



To the attn. of:

Ministers of Foreign Affairs of Member States of the Council of Europe

Ministers for the Environment of Member States of the Council of Europe

13 January 2025

Dear Ministers,

COUNCIL OF EUROPE: TIME FOR ACTION WITH A PROTOCOL ON THE RIGHT TO A CLEAN, HEALTHY AND SUSTAINABLE ENVIRONMENT

I am writing to you on behalf of Amnesty International to encourage you to take action to ensure the recognition of the right to a clean, healthy and sustainable environment in relation to the Council of Europe's (CoE) Committee of Minister's (CoM) forthcoming decision in relation to the Steering Committee for Human Rights (CDDH) Study on the need for and feasibility of a further instrument or instruments in the field of human rights and the environment adopted at its 101st meeting on 25-29 November 2024.¹

In the Study's conclusions in paragraph 132, the CDDH suggests that the CoM considers the following action:

- Exploring the extent of political support for each of the options identified by CDDH for further work in the field of human rights and the environment, including whether to begin drafting a new instrument, whether legally binding or otherwise, guaranteeing the human right to a healthy environment, and the most appropriate form of any instrument.
- Instructing the CDDH to conduct further analysis regarding the nature, content and implications of the human right to a clean, healthy and sustainable environment with a view to further informing whether the right should be the subject of a new instrument and if so, the most appropriate form of the instrument.

Amnesty International urges you to demonstrate leadership on this important issue by supporting the drafting of a legally binding instrument guaranteeing the human right to a healthy environment. Almost two years after the Reykjavik Summit at which the Reykjavik Declaration was adopted and over three years since the beginning of the work by the CDDH-ENV in November 2021, it is high time for the CoM to move beyond reflection and adopt the bold decisions that are needed. Various states have already expressed support for the drafting of an additional Protocol to the European Convention on Human Rights (ECHR) on the Right to a Healthy Environment. By aligning with them, you would help galvanise wider support for the effective legal protection of the right to a healthy environment. Amnesty International, along with over 450 other civil society organisations also campaigning for the legal recognition of the right to a healthy environment, expects that the CoM will take the ambitious decisions needed on environment and human rights, as mandated by the Reykjavik Declaration. This is why we urge you to play a leadership role to ensure the legal recognition of the right to a healthy environment.

In our view, the most effective option would be a combination of instruments, specifically an additional Protocol to the ECHR and the establishment of the Reykjavik Committee on Environment and Human Rights. An additional Protocol to the ECHR is the most effective instrument to ensure, as a binding legal obligation, the right to a clean, healthy and sustainable environment by CoE member states, while an "ECRI-style" Reykjavik Committee on

¹ CDDH Study on the need for and feasibility of a further instrument or instruments in the field of human rights and the environment, CoE Doc: CDDH(2024)R101 Addendum 2, <https://rm.coe.int/steering-committee-for-human-rights-cddh-cddh-study-on-the-need-for-an/1680b2b196>

Environment and Human Rights, composed of independent experts, would deliver policy guidance to member states on such critical matters, especially in the interim period until a binding Protocol comes into force.

Adoption of an Additional Protocol to the European Convention on Human Rights

An additional Protocol would reinforce existing obligations to respect, protect, and fulfil the human right to a clean, healthy, and sustainable environment and would help close the gap between the European human rights framework and that of other regions, such as Africa and the Americas. The Protocol would also inspire more legislative and policy standards at national level that recognize the growing urgency of protecting, respecting and fulfilling the right to a healthy environment. It would encourage those CoE member states that have not yet legally recognized the right at the national level to affirm its recognition, promoting an equitable and shared responsibility among member states in protecting a healthy environment.

The triple planetary crisis of climate change, biodiversity loss, and pollution, and the increasing impact of environmental degradation on human rights have led to an increase in related cases at the European Court of Human Rights (ECtHR), a trend that is expected to continue. While the ECtHR has already affirmed states' obligations to protect existing human rights - such as the right to life (Article 2 ECHR) and to private and family life (Article 8) - against environmental hazards, thereby creating a growing body of environmental human rights case law,² an additional Protocol would help consolidate the ECtHR's jurisprudence, contributing to greater legal certainty.

The explicit protection of the right to a clean, healthy, and sustainable environment under the ECHR would clarify member states' obligations to undertake protection measures and policies. The protection of this right is especially crucial for those who face the greatest risk of environmental harm, such as children, young people, women, Indigenous Peoples, national minorities, Roma, racialized individuals, individuals living in poverty, persons living with disabilities, older persons, refugees and migrants, displaced people, and other disproportionately impacted groups.

Recognizing this overarching right would reinforce the existing legal framework, affirming the fundamental importance of a clean, healthy, and sustainable environment to all aspects of human dignity, equality, and freedom. In line with the subsidiary nature of the ECHR's protection system, it would provide the ECtHR with an additional legal basis in cases involving states that ratify the additional Protocol.

The 9 April 2024 ECtHR judgment in *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* was the first substantive ruling of the ECtHR to outline states' duty to safeguard human rights, as guaranteed in the ECHR, in the context of a climate crisis worsening at a rapid pace. The ECtHR found that "In line with the international commitments undertaken by the member States, most notably under the UNFCCC and the Paris Agreement, and the cogent scientific evidence provided, in particular, by the IPCC (...), the Contracting States need to put in place the necessary regulations and measures aimed at preventing an increase in GHG concentrations in the Earth's atmosphere and a rise in global average temperature beyond levels capable of producing serious and irreversible adverse effects on human rights, notably the right to private and family life and home under Article 8 of the Convention."³ The *KlimaSeniorinnen* ruling adds to an increasing body of international and regional jurisprudence on states' obligations to respect, protect and fulfil human rights eroded by the climate crisis.

While the ECtHR explicitly acknowledged the relevance of the increasing international recognition of the right to a clean, healthy and sustainable environment⁴ it was not within the ECtHR's remit "to determine whether the general trends regarding the recognition of such a right give rise to a specific legal obligation".⁵ This reinforces the need for the CoE to urgently move from a political to a formal legal recognition of the right to a healthy environment by enshrining this right in the Convention. [OBJ/06/06]

Under a legally binding Protocol, the protection of the right to a clean, healthy, and sustainable environment would

² See for example, [Manual On Human Rights And The Environment](#) (3rd edition), Council of Europe, February 2022.

³ *KlimaSeniorinnen* (previously cited), ¶ 546.

⁴ *KlimaSeniorinnen* (previously cited), ¶ 543.

⁵ *KlimaSeniorinnen* (previously cited), ¶ 448.

send a powerful message, both at national and international level, reaffirming member states' commitment to address the triple planetary crisis. It would also send an unequivocal message of solidarity to environmental human rights defenders who face threats and reprisals in connection with their work, and all too often, risk their lives.

Establishment of the Reykjavik Committee with the inclusion of independent experts

While an additional Protocol to the ECHR is negotiated and adopted, there are other important steps that can be taken in conjunction to begin strengthening the recognition of the right to a healthy environment at national and regional levels. Amnesty International has been calling for the establishment of the Reykjavik Committee on Environment and Human Rights, announced by the CoE Heads of State and Government in the Reykjavik Declaration in May 2023.⁶ The Reykjavik Committee should begin the process of integrating “the political recognition of the right to a clean, healthy and sustainable environment as a human right” that was made in Reykjavik into policy recommendations for member states.

The Reykjavik Committee should be part of the “Reykjavik Process”, in which CoE member states committed to “reflecting on the nature, content and implications of the right to a clean, healthy and sustainable environment.” Worryingly, little is still known of any plans to establish it with a meaningful mandate.

The Reykjavik Committee could be established, as an “ECRI-style” committee with independent experts, by a Resolution of the Committee of Ministers, similarly to previous resolutions establishing the European Commission against Racism and Intolerance (ECRI) and the Commissioner for Human Rights. This committee should be mandated to issue general policy recommendations on the environment and human rights to member states and to perform cyclical reviews of their implementation by all member states alike. Amnesty International urges member states to include the operationalization of such a committee, with a composition that necessarily includes independent experts, in the CoE's environment strategy and work plan that is currently being drafted by the Ad Hoc Multidisciplinary Group on Environment (GME).

The magnitude of the challenge that lies ahead requires immediate and unwavering commitment from the CoE and its member states to deliver urgent and ambitious solutions.

In the light of the urgency of the triple planetary crisis, the CoE and its member states are now asked to provide political leadership after the long reflection held by the CDDH. At this critical juncture, your support for the adoption of a legally binding protocol to the ECHR, along with the establishment of the Reykjavik Committee on Environment and Human rights, with independent experts is/would be critical. Only by taking these steps can the CoE and its member states begin to address the greatest challenge facing our planet, for the sake of all humanity.

We look forward to hearing from you and remain at your disposal should you wish to discuss this matter further.

Yours sincerely,

Amnesty International

⁶ “Reykjavik Declaration: United around our values”, adopted at the Reykjavik Summit of Heads of State and Government of the Council of Europe, 16-17 May 2023, <https://edoc.coe.int/en/the-council-of-europe-in-brief/11619-united-around-our-values-reykjavik-declaration.html>