society organisations promoting environmental protection and meeting any requirements under national law, to participate in the decision-making process.^{civ} They are encouraged to make consultation and collaboration with such civil society organisations a common practice when drafting relevant legislation, policies and action plans at national, regional and local levels.^{cv}

23. Member States should be encouraged to enable civil society organisations promoting environmental protection and meeting any requirements under national law, to participate in the decision-making process.²³ They should be encouraged to make consultation and collaboration with such civil society organisations a common practice when drafting relevant legislation, policies and action plans at national, regional and local levels.²⁴

[Participation and inclusion of children and youth in environmental matters]

[Participation and inclusion of youth in environmental matters]

24. Member States should adopt policies or measures designed to promote child and youth participation related to environmental matters, including the participation of young people belonging to

²³ Similar wording in *Guidelines of the Committee of Ministers to member States on the protection and promotion of human rights in culturally diverse societies* (Adopted by the Committee of Ministers on 2 March 2016 at the 1249th meeting of the Ministers' Deputies), p. 20, para. 50:

Member States are encouraged, as far as possible, to enable all relevant segments of society, including non-governmental organisations, to participate in the preparation and consideration of legislation so as to ensure inclusivity and the genuine recognition of the diversity within societies.

Similar wording in *Guidelines for civil participation in political decision making* (Adopted by the Committee of Ministers on 27 September 2017 at the 1295th meeting of the Ministers' Deputies) Chapter IV, para. 5.6: the Ministers' Deputies

IV. Fundamentals of civil participation in political decision making
5. Civil participation should seek to provide, collect and channel views of individuals, directly or via NGOs and/or representatives of civil society, providing a substantive exchange of information and opinions which inform the decision-making process so that public needs are met.

Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention) (25 June 1998), Art. 2(5):

Article 2 DEFINITIONS

For the purposes of this Convention,

5. "The public concerned" means the public affected or likely to be affected by, or having an interest in, the environmental decision-making, for the purposes of this definition, non-governmental organizations promoting environmental protection and meeting any requirements under national law shall be deemed to have an interest.

²⁴ Similar wording in *Guidelines of the Committee of Ministers to member States on the protection and promotion of human rights in culturally diverse societies* (Adopted by the Committee of Ministers on 2 March 2016 at the 1249th meeting of the Ministers' Deputies), p. 23, para. 68:

68. Member States should take concrete measures to create an environment conducive to the protection and promotion of human rights, and make consultation and collaboration with civil society a common practice when drafting policies and action plans at national, regional and local levels, with a view to protecting and promoting human rights in culturally diverse societies.

Commented [GC163]: FRANCE

Commented [GC164]: CONFERENCE DES OING

Commented [A165]: NORWAY Why more lenient language here (not "should") than in other paragraphs? Such organisations have participatory rights pursuant to the Aarhus Convention (Article 2(4-5), Article 6-8).

Commented [GC166]: CONFERENCE DES OING

Commented [GC167]: OHCHR

Commented [A168]: NORWAY We suggest to include the wording "children" as the term "youth" only covers 15 to 24 years.

Commented [GC169]: OHCHR

groups or peoples in vulnerable situations 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/actions, 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, 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.^{cvii cvii}

[[Participation of women in environmental matters]

25. Member States should take all appropriate measures to ensure greater participation of women in the planning, management, and preservation of the environment and the sustainable use of natural resources at all levels.^{cviii cxix}

[[Environmental risks and access to court]

26. Member States should be mindful that the right to a fair trial includes the right to access to a court. They should enable applicants to appeal to a court if they consider that their rights and interests have not been given sufficient weight in the decision-making processes on complex questions of environmental and economic policy.^{cx}

26. Member States should be mindful that the right to a fair trial includes the right to access to a court. They should enable applicants to appeal to a court if they consider that their rights and interests have not been given sufficient weight in the decision-making processes on complex questions of environmental and economic policy.

26. Les États membres devraient garder à l'esprit que le droit à un procès équitable inclut le droit d'accès à un tribunal. Ils devraient permettre aux requérants personnes dont les droits au titre des articles 2 et 8 de la Convention peuvent être affectés de faire appel à un tribunal s'ils considèrent que leurs droits et intérêts n'ont pas été suffisamment pris en compte dans les processus décisionnels sur des questions complexes de politique environnementale et économique.

AP26 - There is a general question about whether such a right should itself be justiciable. We do not accept that all human rights (in particular economic, social and cultural rights) are justiciable. Particularly given the argument that the right is derived from a number of existing rights, many of which are bound to be non-justiciable.

Paragraphe [26] Risques environnementaux et accès aux tribunaux

« Les États membres devraient garder à l'esprit que le droit à un procès équitable inclut le droit d'accès à un tribunal. Ils devraient permettre aux requérants de faire appel à à toutes personnes de pouvoir saisir un tribunal si elles/ils considèrent que leurs droits et intérêts n'ont pas été suffisamment pris en compte dans la détermination des actions publiques relatives à les processus décisionnels sur des questions complexes de politique environnementale et économique. »

RUSSIAN FEDERATION

To rephrase paragraph 26 as follows:

" Member States should be mindful that the right should enable applicants to appeal to a court if they consider that their rights and interests have not been given sufficient weight been violated in the decision-making processes on complex questions of environmental and economic policy " .

27. Member States should ensure [in accordance with eventual applicable criteria laid down in national law] access to administrative or judicial procedures to challenge acts and omissions by private actors and public authorities which contravene provisions of its national law relating to the environment.^{cxii}

RUSSIAN FEDERATION

To delete paragraph 27 since it repeats paragraph 26.

Alternative:

To rephrase paragraph 27 as follows:

Commented [GC170]: OHCHR

Commented [GC171]: OHCHR

Commented [GC172]: NETHERLANDS

Commented [GC173]: RUSSIAN FEDERATION
The meaning of the word combination " i n t e r g e n e r a t i o n a l " is not clear. It needs clarification.

Commented [OHCHR174]: May wish to add reference to the following in the endnote:

Joint commitment by Heads of United Nations Entities to promote the right of children, youth and future generations to a healthy environment and their meaningful participation in decision-making at all levels, in relation to climate action and climate justice (June 2021), available at <https://www.sparkblue.org/system/files/2021-06/210615%20STEP%20UP%20-%20Joint%20Commitment%20by%20Heads%20of%20UN%20Entities.pdf>

Commented [A175]: NORWAY Is the word "participation" strong enough? It is important to ensure that women are included in the real decision-making, and not only "participatipants".

Commented [OHCHR176]: Suggest to add reference to the following in the endnote:

United Nations Environment Assembly, resolution 4/17. Promoting gender equality and the human rights and empowerment of women and girls in environmental governance (2019)

<https://undocs.org/UNEP/EA.4/Res.17>

Human Rights Council resolution 38/4 (A/HRC/RES/38/4) regarding gender-responsive approaches to climate action at the local, national, ...

Commented [GC177]: RUSSIAN FEDERATION
To substitute the word " in the title of the section after paragraph 25: [Environmental risks and access to court iustice] ...

Commented [MEPA178]: GEORGIA According to the Aarhus Convention, the members of the public should given the right to access to justice in environmental matters, when they are refused to ...

Commented [A179]: NORWAY Pursuant to Article 9 of the Aarhus Convention the right of access to administrative or judicial review procedures is broader and includes the right to challenge the ...

Commented [Suisse180]: Problème de la qualité de victime/pour agir.
L' a m e n d e m e n t p r o p o s é r e p l a n o t e l x i v .

Commented [GC181]: UK

Commented [GC182]: FRANCE

Commented [MEPA183]: GEORGIA It is in compliance with Aarhus wording, so we consider that it should be included in the text.

“ Member States ~~[in accordance with eventual applicable criteria laid down in national law]~~ access to administrative or judicial procedures to challenge acts and omissions by private actors and public authorities which contravene provisions of its national law relating to the environment.

27. Member States should ensure ~~[in accordance with eventual applicable criteria laid down in national law]~~ access to administrative or judicial procedures to challenge acts and omissions by private actors and public authorities which contravene provisions of its national law relating to the environment.

Commented [RM184]: GERMANY We prefer to keep this insertion.

Paragraphe [27] Risques environnementaux et accès aux tribunaux

Nous soutenons l'ajout de la référence aux critères applicables fixés par le droit national.

« Les États membres devraient garantir, conformément aux éventuels critères applicables fixés par le droit national, l'accès à des procédures judiciaires pour contester les actes et les omissions des acteurs personnes privées ou publiques et des autorités publiques qui contreviennent aux dispositions de leur droit national en matière d'environnement et du droit de l'environnement. »

Commented [GC185]: FRANCE

27. Member States should ensure ~~[in accordance with eventual applicable criteria laid down in national law]~~ access to administrative or judicial procedures to challenge acts and omissions by private actors and public authorities which contravene provisions of its national law and international law obligations relating to the environment.²⁵

Commented [GC186]: CONFERENCE DES OING

28. In administrative proceedings concerning authorisations of installations and plants, 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.^{cxii}

Commented [GC187]: RUSSIAN FEDERATION To delete paragraph 28 since this is an internal matter of the state.

28. In administrative proceedings concerning authorisations of installations and plants, 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.^{cxiii}

Commented [MEPA188]: GEORGIA It might be reasonable to include reference, as in Aarhus Convention, to meeting any requirements under national law, since there might be some conditions like legal personhood to be able to lodge a claim.

AP28 - The only collective human right the UK recognises is the right of self-determination, which the UK considers applies to the entire population of a territory (i.e. not to groups within a territory). Accepting a new collective right would have far reaching consequences. That said, we could acknowledge that while the human right would accrue to individuals, in realising the right at a national level there is no obstacle to states choosing to allow the collective exercise of the right under domestic jurisdiction (the distinction between individual human rights under international law and collective rights at the national level is at the heart of our position on indigenous rights).

Commented [NT(p189)]: GERMANY Administrative proceedings or – further – administrative court proceedings? Locus standi or participation option such as amicus curiae? Also: References in the footnote do not seem to fit the content of this para.

28. In administrative proceedings concerning authorisations of installations and plants, 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.

Commented [GC190]: UK

Paragraphe [28] Risques environnementaux et accès aux tribunaux

Dans les procédures administratives concernant les autorisations d'installations et d'usines, les États membres sont invités à envisager d'élargir le *locus standi* devant les cours et tribunaux nationaux en ce qui concerne les liés à l'environnement, en accordant à tout groupe, fondation ou

Commented [A191]: NORWAY It is unclear whether this concerns decision-making or administrative or judicial appeal, especially when using "right to participate in proceedings" at the end. This right should be expressed as right to have access to administrative or judicial review procedures.

²⁵ Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention) (25 June 1998), Art. 9(3):

Article 9 ACCESS TO JUSTICE

3. In addition and without prejudice to the review procedures referred to in paragraphs 1 and 2 above, each Party shall ensure that, where they meet the criteria, if any, laid down in its national law, members of the public have access to administrative or judicial procedures to challenge acts and omissions by private persons and public authorities which contravene provisions of its national law relating to the environment.

See also European Convention on Human Rights, Art. 13: Right to an effective remedy.

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association qui, selon ses statuts, vise à la protection de l'environnement, le droit de participer aux procédures interinstance, r à l'

Commented [GC192]: FRANCE

29. Member States should ensure that persons who have an arguable claim that their rights and freedoms as set forth in the Convention have been violated due to environmental harm, have access to an effective remedy before a national authority,^{cxv} and should ensure that the competent authorities shall enforce such remedies when granted. In order to ensure that this access to justice and remedies is provided on an equal footing, member States are encouraged to establish appropriate legal aid schemes.^{cxv}

RUSSIAN FEDERATION

To move paragraph 29 before paragraph 26. And to rephrase it as follows:

~~"29. 25bis~~ Member States should ensure that persons who have an arguable claim that their rights and freedoms as set forth in the Convention have been violated due to environmental harm, have access to an effective remedy before a national authority,^{cxvi} and should ensure that the competent authorities shall enforce such remedies when granted. ~~In order to ensure that this access to justice and remedies is provided on an equal footing, member States are encouraged to establish appropriate legal aid schemes"~~ .

Paragraphe [29] Risques environnementaux et accès aux tribunaux

Les États membres devraient veiller à ce que les personnes qui ont des raisons de penser que leurs droits et libertés, tels qu'ils sont énoncés dans la Convention, ont été violés en raison d'une atteinte à l'environnement, ~~soient aient accès à un recours effectif devant une autorité nationale^{cxvii} et devraient veiller à ce que les autorités compétentes fassent appliquer ces recours lorsqu'ils sont accordés.~~ Afin de garantir que ~~l'accès à la justice et aux voies de recours soit assuré sur un pied d'égalité soit assuré sans discrimination,~~ les États membres sont encouragés à mettre en place des systèmes d'aide ~~judiciaire juridique~~ appropriés.

Commented [GC193]: FRANCE

[Restorative sanctions]

30. 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.^{cxviii}

Commented [GC194]: RUSSIAN FEDERATION
To delete paragraph 30 since this is an internal matter of the state.

[Sanctions réparatrices]

30. Les États membres sont encouragés à envisager d'inclure des ~~sanctions réparatrices~~ dans le cadre des réparations effectives, dans le but de rétablir ou de restaurer les composantes endommagées ou détruites de l'environnement, ou d'introduire, lorsque cela est raisonnable, l'équivalent de ces composantes dans l'environnement.

Commented [Suisse195]: Clarifier cette notion de sanctions réparatrices

Commented [GC196]: SUISSE

30. 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 ~~in a manner that is safe, feasible, and just.~~

Commented [GC197]: CONFERENCE DES OING

[Environmental pollution and the right to just conditions]

31. Particularly in dangerous industries, such as mining, where health and safety risks, including exposure to environmental pollution, cannot be eliminated, member States should take preventive and protective measures.^{cxix}

Commented [OHCHR198]: Would suggest updating to "right to just and fair per Article 7 of the ICESCR

Commented [OHCHR199]: Here may wish to refer to "environmental pollution substances". - OHCHR Key messages on human rights and hazardous substances (2021): [Human Rights and Hazardous Substances: Key Messages | UNEP - UN Environment Programme](#)

31. En particulier dans les industries dangereuses, telles que les mines, où les risques pour la santé et la sécurité, notamment l'exposition à la pollution de l'environnement, ne peuvent être éliminés, les États membres devraient prendre des mesures de prévention et de protection.

Commented [A200]: NORWAY Relationship to the principle of prevention (No 1 above)?

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

Commented [Suisse201]: Ajouter encore des exemples plus parlants ou plus actuels que les mines en Europe.

nuclear power plants, and; ban the use, production and sale of asbestos and products containing it and take measures to manage correctly their wastes.^{cxviii}

AP35 - Presumes that such a right exists which we wouldn't necessarily agree with – we would propose this be amended to "in light of the right to the enjoyment of the highest attainable standard of physical and mental health" which we do recognise under Art 12 ICESCR.

Commented [GC214]: UK

35. Compte tenu du droit à un environnement sain, les États membres sont encouragés à élaborer et à mettre régulièrement à jour une législation et une réglementation suffisamment complètes en matière d'environnement ; notamment à prendre des mesures spécifiques telles que la modification des équipements, la mesure correcte de la qualité de l'air, l'introduction de valeurs seuils pour les émissions et d'objectifs environnementaux pour la qualité de l'air, afin de protéger la santé des citoyens, de prévenir la pollution atmosphérique et de la réduire à l'échelle locale et mondiale, de prévenir l'exposition à la fumée de tabac, à veiller à ce que les normes et règles environnementales soient correctement appliquées, par le biais de mécanismes de contrôle appropriés ; à informer et éduquer le public, y compris les élèves et les étudiants, sur les problèmes environnementaux tant généraux que locaux ; à évaluer les risques sanitaires par le biais d'une surveillance épidémiologique des groupes concernés ; prendre des mesures de prévention et de protection pour garantir l'accès à l'eau potable et à l'assainissement ; prendre des mesures pour garantir la sécurité alimentaire ; prévenir la contamination des sols ; adopter des règlements et des règles juridiques sur la prévention et la réduction de la pollution sonore ; adopter des règlements relatifs à la prévention des déchets et pour la gestion appropriée des déchets selon le principe de la hiérarchie, adopter des mesures appropriées pour empêcher le transfert illégal de déchets, en particulier de déchets dangereux, protéger leur population contre les conséquences d'accidents nucléaires survenant à l'étranger et ayant un effet sur leur territoire ; prévenir les risques connexes pour les communautés vivant dans une zone à risque en raison des centrales nucléaires, et ; interdire l'utilisation, la production et la vente d'amiante et de produits qui en contiennent et prendre des mesures pour gérer correctement leurs déchets.

Paragraphe [35] Droit à un environnement sain

Il nous paraît souhaitable de reformuler le paragraphe 35 au vu de sa longueur. Il semble que certains passages reprennent des éléments de ceux-ci pourraient être dans

Commented [Suisse215]: Il manque dans ce paragraphe l'aspect pert même que l'épuisement de

Commented [Suisse216]: La manière éclectique dont ces mesures sont citées devrait être revue, sur le modèle de ce qui figure dans le Manuel à ce sujet, cf. note xxiv. Cette liste paraît trop détaillée pour une recommandation et ne hiérarchise pas les différents éléments

RUSSIAN FEDERATION

To rephrase paragraph 35 as follows:

"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 protect citizens' health, prevent air pollution and reduce it on a local and global scale; prevent exposure to tobacco smoke, ensure that environmental standards and rules are properly applied, through appropriate supervisory 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 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 regulations regarding for the 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".

Commented [GC217]: FRANCE

36. Member States should encourage the development of such solutions that enable both the public and the healthcare system to obtain rapid and up-to-date environmental information for health-related decisions.

Paragraphe [36]

Ce paragraphe concerne l'aspect de la déplace dans la partie n. Serait consacrée à l'accès aux informations (paragraphe 15-18) questions environnementales

Commented [GC218]: FRANCE

[Right to housing and the environment]

[Droit au logement ~~et à l'environnement~~]

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

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

AP37 – Delete ‘... and the environment’ in title to paragraph 37.

37. A la lumière de la non-discrimination Les États membres devraient prendre des mesures pour empêcher la ségrégation pour tout motif de discrimination dans les zones dangereuses pour l'environnement, aider à l'amélioration des conditions de vie et de l'environnement, et veiller à ce que les logements soient situés dans un environnement écologiquement sain.

[Environmental education]

38. Member States should include environmental education, as a part of education promoting sustainable development (ESD), in the curricula of all levels of education and training from early childhood to tertiary and adult education, including technical and vocational education and training (TVET) as a key to, inter alia, increase the understanding of the close relationship between humans and nature, develop respect for the natural environment, understand the need to conserve species of wild flora and fauna and their habitats, promote the importance of and the measures required for the conservation and sustainable use of biological diversity, understand the causes and effects of climate change and desertification, strengthen capacity to respond to environmental challenges and attain fundamentally new systems of human-environmental interactions. ^{CXXVI}

[~~E d u c a t i o n à l'É d u c a t i o n au développement durable~~]

38. Les États membres devraient inclure l'éducation au développement durable (EDD), dans les programmes d'enseignement et de formation des systèmes éducatifs des États membres à tous les niveaux, de la petite enfance à l'enseignement supérieur et à l'éducation des adultes, y compris l'enseignement et la formation techniques et professionnels (EFTP), afin, notamment, de faire mieux comprendre la relation étroite entre l'humain, la société et la nature, et, dans ce cadre, de développer notamment le respect et la compréhension de l'importance de l'environnement naturel. de comprendre la nécessité de conserver les espèces de la flore et de la faune sauvages et leurs habitats, de promouvoir l'importance de la conservation et de l'utilisation durable de la diversité biologique et les mesures nécessaires à cet effet, de comprendre les causes et les effets du changement climatique et de la désertification, de renforcer la capacité à répondre aux défis environnementaux et de parvenir à des systèmes fondamentalement nouveaux d'interactions entre l'homme et l'environnement. ^{CXXVII}

In this line, in para. 38, after the reference made to “the desertification”, include the mention to “understand the need to conserve species of wild flora and fauna and their habitats, promote the importance of and the measures required for the conservation and sustainable use of biological diversity, understand the causes and effects of climate change and desertification, strengthen capacity to respond to environmental challenges and attain fundamentally new systems of human-environmental interactions.”.

38. Member States should include environmental education, as a part of education promoting sustainable development (ESD), in the curricula of all levels of education and training from early childhood to tertiary and adult education, including technical and vocational education and training (TVET) as a key to, inter alia, increase the understanding of the close relationship between humans and nature, develop respect for the natural environment, understand the environmental consequences of choices, understand the need to conserve species of wild flora and fauna and their habitats, promote the importance of and the measures required for the conservation and sustainable use of biological diversity, understand the

Commented [Suisse219]: Le droit à l'environnement est traité ailleurs dans la recommandation. Ici il n'est que que du logement.

Commented [KA220]: POLAND gives for consideration to add for paragraph 37 the following information: “inhabitants are duly warned about ecological threats observed in the The foregoing ou results from the fact that the proposed paragraph 37 should not restrict the right of the less affluent people to choose a house that meets the minimum legal requirements in terms of security, but it is located, for example, in a highly urbanized neighborhood of a port aviation, in post-mining areas or in an area threatened by flooding, in case of the occurrence of hundred-year-old water - as long as they are properly informed about the causes of the lower prices of the premises.”

Commented [GC221]: UK

Commented [Suisse222]: Doublon au sujet de la non discrimination

Commented [Suisse223]: Doublon au sujet de la non discrimination

Commented [Suisse224]: Une ségrégation n'est-elle pas intrinsèquement discriminatoire ? “Ségrégation” devrait suffire, mais le terme est peut-être trop fort et historiquement trop chargé pour être maintenu.

Commented [GC225]: SUISSE

Commented [Suisse226]: Placer ce qui suit, dans un éventuel Rapport explicatif : de comprendre la nécessité de conserver les espèces de la flore et de la faune sauvages et leurs habitats, de promouvoir l'importance de la conservation et de l'utilisation durable de la diversité biologique et les mesures nécessaires à cet effet, de comprendre les causes et les effets du changement climatique et de la désertification, de renforcer la capacité à répondre aux défis environnementaux et de parvenir à des systèmes fondamentalement nouveaux d'interactions entre l'homme et l'environnement. ^{CXXVI}

Commented [Suisse227]: Depuis plus de 10 ans, tous les efforts des cantons de la Suisse ont visé à ne pas séparer l'environnement durable (DD) pour des raisons évidentes de cohérence. C'est d'ailleurs été créé la Fondation « éducation 21 » en 2013. Dans les plans d'étude de l'éducation au développement durable, il ne couvre non seulement l'éducation mais aussi l'éducation aux droits de l'homme et prévention/promotion de d'un tout et non d'un as divers sujets. Parler d' signifie donc un retour en arrière. A titre de comparaison: La chiffre 17 du préambule parle

Commented [GC228]: SPAIN (see also general comments at the end of the document)

Commented [GC229]: CONFERENCE DES OING

causes and effects of climate change and desertification, strengthen capacity to respond to environmental challenges and attain fundamentally new systems of human-environmental interactions.²⁷

[Public awareness on environmental matters]

39. Member States should design, implement and promote regular national awareness-raising initiatives on environmental matters at all levels and through diverse forms of media. These initiatives should aim to increase awareness, understanding and action-preparedness 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 at individual, structural and political level (e.g., through conservation, sustainable use, risk preparedness), and of the harm they generate for individuals and society. States should build the capacity of the public to understand environmental challenges and policies, so that they may fully exercise their rights to express their views on environmental issues, understand environmental information, including assessments of environmental

²⁷ *Convention on the Rights of the Child* (20 November 1989), 1577 UNTS 3, Art. 29(1)(e):

‘ ‘ Article 29

1. States Parties agree that the **education** of the child shall be directed to:

(e) **The development of respect for the natural environment.** ’ ’

Convention on the Conservation of European Wildlife and Natural Habitats (1979) ETS No. 104, Art. 3(3):

‘ ‘ Article 3

3. Each Contracting Party shall promote education and disseminate general information on **the need to conserve species of wild flora and fauna and their habitats.** ’ ’

Convention on Biological Diversity (5 June 1992), 1760 UNTS 69, Art. 13:

‘ ‘ Article 13. **Public Education and Awareness**

The Contracting Parties shall:

(a) **Promote and encourage understanding of the importance of and the measures required for, the conservation of biological diversity**, as well as its propagation through media, and the inclusion of these topics in educational programmes; and

(b) Cooperate, as appropriate, with other States and international organizations in developing educational and public awareness programmes, with respect to **conservation and sustainable use of biological diversity.** ’ ’

United Nations Framework Convention on Climate Change (UNFCCC) (1992), UNTS vol. 1771, Art. 6(a)(i):

‘ ‘ ARTICLE 6 EDUCATION, TRAINING AND PUBLIC AWARENESS

In carrying out their commitments under Article 4, paragraph 1 (i), the Parties shall:

(a) Promote and facilitate at the national and, as appropriate, subregional and regional levels, and in accordance with national laws and regulations, and within their respective capacities:

(i) the development and implementation of educational and public awareness programmes on **climate change and its effects.** ’ ’

United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa (14 October 1994), UNTS vol. 1954, Art. 19(3):

‘ ‘ Article-building, education and public awareness

3. The Parties shall cooperate with each other and through competent intergovernmental organizations, as well as with non-governmental organizations, in undertaking and supporting public awareness and educational programmes in both affected and, where relevant, unaffected country Parties to promote understanding of the **causes and effects of desertification and drought** and of the importance of meeting the objective of this Convention.

UN Human Rights Council, ‘ *Report of the Special Representative of the Secretary-General on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment* ’, Annex 4 with ‘ *Framework Principles on Human Rights and the Environment* ’, January 2018) UN Doc. A/HRC/37/59, p. 10:

‘ ‘ Framework principle 6

States should provide for education and public awareness on environmental matters.

Commentary

15. States have agreed that the education of the child shall be directed to, among other things, the development of respect for human rights and the natural environment. Environmental education should begin early and continue throughout the educational process. It should **increase students’ understanding of the nature**, help them to appreciate and enjoy the natural world **and strengthen their capacity to respond to environmental challenges.** ’ ’

Council of Europe, *updated Manual on Human Rights and the Environment* (third edition 2021), Appendix VI:

‘ ‘ Appendix VI: Good Practices aimed at **promoting learning from the**

European Convention on Human Rights and the European Social Charter

6. Providing education on environmental sustainability

[#] Environmental education, as a **part of education promoting sustainable development (ESD)**, is vital in imparting an inherent respect for nature amongst society, in enhancing public environmental awareness and in building their capacity to respond to environmental challenges. The term often implies education within the school system, from primary to post-secondary. However, it sometimes includes all efforts to educate the public and other audiences, including print materials, websites, media campaigns, etc.’ ’

UNESCO, *Berlin Declaration on Education for Sustainable Development*, World Conference held from 17 to 19 May 2021:

b) Integrate ESD into all levels of education and training from early childhood to tertiary and adult education, including technical and vocational education and training (TVET), and into non-formal education and informal learning, so that all individuals are provided with lifelong and life-wide learning opportunities for sustainable development;

the objective of this Convention.

with ‘ Framework Principles on Human Rights and the Environment ’

close relationship between human

environment and respecting the

[Business enterprises]

40. Member States are encouraged to adequately regulate the private industry by applying a smart mix of measures – national and international, mandatory and voluntary - to ensure compliance with its human rights responsibility related to the environment. ^{xxxx} Member States should also incorporate the environmental dimension into their national action plans on human rights and business. ^{xxxx}

Commented [A233]: NORWAY Why more lenient language here (not "should") than in other paragraphs? Ref documents cited in the note, using mostly "should". UN Guiding Principles on Business and Human Rights, No. 3 concerning general State regulatory and policy functions, uses "should".

40. Member States are encouraged to adequately regulate the private industry by applying a smart mix of measures – national and international, mandatory and voluntary – to ensure compliance with its human rights responsibility related to the environment. ^{xxxx} Member States should also incorporate the environmental dimension into their national action plans on human rights and business.

Commented [NT(p234): GERMANY Rather indeterminate. Second sentence perhaps sufficient. Should then be merged with para. 41.

40. Les États membres sont encouragés à réglementer de manière adéquate l'industrie privée en appliquant un assortiment judicieux de mesures – nationales et internationales – volontaires juridiquement pas contraignantes – afin de garantir le respect de sa responsabilité en matière de droits de l'homme liée à l'environnement. Les États membres devraient incorporer la dimension environnementale liée aux droits de l'homme dans leurs plans d'action nationaux sur la responsabilité sociale des entreprises. ^{xxxxii}

Commented [GC235]: SUISSE

Commented [Suisse236]: Alternative: figure dans d'autres plans d'action (p. ex. concernant la responsabilité sociale des entreprises), les plans d'action nationaux sur l'environnement devraient y faire référence. »

40. Member States should be encouraged to recall their obligation to adequately regulate the acts and omissions by private actors having an impact on the environment industry by applying a smart mix of measures – national and international, mandatory and voluntary - to ensure compliance with its human rights obligations responsibility related to the environment. ²⁹ Member States should also incorporate the environmental dimension into their national action plans on human rights and business.

Commented [GC237]: CONFERENCE DES OING

United Nations Framework Convention on Climate Change (UNFCCC) (1992), UNTS vol. 1771, Art. 6(a)(i):

' ' ARTICLE 6 EDUCATION AND PUBLIC AWARENESS

In carrying out their commitments under Article 4, paragraph 1 (i), the Parties shall:

(a) Promote and facilitate at the national and, as appropriate, subregional and regional levels, and in accordance with national laws and regulations, and within their respective capacities:

(i) the development and implementation of educational and public awareness programmes on climate change and its effects;

United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa (14 October 1994), UNTS vol. 1954, Art. 19(3):

' ' Article-building, education and public awareness

3. The Parties shall cooperate with each other and through competent intergovernmental organizations, as well as with non-governmental organizations, in undertaking and supporting public awareness and educational programmes in both affected and, where relevant, unaffected country Parties to promote understanding of the causes and effects of desertification and drought and of the importance of meeting the objective of this Convention. [...]

Council of Europe, updated Manual on Human Rights and the Environment (third edition 2021), Appendix VI:

' ' Appendix VI: Good Practices aimed at protecting the environment and respecting the

European Convention on Human Rights and the European Social Charter

6. Providing education on environmental sustainability

[#.] Environmental education, as a part of education promoting sustainable development (ESD), is vital in imparting an inherent respect for nature amongst society, in enhancing public environmental awareness and in building their capacity to respond to environmental challenges. The term often implies education within the school system, from primary to post-secondary. However, it sometimes includes all efforts to educate the public and other audiences, including print materials, websites, media campaigns, etc. '

²⁹ *Hatton and Others v. the United Kingdom* (Judgment) (8 July 2003), ECHR Application no. 36022/97, para. 119;

Marangopoulos Foundation for Human Rights (MFHR) v. Greece (Decision on the Merits) (6 December 2006), ECSR Complaint No. 30/2005, para. 192:

' ' Regarding whether the matters complained of can be imputed to the state – the Committee notes that the DEH, which until its partial privatisation in 2001 was solely answerable to the Greek state, has private law status. However, as a signatory to the Charter, Greece is required to ensure compliance with its undertakings, irrespective of the legal status of the economic agents whose conduct is at issue. Moreover, the DEH's activities are clearly subject to the general legislation on the environment and under Act 2773/1999 on the liberalisation of the Greek electricity market, the Greek Government is required to supervise those activities. Finally, the state still holds a majority of the DEH's shares (51.12% in 2005). '

UN Human Rights Council, Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework, endorsed in Commentary to Principle 17/4 of 16 June 2011

" States should not assume that businesses invariably prefer, or benefit from, State intervention. States should encourage businesses to adopt a smart mix of measures – national and international, mandatory and voluntary – to foster business respect for human rights. "

41. Les États membres devraient appliquer les mesures qui peuvent être nécessaires pour encourager ou, le cas échéant, exiger que les entreprises appliquent le principe de diligence raisonnable en matière d'environnement et de droits de l'homme. Ces entreprises évitent de causer ou de contribuer à des incidences négatives par des atteintes à l'environnement, qu'elles s'attaquent à ces incidences lorsqu'elles se produisent et qu'elles cherchent à prévenir ou à atténuer ~~soit~~ si directement liées à leurs activités, produits ou services par leurs relations commerciales.

Commented [Suisse238]: As the text proposal 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 the Preamble (see proposal above) and possibly in this paragraph or at least in the footnote lxxix.

41. Member States should apply such measures as may be necessary to encourage or, where appropriate, require that business enterprises apply environmental and human rights due diligence throughout their operations and activities, **including transnational 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.

Commented [GC239]: POLAND

41. Member States should apply ~~such measures to ensure as may be necessary to encourage or, where appropriate, require~~ that business enterprises **are required to** apply environmental and human rights due diligence throughout their operations and activities, **including their supply and value chains**, 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 **or indirectly linked** to their operations, products or services by their business relationships.

Commented [GC240]: CONFERENCE DES OING

42. Member States should, as part of providing protection against business-related human rights abuse resulting from environmental harm, take appropriate steps to ensure that when such abuses occur those affected have access to effective judicial and non-judicial remedies. ^{xxxxiv}

42. Member States should, as part of providing protection against business-related human rights abuse resulting from environmental harm, ~~take appropriate steps to~~ ensure that when such abuses occur those affected have access to effective judicial and non-judicial remedies.

Commented [GC241]: CONFERENCE DES OING

[Environmental human rights defenders]

43. Member States should respect the right of everyone to promote and protect peacefully a clean, healthy and sustainable environment, necessary for the enjoyment of a vast range of human rights. They 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

Commented [242]: CONFERENCE DES OING
Reinsert subsection on: [Civil Society]

Member States should protect civil society organisations from malicious SLAPP lawsuits brought with the aim to discourage them from participating in public debate about environmental issues by draining their time and financial resources. In particular, Member States should provide a mechanism allowing the early dismissal of such suits, introducing measures to punish abuse, and minimise the consequences of SLAPPs by giving practical support to those who are sued as a result of their environmental advocacy."

(see, e.g., for the footnotes:
<https://www.coe.int/en/web/commissioner/-/time-to-take-action-against-slapps>)

UN Human Rights Council, ' Report of the Special Rapporteur on the issue of a safe, clean, healthy and sustainable environment ' (24 January 2016), para. 13. Member States should:

Framework principle 12
States should ensure the effective enforcement of their environmental standards against public and private actors.
Commentary
34. Governmental authorities must **comply** with the relevant environmental standards in their own operations, and they must also monitor and effectively enforce **compliance** with the standards by preventing, investigating, punishing and redressing violations of the standards by private actors as well as governmental authorities. **In particular, States must regulate business enterprises to protect against human rights abuses resulting from environmental harm** and to provide for remedies for such abuses. States should implement training programmes for law enforcement and judicial officers to enable them to understand and enforce environmental laws, and they should take effective steps to prevent corruption from undermining the implementation and enforcement of environmental laws.

Recommendation CM/Rec(2016)3 of the Committee of Ministers to member States on human rights and business (Adopted by the Committee of Ministers on 2 March 2016 at the 1249th meeting, para. 13: *the Ministers' Deputies*)

13. Member States should:

- apply such measures as may be necessary to require business enterprises operating within their territorial jurisdiction to respect human rights;
- apply such measures as may be necessary to require, as appropriate, business enterprises domiciled in their jurisdiction to respect human rights throughout their operations abroad;
- encourage and support these business enterprises by other means so that they respect human rights throughout their operations.

fundamental freedoms. Member States should additionally take measures to protect environmental human rights defenders from violations committed by both State and non-State actors.^{cxxxv [xxxxvi]}

Member States should respect the right of everyone to promote and protect, in a peaceful manner, peacefully a clean, healthy and sustainable environment, in accordance with member States' *inter alia* under international freedom of expression and freedom of assembly and association guarantees (i.e. Arts. 10, 11 ECHR), necessary for the enjoyment of a vast range of human rights. They 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 in accordance with the law, 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.

AP43 - We strongly prefer 'human rights defenders', who accept that non-State actors can commit human rights violations. Suggest, '...from committed by State actors and abuses committed by non-State actors.'

Paragraphe [43] Défenseurs des droits de l'homme

« Les États membres devraient respecter le droit de chacun de promouvoir et de protéger pacifiquement un environnement propre, sain et durable, nécessaire à la jouissance d'un large éventail de droits de l'homme. Ils devraient garantir un environnement politique et public propice aux défenseurs des droits de l'homme, permissif de la société civile et aux institutions nationales de protection et de promotion des droits de l'homme (INDH) de mener librement des activités, sur une base légale, conformément au droit et aux normes internationales, afin de lutter pour la protection et la promotion des de tous les droits de toutes les libertés fondamentales. Les États membres devraient en outre prendre des mesures pour protéger les défenseurs des droits de l'homme de tous les acteurs tant étatiques que non étatiques. »

RUSSIAN FEDERATION

To rephrase paragraph 43 as follows:

" Member States should respect the right of everyone to promote and protect, in a peaceful manner, peacefully a clean, healthy and sustainable environment, necessary for the enjoyment of a vast range of human rights. They 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 enabling them for the protection and promotion of human rights (NHRIs) to freely carry out activities, on a legal basis, consistent with international law and standards and in accordance with national legislation, 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" .

[Rights of indigenous peoples and their environment]

[Rights of indigenous peoples and local communities and their environment]

44. Member States should ensure the rights of indigenous peoples and local communities, particularly by recognizing the rights of ownership and possession of the peoples concerned over the lands which they traditionally occupy, and the rights of the peoples concerned to the natural resources pertaining to their lands, in accordance with the UN Declaration on indigenous peoples and other relevant international instruments.^{cxxxvii}

44. Les États membres devraient s'efforcer d'assurer les droits des peuples autochtones et des communautés locales, notamment en reconnaissant les droits de propriété et de possession des peuples concernés sur les terres qu'ils occupent traditionnellement et les droits des peuples concernés sur les ressources naturelles afférentes à leurs terres, conformément à la Déclaration des Nations Unies sur les peuples autochtones et aux autres instruments internationaux pertinents.

Paragraphe [44] Droits des peuples autochtones et de leur environnement

Commented [A243]: NORWAY It is unclear what violations this sentence refers to, although it is probably violation of the right mentioned in the first sentence. We should consider specifying this and specifying what would constitute "violations". Pursuant to Aarhus Convention Article 3(8) the Parties shall ensure that persons exercising their rights under the Convention are not penalized, persecuted or harassed in any way.

Commented [OHCHR244]: Suggest to add reference in endnote to:

Human Rights Council resolution 40/11 on Recognizing the contribution of environmental human rights defenders to the enjoyment of human rights, environmental protection and sustainable development

<https://undocs.org/A/HRC/RES/40/11>

New rapid response mechanism to protect environmental defenders established under the Aarhus Convention (October 2021), Decision VII/9 on a rapid response mechanism to deal with cases related to article 3 (8) of the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters:

<https://unece.org/sites/default/files/2021-11/ECE.MP.PP.2021.RRM.CRP.8.3.pdf>

Commented [GC245]: GERMANY

Commented [GC246]: UK

Commented [GC247]: FRANCE

Commented [GC248]: EUROPEAN COMMISSION

Commented [GC249]: RUSSIAN FEDERATION To delete paragraph 44 since it contains a number of word combinations that need clarification, or change, or deletion ("to possession", "natural resources").

Commented [Suisse250]: Tous les Etats n'ont pas ratifié la Convention OIT relative aux peuples indigènes et tribaux (cf. footnote). C'est notamment le cas de la Suisse. Il faut donc tempérer ce texte.

« Les États membres devraient assurer les droits des peuples autochtones et des communautés locales, notamment en reconnaissant les droits de propriété et de possession des peuples concernés sur les terres qu'ils occupent traditionnellement et les droits des peuples concernés sur les ressources naturelles afférentes à leurs terres, conformément à la Déclaration des Nations Unies sur les peuples autochtones et au droit international et aux autres instruments internationaux pertinents. »

44. Member States should ensure the rights of **Indigenous Peoples** and local communities, particularly by recognizing the rights of ownership and possession of the peoples concerned over the lands which they traditionally occupy, and the rights of the peoples concerned to the natural resources pertaining to their lands, in accordance with the UN Declaration on **Indigenous Peoples** and other relevant international instruments.

45. Member States should take measures to respect, preserve and maintain knowledge, innovations and practices of indigenous peoples and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity. Member States should also promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices.^{cxviii}

45. Les États membres devraient prendre des mesures pour respecter, préserver et maintenir les connaissances, **innovations** et pratiques des peuples autochtones et locales qui incarnent des modes de vie traditionnels présentant un intérêt pour la conservation et l'utilisation durable de la diversité biologique. Les États membres devraient également promouvoir leur application à plus grande échelle avec l'approbation et la participation des détenteurs de ces connaissances, **innovations** et pratiques et encourager le partage équitable des avantages découlant de l'utilisation de ces connaissances, innovations et pratiques

45. Member States should take measures to respect, preserve and maintain knowledge, innovations and practices of **Indigenous Peoples** and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity. Member States should also promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices.

[Rights of children]

46. Member States should take special safeguards, including appropriate legal protection, to protect children from foreseeable environmental harm.^{cxix cxl}

AP46 – Can we ask what does 'including appropriate

46. Member States should take special safeguards, including appropriate legal protection, to protect children from foreseeable environmental harm.

[Rights of persons with disabilities]

46 bis. Member States should recognize that environmental degradation can disproportionately impact human rights of persons with disabilities and should ensure their meaningful participation, inclusion and leadership in decision-making of environmental legislations, policies, strategies and actions.

[Data collection]

47. Member States should pay particular attention to the effect of environmental degradation on people in vulnerable situations^{cxli} by collecting disaggregated data and intensifying scientific research on the specific effects of environmental harm on different segments of the population.^{cxlii}

47. Member States should pay particular attention to the effect of environmental degradation on people in vulnerable situations^{cxliii} by collecting disaggregated data and intensifying scientific research on the specific effects of environmental harm on different segments of the population.^{cxliiv}

Commented [GC251]: FRANCE

Commented [GC252]: CONFERENCE DES OING

Commented [GC253]: RUSSIAN FEDERATION
The meaning of the word community in paragraph 45 is not clear. It needs clarification.

Commented [Suisse254]: Le terme « innovation » semble antinomique avec les traditions des peuples autochtones.

Commented [GC255]: SUISSE

Commented [GC256]: CONFERENCE DES OING

Commented [OHCHR257]: Suggest to add reference in endnote to [A/HRC/43/30](#), Report on realizing children's right environment (2020)

[OHCHR | Report on realizing through a healthy environment](#)

Commented [GC258]: UK

Commented [259]: CONFERENCE DES OING
It is important also to recognize the rights of the child to survival and development and to reference the requirement to act in the best interest of the child. It would also be worthwhile to refer again to the vulnerability of the child.

Commented [260]: CONFERENCE DES OING
and ensure their inclusion and participation

Commented [KA261]: POLAND is in favour of separate paragraph on rights of persons with disabilities. The suggestion is based on the provisions of the HRC resolution 41/21.

PL also propose to point out that the terms "people in vulnerable situations", mentioned in item [13] of the Preamble and in items 6, 24 and 47 of the Annex, include, in particular, people with disabilities that can be particularly painful to the effects of climate change, e.g. not hearing alarm sirens, not seeing an escape route in the event of a flood, or not being aware of the causal link between the warning and the threat. This can be achieved by supplementing the expressions containing the adjective 'vulnerable' with the words ', in particular persons with disabilities'.

Commented [OHCHR262]: Could also add reference here to Human Rights Council resolution 47/24 (2021) regarding the impact of climate change on the rights of people in vulnerable situations.

[OHCHR | The impact of climate change on the rights of people in vulnerable situations](#)

[Collecte de données]

47. Les États membres devraient veiller tout particulièrement aux effets de la dégradation de l'environnement sur les personnes en situation de vulnérabilité^{cxiv} en élaborant des données spécifiques, et en intensifiant la recherche scientifique, sur les conséquences dommageables culturelles qu'ont les environnements pour différents segments de population.^{cxvi}

Commented [Suisse263]: Pourquoi est-ce que la collecte de données est restreinte aux personnes en situations de vulnérabilité?

[Development of national environmental policies and actions]

48. Member States should consider encouraging public authorities to adopt a strategic approach towards the human rights challenges due to the degradation of the environment by integrating the relevant issues into related action plans.^{cxvii}

Commented [OHCHR264]: Could update rights challenges associated with environmental degradation "

RUSSIAN FEDERATION

To rephrase **paragraph 48**

" 48. Member State ~~encourage public authorities to adopt~~ **ing** a strategic approach towards the human rights challenges due to the degradation of the environment by integrating the relevant issues into related action plans.

49. Member States should mainstream human rights into planning, developing, implementing and monitoring of their environmental legislation, strategies, policies and actions.

50. In developing their legislations, policies, strategies and actions, member States could build upon the existing legal instruments, principles and activities of the Council of Europe.^{cxviii}

51. 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.^{cxix}

Commented [OHCHR265]: Could add e.g. " and versa" to the end of this ensuring integration of environment in human rights action and the integration of a human-rights based approach in environmental action

RUSSIAN FEDERATION

To rephrase **paragraph 51**

51. Member States should explore all possible partnerships with a view to **mainstreaming taking into account** the environmental dimension in the domestic activities for the promotion and protection of human rights".

52. Member States should promote, to the best of their ability, the improvement of scientific knowledge of ecosystems and the impact of human activities. They should cooperate through exchanges of scientific and technological knowledge and by enhancing the development, adaptation, dissemination and transfer of technologies respectful of the environment, including innovative technologies.^{cl}

Paragraphe [52] Développement de politiques et d'actions nationales en m

« Les États membres devraient promouvoir, dans toute la mesure de leurs moyens, l'amélioration des connaissances scientifiques sur les écosystèmes et l'impact des activités humaines. Ils devraient coopérer en échangeant des connaissances scientifiques et techniques et en facilitant la mise au point, l'adaptation, la diffusion et le transfert de ~~techniques-technologies~~ respectueuses de l'environnement, y compris des techniques novatrices. »

Commented [GC266]: FRANCE

53. Member States should consider 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.^{cl}

Paragraphe [53]

« Les États membres devraient ~~étudier envisager~~ les effets des mesures prises, par exemple en élaborant, s'il y a lieu, des indicateurs sur les droits de l'homme per mesures dans le contexte de l'environnement. »

Commented [GC267]: FRANCE

[Dialogue among member States related to environmental matters]

54. Member States should develop effective dialogue so that they have greater collective impact in international fora where environmental issues are addressed, including in their contribution to the UN 2030 Agenda for Sustainable Development, building upon the Council of Europe's value.

Commented [GC268]: OHCHR

54. Member States should develop effective dialogue so that they have greater collective impact in international fora where environmental issues are addressed, including in their contribution to the UN 2030 Agenda for Sustainable development, building upon the Council of Europe's value.^{ciii}

approach and added

Commented [A269]: EUROPEAN COMMISSION
This sentence could be made clearer. What kind of "collective impact" and how does the CoE added value come into the picture for UN negotiations?
"The contribution to the very clear, we are in the implementation phase for the agenda."

Our domestic authorities have suggested introducing some ideas in the text, especially in order to highlight, as part of the protection of environment, the access to water and the biodiversity:

- In view of the extensive development of the human right to water and water supply since its recognition by the United Nations Assembly and the Human Rights Council, as well as the initiatives undertaken within the European Union, and given that water is one of the main environmental compartments on whose good condition human health and numerous ecosystems depend, it would be appropriate to include the following references in footnote XXV:
 - o The 28th July 2010 United Nations General Assembly Resolution 64/292, which explicitly recognized water and sanitation as a human right and acknowledged that water and sanitation are essential to the realisation of all human rights.
 - o The November 2002 Committee on Economic, Social and Cultural Rights General Comment No. 15, on the right to water;
 - o And the 19th March 2014 Communication from the European Commission on the European Citizens' Initiative "Water and sanitation are a human right! Water is a public good, not a commodity!", in which citizens urge the EU institutions and Member States to ensure that all citizens can exercise their right to water and sanitation; that water supply and water resources management should not be governed by "internal market rules" and that water services should be excluded from the scope of liberalization; and that the EU should redouble its efforts to achieve universal access to water and sanitation.
- In this line, in para. 38, after the reference made to "the causes a and desertification", in d the importance of ensuring the access to "understan to safe drinking water and sanitation".
- In light of the growing recognition in various forums of the right to a sustainable and healthy environment, in footnote lxxvii, a reference to the Marseille Manifesto od 10th September 2021, adopted by the International Union for Conservation of Nature (IUCN) World Congress https://iucn.s3.eu-west-3.amazonaws.com/en/CGR-2021-1.6-2_Marseille_Manifesto_IUCN_World_Conservation_Congress_10_%20September_2021.pdf

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~~Committee on the Elimination of Discrimination Against Women; Committee on Economic, Social and Cultural Rights; Committee on the Protection of the Rights of All Migrant Workers and Members of their Families; Committee on the Rights of the Child, and Committee on the Rights of Persons with Disabilities. Joint~~

~~High Level International Conference on Human Rights and Environmental Protection "Human~~ Statement on "Human Rights and Environmental Protection " Human

~~2020, Strasbourg);~~

~~Climate change, loss of biodiversity, depletion of natural resources and chemical pollution bring new challenges for society, Governments and the European Court of Human Rights. How will the Court take account of these issues when interpreting the ECHR in future cases relating to the environment?'~~

~~iii UN Human Right Council, Resolution 48/13 on "The human right to a safe, clean, healthy and sustainable environment", adopted on 8 October 2021, preamble:~~

~~"Recognizing that environmental degradation, climate change and unsustainable development constitute some of the most pressing and serious threats to the ability of present and future generations to enjoy human rights, including the right to life,"~~

~~iv Paris Agreement adopted on 12 December 2015 at the twenty-first session of the Conference of the Parties to the United Nations Framework Convention on Climate Change held in Paris from 30 November to 13 December 2015:~~

~~"Article 2~~

~~1. This Agreement, in enhancing the implementation of the Convention, including its objective, aims to strengthen the global response to the threat of climate change, in the context of sustainable development and efforts to eradicate poverty, including by:~~

~~(a) Holding the increase in the global average temperature to well below 2°C above pre-industrial levels and pursuing 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;"~~

~~* Shortened from PP7 of HRC resolution on the Mandate of the Special Rapporteur on the promotion and protection of human rights in the context of climate change (https://undocs.org/a/hrc/48/l.27) and added the mention of biodiversity/natural resources/chemical pollution.~~

~~vi High Level International Conference on Human Rights and Environmental Protection "Human~~ Statement on "Human Rights and Environmental Protection " Human

~~2020, Strasbourg);~~

ⁱ Climate change, **loss of biodiversity, depletion of natural resources and chemical pollution bring new challenges for society**, Governments and the European Court of Human Rights. How will the Court take account of these issues when interpreting the ECHR in future cases relating to the environment? ' ' ' .

vii UN Human Right Council, Resolution 48/13 on "The human right to a safe, clean, healthy and sustainable environment", adopted on 8 October 2021, preamble:

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ix High Level International Conference on Human Rights and Environmental Protection "Human Rights for a Sustainable Future", Strasbourg, 2020, Strasbourg):

ⁱ Climate change, **loss of biodiversity, depletion of natural resources and chemical pollution bring new challenges for society**, Governments and the European Court of Human Rights. How will the Court take account of these issues when interpreting the ECHR in future cases relating to the environment? ' ' ' .

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xiv UN Human Right Council, Resolution 48/13 on "The human right to a safe, clean, healthy and sustainable environment", adopted on 8 October 2021, preamble:

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xx Chairmanship of the Committee of Ministers, *Joint Declaration on human rights and the environment by the outgoing and incoming Presidencies of the Committee of Ministers, Decl(15/05/2020)*, 15 May 2020:

"The outgoing (Greece and Germany) presidencies of the Committee of Ministers of the Council of Europe,

Acknowledging the growing threats to the climate and the environment and the urgent need to act in an ambitious and concerted manner at the global level to better ensure their sustainability and protection;"

xxi Chairmanship of the Committee of Ministers, *Joint Declaration on human rights and the environment by the outgoing and incoming Presidencies of the Committee of Ministers, Decl(15/05/2020)*:

'Bearing in mind that 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;

Les Club des Juristes, Draft Project 'Global Pact for the Environment' (Paris, 24 June 2017), preamble:

'Mindful of conducting actions guided by intragenerational and intergenerational equity,

xxii UN General Assembly, resolution A/70/L.1 of 25 September 2015 "Transforming our world: the 2030 Agenda for Sustainable Development", 3rd recital

xxiii Chairmanship of the Committee of Ministers, *Joint Declaration on human rights and the environment by the outgoing and incoming Presidencies of the Committee of Ministers, Decl(15/05/2020)*.

xxiv *Tătar v. (Judgment)* (27 January 2009), ECHR Application no. 67021/01 (in French only), para. 112; *Di Sarno and others v. Italy* (Judgment) (10 January 2012), ECHR Application no. 30765/08, para. 110;

UN Human Rights Council, 'Report of the Special Representative on Human Rights Obligations relating to the enjoyment of a safe, clean, healthy, and sustainable environment', Annexes at 41-42, *Framework Principles on Human Rights and the Environment*, January 2018) UN Doc. A/HRC/37/59, p. 7:

"1. Human beings are part of nature, and our human rights are intertwined with the environment. 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."

General environmental protection is mentioned in the Constitutions of Albania, Andorra, Croatia, Estonia, Germany, Greece, Lithuania, Luxembourg, Netherlands, Poland, Portugal, San Marino, Sweden and Switzerland, whereas the explicit individual right to a healthy environment is additionally recognised by the Constitutions of Armenia, Azerbaijan, Belgium, Bulgaria, Czech Republic, Finland, France, Georgia, Hungary, Latvia, Montenegro, North Macedonia, Norway, Republic of Moldova, Romania, Russian Federation, Serbia, Slovak Republic, Slovenia, Spain, Turkey and Ukraine.

xxv *Tătar c. (arrêt)* (27 janvier 2009), Requête CEDH n° 67021/10, § 112; *Di Sarno et autres c. Italie* (arrêt) (10 janvier 2012), CEDH Requête n° 30765/08, § 110;

Conseil des droits de l'homme se rapportant aux moyens de prévention et durable » Annexe « Principes-cadres onnement relatifs aux droits de » (24 janvier 2018) UN Doc. A/HRC/37/59, p. 7

"1. Les êtres humains font partie de la nature, et les droits de l'homme sont étroitement liés à l'environnement. Le fait que l'environnement est dégradé nuit à l'exercice des droits de l'homme et contribue à protéger l'environnement et à promouvoir le développement durable."

xxvi *Recommendation CM/Rec(2019)6 of the Committee of Ministers to member States on the development of the Ombudsman institution (Adopted by the Committee of Ministers on 16 October 2019 at the 1357th meeting of the Ministers' Deputies)*:

'Expressing grave concern about the challenging working conditions, threats, pressures and attacks which Ombudsman institutions and their staff are at times exposed to in member States;'

UN Human Rights Council, 'Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment', Annex 2, *Framework Principles on Human Rights and the Environment*, January 2018) UN Doc. A/HRC/37/59:

"Framework principle 14

States 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."

Commentary

40. As the Human Rights Council has recognized, while the human rights implications of environmental damage are felt by individuals and communities around the world, the consequences are felt most acutely by those segments of the population that are already in vulnerable situations. Persons may be vulnerable because they are unusually susceptible to certain types of environmental harm, or because they are denied their human rights, or both. Vulnerability to environmental harm reflects exposure to the physical threats to human well-being and the capacity of people and communities to cope with those threats."

41. 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, ethnic, racial or other minorities and displaced persons.²⁶ The many examples of potential vulnerability include the following:

[...] "

Le Club des Juristes, Draft Project 'Global Pact for the Environment' (Paris, 24 June 2017),

'Conscious of the need to respect, promote and consider their respective obligations on human rights, 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,

^{xxvii} Recommendation CM/Rec(2019)6 of the Committee of Ministers to member States on the development of the Ombudsman institution (Adopted by the Committee of Ministers on 16 October 2019 at the 1357th meeting of the Ministers' Deputies):

'Expressing grave concern about the challenging working conditions, threats, pressures and attacks which Ombudsman institutions and their staff are at times exposed to in member States;''
UN Human Rights Council, 'Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment', (2018) UN Doc. A/HRC/37/59; 'Rights and the Environment', (2018) UN Doc. A/HRC/37/59.

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Le Club des Juristes, Draft Project ' ' Global Pact for the Environment ' ' (Paris , 24 June 2017)

' Conscious of the need to respect, promote and consider their respective obligations on human rights, 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, ' ' '

^{xxviii} Le Club des Juristes, Draft Project ' ' Global Pact for the Environment ' ' (Paris , 24 June 2017)

' Conscious of the need to respect, promote and consider their respective obligations on human rights, 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, ' ' '

^{xxix} Convention on the Rights of the Child (20 November 1989), 1577 UNTS 3, Art. 24; Decision adopted by the Committee on the Rights of the Child, at its eighty-eight session (6-24 September 2021), under the Optional Protocol to the Convention on the Rights of the Child on a communications procedure in respect of Communication No. 107/2019

9.13 [...] The Committee considers that, as children, the authors are particularly impacted by the effects of climate change, both in terms of the manner in which they experience such effects as well as the potential of climate change to affect them throughout their lifetime, in particular if immediate action is not taken. Due to the particular impact on children, and the recognition by States parties to the Convention that children are entitled to special safeguards, including appropriate legal protection, states have heightened obligations to protect children from foreseeable harm.³⁰

³⁰ Preamble; A/HRC/31/52, para. 81, CRC Report of the 2016 day of general discussion ' R

^{xxix} Convention on the Rights of the Child (20 November 1989), 1577 UNTS 3, Art. 24; Decision adopted by the Committee on the Rights of the Child, at its eighty-eight session (6-24 September 2021), under the Optional Protocol to the Convention on the Rights of the Child on a communications procedure in respect of Communication No. 107/2019

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³⁰ Preamble; A/HRC/31/52, para. 81, CRC Report of the 2016 day of general discussion ' R

See also Human Rights Council, Analytical study on the relationship between climate change and the full and effective enjoyment of the rights of the child, Report of the Office of the United Nations High Commissioner for Human Rights (UN Doc. A/HRC/35/13, 2017); and Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, Report to the Human Rights Council on the rights of children and the environment (UN Doc. A/HRC/37/58, 2018)

^{xxxi} UN General Assembly, resolution A/70/L.1 of 25 September 2015 "Transforming our world: the 2030 Agenda for Sustainable Development", 3rd recital;

Le Club des Juristes, Draft Project ' ' Global Pact for the Environment ' ' (Paris , 24 June 2017)

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

^{xxxii} Assemblée générale des Nations unies, résolution A/70/L.1 du 25 septembre 2015 « Transformer notre monde : le Programme de développement durable à l'horizon 2030 », préambule, 3e considérant ;

Le Club des Juristes, Avant-projet de Pacte mondial pour l'environnement (Paris, 24 juin 2017), Préambule :

« **Soulignant le rôle vital des femmes en matière de développement durable ainsi que la nécessité de promouvoir l'égalité des sexes et l'autonomisation des femmes** »

xxxiii UN General Assembly, resolution A/70/L.1 of 25 September 2015 "Transforming our world: the 2030 Agenda for Sustainable Development", preamble, 3rd recital;

Le Club des Juristes, Draft Project "Global Pact for the Environment" (Paris, 24 June 2017), preamble, 3rd recital; 'Emphasizing the vital role of women in sustainable development matters and the need to promote gender equality and the empowerment of women,'

xxxiv UN General Assembly, resolution A/70/L.1 of 25 September 2015 "Transforming our world: the 2030 Agenda for Sustainable Development", preamble, 3rd recital;

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xxxvi Le Club des Juristes, Draft Project "Global Pact for the Environment" (Paris, 24 June 2017), preamble, 3rd recital; 'Stressing the fundamental importance of science and education for sustainable development'

Convention on Biological Diversity (5 June 1992), 1760 UNTS 69, Art. 13.

UN Human Rights Council, Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, Annex 2, Human Rights and the Environment' (January 2018) UN Doc. A/HRC/37/59, p. 10:

' Framework principle 6

States should provide for **education and public awareness on environmental matters.**

Commentary

15. States have agreed that the education of the child shall be directed to, among other things, **the development of respect for human rights and the natural environment.** Environmental education should begin early and continue throughout the educational process. It should increase students' understanding of the environment and nature, help them to appreciate and enjoy the natural world and strengthen their capacity to respond to environmental challenges.

16. Increasing the public awareness of environmental matters should continue into adulthood. To ensure that adults as well as children **understand environmental effects on their health and well-being,** States should make the public aware of the specific environmental risks that affect them and how they may protect themselves from those risks. As part of increasing public awareness, States should **build the capacity of the public to understand environmental challenges and policies,** so that they may fully exercise their rights to express their views on environmental issues (framework principle 5), understand environmental information, including assessments of environmental impacts (framework principles 7 and 8), participate in decision-making (framework principle 9) and, where appropriate, seek remedies for violations of their rights (framework principle 10). States should tailor environmental education and public awareness programmes to the culture, language and environmental situation of particular populations.'

xxxvii Le Club des Juristes, Draft Project "Global Pact for the Environment" (Paris, 24 June 2017), preamble, 3rd recital; 'Stressing the fundamental importance of science and education for sustainable development'

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xxxviii UN Human Rights Council, Resolution on recognizing the contribution of **environmental human rights defenders** to the enjoyment of human rights, environmental protection and sustainable development adopted in May 2019, A/HRC/40/L.22/Rev.1; Council of Europe Commissioner for Human Rights, Human Rights Comment, Let us make Europe a safe place for environmental human rights defenders, 25/05/2021

Environmental human rights defenders

The people behind these extremely important efforts are environmental human rights defenders. The term refers to human rights defenders working on environmental issues.

Recommendation CM/Rec(2018)11 of the Committee of Ministers to member States on the need to strengthen the protection and promotion of civil society space in Europe (Adopted by the Committee of Ministers on 28 November 2018 at the 1330th meeting of the Ministers' Deputies):

'**Underscoring the positive, important and legitimate roles of all human rights defenders, including** NHRIs and civil society organisations, **in independently promoting the realisation of all human rights including** by engaging with Governments, across local, regional, national and international levels, organising awareness raising and education activities, and contributing to the efforts to implement the obligations and commitments of States in this regard;'

Steel and Morris v. the United Kingdom (Judgment) (15 February 2005), ECHR Application no. 68416/01, para. 89:

'The Government have pointed out that the applicants were not journalists, and should not have the same level of protection afforded to the press under Article 10. The Court considers, however, that in a democratic society even small and informal campaign groups, such as London Greenpeace, must be able to carry on their activities effectively and that there exists a strong public interest in enabling such groups and individuals outside the mainstream to **contribute to the public debate by disseminating information and ideas on matters of general public interest such as health and the environment** (see, *mutatis mutandis*, *Bowman v. the United Kingdom*, judgment of 19 February 1998, Reports 1998-I, and *Appleby and Others v. the United Kingdom*, no. 44306/98, ECHR 2003-V I) . '

^{xxxix} UN Human Rights Council, Resolution on recognizing the contribution of **environmental human rights defenders** to the enjoyment of human rights, environmental protection and sustainable development adopted in May 2019, A/HRC/40/L.22/Rev.1; Council of Europe Commissioner for Human Rights, Human Rights Comment, Let us make Europe a safe place for environmental human rights defenders, 25/05/2021

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^{xi} Le Club des Juristes, Draft Project 'Global Pact for the Environment' (Paris, 24 June 2018), para. 10: **'Welcoming the vital role of non State actors, including civil society, economic actors, cities, regions and other subnational authorities in the protection of the environment.'**

^{xii} Final Declaration by the Georgian Presidency of the Committee of Ministers, Environmental Protection and Human Rights, High-Level Conference organised under the aegis of the Georgian Presidency of the Committee of Ministers (Strasbourg, 27 February 2020):

'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.'

'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 to future generations a rights and a healthy environment. 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.'

^{xiii} High Level International Conference on Human Rights and Environmental Protection "Human Rights for the Planet" (2020, Strasbourg):

'Clean environment is a precondition to the enjoyment of human rights: the full enjoyment of environmental rights to life, health, quality private and family life or home, depends on healthy ecosystems and their benefits to people. [...]

^{xiii} *Tyler v. The United Kingdom* (Judgment) (25 April 1978), ECHR Application no. 5856/72, para. 31; *Fredin v. Sweden (No. 1)* (Judgment) (18 February 1991), ECHR Application no. 12033/86, para. 48; *Marangopoulos Foundation for Human Rights (MFHR) v. Greece* (Decision on the Merits), ECSR Complaint No. 30/2005, para. 194; *ATTAC ry, Globaali sosiaalityö ry and Maan ystävät ry v. Finland* (Decision on Admissibility and on Immediate Measures) (22 January 2019), ECSR Complaint No. 163/2018, para. 12.

^{xiv} CDDH Report 92nd meeting Strasbourg (26–29 November 2019), CDDH(2019)R92, Appendix IV, Terms of reference of the CDDH, DH-SYSC and DH-BIO for 2020 – 2021 (as adopted by the Committee of Ministers at its 1361st meeting, 19–21 November 2019), Specific tasks, (v), p. 42:

'' On the basis of developments in the member States, within the Council of Europe and on **Human Rights and the Environment** and, if appropriate, develop a draft **non-binding instrument** of the Committee of Ministers (e.g. recommendation, guidelines) **recalling existing standards in this field.** ''
 Office of the High Commissioner for Human Rights, *Principles for Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework* (2011), General Principles, p. 1:
 '' These Guiding Principles should be understood **collectively**, in a coherent whole and should be read in terms of their objective of enhancing standards and practices with regard to business and human rights **so as to achieve tangible results for affected individuals and communities**, and thereby also contributing to a socially sustainable globalization. ''

^{xiv} Chairmanship of the Committee of Ministers, *Joint Declaration on human rights and the environment by the outgoing and incoming Presidencies of the Committee of Ministers, Decl(15/05/2020)*.

^{xvi} *Declaration of the United Nations Conference on the Human Environment (Stockholm Declaration)* (16 June 1972), Principle 1: '' **Man 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** [...] ''
Universal Declaration of Human Rights (adopted 10 December 1948 UNGA Res 217 A(III) (UDHR), Art. 28: '' **Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.** ''

UN Economic and Social Council, 'Human Rights and the Environment' Final report prepared by Mrs. Fa Rapporteur' (6 July 1994), UN Doc. E/CN.4/Sub.2/1994/9, para. 34: '' International human rights instruments on the environment. The Universal Declaration of Human Rights recognizes that "Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized". It is generally accepted that the "order" to which the Declaration refers also covers the environmental concerns of this day and age. ''

^{xvii} Final Declaration by the Georgian Presidency of the Committee of Ministers, Environmental Protection and Human Rights, High-Level Conference organised under the aegis of the Georgian Presidency of the Committee of Ministers (Strasbourg, 27 February 2020):

'' **Development of National Policies and Actions**
The primary responsibility for protecting the environment and human rights rests with Member States. ''

^{xviii} UN Human Rights Council, 'Report of the Special Rapporteur on the issue of human rights obligations relating to a safe, clean, healthy and sustainable environment' (24 January 2018) UN Doc. A/HRC/37/59:

"16. Even without formal recognition, the term "the human right to a healthy environment" to the environmental aspects of the entire range of human rights that depend on a safe, clean, healthy and sustainable environment. The use of the term in this way — and, for that matter, the adoption of a resolution recognizing the right — does not change the legal content of obligations that are based on existing human rights law.[...]"

^{xix} UN Human Rights Council, 'Report of the Special Rapporteur on the issue of human rights obligations relating to a safe, clean, healthy and sustainable environment' (24 January 2018) UN Doc. A/HRC/37/59:

"16. Even without formal recognition, the term "the human right to a healthy environment" to the environmental aspects of the entire range of human rights that depend on a safe, clean, healthy and sustainable environment. The use of the term in this way — and, for that matter, the adoption of a resolution recognizing the right — does not change the legal content of obligations that are based on existing human rights law.[...]"

ⁱ UN Human Rights Council, 'Report of the Special Rapporteur on the issue of human rights obligations relating to a safe, clean, healthy and sustainable environment' (24 January 2018) UN Doc. A/HRC/37/59:

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ⁱⁱ UN Human Rights Council, '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:

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ⁱⁱⁱ UN Human Rights Council, '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. Even without formal recognition, the term "the human right to a healthy environment" to the environmental aspects of the entire range of human rights that depend on a safe, clean, healthy and sustainable environment. The use of the term in this way — and, for that matter, the adoption of a resolution recognizing the right — does not change the legal content of obligations that are based on existing human rights law.[...]"

^{liii} UN Human Rights Council, 'Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment', Annex 1, paras. 10-11, UN Doc. A/HRC/37/59 (24 January 2018) UN Doc. A/HRC/37/59:

"16. Even without formal recognition, the term "the human right to a healthy environment" refers to the environmental aspects of the entire range of human rights that depend on a safe, clean, healthy and sustainable environment. The use of the term in this way — and, for that matter, the adoption of a resolution recognizing the right — does not change the legal content of obligations that are based on existing human rights law.[...]"

^{liv} UN Human Rights Council, 'Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment', Annex 1, paras. 10-11, UN Doc. A/HRC/37/59 (24 January 2018) UN Doc. A/HRC/37/59:

"16. Even without formal recognition, the term "the human right to a healthy environment" refers to the environmental aspects of the entire range of human rights that depend on a safe, clean, healthy and sustainable environment. The use of the term in this way — and, for that matter, the adoption of a resolution recognizing the right — does not change the legal content of obligations that are based on existing human rights law.[...]"

^{lv} Conseil des droits de l'homme de l'ONU, *Résolution 48/13 « Droit de l'homme à un environnement propre, sain et durable »*, adoptée le 8 octobre 2021 (A/HRC/RES/48/13), 1 et 2:

1. Considère que l'exercice du droit de bénéficier d'un environnement propre, sain et durable est une condition de la jouissance des droits de l'homme ;
2. Constate que le droit à un environnement propre, sain et durable est lié à d'autres droits de l'homme ;

^{lvi} Conseil des droits de l'homme de l'ONU, « Rapport du Rapporteur spécial sur la question des obligations relatives aux droits de l'homme se rapportant aux moyens de bénéficier d'un environnement propre, sain et durable », Annexe avec « Principes directeurs relatifs aux droits de l'homme relatifs à l'environnement », UN Doc. A/HRC/37/159 (24 janvier 2018) UN Doc. A/HRC/37/159:

16. Même si le droit lui-même n'est pas encore formellement reconnu, l'expression « le droit à un environnement sûr, propre, sain et durable » est déjà employée pour désigner les aspects environnementaux de toute la série de droits de l'homme relatifs à l'environnement. L'emploi de cette expression dans ce sens — par exemple, dans une résolution reconnaissant le droit en question — ne modifie en rien le contenu juridique des droits de l'homme.

^{lvii} Similar wording in *Recommendation CM/Rec(2016)3 of the Committee of Ministers to member States on human rights and business*:

"Recommends that the governments of the member States:
1. review their national legislation and practice to ensure that they comply with the recommendations, principles and further guidance set out in the appendix, and evaluate the effectiveness of the measures taken at regular intervals;"

^{lviii} Similar wording in *Recommendation CM/Rec(2016)3 of the Committee of Ministers to member States on human rights and business*:

"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; "

^{lix} Similar wording in *Recommendation CM/Rec(2016)3 of the Committee of Ministers to member States on human rights and business*:

"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; "

^{lx} Similar wording in *Recommendation CM/Rec(2018)11 of the Committee of Ministers to member States on the need to strengthen the protection and promotion of civil society space in Europe*, Appendix, para. I:

"Member States should:
[...]
k. 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. "

^{lxi} Final Declaration by the Georgian Presidency of the Committee of Ministers, Environmental Protection and Human Rights, High-Level Conference organised under the aegis of the Georgian Presidency of the Committee of Ministers (Strasbourg, 27 February 2020):

"States which have not yet done so should consider signing and ratifying, inter alia, the 1998 Aarhus Convention of the United Nations on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters and the 2010 Tromsø Convention of the Council of Europe on Access to Official Documents which guarantee public scrutiny of decision-making on environmental issues. "

^{lxii} Final Declaration by the Georgian Presidency of the Committee of Ministers, Environmental Protection and Human Rights, High-Level Conference organised under the aegis of the Georgian Presidency of the Committee of Ministers (Strasbourg, 27 February 2020)

"States which have not yet done so should consider signing and ratifying, inter alia, the 1998 Aarhus Convention of the United Nations on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters and the 2010 Tromsø Convention of the Council of Europe on Access to Official Documents which guarantee public scrutiny of decision-making on environmental issues. "

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^{lxii} Final Declaration by the Georgian Presidency of the Committee of Ministers, Environmental Protection and Human Rights, High-Level Conference organised under the aegis of the Georgian Presidency of the Committee of Ministers (Strasbourg, 27 February 2020)

"States which have not yet done so should **consider signing and ratifying**, inter alia, the 1998 *Aarhus Convention of the United Nations on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters* and the 2010 Tromsø Convention of the Council of Europe on Access to Official Documents which guarantee public scrutiny of decision-making on environmental issues."

^{lxiii} Similar wording in *Recommendation CM/Rec(2016)3 of the Committee of Ministers to member States on human rights and business*:

" 5. . . . examine, within the Committee of Ministers, the implementation of this recommendation no later than five years after its adoption, with the participation of relevant stakeholders

^{lxiv} The principle of *Declaration of the United Nations Conference on the Human Environment*, Stockholm, 5 to 16 June 1972 (Principle 21) has been recalled almost identically in the *Rio Declaration on Environment and Development 1992* (Principle 2) and in the Preamble of the *United Nations Framework Convention on Climate Change (UNFCCC)* (1992), UNTS vol. 1771. The principle has also been included in Arts. 3 of the *Convention on Biological Diversity* (5 June 1992), 1760 UNTS 69 which moreover in Art. 14(1)(c) calls for cooperation:

" Article 3. Principle

States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their **jurisdiction or control** do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction."

" Article 14. Impact Assessment and Minimizing Adverse Impacts

[...]

(c) Promote, on the basis of reciprocity, notification, exchange of information and consultation on activities under their **jurisdiction or control** which are likely to significantly affect **adversely** the biological diversity of other States or **areas** beyond the limits of national jurisdiction, by encouraging the conclusion of **bilateral, regional or multilateral arrangements, as appropriate**;"

Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention) (1991), UNTS vol. 1989, Art. 2(1):

" Article 2 GENERAL PROVISIONS

1. The Parties shall, either individually or jointly, **take all appropriate and effective measures to prevent, reduce and control significant adverse transboundary environmental impact** from proposed activities."

Convention on long-range transboundary air pollution (1979), UNTS vol. 1302, Art. 1(b), 2:

" Article 1: Definitions

(b) "Long-range **transboundary** air pollution" means air pollution whose physical origin is situated wholly or in part within the area under the national jurisdiction of one State and which has **adverse** effects in the **area** under the jurisdiction of another State at such a distance that it is not generally possible to distinguish the contribution of individual emission sources or groups of sources."

" Article 2: Fundamental Principles

The Contracting Parties, taking due account of the facts and problems involved, are determined to protect man and his environment against air pollution and shall endeavour to limit and, as far as possible, gradually **reduce** and **prevent** air pollution including long-range **transboundary** air pollution."

Convention on the Protection and Use of Transboundary Watercourses and International Lakes (Water Convention) (1992, as amended 2003) UNTS. Vol. 1936, Art. 2(1):

" Article 2 GENERAL PROVISIONS

1. The Parties shall **take all appropriate measures to prevent, control and reduce any transboundary impact**."

UN Human Rights Council, ' Report of the Special Rapporteur on the issue of human rights obligations relating to a safe, clean, healthy and sustainable environment ' Annex with ' Framework Principles on Human Rights and the Environment ' January 2018) UN Doc. A/HRC/37/59, p. 15, para. 36:

' Framework principle 13

States should cooperate with each other to establish, maintain and enforce **effective** international legal frameworks in order to **prevent, reduce and remedy transboundary** and global **environmental** harm that interferes with the full **enjoyment of human rights**.

Commentary

36. The obligation of States to cooperate to achieve universal respect for, and observance of, human rights requires States to work together to address **transboundary** and global threats to **human rights**. **Transboundary** and global **environmental** harm can have severe effects on the full **enjoyment of human rights**, and **international cooperation** is necessary to **address** such harm. States have entered into agreements on many international environmental problems, including climate change, ozone depletion, transboundary air pollution, marine pollution, desertification and the conservation of biodiversity."

^{lxv} Committee of Ministers Rapporteur Group on Education, Culture, Sport, Youth and Environment GR-C(2005)14 (7 March 2005), Contribution of environment and other related sectors to sustainable development (Item for consideration by the GR-C at its meeting on 18 March 2005), para. 11(3):

" 3. **principle of prevention**

The principle of prevention must be applied in particular to **dangerous activities** and substances:

- likely to cause pollution, by preventing these at source;
- likely to **pose a threat to health and social cohesion**;

- likely to **deteriorate working conditions**;
- likely to **affect the natural environment, biological diversity and landscapes**;
- likely to affect historic monuments and the cultural heritage;

[...] ' ' ' '
 Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (Adopted on 22 March 1989), Art. 4(2):

' ' Article 4 General Obligations

2. Each Party shall **take the appropriate measures to:**

- (a) **Ensure that the generation of hazardous wastes and other wastes within it is reduced to a minimum**, taking into account social, technological and economic aspects;
- (b) **Ensure** the availability of adequate disposal facilities, for the environmentally sound management of **hazardous wastes and other wastes**, that shall be located, to the extent possible, within it, whatever the place of their disposal;
- (c) **Ensure that persons** involved in the management of **hazardous wastes** or other wastes within it take such steps as are necessary to prevent pollution due to **hazardous wastes** and other wastes arising from such management and, if such pollution occurs, to minimize the consequences thereof for **human health and the environment**; [...] ' ' ' '

lxvi United Nations Framework Convention on Climate Change (UNFCCC) (1992), UNTS vol. 1771:

' ' ARTICLE 3 PRINCIPLES

[...]

3. The Parties should **take precautionary measures to anticipate, prevent or minimize the causes of climate change and mitigate its adverse effects**. **Where there are threats of serious or irreversible damage, lack of full scientific certainty should not be used as a reason for postponing such measures**, taking into account that policies and measures to deal with climate change should be **cost-effective** so as to ensure global benefits at the lowest possible cost. [. . .] ' ' ' '

lxvii Le Club des Juristes, Draft Project Paris (Page 24 Page 2017) the Environment'

United Nations, 'Report of the United Nations Conference on Environment and Development' (UN Doc. A/CONF/151/26/Rev.1 (Vol. I), p. 6, Annex I 'Rio Declaration on Environment and Development', Principle

lxviii Declaration of the United Nations Conference on the Human Environment (Stockholm Declaration) (16 June 1972):

' ' Principle 2

The **natural resources** of the earth, including the air, water, land, flora and fauna and especially representative samples of natural ecosystems, must be safeguarded **for the benefit of present and future generations** through careful planning or management, as appropriate.

United Nations, World Commission on Environment and Development: Our Common Future' (Brundage (1987), Annex 1, p. 286:

' ' I-Generational Equity

2. States shall **conserve and use the environment and natural resources for the benefit of present and future generations**.

Convention on Biological Diversity (5 June 1992), 1760 UNTS 69, Preamble:

' ' Deter **conserve and sustainably use biological diversity for the benefit of present and future generations**.

United Nations Framework Convention on Climate Change (UNFCCC) (1992), UNTS vol. 1771:

' ' ARTICLE 3 PRINCIPLES

[...]

1. The Parties **should protect the climate system for the benefit of present and future generations of humankind**, on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities. Accordingly, the developed country Parties should take the lead in combating climate change and the adverse effects thereof. ' ' ' '

Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention) (25 June 1998):

' ' Article 1 OBJECTIVE

In order to contribute to the protection of the right of every person of **present and future generations** to live in an **environment** adequate to his or her health and well-being, each Party shall guarantee the 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.

UNESCO, Declaration on the Responsibilities of the Present Generations Towards Future generations (12 November 1997):

' ' Art- Protection of the environment

1. In order to ensure that future generations do not lose the benefits from the richness of the Earth, **the present generations should strive for sustainable development and preserve living conditions, particularly the quality and integrity of the environment**.

UN General Assembly, 'World Charter for Nature' (9 November 1982), UN Doc. A/RES/37/7, Principle

' ' [...] Conscious of the spirit and terms of its resolutions 35/7 and 36/6, in which it exercises of their permanent sovereignty over their natural resources, to **conduct their activities in recognition of the supreme importance of protection natural systems**, maintaining the balance and quality of nature and conserving natural resources, **in the interest of present and future generations**, [...] ' ' ' '

lxix Le principe de "non-nuisance" de la Déclaration de la Conférence des Nations Unies sur l'environnement humain, Stockholm, 5 au 16 juin 1972 (principe 21) a été rappelé de manière presque identique dans la Déclaration de Rio sur l'environnement et le développement 1992 (principe 2) et dans le préambule de la Convention-cadre des Nations Unies sur les changements climatiques (CCNUCC) (1992), UNTS vol. 1771. Le principe a également été inclus dans l'art. 3 de la Convention sur la diversité biologique (5 juin 1992), 1760 UNTS 69 qui, en outre, dans l'art. 14(1)(c) appelle à la coopération :

« Article 3. Principe

Conformément à la Charte des Nations Unies et aux principes du droit international, les Etats ont le droit souverain d'exploiter leurs propres ressources selon leur politique d'environnement et ils ont le devoir de faire en sorte que les

activités exercées dans les limites de **leur juridiction ou sous leur contrôle** ne causent pas de dommage à l'environnement dans d'autres États ou dans des régions ne relevant d'aucune juridiction nationale. »

« Article 14. Etudes d'impact et réduction des effets nocifs

[...]

c) Encouragement, sur une base de réciprocité, la notification, l'échange de renseignements et les consultations au sujet des activités relevant de sa **juridiction ou de son autorité** et susceptibles de nuire sensiblement à la diversité biologique d'autres États ou de **zones situées** hors des limites de la juridiction nationale, en encourageant la conclusion d'**accords bilatéraux, régionaux ou multilatéraux, selon qu'il conviendra**; »

Convention sur l'évaluation de l'impact sur l'environnement dans un contexte transfrontière (Convention d'Espoo) (1991), UNTS vol. 1989, Art. 2(1) :

"Article 2 DISPOSITIONS GÉNÉRALES

1. Les parties **prennent**, individuellement ou conjointement, **toutes les mesures appropriées et efficaces pour prévenir, réduire et maîtriser l'impact transfrontière préjudiciable important sur l'environnement** des activités proposées."

Convention sur la pollution atmosphérique transfrontière à longue distance (1979), UNTS vol. 1302, Art. 1(b), 2 :

"Article 1 : Définitions

(b) On entend par "pollution atmosphérique **transfrontière** à longue distance" la pollution atmosphérique dont l'origine physique est située en totalité ou en partie dans la zone relevant de la juridiction nationale d'un État et qui a des effets **néfastes** dans la **zone** relevant de la juridiction d'un autre État à une distance telle qu'il n'est généralement pas possible de distinguer la contribution de sources d'émission individuelles ou de groupes de sources."

"Article 2 : Principes fondamentaux

Les Parties contractantes, tenant dûment compte des faits et des problèmes en cause, sont déterminées à protéger l'homme et son environnement contre la pollution atmosphérique et s'efforcent de limiter et, dans la mesure du possible, de **réduire progressivement et de prévenir la pollution atmosphérique, y compris la pollution atmosphérique transfrontière** à longue distance."

Convention sur la protection et l'utilisation des cours d'eau transfrontières et des lacs internationaux (Convention sur l'eau) (1992, amendée en 2003) UNTS. Vol. 1936, Art. 2(1) :

"Article 2 DISPOSITIONS GÉNÉRALES

1. Les Parties **prennent toutes les mesures appropriées pour prévenir, contrôler et réduire tout impact transfrontalier.**"

Cons e i l d e s d r o i t s d e l ' O N U « R a p p o r t d u R a p p o r t e u r s p é c i a l s u r l a q u e s t i o n d e s o b l i g a t i o n s r e l a t i v e s a u x d r o i t s d e l ' h o m m e s e r a p p o r t a n t a u x m o y e n s d e b é n é f i c e », a n n e x e d e v o l. « P r i n c i p e s - c a d r e s n o n n e m e n t s û r , p r o p r e , s a i n e t d u r s u r l e s d r o i t s d e l ' h o m m e e t l ' e n v i r o n n e m e n t » (24 janvier 2018) UN Doc. A/HRC/37/59, p. 15, par. 36 :

« Principe-cadre 13

Les États devraient coopérer entre eux pour établir, maintenir et appliquer des cadres juridiques internationaux **efficaces afin de prévenir, réduire et réparer les dommages environnementaux transfrontières** et mondiaux qui entravent la pleine **jouissance des droits de l'homme**.

Commentaire

36. L'obligation des États de coopérer pour parvenir au respect universel et à l'observation des droits de l'homme exige que les États collaborent pour faire face aux menaces **transfrontières** et mondiales qui pèsent sur les **droits de l'homme**. Les dommages **environnementaux transfrontaliers** et mondiaux peuvent avoir des effets graves sur la pleine **jouissance des droits de l'homme**, et la **coopération internationale** est nécessaire **pour y remédier**. Les États ont conclu des accords sur de nombreux problèmes environnementaux internationaux, notamment le changement climatique, l'appauvrissement de la couche d'ozone, la pollution atmosphérique transfrontalière, la pollution marine, la désertification et la conservation de la biodiversité. »

^{lxxiv} Conseil de l'Europe, *Manuel actualisé sur les droits de l'homme et l'environnement* (troisième édition 2021), Section A, Chapitre III, para. (e) :

"(e) Lorsque des décisions des autorités publiques affectent l'environnement au point qu'il en résulte une **ingérence dans le droit au respect de la vie privée ou familiale ou du domicile**, elles doivent répondre aux conditions énoncées à l'article 8 paragraphe 2. Ces décisions doivent ainsi **être prévues par la loi et poursuivre un but légitime**, tel que le bien-être économique du pays ou la protection des droits et libertés d'autrui. En outre, **elles doivent être proportionnées au but légitime poursuivi** : à cette fin, **un juste équilibre doit être trouvé entre l'intérêt de l'individu et celui de la communauté dans son ensemble**. Les aspects sociaux et techniques des questions environnementales étant souvent difficiles à évaluer, les autorités publiques compétentes sont les mieux placées pour déterminer quelle pourrait être la meilleure politique. **Elles jouissent donc en principe d'une large marge d'appréciation pour déterminer la manière dont l'équilibre doit être atteint**. La Cour peut néanmoins apprécier si les autorités publiques ont abordé le problème avec la diligence requise et si elles ont pris en considération tous les intérêts en présence.

^{lxxv} *European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) (4 November 1950) ETS No. 5, Art. 14.*

European Social Charter (18 October 1961) (ETS No. 35), Preamble.

European Social Charter (revised) (3 May 1996) (ETS No.163), Part V, Art. E.

Similar wording in *Guidelines of the Committee of Ministers to member States on the protection and promotion of human rights in culturally diverse societies (Adopted by the Committee of Ministers on 2 March 2016 at Deputies)* :

30. Member States should ensure that persons in analogous situations are treated differently without an objective and reasonable justification but also when, without such justification, persons whose situations are significantly different are not treated differently. **Member States should take all appropriate measures, including positive action, to ensure full respect for the prohibition of discrimination.**''

UN Human Rights Council, 'Report of the Special Rapporteur on the enjoyment of human rights obligations relating to a safe, clean, healthy and sustainable environment', Annex with draft recommendations on Human Rights and the Environment',

' Framework principle 3

States should prohibit discrimination and ensure equal and **effective protection against discrimination** in relation to the enjoyment of a safe, clean, healthy and sustainable environment.

Commentary

7. The obligations of States to prohibit discrimination and to ensure equal and effective protection against discrimination apply to the equal enjoyment of human rights relating to a safe, clean, healthy and sustainable environment. States therefore have obligations, among others, **to protect against environmental harm that results from or contributes to discrimination**, to provide for equal access to environmental benefits and to ensure that their actions relating to the environment do not themselves discriminate. '

^{lxvii} Similar wording in *Guidelines of the Committee of Ministers to member States on the protection and promotion of human rights in culturally diverse societies (Adopted by the Committee of Ministers on 2 March 2016 at the 1249th meeting of the Ministers' Deputies)*, p. 16, para. 29:

Member States should ensure the promotion of the principle of equality and the right of every person to be free from all forms of discrimination on any ground. '

PACE Recommendation 2211 (2021) on "Anchoring the right to a healthy environment: need for enhanced action by the Council of Europe":

" Article 3: Principle of non-discrimination environmental non

a. No one shall be discriminated against **on account of his/her belonging to a particular generation.** "

UN Human Rights Council, 'Report of the Special Rapporteur on the issue of human rights obligations relating to a safe, clean, healthy and sustainable environment', Annex with draft recommendations on Human Rights and the Environment', January 2018) UN Doc. A/HRC/37/59, p. 8, para. 7:

' Framework principle 3

States should prohibit discrimination and ensure equal and effective protection against discrimination in relation to the enjoyment of a safe, clean, healthy and sustainable environment.

Commentary

7. The obligations of States to prohibit discrimination and to ensure equal and effective protection against discrimination apply to the equal enjoyment of human rights relating to a safe, clean, healthy and sustainable environment. States therefore have obligations, among others, to protect against environmental harm that results from or contributes to discrimination, **to provide for equal access to environmental benefits** and to ensure that their actions relating to the environment do not themselves discriminate. '

Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention) (25 June 1998), Art. 3(9):

' 9. Within the scope of the Convention, the public shall have **access to information, have the possibility to participate in decision-making and have access to justice in environmental matters without discrimination** as to citizenship, nationality or domicile and, in the case of a legal person, without discrimination as to where it has its registered seat or an effective centre of its activities. '

Convention on the Rights of the Child (20 November 1989), 1577 UNTS 3, Arts. 24(2)(e), 29(1)(e):

' Article 24

2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:

[...]

(e) To ensure that **all segments of society**, in particular parents and children, are informed, have **access to education** and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and **environmental sanitation** and the prevention of accidents; '

' Article 29

1. States Parties agree that the **education** of the child shall be directed to:

[...]

(e) The development of respect for the natural **environment.** '

^{lxviii} Similar wording in *Guidelines of the Committee of Ministers to member States on the protection and promotion of human rights in culturally diverse societies (Adopted by the Committee of Ministers on 2 March 2016 at the 1249th meeting of the Ministers' Deputies)*, p. 16, para. 29:

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" Article 3: Principle of non-discrimination environmental non

a. No one shall be discriminated against **on account of his/her belonging to a particular generation.** "

UN Human Rights Council, 'Report of the Special Rapporteur on the issue of human rights obligations relating to a safe, clean, healthy and sustainable environment', Annex with draft recommendations on Human Rights and the Environment', January 2018) UN Doc. A/HRC/37/59, p. 8, para. 7:

' Framework principle 3

States should prohibit discrimination and ensure equal and effective protection against discrimination in relation to the enjoyment of a safe, clean, healthy and sustainable environment.

Commentary

7. The obligations of States to prohibit discrimination and to ensure equal and effective protection against discrimination apply to the equal enjoyment of human rights relating to a safe, clean, healthy and sustainable environment. States therefore have obligations, among others, to protect against environmental harm that results from or contributes to discrimination, **to provide for equal access to environmental benefits** and to ensure that their actions relating to the environment do not themselves discriminate. '

Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention) (25 June 1998), Art. 3(9):

‘ ‘ 9. Within the scope of the rthe public shall have access to information, have his Convention, the possibility to participate in decision-making and have access to justice in environmental matters without discrimination as to citizenship, nationality or domicile and, in the case of a legal person, without discrimination as to where it has its registered seat or an effective centre of its activities. ’ ’

Convention on the Rights of the Child (20 November 1989), 1577 UNTS 3, Arts. 24(2)(e), 29(1)(e):

‘ ‘ Article 24

2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:

[...]

(e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents; ’ ’

‘ ‘ Article

1. States Parties agree that the education of the child shall be directed to:

[...]

(e) The development of respect for the natural environment. ’ ’

^{lxxx} UN Human Rights Council, ‘ Report of the Special Rapporteur on the issue of human rights obligations r of a safe, clean, healthy and tshu s tFai amæbMœr ke rPr i i mœri rœd rets’ oAn rHaxman Rights and the Environment (24 January 2018) UN Doc. A/HRC/37/59:

‘ ‘ Framework principle 14

States 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. ’ ’

^{lxxxi} UN Human Rights Council, ‘ Report of the Special Rapporteur on the issue of human rights obligations r of a safe, clean, healthy and tshu s tFai amæbMœr ke rPr i i mœri rœd rets’ oAn rHaxman Rights and the Environment (24 January 2018) UN Doc. A/HRC/37/59:

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^{lxxxii} Le Club des Juristes, *Draft Project ‘ ‘ Global (Paris, 24 June 2017), Art. 14e Environment ’ ’*

‘ Article 14

Role of non-State actors and subnational entities

The Parties shall take the necessary measures to encourage the implementation of this Pact by non-State actors and subnational entities, including civil society, economic actors, cities and regions taking into account their vital role in the protection of the environment. ’ ’

^{lxxxiii} Recommendation CM/Rec(2021)1 of the Committee of Ministers to member States on the development and strengthening of effective, pluralist and independent national human rights institutions (Adopted by the Committee of Ministers on 31 March 2021 at the 1400th meeting of the Ministers’ Deputies), Appendix, paras 3 and 11:

“3 Member States should ensure that the mandate given to NHRIs to protect and promote human rights is as broad as possible and in full compliance with the Paris Principles and that it allows them, inter alia, to:

[...]

11. Member States should ensure that NHRIs can operate independently, in an environment which is conducive to them carrying out their mandate in an effective manner and in a climate of impartiality, integrity, transparency and fairness.”

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^{lxxxv} Council of Europe, updated Manual on Human Rights and the Environment (third edition 2021), Section A, Chapter I, para.

(a):

‘ ‘ (a) The right to life is protected under Article 2 of the Convention. This Article directly from the actions of the agents of a State, but also lays down a positive obligation on States to take appropriate steps to safeguard the lives of those within their jurisdiction. This means that public authorities have a duty to take steps to guarantee the rights of the Convention even when they are threatened by other (private) persons or activities that are not directly connected with the State. ’ ’

^{lxooivi} Council of Europe, updated Manual on Human Rights and the Environment (third edition 2021), Section A, Chapter I, paras. (b), (c), (d):

‘ ‘ (b) The Court has found that the **context of dangerous activities**, such as nuclear tests, the operation of chemical factories with toxic emissions, waste-collection sites or man-made water reservoirs, whether carried out by public authorities themselves or by private companies. In general, the extent of the obligations of public authorities depends on factors such as the harmfulness of the dangerous activities and the foreseeability of the risks to life.

(c) In addition, the Court requires States to discharge their positive obligation to prevent the loss of life also in **cases of natural disasters**, even though they are as such, beyond human control, in contrast to the case of dangerous activities where States are required to hold ready appropriate warning and defence mechanisms.

(d) In the first place, public authorities may be required to take measures to prevent infringements of the right to life as a result of dangerous activities or natural disasters. This entails, above all, the primary duty of a State to put in place a **legislative and administrative framework** which includes:

- **making regulations which take into account the special features of a situation or an activity and the level of potential risk to life.** In the case of dangerous activities this entails regulations that govern the licensing, setting-up, operation, security and supervision of such activities;

- **placing particular emphasis on the public's**. In **cases of natural disasters** this includes the maintenance of an adequate defence and warning infrastructure;

- **providing for appropriate procedures for identifying shortcomings in the technical processes concerned and errors committed by those responsible.**’

^{lxoovii} Council of Europe, updated Manual on Human Rights and the Environment (third edition 2021), Section A, Chapter I, paras. (e), (f), (g):

(e) Secondly, **where loss of life may be the result of an infringement of the right to life**, the relevant public authorities must provide an adequate response, judicial or otherwise. They must ensure that the legislative and administrative framework is properly implemented and that breaches of the right to life are repressed and punished as appropriate.

(f) This response by the State includes the duty to **promptly initiate an independent and impartial investigation**. The investigation must, firstly, be capable of ascertaining the circumstances in which the incident took place and identifying shortcomings in the operation of the regulatory system, and secondly, it must be capable of identifying the public officials or authorities involved in the chain of events in issue.

(g) If the infringement of the right to life is unintentional, civil, administrative or even disciplinary **remedies** may be a sufficient response. However, the Court has found that, in particular in the case of dangerous activities, where the public authorities were fully aware of the likely consequences and disregarded the powers vested in them, hence failing to take measures that are necessary and sufficient to avert certain risks which might involve loss of life, Article 2 may require that **those responsible for endangering life be charged with a criminal offence or prosecuted**

^{lxooviii} Council of Europe, *updated Manual on Human Rights and the Environment* (third edition 20201), Section A, Chapter III, paras. (c), (d):

‘ ‘ (c) For an issue **environmental factors must have a directly harmful effect or seriously risk the enjoyment of private and family life or home and correspondence** of individuals. Thus, there are two issues which the Court must consider – whether a causal link exists between the activity and the negative impact on the individual and whether the adverse effects have attained a certain threshold of harm. The assessment of that minimum threshold depends on all the circumstances of the case, such as the intensity and duration of the nuisance and its physical or mental effects, as well as on the general environmental context.

(d) While the objective of Article 8 is essentially that of protecting the individual against arbitrary interference by public authorities, it may also imply in some cases an obligation on public authorities to adopt positive measures designed to secure the rights enshrined in this Article. **This obligation does not only apply in cases where environmental harm is directly caused by State activities but also when it results from private sector activities.** Public authorities must make sure that such measures are implemented so as to guarantee rights protected under Article 8. The Court has furthermore explicitly recognised that public authorities may have a duty to inform the public about environmental risks. Moreover, the Court has stated with regard to the scope of the positive obligation that it is generally irrelevant of whether a situation is assessed from the perspective of paragraph 1 of Article 8 which, inter alia, relates to the positive obligations of State authorities, or paragraph 2 asking whether a State interference was justified, as the principles applied are almost identical.

^{lxooix} Council of Europe, *updated Manual on Human Rights and the Environment* (third edition 2021), Section A, Chapter III, para. (c):

‘ ‘ (c) On the **protection of the individual right to the peaceful enjoyment of one's possessions**, the public authorities to ensure certain environmental standards. **The effective exercise of this right does not depend merely on the public but may require them to take positive measures to interfere,** to protect this right, particularly where there is a direct link between the measures an applicant may legitimately expect from the authorities and his or her effective enjoyment of his or her possessions. The Court has found that such an obligation may arise in respect of dangerous activities and to a lesser extent in sit

^{xc} Council of Europe, *updated Manual on Human Rights and the Environment* (third edition 2021), Section A, Chapter IV, para. (a):
‘ ‘ **(The right to receive and impart information and ideas is guaranteed by Article 10 of the Convention. In the particular context of the environment, the Court has found that 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.**

Steel and Morris v. the United Kingdom (Judgment) (15 February 2005), ECHR Application no. 68416/01, para. 89:
‘ ‘ The Government have pointed out that the applicants were not journalists, and should not enjoy the protection afforded to the press under Article 10. The Court considers, however, that in a democratic society even small and informal campaign groups, such as London Greenpeace, must be able to carry on their activities effectively and that there exists a strong

public interest in **enabling such groups and individuals outside the mainstream to contribute to the public debate by disseminating information and ideas on matters of general public interest such as health and the environment** (see, *mutatis mutandis*, *Bowman v. the United Kingdom*, judgment of 19 February 1998, Reports 1998-I, and *Appleby and Others v. the United Kingdom*, no. 44306/98, ECHR 2003-V I).

^{xcj} Similar wording in *Recommendation CM/Rec(2010)5 of the Committee of Ministers to member states on measures to combat discrimination on grounds of sexual orientation or gender identity* (Adopted by the Committee of Ministers on 31 March 2010), para. II (9):

‘ ‘ **Member states should take appropriate measures to ensure, in accordance with Article 11 of the Convention, that the right to freedom of association can be effectively enjoyed** without discrimination on grounds of sexual orientation or gender identity; in particular, discriminatory administrative procedures, including excessive formalities for the registration and practical functioning of associations, should be prevented and removed; measures should also be taken to prevent the abuse of legal and administrative provisions, such as those related to restrictions based on public health, public morality and public order.’ ’

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^{xciii} *Koretskyy and Others v. Ukraine* (Judgment) (3 April 2008), ECHR Application no. 40269/02, para. 38:

‘ ‘ 38. The right to form an association is an inherent part of the right set forth in Article 11 of the Convention. **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 the right to freedom of association**, without which that right would be deprived of any meaning. The way in which national legislation enshrines this freedom and its practical application by the authorities reveal the state of democracy in the country concerned. Certainly States have a right to satisfy themselves that an association's aims and activities are in conformity with the law, but they must do so in a manner compatible with their obligations under the Convention and subject to review by the Convention institutions [...].’ ’

^{xciv} Council of Europe, *updated Manual on Human Rights and the Environment* (third edition 2021), Section A, Chapter V, para. (d):

‘ ‘ **The right to respect freedom of peaceful assembly and freedom of association is guaranteed by Article 11 of the Convention. This includes the unobstructed right to peaceful assembly and the ability to form a legal entity (association), in order to act collectively in a field of mutual interest such as environmental matters.** Restrictions by public authorities on the exercise of the right to freedom of peaceful assembly and the right to freedom of association with regard to environmental matters should be prescribed by law, pursue a legitimate aim and be necessary in a democratic society and proportionate to the legitimate aim pursued. A fair balance should be struck between the exercise of the right to freedom of assembly and freedom of association and the interests of t

^{xcv} Council of Europe, *updated Manual on Human Rights and the Environment* (third edition 2021), Section A, Chapter V, paras.

(e), (f), (g): ‘ ‘ **Articles 2 and 8 of the Convention** may however impose a specific positive obligation on public authorities to **ensure a right of access to information in relation to environmental issues** in certain circumstances.

(f) This obligation to ensure access to information is generally complemented by the positive obligations of the public authorities to provide information to those persons whose right to life under Article 2 or whose right to respect for private and family life and the home under Article 8 are threatened. The Court has found that in the particular context of dangerous activities falling within the responsibility of the State, special emphasis should be placed on the public's right to information. Additionally, the Court held that States are duty-bound based on **adequately inform the public about any life threatening emergencies, including natural disasters.**

(g) Access to information is of importance to individuals because it can allay their fears and **enables them to assess the environmental danger to which they may be exposed.**

Guerra and Others v. Italy (Judgment) (19 February 1998), ECHR Application no. 116/1996/735/932, para. 60:

‘ ‘ 60. La Cour rappelle que des atteintes sévères des personnes et les privent de la jouissance de leur domicile de manière à nuire à leur vie privée et familiale (voir, *mutatis mutandis*, l'arrêt López Ostra précité, p. 54, § 51). En l'espèce, les requérantes sont restées, jusqu'à l'arrêt de 1994, dans l'attente d'informations essentielles qui leur auraient permis d'évaluer les risques pour elles et leurs proches du fait de continuer à résider sur le territoire de Manfredonia, une commune aussi exposée au danger en cas d'accident dans l'enceinte de l'usine. La Cour constate donc que l'Etat défendeur a failli respecter son obligation de garantir le droit à la vie privée et familiale, au mépris de l'article 8 de la Convention. Par conséquent, il y a eu violation de cette disposition.’ ’

^{xcvi} Council of Europe, *updated Manual on Human Rights and the Environment* (third edition 2021), Section A, Chapter V, paras.

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Guerra and Others v. Italy (Judgment) (19 February 1998), ECHR Application no. 116/1996/735/932, para. 60:

'' 60. La Cour rappelle que des atteintes à l'environnement peuvent nuire à la jouissance de leur domicile de manière à nuire à leur vie privée et familiale (voir, *mutatis mutandis*, l'arrêt López Ostra précité, p. 54, § 51). En l'espèce, les plaintes des requérants sont restées, jusqu'à l'

1994, dans l'attente d'informations essentielles qui leur auraient permis d'évaluer les risques pour elles et leurs proches du fait de continuer à résider sur le territoire de Manfredonia, une commune aussi exposée au danger en cas d'accident dans l'enceinte de l'usine.

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^{xcvii} *Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention)* (25 June 1998), Art. 5;

Article 5. ACCESS TO INFORMATION AND DISSEMINATION OF ENVIRONMENTAL INFORMATION

1. Each Party shall ensure that:

- Public authorities possess and update environmental information which is relevant to their functions;
- Mandatory systems are established so that there is an adequate flow of information to public authorities about proposed and existing activities which may significantly affect the environment;
- In the event of any imminent threat to human health or the environment, whether caused by human activities or due to natural causes, all information which could enable the public to take measures to prevent or mitigate harm arising from the threat and is held by a public authority is disseminated immediately and without delay to members of the public who may be affected.

2. Each Party shall ensure that, within the framework of national legislation, the way in which public authorities make environmental information available to the public is transparent and that environmental information is effectively accessible, inter alia, by:

- Providing sufficient information to the public about the type and scope of environmental information held by the relevant public authorities, the basic terms and conditions under which such information is made available and accessible, and the process by which it can be obtained;
- Establishing and maintaining practical arrangements, such as:
 - Publicly accessible lists, registers or files;
 - Requiring officials to support the public in seeking access to information under this Convention; and
 - The identification of points of contact; and
- Providing access to the environmental information contained in lists, registers or files as referred to in subparagraph (b) (i) above free of charge.

3. Each Party shall ensure that environmental information progressively becomes available in electronic databases which are easily accessible to the public through public telecommunications networks. Information accessible in this form should include:

- Reports on the state of the environment, as referred to in paragraph 4 below;
- Texts of legislation on or relating to the environment;
- As appropriate, policies, plans and programmes on or relating to the environment, and environmental agreements; and
- Other information, to the extent that the availability of such information in this form would facilitate the application of national law implementing this Convention, provided that such information is already available in electronic form.

4. Each Party shall, at regular intervals not exceeding three or four years, publish and disseminate a national report on the state of the environment, including information on the quality of the environment and information on pressures on the environment.

5. Each Party shall take measures within the framework of its legislation for the purpose of disseminating, inter alia:

- Legislation and policy documents such as documents on strategies, policies, programmes and action plans relating to the environment, and progress reports on their implementation, prepared at various levels of government;
- International treaties, conventions and agreements on environmental issues; and
- Other significant international documents on environmental issues, as appropriate.

6. Each Party shall 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, where appropriate within the framework of voluntary eco-labelling or eco-auditing schemes or by other means.

7. Each Party shall:

- Publish the facts and analyses of facts which it considers relevant and important in framing major environmental policy proposals;
- Publish, or otherwise make accessible, available explanatory material on its dealings with the public in matters falling within the scope of this Convention; and
- Provide in an appropriate form information on the performance of public functions or the provision of public services relating to the environment by government at all levels.

8. Each Party shall develop mechanisms with a view to ensuring that sufficient product information is made available to the public in a manner which enables consumers to make informed environmental choices.

9. Each Party shall take steps to establish progressively, taking into account international processes where appropriate, a coherent, nationwide system of pollution inventories or registers on a structured, computerized and publicly accessible database compiled through standardized reporting. Such a system may include inputs, releases and transfers of a specified range of substances and products, including water, energy and resource use, from a specified range of activities to environmental media and to on-site and off-site treatment and disposal sites.

10. Nothing in this article may prejudice the right of Parties to refuse to disclose certain environmental information in accordance with article 4, paragraphs 3 and 4."

^{xcviii} Council of Europe, *updated Manual on Human Rights and the Environment* (third edition 2021), Section A, Chapter V, para. (h):

‘ ‘ (h) Moreover, the Court has established criteria on the construction of the procedure that when public authorities engage in dangerous activities which they know involve adverse risks to health, they must establish an effective and accessible procedure to enable individuals to seek all relevant and appropriate information. Moreover, if environmental and health impact assessments are carried out, the public needs to have access to those study results. ’ ’

^{xcix} *Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters* (Aarhus Convention) (25 June 1998), Art. 4(1):

‘ ‘ Article 4 ACCESS TO ENVIRONMENTAL INFORMATION

1. Each Party shall ensure that, subject to the following paragraphs of this article, public authorities, in response to a request for environmental information, make such information available to the public, within the framework of national legislation, including, where requested and subject to subparagraph (b) below, copies of the actual documentation containing or comprising such information:

(a) Without an interest having to be stated;

(b) In the form requested unless:

(i) It is reasonable for the public authority to make it available in another form, in which case reasons shall be given for making it available in that form; or

(ii) The information is already publicly available in another form. ’ ’

UN Human Rights Council, Report of the Special Representative on Human Rights Obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, Annex I, paras. 11-15, *Annex I to the Report of the Special Representative on Human Rights and the Environment* (24 January 2018) UN Doc. A/HRC/37/59, p. 11:

‘ ‘ Framework principle 7

States should provide public access to environmental information by collecting and disseminating information and by providing affordable, effective and timely access to information to any person upon request.

Commentary

[...]

19. Second, States should provide affordable, effective and timely access to environmental information held by public authorities, upon the request of any person or association, without the need to show a legal or other interest. Grounds for refusal of a request should be set out clearly and construed narrowly, in light of the public interest in favour of disclosure. States should also provide guidance to the public on how to obtain environmental information.

^c Council of Europe, *updated Manual on Human Rights and the Environment* (third edition 2021), Section A, Chapter VI, para. (a):

‘ ‘ When making decisions which relate to the environment, public authorities must take into account the interests of individuals who may be affected. In this context, it is important that the public is able to make representations to the public authorities. ’ ’

^{ci} *Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters* (Aarhus Convention) (25 June 1998), Art. 6(8), 7, 8(c):

‘ ‘ Article 6 PUBLIC PARTICIPATION IN DECISIONS ON SPECIFIC ACTIVITIES

[...]

8. Each Party shall ensure that in the decision due account is taken of the outcome of the public participation. ’ ’

‘ ‘ Article 7 PUBLIC PARTICIPATION IN THE PREPARATION OF PLANS, PROGRAMMES AND POLICIES RELATING TO THE ENVIRONMENT

Each Party shall make appropriate practical and/or other provisions for the public to participate during the preparation of plans and programmes relating to the environment, within a transparent and fair framework, having provided the necessary information to the public. Within this framework, article 6, paragraphs 3, 4 and 8, shall be applied. The public which may participate shall be identified by the relevant public authority, taking into account the objectives of this Convention. To the extent appropriate, each Party shall endeavour to provide opportunities for public participation in the preparation of policies relating to the environment. ’ ’

‘ ‘ Article 8 PUBLIC PARTICIPATION IN THE PREPARATION OF EXECUTIVE REGULATIONS AND/OR GENERALLY APPLICABLE LEGALLY BINDING NORMATIVE INSTRUMENTS

Each Party shall strive to promote effective public participation at an appropriate stage, and while options are still open, during the preparation by public authorities of executive regulations and other generally applicable legally binding rules that may have a significant effect on the environment. To this end, the following steps should be taken:

(a) Time-frames sufficient for effective participation should be fixed;

(b) Draft rules should be published or otherwise made publicly available; and

(c) The public should be given the opportunity to comment, directly or through representative consultative bodies. The result of the public participation shall be taken into account as far as possible. ’ ’

^{cii} *Convention on Biological Diversity* (5 June 1992), 1760 UNTS 69:

‘ ‘ Article 14. Impact Assessment and Minimizing Adverse Impacts

1. Each Contracting Party, as far as possible and as appropriate, shall:

(a) Introduce appropriate procedures requiring environmental impact assessment of its proposed projects that are likely to have significant adverse effects on biological diversity with a view to avoiding or minimizing such effects and, where appropriate, allow for public participation in such procedures;

UN General Assembly, *Rio Declaration on Environment and Development* (12 August 1992), UN Doc. A/CONF.151/26 (Vol. I):

‘ ‘ Principle 17

Environmental impact assessment, as a national instrument, shall be undertaken for proposed activities that are likely to have a significant adverse impact on the environment and are subject to a decision of a competent national authority. ’ ’

Paris Agreement (2015):

'' Article 7

[...]

9. Each Party shall, as appropriate, engage in adaptation planning processes and the implementation of actions, including the development or enhancement of relevant plans, policies and/or contributions, which may include:

[...]

(c) The **assessment** of climate change impacts and vulnerability, with a view to formulating nationally determined prioritized actions, **taking into account vulnerable people, places and ecosystems**;''

Tătuș Romania, judgment of 27 January 2009:

112. [...] La Cour conclut que les autorités roumaines ont failli à leur **obligation d'évaluation préalable**

satisfaisante les risques éventuels de l'activité en question et de prendre des mesures pour protéger les droits de intéressés au respect de leur vie privée et de leur domicile et, plus généralement, à l'environnement sain et protégé.

Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention) (1991), UNTS vol. 1989, Art. 2(1):

'' Parties shall, either individually or jointly, take all appropriate and effective measures to **prevent, reduce** and control significant adverse transboundary environmental impact from proposed activities. ''

Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014 amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment:

(11) The measures taken **to avoid, prevent, reduce and, if possible, offset significant adverse effects on the environment**, in particular on species and habitats protected under Council Directive 92/43/EEC (1) and Directive 2009/147/EC of the European Parliament and of the Council (2), should contribute to avoiding any deterioration in the quality of the environment and any net loss of biodiversity, in accordance with the Union's commitments in the context of the Convention and the objectives and actions of the Union Biodiversity Strategy up to 2020 laid down in the Commission Communication of 3 May 2011 entitled 'Our life insurance, our natural capital: an EU biodiversity strategy'.

PROTOCOL ON STRATEGIC ENVIRONMENTAL ASSESSMENT TO THE CONVENTION ON ENVIRONMENTAL IMPACT ASSESSMENT IN A TRANSBOUNDARY CONTEXT, Kiev, 21 May 2003:

"With a view to promoting sustainable development and ensuring a high level of environmental protection, Member States should through strategic environmental assessment integrate environmental considerations into the preparation and adoption of plans and programmes which are likely to have significant effects on the environment".

^{ciii} Council of Europe, *updated Manual on Human Rights and the Environment* (third edition 2021), Section A, Chapter VI, para. (b):

'' **Where public authorities have complex issues of environmental and economic policy to determine, the decision-making process must involve appropriate investigations and studies in order to predict and evaluate in advance the effects on the environment and to enable them to strike a fair balance between the various conflicting interests at stake.** The Court has stressed the importance of public access to the conclusions of such studies and to information which would enable individuals **to assess the danger to which they are exposed.** However, this does not mean that decisions can be taken only if comprehensive and measurable data are available in relation to each and every aspect of the matter to be decided. ''

^{civ} Similar wording in *Guidelines of the Committee of Ministers to member States on the protection and promotion of human rights in culturally diverse societies* (Adopted by the Committee of Ministers on 2 March 2016 at the 1249th meeting of the Ministers' Deputies), p. 20, para. 50:

'' **Member States are encouraged, as far as possible, to enable** all relevant segments of society, **including non-governmental organisations**, to participate in the preparation and consideration of legislation so as to ensure inclusivity and the genuine recognition of the diversity within societies. ''

Similar wording in *Guidelines for civil participation in political decision making* (Adopted by the Committee of Ministers on 27 September 2017 at the 1295th meeting of the Ministers' Deputies), Chapter IV, para. 5.6: *the Ministers' Deputies*

'' IV. Fundamentals of decision-making participation in political decision-making
5. Civil participation should seek to provide, collect and channel views of individuals, directly or via **NGOs and/or representatives of civil society**, providing a substantive exchange of information and opinions which inform the **decision-making process** so that public needs are met. ''

Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention) (25 June 1998), Art. 2(5):

'' Article 2 DEFINITIONS

For the purposes of this Convention,

5. "The public concerned" means the public affected or likely to be affected by, or having an interest in, the environmental decision-making, - for the purposes of this definition, **non-governmental organizations promoting environmental protection and meeting any requirements under national law shall be deemed to have an interest.** ''

^{cv} Similar wording in *Guidelines of the Committee of Ministers to member States on the protection and promotion of human rights in culturally diverse societies* (Adopted by the Committee of Ministers on 2 March 2016 at the 1249th meeting of the Ministers' Deputies), p. 23, para. 68:

'' 68. Member States should take concrete measures to create an environment conducive to a vibrant civil society, including defenders of human rights, and **make consultation and collaboration with civil society a common practice when drafting policies and action plans at national, regional and local levels, with a view to protecting and promoting human rights** in culturally diverse societies. ''

^{cvi} Similar wording in *Guidelines of the Committee of Ministers to member States on the protection and promotion of human rights in culturally diverse societies* (Adopted by the Committee of Ministers on 2 March 2016 at the 1249th meeting of the Ministers' Deputies), p. 21, para. 59:

'' Participation and inclusion of youth

59. Member States should adopt policies or measures designed to promote youth participation in society, including the participation of young people belonging to vulnerable and minority groups. They should ensure a democratic and cultural environment of respect for young people and take into account their diverse needs, circumstances and aspirations. They should also encourage and support initiatives by young people which promote mutual respect, dialogue, inclusion and responsibility for others in culturally diverse societies.

Similar wording in *Revised European Charter on the Participation of Young People in Local and Regional Life* - Charter without the status of a convention, adopted by the Congress of Local and Regional Authorities of Europe (10th session – 21 May 2003 – Appendix to Recommendation 128), para. I.10(30):

"I.10. A policy for sustainable development and for the environment

[...]

30. Aware 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, local and regional authorities should support activities and projects which promote sustainable development and environmental protection and which involve young people and their organisations."

Similar wording in *Recommendation CM/Rec(2012)2 of the Committee of Ministers to member States on the participation of children and young people under the age of 18* (Adopted by the Committee of Ministers on 28 March 2012 at the 1138th meeting of the Ministers' Deputies)

' create opportunities for intergenerational dialogue in order to encourage mutual respect and co-operation; '

UN Conference on Environment and Development (Rio de Janeiro, 3-14 June 1992), Agenda 21, Chapter 25.4 :

' Chapter 25 CHILDREN AND YOUTH IN SUSTAINABLE DEVELOPMENT

25.4. Each country should, in consultation with its youth communities, establish a process to promote dialogue between the youth community and Government at all levels and to establish mechanisms that permit youth access to information and provide them with the opportunity to present their perspectives on government decisions, including the implementation of Agenda 21.'

Newsroom, *Young people must have their say in protecting the environment*, says Secretary General, 11 August 2021:

"On the occasion of International Youth Day, marked on 12 August, the Secretary General of the Council of Europe Marija Pejčinović Burić calls on young people in decision-making processes to tackle the climate crisis and to revitalise democracy.

"The consequences of climate change affect everyone, but will of course have the greatest impact on young people in decision-making processes. It is only right that young people are given a seat at the table in policy discussions on how to address the climate crisis and that they are both listened to and heard. Youth work and youth participation - as promoted by the Council of Europe - are important elements in that process", she said.

^{cvi} Similar wording in *Guidelines of the Committee of Ministers to member States on the protection and promotion of human rights in culturally diverse societies* (Adopted by the Committee of Ministers on 2 March 2016 at the 1249th meeting of the Ministers' Deputies), p. 21, para. 59:

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25.4. Each country should, in consultation with its youth communities, establish a process to promote dialogue between the youth community and Government at all levels and to establish mechanisms that permit youth access to information and provide them with the opportunity to present their perspectives on government decisions, including the implementation of Agenda 21.'

Newsroom, *Young people must have their say in protecting the environment*, says Secretary General, 11 August 2021:

"On the occasion of International Youth Day, marked on 12 August, the Secretary General of the Council of Europe Marija Pejčinović Burić calls for more meaningful processes to tackle the climate crisis and to revitalise democracy.

"The consequences of climate change affect everyone, but will of course have the greatest impact on young people in decision-making processes. It is only right that young people are given a seat at the table in policy discussions on how to address the climate crisis and that they are both listened to and heard. Youth work and youth participation - as promoted by the Council of Europe - are important elements in that process", she said.

^{cvi} Additional Protocol to the African Charter on Human and Peoples' Rights (Maputo Protocol) (11 July 2003), Article 18.

^{cix} Additional Protocol to the African Charter on the Rights of Women in Africa (Maputo Protocol) Peoples' Rights o
(11 July 2003), Article 18.

^{cx} Council of Europe, *updated Manual on Human Rights and the Environment* (third edition 2021), Section A, Chapter VII, para. (e):
' ' (e) Where public and complex questions of **environmental and economic policy**, they must ensure that the decision-making process takes account of the rights and interests of the individuals whose rights under Articles 2 and 8 may be affected. **Where such individuals consider that their interests have not been given sufficient weight in the decision-making process, they should be able to appeal to a court.** ' '

^{cxii} *Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention)* (25 June 1998), Art. 9(3):
' ' Article 9 ACCESS TO JUSTICE
3. In addition and without prejudice to the review procedures referred to in paragraphs 1 and 2 above, each Party shall ensure that, where they meet the criteria, if any, laid down in its national law, **members of the public have access to administrative or judicial procedures to challenge acts and omissions by private persons and public authorities which contravene provisions of its national law relating to the environment.** ' '

^{cxiii} *Convention on the Protection of Environment through Criminal Law* (1998), ETS No. 172, Art. 11:
' ' Art 11 Rights for groups to participate in proceedings
Each Party may, at any time, in a declaration addressed to the Secretary General of the Council of Europe, declare that it will, in accordance with domestic law, **grant any group, foundation or association which, according to its statutes, aims at the protection of the environment, the right to participate in criminal proceedings** concerning offences established in accordance with this Convention. ' '

^{cxiv} Council of Europe, *updated Manual on Human Rights and the Environment* (third edition 2021), Section A, Chapter VII, para. (f):
' ' (f) In addition to the right of access that persons, **who have an arguable claim that their rights and freedoms as set forth in the Convention have been violated, must have an effective remedy before a national authority.** ' '

^{cxv} Similar wording in *Guidelines of the Committee of Ministers to member States on the protection and promotion of human rights in culturally diverse societies (Adopted by the Committee of Ministers on 2 March 2016 at the 1249th meeting of the Ministers' Deputies)*, p. 22, para. 63:
' ' Member States must ensure access to justice and effective remedies before national rights are violated. **In order to ensure that this access to justice and remedies is provided on an equal footing in culturally diverse societies, member States are encouraged to establish appropriate legal aid schemes.** ' '
International Covenant on Civil and Political Rights (ICCPR) (16 December 1966), UN Doc. A/6316, 999 UNTS 17, Art. 2(3)(c):
' ' Article 2
3. Each State Party to the present Covenant undertakes:
[...]
(c) **To ensure that the competent authorities shall enforce such remedies when granted.** ' '

^{cxviii} *Convention on Civil Liability for Damage Resulting from Activities Dangerous to the Environment* (21 June 1993), ETS No. 150, Art. 2(8):
' ' Art 2-Definitions 2
8. "Measures of reinstatement" means any reasonable measures **aiming to reinstate or restore damaged or destroyed components of the environment, or to introduce, where reasonable, the equivalent of these components into the environment.** Internal law may indicate who will be entitled to take such measures. ' '
Convention on the Protection of Environment through Criminal Law (1998), ETS No. 172, Art. 6:
' ' Art 6-Sanctions for environmental offences
Each Party shall adopt, in accordance with the relevant international instruments, such appropriate measures as may be necessary to enable it to make the offences established in accordance with Articles 2 and 3 punishable by criminal sanctions which take into account the serious nature of these offences. The sanctions available shall include imprisonment and pecuniary sanctions and may include **reinstatement of the environment.** ' '

^{cxix} *Marangopoulos Foundation for Human Rights (MFHR) v. Greece* (Decision on the Merits), ECSR Complaint No. 30/2005, para. 235:
' ' 235. In this that the **mining industry is still one of the particularly dangerous industries in which workers' health and safety is at risk** and Greek law still classifies mining as an **arduous and hazardous occupation**. It therefore considers that, in addition to **preventive and protective measure**, the state was required to provide for compensation in this sector. ' '
EU Council Directive of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work (89/391/EEC), Articles 4.1 and 5.1.

^{cox} Council of Europe, *updated Manual on Human Rights and the Environment* (third edition 2021), Section B, Chapter I, paras. (a), (b):

'' (a) The right to just conditions of work is protected under Article 2 paragraph 4 guarantees workers the right to safe and healthy working conditions. **Where pollution may result in an infringement of these rights, States must adopt, apply, and effectively monitor safety and health regulations and provide additional benefits for workers engaged in dangerous or unhealthy occupations, such as mining.**

(b) Under Article 3 paragraph 1 of the 1961 Charter and Article 3 paragraph 2 of the Revised Charter, States are obliged to pay particular attention to workers exposed to the dangers of asbestos and ionizing radiation. States must **produce evidence that workers at risk are protected** up to a level at least equivalent to that set by international reference standards. ''

Marangopoulos Foundation for Human Rights (MFHR) v. Greece (Decision on the Merits), ECSR Complaint No. 30/2005, paras. 223, 224, 228, 231:

'' 2 2 3. The Committee ~~guarantees everyone the right to safe and healthy working conditions.~~ It considers that this right stems directly from the right to personal integrity (Conclusions I, statement of interpretation of Article 3, p. 22).

224. States' first obligation under Article 3 is to ensure the right to safe and healthy working standards of the highest possible level. Paragraph 1 of this article **requires them to issue health and safety regulations providing for preventive and protective measures against most of the risks** recognised by the scientific community and laid down in Community and international regulations and standards (Conclusions XIV-2, statement of interpretation of Article 3, pp. 36-37).

[...]

228. Based on the lack of effective supervision of health and safety regulations, the Committee recalls that the compliance with the Charter "cannot be ensured solely by the operation of legislation if this is not effectively applied and rigorously supervised" (*International Commission of Jurists v. Portugal*, decision cited above, §33). **The enforcement of health and safety regulations required by Article 3 §2 is therefore essential if the right embodied in Article 3 §1 is to be effectively protected.**

231. The Committee considers that in the areas such as the right to safety and health at work, which are so intimately linked with the physical integrity of individuals, **the state has a duty to 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.** In the present case, the Committee considers that Greece has failed to honour its obligation to effectively monitor the enforcement of regulations on health and safety at work particularly as the Government recognises the lack of inspectors and is unable to supply precise data on the number of accidents in the mining sector. ''

^{coxii} Council of Europe, *updated Manual on Human Rights and the Environment* (third edition 2021), Section B, Chapter II, para (a):

'' a) Article 11 on the right to protection of health ~~has been interpreted by the Committee as the right to a healthy environment.~~ The Committee has noted the complementarity between the right to health under Article 11 of the Charter and Articles 2 and 3 of the European Convention on Human Rights – given that health care is a prerequisite for human dignity – as well as Article 8 of the Convention. As a consequence, the Committee has concluded on several State reports regarding the right to health that **measures required under Article 11, paragraph 1, should be designed to remove the causes of ill health resulting from environmental threats such as pollution (principle of prevention).** Thus, not taking measures to avoid or reduce deterioration of the environment may amount to the infringement of specific social rights. ''

^{coxiii} Council of Europe, *updated Manual on Human Rights and the Environment* (third edition 2020), Section B, Chapter II, para (c):

'' **States are under an obligation to apply the precautionary principle when there are reasonable grounds to believe that there is a risk of serious damage to human health.** ''

International Federation of Human Rights Leagues (FIDH) v. Greece (Decision on the Merits) (23 January 2013) ESCR Complaint No. 72/2011, paras. 145, 150:

'' 1 4 5. The Committee also considers that according to Art 11 §3 of the Charter, the Government has a duty to take appropriate measures to prevent as far as possible activities which are detrimental to human health (diseases and accidents). The Committee is of the view that **where there are threats of serious damage to human health, lack of full scientific certainty should not be used as a reason for postponing appropriate measures.**

[...]

150. As far as the implementation of the right to protection of health is concerned, the Committee considers that, when a preliminary scientific evaluation indicates that there are reasonable grounds for concern regarding potentially dangerous effects on human health, **the State must take precautionary measures** consistent with the high level of protection established by Article 11. Where required, these measures must be taken in accordance to relevant decisions adopted by national jurisdictions. ''

^{coxiiii} Council of Europe, *updated Manual on Human Rights and the Environment* (third edition 2021), Section B, Chapter II, paras.

(d), (f), (g), (h), (i), (j), (k):

'' (d) States must make ~~publicly disseminate information about environmental harm~~ **through awareness-raising campaigns and education.**

(f) In order to combat air pollution, **in light of the right to a healthy environment, States are required to implement an appropriate strategy which should include the following measures:**

- 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;
- 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.

- (g) States must **take preventive and protective measures to ensure access to safe drinking water.**
 (h) States must **take measures to guarantee food safety in order to eliminate the threat posed by food-borne diseases and the outbreaks of such diseases.**
 (i) States must **adopt regulations and legal rules on the prevention and reduction of noise pollution.**
 (j) States are required to **protect their population against the consequences of nuclear accidents taking place abroad and having an effect within their territory.** Additionally, where the State receives (part of) its energy source from nuclear power plants, it is under the obligation to **prevent related hazards for the communities living in the potential risk areas.**
 (k) Under Article 11 States must apply a policy which **bans the use, production and sale of asbestos and products containing it.**

Marangopoulos Foundation for Human Rights (MFHR) v. Greece (Decision on the Merits), ECSR Complaint No. 30/2005, para. 203:

‘ ‘ 203. In order to fulfil their obligations, national authorities must therefore:
 –develop and regularly update sufficiently comprehensive environmental legislation and regulations (Conclusions XV-2, Addendum, Slovakia, pp. 201-205);
 –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 (Conclusions 2005, Moldova, Article 11§3, pp. 452-457);
 –ensure that environmental standards and rules are properly applied, through appropriate supervisory machinery (see, *mutatis mutandis*, International Commission of Jurists v. Portugal, aforementioned decision, § 33);
 –inform and educate the public, including pupils and students at school, about both general and local environmental problems (Conclusions 2005, Moldova, Article 11§2, pp. 450-452);
 –assess health risks through epidemiological monitoring of the groups concerned. ’ ’

^{cxiv} Council of Europe, *updated Manual on Human Rights and the Environment* (third edition 2021), Section B, Chapter III, para.

(a):
 ‘ ‘ (The) Committee has recalled that the right to housing under Article 31, Part I, of the Revised Charter, in conjunction with Article E on non-discrimination, includes the obligation of States to adopt measures to combat any forms of segregation on racial grounds in environmentally hazardous areas. States are required to assist disadvantaged and vulnerable groups in improving their living conditions and the environment, and to ensure housing in ecologically healthy surroundings. ’ ’

Recommendation Rec(2005)4 of the Committee of Ministers to member states on improving the housing conditions of Roma and Travellers in Europe (Adopted by the Committee of Ministers on 23 February 2005 at the 916th meeting of the Committee of Ministers, paras. 21, 34, 48 (see also: *Médecins du Monde - International v. France* (Decision on the Merits) (11 September 2012), ESCR Complaint No. 67/2011, para. 21):

‘ ‘ 21. Member states **combat any forms of segregation on racial grounds in environmentally hazardous areas.** This includes investing in the development of safe locations and taking steps to ensure that Roma communities have practical and affordable housing alternatives, so as to discourage settlements in, near or on hazardous areas.

[...]
 34. [...] Roma who are permanently and legally settled in derelict or unhealthy surroundings in order to **improve the sanitary conditions of their homes** (help for repairs, assistance in improving their living conditions and environment, measures to allow them better access to short-term loans for acquiring better housing, mediation in their relations with administrations or public services). ’ ’

[...]
 48. Member states, through their relevant authorities, should ensure that Roma housing is located in areas that are fit for habitation or suitable for construction under current legislation, and in **ecologically healthy surroundings.** Moreover, they should adopt measures that would enable Roma communities to react to unexpected events, such as natural disasters or epidemics, which often disproportionately affect **vulnerable groups** living in precarious settlements. The existing settlements which cannot be removed from unsuitable locations should be improved by appropriate and constructive environmental measures. ’ ’

^{cxv} Council of Europe, *updated Manual on Human Rights and the Environment* (third edition 2021), Section B, Chapter III, para.

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^{cxvii} *Convention on the Rights of the Child* (20 November 1989), 1577 UNTS 3, Art. 29(1)(e):

‘ ‘ Article 29

1. States Parties agree that the **education** of the child shall be directed to:

(e) **The development of respect for the natural environment.** ‘ ‘

Convention on the Conservation of European Wildlife and Natural Habitats (1979) ETS No. 104, Art. 3(3):

‘ ‘ Article 3

3. Each Contracting Party shall promote education and disseminate general information on **the need to conserve species of wild flora and fauna and their habitats.** ‘ ‘

Convention on Biological Diversity (5 June 1992), 1760 UNTS 69, Art. 13:

‘ ‘ Article 13 Education and Awareness

The Contracting Parties shall:

(a) **Promote and encourage understanding of the importance of and the measures required for, the conservation of biological diversity**, as well as its propagation through media, and the inclusion of these topics in educational programmes; and

(b) Cooperate, as appropriate, with other States and international organizations in developing educational and public awareness programmes, with respect to **conservation and sustainable use of biological diversity.** ‘ ‘

United Nations Framework Convention on Climate Change (UNFCCC) (1992), UNTS vol. 1771, Art. 6(a)(i):

‘ ‘ ARTICLE 6 EDUCATION, TRAINING AND PUBLIC AWARENESS

In carrying out their commitments under Article 4, paragraph 1 (i), the Parties shall:

(a) Promote and facilitate at the national and, as appropriate, subregional and regional levels, and in accordance with national laws and regulations, and within their respective capacities:

(i) the development and implementation of educational and public awareness programmes on **climate change and its effects;** ‘ ‘

United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa (14 October 1994), UNTS vol. 1954, Art. 19(3):

‘ ‘ Article 19 Building Education and public awareness

3. The Parties shall cooperate with each other and through competent intergovernmental organizations, as well as with non-governmental organizations, in undertaking and supporting public awareness and educational programmes in both affected and, where relevant, unaffected country Parties to promote understanding of the **causes and effects of desertification and drought** and of the importance of meeting the objective of this Convention.

UN Human Rights Council, ‘ Report of the Special Rapporteur on the issue of human rights obligations relating to a safe, clean, healthy and sustainable environment’, Annex with a Framework Principles on Human Rights and the Environment’ (January 2018) UN Doc. A/HRC/37/59, p. 10:

‘ Framework principle 6

States should provide for education and public awareness on environmental matters.

Commentary

15. States have agreed that the education of the child shall be directed to, among other things, the development of respect for human rights and the natural environment. Environmental education should begin early and continue throughout the educational process. It should **increase students’ understanding of the close relationship between humans and nature**, help them to appreciate and enjoy the natural world and **strengthen their capacity to respond to environmental challenges.**

Council of Europe, *updated Manual on Human Rights and the Environment* (third edition 2021), Appendix VI:

‘ ‘ Appendix VI: Good Practices aimed at protecting the environment and respecting the

European Convention on Human Rights and the European Social Charter

6. Providing education on environmental sustainability

[#.] Environmental education, **as a part of education promoting sustainable development (ESD)**, is vital in imparting an inherent respect for nature amongst society, in enhancing public environmental awareness and in building their capacity to respond to environmental challenges. The term often implies education within the school system, from primary to post-secondary. However, it sometimes includes all efforts to educate the public and other audiences, including print materials, websites, media campaigns, etc.’ ‘

UNESCO, *Berlin Declaration on Education for Sustainable Development*, World Conference held from 17 to 19 May 2021:

b) Integrate ESD into all levels of education and training from early childhood to tertiary and adult education, including technical and vocational education and training (TVET), and into non-formal education and informal learning, so that all individuals are provided with lifelong and life-wide learning opportunities for sustainable development;

^{cxviii} UN Human Rights Council, ‘ Report of the Special Rapporteur on the issue of human rights obligations relating to a safe, clean, healthy and sustainable environment’, Annex with a Framework Principles on Human Rights and the Environment’ (24 January 2018) UN Doc. A/HRC/37/59, p. 10:

‘ Framework principle 6

States should provide for education and public awareness on environmental matters.

Commentary

[...]

16. **Increasing the public awareness of environmental matters should continue into adulthood.** To ensure that adults as well as children **understand environmental effects on their health and well-being**, States should make the public aware of the specific **environmental risks that affect them** and how they may **protect themselves from those risks**. As part of increasing public awareness, States should build the capacity of the public to understand environmental

challenges and policies, so that they may fully exercise their rights to express their views on environmental issues (framework principle 5), understand environmental information, including assessments of environmental impacts (framework principles 7 and 8), participate in decision-making (framework principle 9) and, where appropriate, seek remedies for violations of their rights (framework principle 10). States should tailor environmental education and public awareness programmes to the culture, language and environmental situation of particular populations.'

Similar wording in *Recommendation CM/Rec(2019)1 of the Committee of Ministers to member States on preventing and combating sexism* (Adopted by the Committee of Ministers on 27 March 2019 at the 1342nd meeting of the Ministers' Deputies), para. I.B.4.:

' ' **Design, implement and promote regular national awareness-raising initiatives at all levels and through diverse forms of media** (for example the production of handbooks, guidelines, video clips available on the internet and in mainstream media, the introduction of a national day against sexism, the setting up of museums to celebrate gender equality and **where initiatives should aim to increase awareness and understanding among the general population, especially parents, of different forms of sexism, including phenomena such as "mansplaining", how to prevent and respond to them, and of the harm they generate for individuals and society**, including girls and boys.

Convention on the Conservation of European Wildlife and Natural Habitats (1979) ETS No. 104, Art. 3(3):

' ' Article 3

3. Each Contracting Party shall promote education and disseminate general information on the need to **conserve species of wild flora and fauna and their habitats**.

Convention on Biological Diversity (5 June 1992), 1760 UNTS 69, Art. 13(b):

' ' Article 13. Public Education and Awareness

The Contracting Parties shall:

(b) Cooperate, as appropriate, with other States and international organizations in developing **educational and public awareness programmes**, with respect to **conservation and sustainable use of biological diversity**.

United Nations Framework Convention on Climate Change (UNFCCC) (1992), UNTS vol. 1771, Art. 6(a)(i):

' ' ARTICLE 6 EDUCATION AND PUBLIC AWARENESS

In carrying out their commitments under Article 4, paragraph 1 (i), the Parties shall:

(a) **Promote** and facilitate at the national and, as appropriate, subregional and regional levels, and in accordance with national laws and regulations, and within their respective capacities:

(i) **the development and implementation of educational and public awareness programmes on climate change and its effects**;

United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa (14 October 1994), UNTS vol. 1954, Art. 19(3):

' ' Article-building, education and public awareness

3. The Parties shall cooperate with each other and through competent intergovernmental organizations, as well as with non-governmental organizations, in undertaking and supporting **public awareness and educational programmes** in both affected and, where relevant, unaffected country Parties to **promote understanding of the causes and effects of desertification and drought** and of the importance of meeting the objective of this Convention. [...]

Council of Europe, *updated Manual on Human Rights and the Environment* (third edition 2021), Appendix VI:

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^{cxix} *Hatton and Others v. the United Kingdom* (Judgment) (8 July 2003), ECHR Application no. 36022/97, para. 119;

Marangopoulos Foundation for Human Rights (MFHR) v. Greece (Decision on the Merits) (6 December 2006), ECSR Complaint No. 30/2005, para. 192:

' ' Regarding whether the matters complained of can be imputed to the state – the Committee notes that the DEH, which until its partial privatisation in 2001 was solely answerable to the Greek state, has private law status. However, as a signatory to the Charter, Greece is required to **ensure compliance with its undertakings**, irrespective of the legal status of the economic agents whose conduct is at issue. Moreover, the DEH's activities are clearly subject to the general legislation on the **environment** and under Act 2773/1999 on the liberalisation of the Greek electricity market, the Greek Government is required to supervise those activities. Finally, the state still holds a majority of the DEH's shares (51.12% in 2005).

UN Human Rights Council, *Guiding Principles on Business and Human Rights: Implementing the "Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises"*, endorses in *Commentary to Principle 8* (17 June 2011):

" States should not assume that businesses invariably prefer, or benefit from, State i **smart mix of measures – national and international, mandatory and voluntary** – to foster business respect for human rights."

UN Human Rights Council, ' 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:

' Framework principle 12

States should ensure the effective enforcement of their environmental standards against public and private actors.

Commentary

34. Governmental authorities must **comply** with the relevant environmental standards in their own operations, and they must also monitor and effectively enforce **compliance** with the standards by preventing, investigating, punishing and redressing violations of the standards by private actors as well as governmental authorities. **In particular, States must regulate business enterprises to protect against human rights abuses resulting from environmental harm** and to provide for remedies for such abuses. States should implement training programmes for law enforcement and judicial

officers to enable them to understand and enforce environmental laws, and they should take effective steps to prevent corruption from undermining the implementation and enforcement of environmental laws.

Recommendation CM/Rec(2016)3 of the Committee of Ministers to member States on human rights and business (Adopted by the Committee of Ministers on 2 March 2016 at the 1249th meeting, para. 18; the Ministers' Deputies)

13. Member States should:

- apply such measures as may be necessary to require business enterprises operating within their territorial jurisdiction to respect human rights;
- apply such measures as may be necessary to require, as appropriate, business enterprises domiciled in their jurisdiction to respect human rights throughout their operations abroad;
- encourage and support these business enterprises by other means so that they respect human rights throughout their operations.

^{cxviii} Final Declaration by the Georgian Presidency of the Committee of Ministers, Environmental Protection and Human Rights, High-Level Conference organised under the aegis of the Georgian Presidency of the Committee of Ministers (Strasbourg, 27 February 2020):

Development of National Policies and

[...]

The attainment of a sustainable future is impossible without collaborative and inclusive working relationships of diverse actors including corporations, civil society, human rights defenders and independent human rights bodies. 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 could set up suitable structures, mechanisms and processes to ensure responsible business conduct in respect of both human rights and environment.

^{cxviii} *Hatton et autres c. Royaume-Uni* (arrêt) (8 juillet 2003), CEDH, requête n° 36022/97, para. 119 ;

Fondation Marangopoulos pour les droits de l'homme (FMDH) c. Grèce (Décision sur le bien-fondé) (6 décembre 2006), CEDS, réclamation n° 30/2005, para. 192 :

En ce qui concerne le premier point - à savoir si les faits reprochés peuvent être imputés à l'État - le Comité note que la DEH, qui jusqu'à sa privatisation partielle en 2001 relevait uniquement de l'État grec, a un statut de droit privé. Or, en tant que signataire de la Charte, la Grèce est tenue de **veiller au respect de ses engagements**, quel que soit le statut juridique des agents économiques dont le comportement est en cause. En outre, les activités de la DEH sont clairement soumises à la législation générale sur **l'environnement** et, en vertu de la loi 2773/1999 sur la libéralisation du marché grec de l'électricité, le gouvernement grec est tenu de superviser ces activités. Enfin, l'État détient toujours une majorité des actions de la DEH (51,12 % en 2005).¹⁴

Conseil des droits de l'homme, Rapport du Représentant spécial du Secrétaire général chargé de la question des droits de l'homme et des sociétés transnationales avec *Principes directeurs relatifs aux entreprises, John Ruggie, Annexe entreprises et aux droits de l'homme* (protégées respectivement par des Nations Unies, *droit de référence* approuvés dans sa résolution 17/4 du 16 juin 2011, UN Doc. A/HRC/17/31: Commentaire du principe 3 :

« Les États ne devraient pas partir du principe que, **seulement pratiquement**, les entreprises bénéficient de son inaction, et ils devraient envisager un **assortiment judicieux de mesures - nationales et internationales, contraignantes et volontaires** - pour favoriser le respect des droits de l'homme par les entreprises.

Conseil des droits de l'homme, Rapport du Représentant spécial sur la question des obligations relatives aux droits de l'homme se rapportant aux moyens de bénéficier *Annexé avec « Principes-onnement sûr, propre, sain et d'cadres relatifs aux droits de »* (24 janvier 2018) UN Doc. A/HRC/37/50 *environnement*

« **Principe-cadre 12**

Les États devraient veiller à l'application effective de leurs normes environnementales

Commentaire

34. Les autorités publiques doivent **se conformer** aux normes environnementales applicables dans le cadre de leurs activités, et doivent également contrôler l'application de ces normes et les faire respecter. Elles doivent prévenir les violations de la part aussi bien des acteurs privés que de l'État, enquêter sur ces violations, identifier les auteurs et ordonner des mesures de réparation en faveur des victimes. **Elles doivent en particulier réglementer**

l'activité des entreprises et définir des mécanismes de recours de l'homme qui résulteraient de dommages environnementaux, et prévoir des voies de recours en cas de violation de cette nature. Elles doivent également

mettre des programmes de formation à l'ordre et du corps judiciaire pour permettre des forces de l'ordre de comprendre et de faire respecter les normes environnementales, et prendre des mesures efficaces pour empêcher que la corruption ne vienne faire obstacle à l'application et au respect des lois sur l'environnement.

Recommendation CM/Rec(2016)3 du Comité des Ministres aux États membres sur les droits de l'homme et les entreprises (adoptée par le Comité des Ministres le 2 mars 2016 lors de la 1249e réunion des Délégués des Ministres), para. 13 :

13. Les États membres devraient :

- appliquer les mesures qui peuvent être nécessaires pour obliger les entreprises commerciales opérant dans leur juridiction territoriale à respecter les droits de l'homme ;
- appliquer les mesures nécessaires pour exiger, le cas échéant, des entreprises commerciales domiciliées dans leur juridiction qu'elles respectent les droits de l'homme dans toutes leurs opérations à l'étranger ;
- encourager et soutenir ces entreprises commerciales par d'autres moyens afin qu'elles respectent les droits de l'homme tout au long de leurs opérations.

^{cxviii} *Recommendation CM/Rec(2016)3 of the Committee of Ministers to member States on human rights and business (Adopted by the Committee of Ministers on 2 March 2016 at the 1249th meeting, para. 20; the Ministers' Deputies)*

"Member States should apply such measures as may be necessary to encourage or, where appropriate, require that:

- **business enterprises domiciled within their jurisdiction apply human rights due diligence throughout their operations;**
- **business enterprises conducting substantial activities within their jurisdiction carry out human rights due diligence in respect of such activities;** ”

UN Human Rights Council, ' Report of the Special Rapporteur on the issue of human rights obligations re a safe, clean, healthy and sustainable environment', Annex with ' Principles on Human Rights and the Environment', January 2018) UN Doc. A/HRC/37/59:

' Framework principle 12

States should ensure the effective enforcement of their environmental standards against public and private actors.

Commentary

[...]

35. In accordance with the Guiding Principles on Business and Human Rights, the responsibility of business enterprises to respect human rights includes the responsibility **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**. Businesses should comply with all applicable environmental laws, issue clear policy commitments to meet their responsibility to respect human rights through environmental protection, implement human rights due diligence processes (including human rights impact assessments) to identify, prevent, mitigate and account for how they address their environmental impacts on human rights, and enable the remediation of any adverse environmental human rights impacts they cause or to which they contribute.

UN Human Rights Council, Report of the Special Representative of the Secretary General on the issue of human rights and transnational corporations and other business enterprises, John Ruggie, Annex with *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Prevent and Remedy" Framework* (21 March 2011), UN Doc. A/HRC/17/31

"Human rights due diligence

[...]

18. In order to gauge human rights risks, business enterprises should identify and assess any actual or potential adverse human rights impacts with which they may be involved either through their own activities or as a result of **their business relationships**. This process should:

(a) Draw on internal and/or independent external human rights expertise;

(b) Involve meaningful consultation with potentially affected groups and other relevant stakeholders, as appropriate to the size of the business enterprise and the nature and context of the operation.' "

^{cxviii} UN Human Rights Council, Report of the Special Representative of the Secretary General on the issue of human rights and transnational corporations and other business enterprises, John Ruggie, Annex with *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Prevent and Remedy" Framework* (21 March 2011), UN Doc. A/HRC/17/31

"III. Access to remedy

A. Foundational principle

25. **As part of their duty to protect against business-related human rights abuse, States must 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.** ' "

Recommendation *CM/Rec(2016)3* of the Committee of Ministers to member States on human rights and business (*Adopted by the Committee of Ministers on 2 March 2016 at the 1249th meeting of the Ministers' Deputies*)

' ' **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, an effective remedy before a national authority, including where such violation arises from business activity.** ' "

UN Human Rights Council, ' Report of the Special Rapporteur on the issue of human rights obligations re a safe, clean, healthy and sustainable environment', Annex with ' Principles on Human Rights and the Environment', (24 January 2018) UN Doc. A/HRC/37/59:

' Framework principle 12

States should ensure the effective enforcement of their environmental standards against public and private actors.

Commentary

34. Governmental authorities must comply with the relevant environmental standards in their own operations, and they must also monitor and effectively enforce compliance with the standards by preventing, investigating, punishing and redressing violations of the standards by private actors as well as governmental authorities. In particular, States must regulate business enterprises to protect against human rights abuses **resulting from environmental harm and to provide for remedies for such abuses.** [...]'

Convention on the Protection of Environment through Criminal Law (1998), ETS No. 172, Preamble, Art. 9:

' ' **Re cal environmental obligations** having serious consequences must be established as criminal offences subject to appropriate sanctions;

[...]

Article 9 – Corporate liability

1. Each Party shall **adopt such appropriate measures as may be necessary to enable it to impose criminal or administrative sanctions or measures on legal persons on whose behalf an offence referred to in Articles 2 or 3 has been committed by their organs or by members thereof or by another representative.**

2. Corporate liability under paragraph 1 of this article shall not exclude criminal proceedings against a natural person.' "

^{cxviii} Similar wording in *Recommendation CM/Rec(2018)11 of the Committee of Ministers to member States on the need to strengthen the protection and promotion of civil society space in Europe* (*Adopted by the Committee of Ministers on 28 November 2018 at the 1330th meeting of the Ministers' Deputies*), Appendix, para. 1(a):

' ' **Appendix to Recommendation CM/ Rec (2 0 1 8) 1 1**

I. National legal framework and political and public environment to protect and promote civil society space

Member States should:

^{cxvix} Decision. adopted by the Committee on the Rights of the Child, at its eighty-eight session (6-24 September 2021), under the Optional Protocol to the Convention on the Rights of the Child on a communications procedure in respect of Communication No. 107/2019:

9.13 [...] The Committee consider **particularly impacted by the effects of climate change, both in terms of the manner in which they experience such effects as well as the potential of climate change to affect them throughout their lifetime**, in particular if immediate action is not taken. Due to the particular impact on children, and the recognition by States parties to the Convention that children are entitled to **special safeguards, including appropriate legal protection**, states have heightened obligations to protect children from foreseeable harm.³⁰

³⁰ Preamble; A/HRC/31/52, para. 81, CRC Report of the 2016 day of general discussion 'Rights and the Environment', p. 23

^{cx} Decision. adopted by the Committee on the Rights of the Child, at its eighty-eight session (6-24 September 2021), under the Optional Protocol to the Convention on the Rights of the Child on a communications procedure in respect of Communication No. 107/2019:

9.13 [...] The Committee consider **particularly impacted by the effects of climate change, both in terms of the manner in which they experience such effects as well as the potential of climate change to affect them throughout their lifetime**, in particular if immediate action is not taken. Due to the particular impact on children, and the recognition by States parties to the Convention that children are entitled to **special safeguards, including appropriate legal protection**, states have heightened obligations to protect children from foreseeable harm.³⁰

³⁰ Preamble; A/HRC/31/52, para. 81, CRC Report of the 2016 day of general discussion 'Rights and the Environment', p. 23

^{cxii} Similar wording in *Recommendation CM/Rec(2019)4 of the Committee of Ministers to member States on supporting young refugees in transition to adulthood (Adopted by the Committee of Ministers on 24 April 2019 at the 1344th meeting of the Ministers' Deputies)*, para. II(22):

Member States should pay particular attention to the health and psychological needs of young refugees who arrived in Europe as unaccompanied and separated children, due to their particular vulnerability.

^{cxiii} UN Human Rights Council, 'Report of the Special Rapporteur on the issue of human rights obligations of a safe, clean, healthy and thus fair and equitable environment and the right to a safe, clean, healthy and thus fair and equitable environment' (24 January 2018) UN Doc. A/HRC/37/59, para. 43:

Framework principle 14

[...]

Commentary

[...]

4 For example, States should develop **disaggregated data on the specific effects of environmental harm on different segments of the population**, conducting additional **research** as necessary, to provide a basis for ensuring that their laws and policies adequately protect against such harm. States should take effective measures to raise the awareness of environmental threats among those persons who are most at risk. In monitoring and reporting on environmental issues, States should provide detailed information on the threats to, and status of, the most vulnerable. Assessments of the environmental and human rights impacts of proposed projects and policies must include a careful examination of the impacts on the most vulnerable, in particular. In the case of indigenous peoples and local communities, assessments should be in accord with the guidelines adopted by the Conference of Parties to the Convention on Biological Diversity [...].

^{cxiiii} Similar wording in *Recommendation CM/Rec(2019)4 of the Committee of Ministers to member States on supporting young refugees in transition to adulthood (Adopted by the Committee of Ministers on 24 April 2019 at the 1344th meeting of the Ministers' Deputies)*, para. II(22):

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^{cxv} UN Human Rights Council, 'Report of the Special Rapporteur on the issue of human rights obligations of a safe, clean, healthy and thus fair and equitable environment and the right to a safe, clean, healthy and thus fair and equitable environment' (24 January 2018) UN Doc. A/HRC/37/59, para. 43:

Framework principle 14

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Commentary

[...]

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cxlv Formulation similaire dans la Recommandation CM/Rec(2019)4 du Comité des Ministres aux États membres sur l'aide aux jeunes réfugiés en transition vers l'âge adulte (adoptée par le Comité des Ministres le 24 avril 2019 lors de la 1344^e réunion des Délégués des Ministres), Annexe, para. II(22) :

« 22. **Les États membres devraient veiller tout particulièrement aux besoins médicaux et psychologiques des jeunes réfugiés arrivés en Europe en qualité d'enfants non accompagnés et séparés, en raison particulière.** »

cxvii Conseil des droits de l'homme, Rapport du Rapporteur spécial sur la question des obligations relatives aux droits de l'homme imposant aux moyens de bénéficier d'un environnement sûr, propre, sain et durable, cadres relatifs aux droits (24 janvier 2018) (UN Doc. A/HRC/37/59) : environnement

« Principe-cadre 14

[...]

Commentaire

[...]

43. Les États devraient par exemple compiler des données ventilées sur les conséquences particulières qu'ont les dommages environnementaux pour différents segments de population, en menant si besoin des recherches plus approfondies, de leur législation et leurs politiques, et garantir une protection suffisante contre ces dommages. Ils devraient prendre des mesures efficaces pour sensibiliser les personnes les plus exposées aux menaces liées à l'environnement. Dans le cas des peuples autochtones et des communautés locales, les études réalisées devraient de rapports à ce sujet, ils devraient communiquer des renseignements détaillés sur les menaces qui pèsent sur les populations les plus vulnérables et sur qu'elles sont les plus affectées. Dans ces cas, il est primordial de consulter et d'écouter les voix de ces populations et de leur permettre de participer à la politique en question en particulier sur l'environnement et les droits de l'homme la réalisation de tel ou tel projet ou programme de développement. Dans le cas des peuples autochtones et des communautés locales, les études réalisées devraient être conformes aux directives adoptées par la Conférence des Parties à la Convention sur la diversité biologique[...].

cxviii Similar wording in *Guidelines of the Committee of Ministers to member States on the protection and promotion of human rights in culturally diverse societies* (Adopted by the Committee of Ministers on 2 March 2016 at the 1249th meeting of the Ministers' Deputies), para. 78:

' **Member States should consider encouraging public authorities, including at local and regional level, to adopt a strategic approach towards the human rights challenges of culturally diverse societies by integrating the relevant issues into the related action plans** adopted at national level. ' '

cxix Final Declaration by the Georgian Presidency of the Committee of Ministers, Environmental Protection and Human Rights, High-Level Conference organised under the aegis of the Georgian Presidency of the Committee of Ministers (Strasbourg, 27 February 2020):

' **Development of National Policies and Actions**

[...]

In developing their legislations, policies, strategies and actions, Member States could build upon and implement the afore-mentioned legal instruments and activities of the Council of Europe. ' '

cxix Final Declaration by the Georgian Presidency of the Committee of Ministers, Environmental Protection and Human Rights, High-Level Conference organised under the aegis of the Georgian Presidency of the Committee of Ministers (Strasbourg, 27 February 2020):

' **Development of National Policies and Actions**

[...]

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. [...]. ' '

cli Le Club des Juristes, Draft Project 'Global Pact for the Environment' (Paris, 24 June 2017)

" Article 13

Research and innovation

The Parties shall promote, to the best of their ability, the improvement of scientific knowledge of ecosystems and the impact of human activities. They shall cooperate through exchanges of scientific and technological knowledge and by enhancing the development, adaptation, dissemination and transfer of technologies respectful of the environment, including innovative technologies. "

clii Similar wording in *Guidelines of the Committee of Ministers to member States on the protection and promotion of human rights in culturally diverse societies* (Adopted by the Committee of Ministers on 2 March 2016 at the 1249th meeting of the Ministers' Deputies), para. 79:

Indicators

' **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** culturally diverse societies. Adequate systems should be established to monitor the provision of health care, education or social services and social aid. ' '

cliii Final Declaration by the Georgian Presidency of the Committee of Ministers, Environmental Protection and Human Rights, High-Level Conference organised under the aegis of the Georgian Presidency of the Committee of Ministers (Strasbourg, 27 February 2020):

' **Political Coordination among Member States**

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.**

As a first step, the Organisation 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.