

The Right to a Clean and Healthy Environment in the European Human Rights System: The Impact of the Russia-Ukraine War (Part I)

**Chiara Innocenti, Elisabedi Koridze, Jasmin Kaur
Rajwant, Megan Howlett-Farmer, Giulia Villa, Phathisani
Sibanda, Uliana Kalinina, Zurab Kochladze**

Europe Team – 19.09.2025



Source: A tank that is sitting in the grass © Mykhailo Volkov / Unsplash, 2022.



Riviermarkt 5, 2513 AM The Hague, Netherlands



+ 31 62 72 41006



info@ghrd.org



<https://www.ghrd.org>

CONTENTS

INTRODUCTION	5
1. RIGHT TO A CLEAN AND HEALTHY ENVIRONMENT IN THE EUROPEAN HUMAN RIGHTS SYSTEM	6
1.1 Environmental Protection Under the ECHR	6
1.1.1 <i>History and Context</i>	6
1.1.2 <i>General Observations</i>	7
1.1.3 <i>Article 2 ECHR</i>	9
1.1.4 <i>Article 8 ECHR</i>	10
1.1.5 <i>Article 1 Protocol 1 ECHR</i>	11
1.2 Calls for Recognition of the Right to a Clean and Healthy Environment	12
1.3 Concluding Remarks	15
2. GLOBAL AND COMPARATIVE PERSPECTIVES	16
2.1. Regional System	16
2.1.1 <i>African Regional System</i>	16
2.1.2 <i>Inter-American Regional System</i>	18
2.2 Soft Law Progress	20
2.2.1 <i>Right to a clean and healthy environment in International Soft Law</i>	20
2.2.2 <i>Customary International Law</i>	22
CONCLUSION	24

Abbreviations	Full terms
ACHR	The American Convention on Human Rights
CESR	The Center for Economic and Social Rights
CoE	Council of Europe
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
ESC	Economic, Cultural, and Social Rights
EU	European Union
IAC	International Armed Conflict
IACtHR	The Inter-American Court of Human Rights
ICJ	International Court of Justice
ICC	International Criminal Court
LAC	Latin America and the Caribbean
NGO	Non-governmental organisation
SERAC	The Social and Economic Rights Action Center
TFEU	Treaty on the Functioning of the European Union
UK	The United Kingdom
UNCED	The United Nations Conference on Environment and Development
UNEP	The United Nations Environment Programme
UNGA	United Nations General Assembly
UN	United Nations
US	The United States

INTRODUCTION

The right to a clean, healthy, and sustainable environment has recently become even more important within the international human rights system. This right is crucial because it is connected to the life, health, safety, and dignity of all people. When the environment is polluted, degraded, or destroyed, it is very hard for people to survive, especially in areas where there is an ongoing armed conflict. Unfortunately, this right is still not fully protected in legal terms, and even less so during armed conflict. Environmental harm that is caused by war is often ignored or seen as less urgent, even when it has a long-lasting and serious impact on civilians.

The ongoing war in Ukraine, which started in 2022 when Russia invaded Ukraine, has caused not only massive human suffering but also great damage to the environment. For example, air and water are more polluted because of the war, the forests and the biodiversity in general are destroyed, and the attacks on energy and industrial infrastructure can cause huge damage to the environment and human beings. Sometimes, people harm the environment accidentally, but when it comes to armed conflict, they are not accidental anymore, some of them are directly linked with military strategies. Whether the damage to the environment is caused accidentally or with intent, the result is the same, people are forced to live in unsafe, unhealthy conditions, and sometimes they even have to leave their own homes.

The United Nations General Assembly (UNGA) recognised the right to a healthy environment in 2022, but to this day, there is no clear legal enforcement, especially when it comes to war. People should keep in mind that the environmental destruction that happens during armed conflicts is not just a problem for the future, it is already hurting a lot of people, especially vulnerable communities, minorities, and displaced persons.

This report is divided into three parts. The first part delves deeper into the European human rights system and how it deals with the right to a clean and healthy environment. The first part of the report aims to discuss the history of environmental protection under Articles 2 and 8 of the European Convention on Human Rights (ECHR), as well as the case law of the European Court of Human Rights (ECtHR), and finally explain why society needs to recognise the right to a clean and healthy environment. This report will be followed by the second part of the report, with more focus on the ongoing war in Ukraine, the environmental destruction caused by the war, and legal gaps. The third part of this report also provides global and comparative perspectives on this issue and policy recommendations.

1. RIGHT TO A CLEAN AND HEALTHY ENVIRONMENT IN THE EUROPEAN HUMAN RIGHTS SYSTEM

1.1 Environmental Protection Under the ECHR

1.1.1 History and Context

The European Convention on Human Rights (ECHR), adopted on November 5th, 1950 is the core document granting individual fundamental rights on the European continent. It is a landmark legal instrument but also a product of its time. Following the horrors of the Second World War, a period marked by totalitarianism and widespread state-sponsored abuse, the matter of safeguarding civil liberties and human rights through an external legal mechanism sat at the forefront of the Council of Europe's political agenda (Pedersen, 2008). Article 1 of the Convention obliges all High Contracting Parties to "secure to everyone within their jurisdiction the rights and freedoms defined in Section I", underscoring its universal and binding effect. The Convention, in its initial form, provided for comprehensive protection of civil and political rights, while the Council had deliberately excluded the category of economic, cultural, and social (ESC) rights (Schabas, 2015). Ideological tensions between the global superpowers were rampant during the drafting period of the Convention, with ESC rights perceived as being more aligned with socialist models of collectivity and an unjustifiable disruption to state sovereignty, particularly in the sensitive realm of economic planning and redistribution. As a result, the Convention's architecture did not anticipate the complexities of modern-day rights claims that transcend neat categorical boundaries, such as those arising from environmental degradation and ecological collapse. As such, the Convention has been hailed as a largely "personal injury-based" legal system, with a purpose of addressing highly individualised harms (Dupuy and Vinuales, 2018).

The protection of the environment was not a pressing matter during the period that the Convention was drafted. The prevailing priorities for decision-makers were post-war reconstruction, the prevention of future atrocities, and the consolidation of democratic governance and the rule of law. Industrialisation was seen as a symbol of progress in the West following the total devastation the war had left in its wake. Environmental degradation was regarded as a necessary cost of economic revitalisation. It was not until the 1960s, a decade after the adoption of the Convention, that environmental issues began to gain sustained public attention, with publications such as Rachel Carson's *Silent Spring* exposing the ecological impacts of industrial pollution and the dire need for environmental regulation (Carson, 1962). Its impact marked the beginning of environmental protection as a serious political and legal agenda, an agenda that had been virtually absent during the drafting of the ECHR.

1.1.2 General Observations

Consequently, environmental considerations within the European human rights architecture have had to creep in through the back door, through reinterpretations and judicial ingenuity. In stark contrast to other regional frameworks, such as the African Charter of Human and People's Rights and the San Salvador Protocol to the American Convention on Human Rights, the Convention does not provide for an explicit right to a healthy environment or satisfactory environment. Unlike regions such as Africa and Latin America, where environmental degradation has been closely tied to issues of livelihood, Indigenous rights and social justice (Amechi, 2009). European legal traditions have tended to treat environmental matters as distinct from fundamental rights, thereby limiting their formal incorporation into the human rights framework.

However, the European Court of Human Rights (ECtHR) has repeatedly referred to the Convention as a “living instrument” to be interpreted evolutively in light of present-day conditions (*Tyrer v United Kingdom*, App no 5856/72, ECtHR, 25 April, 1978 [31]). The protection of the environment, in the ECtHR's jurisprudence, has therefore relied on the Court finding violations of existing Convention rights. Most notably, it has found violations under Article 2 (the right to life) in cases where environmental risks posed a direct threat to human life and under Article 8 (the right to respect for private and family life) when pollution or other environmental disturbances significantly interfered with individuals' well-being and home life. Additionally, the right to peaceful enjoyment of one's possessions under Protocol 1, Article 1, has been invoked in cases involving environmental degradation that impacts property value or usability. In certain instances, Article 6 (the right to a fair trial) has also been engaged where individuals have been denied access to justice in environmental matters. However, this report does not undertake a detailed analysis of Article 6 jurisprudence, as such claims predominantly concern procedural guarantees rather than substantive environmental protection.

The Convention imposes both positive and negative obligations to protect the effective exercise of individuals' rights (*Öneryıldız v Turkey* App no 48939/99 (ECtHR, 30 November, 2004) [71]). The latter is an obligation of non-interference, that State organs refrain from causing direct violations of Convention rights. In the environmental context, this negative obligation can be illustrated by a scenario in which the State operates a state-owned chemical factory which discharges into a nearby lake, adversely impacting the health and well-being of local residents. In such a case, the State's active role in causing environmental harm could constitute a direct violation of rights protected under the Convention, such as the right to private and family life, or even the right to life, depending on the severity of the health risks involved. The former refers to the State's duty to take proactive measures to ensure the effective protection of these rights.

The content of this duty in cases involving environmental causation has been articulated by the Court in *Oneryildiz*,

[...] this obligation indisputably applies in the particular context of dangerous activities, where, in addition, special emphasis must be placed on regulations geared to the special features of the activity in question, particularly with regard to the level of the potential risk to

human lives. They must govern the licensing, setting up, operation, security and supervision of the activity and must make it compulsory for all those concerned to take practical measures to ensure the effective protection of citizens whose lives might be endangered by the inherent risks (para 90).

This reasoning is reflective of the structural dimension of positive obligations. It is not sufficient for the State to merely regulate potentially hazardous industrial or regulatory activities, they must monitor and enforce those regulations.

This was further affirmed in the case of *Budayeva and Others v Russia*, where the Court was tasked with assessing whether the State's failure to mitigate recurrent mudslides, following the death of a resident and the imminent risk posed to the population of Tyrnauz, had constituted a violation of Article 2 (App. nos 15339/02 and others, ECtHR, 20 March, 2008). The Court, having referenced the judgement in *Oneryildiz*, also emphasised the positive obligation to adopt a regulatory framework and inform the public of potentially life-endangering environmental emergencies. Crucially, the Court went further by emphasising the State's responsibility to identify and address procedural deficiencies and to determine individual or institutional accountability in the aftermath of such life-threatening events (paras 128-135).

This procedural dimension has been further clarified in the Court's reasoning in *Dubetska and Others v. Ukraine*, where it held that when scrutinising environmental decision-making, it would assess whether the authorities had conducted adequate studies to evaluate risk, whether a coherent and enforceable policy vis-à-vis polluters was in place, and the extent to which affected individuals had access to relevant information coupled with the ability to challenge the authorities' decisions in an effective manner (App no 30499/03, ECtHR, 10 February, 2011; *Hatton v United Kingdom* App no 36022/97, ECtHR, 8 July, 2003 [128]; *Giacomelli v Italy* App no 59909/00, ECtHR, 2 November, 2006, [86]; *Ledyayeva and Others v Russia* App nos 53157/99, 53247/99, 53695/00 and 56850/00 (ECtHR, 26 October, 2006) [128]; *Guerra and Others v Italy* App no 14967/89, ECtHR, 19 February, 1998, [60]; *Taşkın and Others v Turkey* App no 46117/99, ECtHR, 10 November, 2004 [119]). The Court reiterated that Convention rights must be practical and effective and that a fair balance may not be met not only by the lack of regulatory frameworks but also by their ineffective application (*Moreno Gómez v Spain* App no 4143/02, ECtHR, 16 November, 2004 [56, 61]). The burden of proof, it stressed, lies with the State to justify, with detailed and rigorous evidence, a situation in which individuals are made to bear a disproportionate burden for the benefit of the community.

However, these positive obligations are not without their limitations. The doctrine of the margin of appreciation plays a critical role in the ECtHR's adjudication of environmental claims. The Court has been seen to afford Contracting States a degree of discretion in how they balance competing interests, articulating that "where the State is required to take positive measures, the choice of means is in principle a matter that falls within the Contracting State's margin of appreciation" (*Fadeyeva* App no 55723/00 (ECtHR, 9 June, 2005) [96]). This advantage is attributable to the fact that environmentally harmful activities,

particularly those relating to industrial operations, often yield significant economic benefits for the broader population.

This general principle has been invoked in numerous cases involving the alleged violation of Article 8, such as in the case of *Hatton v UK*, where the Court accepted that decisions on night flights at Heathrow Airport, though impacting the applicants' Article 8 rights, fell within the UK's discretion given the competing public interest in economic development and the inclusive nature of the policy-making process. The Court's reasoning for not finding a violation of Article 8 rested on its conclusion that the State had not overstepped its margin of appreciation, emphasising that,

[...] a governmental decision-making process concerning complex issues of environmental and economic policy, such as in the present case, must necessarily involve appropriate investigations and studies in order to allow them to strike a fair balance between the various conflicting interests at stake (para 128).

The Court found that such procedures had been followed, and thus the interference with the applicants' rights was considered justified. This is not to suggest that this discretion is unfettered, it is restrained by considerations of proportionality. Where the Courts find that no fair balance has been struck, it has not hesitated to find violations of the Convention (*Lopez Ostra v Spain* App no 16798/90, ECtHR, 9 December, 1994 [58]; *Di Sarno and Others v Italy* App no 30765/08, ECtHR, 10 January, 2012 [112]).

This legal patchwork reveals both the strength and the strain of the ECtHR's case law. While the Court has made creative use of existing rights, its approach is highly individualised, reactive, and anthropocentric. It protects people only when environmental harm is severe enough to trigger a classic human right, but it doesn't protect the environment itself, nor anticipate harm before it becomes deadly or irreversible.

1.1.3 Article 2 ECHR

As aforementioned, Article 2 not only imposes negative obligations on Contracting States to avoid harming life but also positive obligations to take appropriate steps to safeguard lives at risk. Interestingly, the Court has ruled on numerous occasions that death need not have occurred in order for Article 2 to be invoked, only that there needs to have existed a risk to his or her life (*Makaratzis v Greece* [GC], App no 50385/99, ECtHR, 20 December, 2004 [49-55]; *Kolyadenko and Others v Russia* App nos 17423/05 and others, ECtHR, 28 February, 2012 [151]). In *Cannavacciuolo and Others v Italy* App nos 51567/14, whose judgement was as recent as January 30th, 2025 the Court clarified that the risk to life must be "real and imminent" (para 377), with the concept of 'real' defined as "the requirement of the existence of a serious, genuine, and sufficiently ascertainable threat to life" and 'imminence' entailing "an element of physical proximity of the threat and its temporal proximity". This articulation underscores the Court's reliance on a dual-pronged test of material and temporal foreseeability when assessing the applicability of Article 2 to environmental risks.

The Court has clarified that Article 2 applies to industrial activities, which are often hazardous with the capability of endangering human life. Numerous state-regulated or state-tolerated industrial operations have been deemed to fall in this category, including waste management (*Öneryıldız*), management of water reservoirs (*Kolyadenko*), and exposure to toxic substances (*Brincat and Others v Malta* App nos 60908/11 and others, ECtHR, 24 July, 2014). Moreover, the Court has extended the applicability of the right to life from man-made hazards to where a threat arises from foreseeable natural disasters in regions that are known to experience them regularly, such as mudslides (*Budayeva*). The Court has applied this reasoning particularly where the State has failed to implement apt spatial planning and risk-mitigation strategies (*Erdal Muhammet Arslan and Others v Türkiye* App no 55591/18, ECtHR, 21 November, 2023 [128–133]; *M. Özel and Others v Turkey* App nos 14350/05, 15245/05 and 16051/05, ECtHR, 17 November, 2015 [173–174]).

The ECtHR has clarified the scope and content of the State’s positive obligations in the domain of environmental and industrial risk. Appropriate legislative and administrative frameworks capable of addressing threats to life has included preventive regulation governing licensing, operation, security, and oversight of hazardous activities, disclosure of relevant risk information to exposed populations, and the establishment of emergency planning and land use controls, particularly in areas known to suffer foreseeable natural disasters (*Öneryıldız*, paras 90, 108; *Brincat*, paras 113-114).

1.1.4 Article 8 ECHR

The right to respect for private and family life, home and correspondence is arguably the principal doctrinal pathway for the recognition of environmental harm as an interference with human rights. The interpretive approach was first articulated in *Lopez Ostra v Spain*, where the Court held that severe environmental pollution caused by a waste treatment plant constituted an interference with the applicant’s right to respect for her private and family life, despite the absence of an established health impairment (para 51). Unlike the more stringent evidentiary threshold under Article 2 ECHR, which requires proof of a “real and imminent” threat to life, the scope of Article 8 does not require a demonstrable risk to life or serious deterioration in health. Alternatively, it is sufficient to show that an environmental nuisance has reached a degree of severity to effectively disrupt the individual’s well-being, living conditions or holistic enjoyment of their home (*Fadeyeva*, para 69; *Brândușe v Romania* App no 39951/05, ECtHR, 7 April, 2009 [67]).



Source: Factories with Smoke Under Cloudy Sky © Patrick Hendry / Unsplash, 2018.
Retrieved on 18 May, 2025.

The protection under Article 8 is dependent on two criteria: firstly, there must be an actual interference with the applicant's private sphere due to the environmental harm complained of, and secondly, that the interference has attained a minimum level of severity. These requirements have key implications. Claims that fail to meet them are inadmissible *ratione materiae*, meaning that they effectively exclude public interest or collective claims, as claimants must demonstrate a direct personal impact. However, the test under Article 8 is comparatively more flexible than Article 2, as it does not require an imminent threat to life and allows the Courts wide discretionary powers to determine what constitutes an interference with one's right to private life. The evidentiary focus is to show how environmental factors interfere with the applicant's daily life, applying the standard of proof "beyond reasonable doubt" (*Fadeyeva*, para 79). The jurisprudence of the court has found that a wide range of environmental disturbances fall within the scope of Article 8, including industrial pollution, noise pollution and offensive odours.

One limitation of Article 8 jurisprudence lies in its focus on individualised harm. The admissibility threshold requiring personal impact abandons collective environmental interests which do not manifest as discrete intrusions into private life. Unfortunately, this severely restricts access to the courts for communities affected by environmental issues seeking relief. Consequently, a doctrinal gap persists for harm that affects the public or nature itself, unless it can be reframed in the context of a personal nuisance.

1.1.5 Article 1 Protocol 1 ECHR

Article 1 of Protocol No. 1 to the European Convention on Human Rights provides: "Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law".

The Court has repeatedly held environmental conservation to be a legitimate aim of the highest order. The protection and preservation of biodiversity, ecosystems, forests, coastlines,

and water resources has emerged as a compelling public interest. In *Hamer v Belgium*, the Court made clear that environmental protection may, in appropriate cases, outweigh even fundamental rights such as the right to property (App no 21861/03, ECtHR, 27 November, 2007, para 79). In contrast to the rights analysed in the preceding sub-sections, the right to peaceful enjoyment of possessions is often in conflict with environmental protection. The Court has been seen to endorse a wide range of environmental restrictions, including the revocation of planning permits and removal of ‘building-land’ status (*Pine Valley Developments Ltd and Others v Ireland* App no 12742/87, ECtHR, 29 November, 1991[57]; *Kapsalis and Nima-Kapsali v Greece* App no 20937/03, ECtHR, 23 September, 2004; *Bahia Nova S.A. v Spain* App no 50924/99, ECtHR, 12 December, 2000).

The linchpin of the Court’s analysis lies in the fair balance test. It poses the following question: has a reasonable relationship been maintained between the means employed and the legitimate aim pursued? To assess this, the Court examines whether the measure in question imposed an excessive individual burden, whether compensation was available, and whether State authorities acted in good faith (*Z.A.N.T.E. – Marathonisi A.E. v Greece* App no 14216/03, ECtHR, 6 December, 2007 [52]). However, the Court has been vocal in cases involving inconsistencies in enforcement. If the State imposes severe environmental restrictions on one party while tolerating environmentally harmful activities by others, the fair balance may be upset.

1.2 Calls for Recognition of the Right to a Clean and Healthy Environment

The ECtHR has been clear: the Convention wasn’t written to protect the environment. That, it says, is the job of domestic law and international treaties (*Kyrtatos v Greece* App no 41666/98, ECtHR, 22 May, 2000 [52]). The instrument was designed to protect individuals from state brutality, not the slow structural violence of environmental collapse, but this line is wearing thin. The framework is increasingly coming under fire for “lagging behind” through failing to recognise the right to a clean and healthy environment, with Sebastien Duyck, senior attorney for the Center for International Environmental Law, stating, “It’s outrageous that in 2025, Europe still hasn’t legally recognised the right to a healthy environment as a basic human right” (Frost, 2025). As climate change, pollution, and biodiversity loss intensify across Europe, critics argue that the recent adoption of the Convention on the Protection of the Environment through Criminal Law represented a missed opportunity for the Council of Europe to spark a meaningful conversation on how the right to a clean and healthy environment could be formally embedded within the human rights framework.

The calls for the integration of such a right are not a novel phenomenon, however, current legal protection mechanisms have been widely criticised as insufficient in offering comprehensive safeguards against the diverse and escalating forms of environmental harm (Frost, 2024). By comparison, Europe’s framework appears increasingly outdated, especially when contrasted with the African and Inter-American human rights systems, both of which

explicitly recognise the right to a healthy environment. The disparity is even more stark when viewed alongside the UNGA's recognition of the right to a clean, healthy, and sustainable environment in Resolution 76/300 (2022), discussed in greater detail later in this report.

Scholars have argued that a declaration or protocol recognising the right is of critical importance in order to formally recognise the interrelationship between development, human rights, and the environment, offering a mechanism that would permit states to better balance economic development and environmental objectives (Boyle, 2012). Such a right does not demand a pristine version of nature, nor does it expect identical environmental conditions across different continents, given unequal ecosystems. What it does expect is a universal commitment to sustainability while remaining responsive to local risks and concerns, as most individuals only become mobilised when threats are immediate and tangible (Cullet, 1995).

This is not to say that the public demand for a recognition of the right has fallen upon deaf ears at the Council of Europe. Over the past three decades, the Parliamentary Assembly of the Council of Europe has persistently advocated for the explicit recognition of environmental rights. In 1990, Recommendation 1130 proposed a European Charter and Convention on Environmental Protection and Sustainable Development, asserting that every person has the fundamental right to an environment conducive to health and well-being. The proposal was followed by Recommendation 1431 (1999), suggesting the inclusion of the right to a healthy environment as a basic human right within the ECHR. Recommendation 1614 (2003) enunciated the requirement for “appropriate legal procedural safeguards against arbitrary environmental degradation”, emphasising the rights guaranteed under the 1998 United Nations Convention on Access to Information, Public Participation in Decision Making and Access to Justice in Environmental Matters. Article 1 of said treaty provides,

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.

Recommendation 1885 (2009) anchored the right in principles such as intergenerational justice and the need for robust global environmental governance. Subsequent Recommendation 2396 expressed disappointment that earlier proposals for the drafting of a Protocol to the ECHR had not been accepted by the Committee of Ministers, affirming that the architecture of the ECtHR is indeed insufficient to address the transgenerational nature of environmental harm. It also expanded the conversation to corporate responsibility, arguing that environmental protection cannot rest on private self-regulation alone and urging stronger state-led oversight. In doing so, it positioned environmental rights not as a niche add-on to the Convention, but as a necessary evolution of the European human rights project itself, in line with global trends and moral urgency. Furthermore, it was in this Recommendation that the Assembly issued one of its most forceful critiques of the current system, accusing the ECtHR of upholding an “anthropocentric and utilitarian” model that protects nature only when demonstrable harm to humans is shown.

Overwhelming consensus has crystallised the importance of a substantive environmental human right, with 42 out of 46 Council of Europe States protecting the right to a clean and

healthy environment through national legislation, jurisprudence, or constitutional principles (Article 19, 2024). Furthermore, the Council of Europe has been called upon by numerous high-profile human rights non-governmental organisations (NGOs) to incorporate it, with Amnesty International asserting that,

[...] the additional protocol would support establishing stronger environmental laws and policies, improve the implementation and enforcement of these, increase levels of public participation, access to information, and access to justice in environmental decision-making, and reduce environmental and intergenerational injustices. All these elements are necessary to ensure a liveable planet (cleaner air, enhanced access to safe drinking water, and reduced greenhouse gas emissions, among others) and a more sustainable future, especially for the youngest generations (Harrison et al., 2024).

A year later, Amnesty International reaffirmed its position in a detailed letter to the Committee of Ministers urging immediate and bold action in response to the Steering Committee for Human Rights' 2024 Study on the need for further instruments in the field of human rights and the environment. The Study, adopted in November 2024, recognised that a legally binding instrument could play a key role in clarifying and consolidating the right to a healthy environment across Europe. It refrained from making a firm recommendation but laid out a range of options, including the possibility of drafting an additional Protocol to the ECHR. It also pointed to core issues at stake, such as the need for greater legal consistency between Member States, clearer accountability, and stronger protection for vulnerable groups and environmental human rights defenders who are often most at risk (Steering Committee for Human Rights, 2024). On this basis, Amnesty advocated for a dual-pronged approach to transition from mere political gestures to formal legal recognition: the adoption of a binding protocol to guarantee the right and immediate operation of the proposed Reykjavik Committee on Environment and Human Rights, an independent expert body, to oversee policy guidance and monitoring (Amnesty International, 2025). These urgent calls, despite being substantiated with coherent policy ideas, have not been implemented by the Council.



Source: Person Holding Eco Not Ego Signage © Markus Spiske / Unsplash, 2019. Retrieved on 19 May, 2025.

This institutional inertia is even more concerning when viewed alongside developments within the European Union (EU) itself. The EU Charter of Fundamental Rights, which became legally binding when the Treaty of Lisbon came into force in 2009, explicitly affirms

in Article 37 that “a high level of environmental protection and the improvement of the quality of the environment must be integrated into the policies of the Union and ensured in accordance with the principle of sustainable development”. It is important to note that this does not confer a justiciable right to a healthy environment on individuals but an obligation on EU organs to integrate environmental protection into all realms of policymaking. The objectives of said policy-making can be found in Article 191 of the Treaty on the Functioning of the European Union (TFEU), which crystallises that preserving and improving the quality of the environment is a key priority, to be undertaken in light of the environmental law principles of prevention and precaution. In this light, the Council of Europe appears increasingly isolated, being outpaced not only by other regional systems such as Africa and Latin America but also by the EU’s internal legal commitments.

1.3 Concluding Remarks

Recognising the right to a healthy environment as a distinct and enforceable human right would give the ECtHR the legal clarity it needs to issue binding judgements that actually drive state compliance, particularly in cases involving at-risk groups and environmental defenders. It would also help bring legal systems across Europe into closer alignment, both procedurally through stronger access to environmental information and justice and substantively by affirming rights to essential aspects like clean air and water (Ordonez Vahi, 2023). Not only would it ensure greater coherence between States in Europe, it would also close the growing gap between the Council of Europe and other regional and international bodies that have already recognised the right.

Moreover, recognising the right would more accurately reflect the evolving understanding of what it means to live a life of dignity, freedom, and equality in the twenty-first century. Environmental collapse is not an abstract nor distant threat. It is already reshaping lives, livelihoods, and ecosystems across Europe and beyond. A healthy environment has often been considered as the precondition for the effective enjoyment of all other human rights (Office of the High Commissioner for Human Rights, 2011). Consequently, its recognition should not be seen as an expansion of rights but as an act of legal modernisation and moral consistency. Recognising the right to a healthy environment would not require rewriting the ECHR from scratch. An Additional Protocol, supported by updated interpretive guidance from the Court could provide a realistic and inclusive path forward. This approach would build on pre-existing structures whilst simultaneously bestowing upon States and the Court sharper tools to address environmental harm proactively, rather than waiting for irreversible damage.

2. GLOBAL AND COMPARATIVE PERSPECTIVES

This section aims to draw a comparative and global perspective on the right to a healthy environment, examining regional, international and national legal systems beyond Europe. Firstly, this section focuses on the right to a healthy environment within the African and Inter-American regional system, and then it situates the right in the international legal system.

2.1. Regional System

2.1.1 African Regional System

Scholars in the field of human rights and environment have traditionally focused on the Global North, and have neglected the subjects from the Global South (Addaney, Mayo and Ramakhula, 2020).

Africa faces a variety of environmental issues, particularly due to the extractive industry, which increasingly leads to degradation of the African ecosystem and environment (Addaney et al., 2020). This requires the continent to adopt strict legislation that ensures the environment is protected, and the region does not continue to face floods, wildfires, droughts, and heatwaves (UN News, 2025).

The norms and standards to protect the environment were set at the African regional level around colonial times. As decolonisation began, so did the focused codification of legislations at the regional level in Africa, focused on keeping the interests of the continent (Addaney et al., 2020). In 1968, the African Convention on the Conservation of Nature and Natural Resources (the African Convention) was adopted, which declared that all African states have a ‘common duty to protect the environment’ (Addaney et al., 2020). The African Convention was considered way ahead of its time at the time of its adoption (International Union for Conservation of Nature, n.d.). It did have many drawbacks, including its inability to recognise the environment as a human right (Addaney et al., 2020). Later, the Convention was revised in 2003, due to developments in environmental law and policy at both the international and regional levels.

The African Charter on Human and People’s Rights (African Charter) has recognised the connection between the environment and human rights. The African Commission was established in 1987 and gave meaning to Article 24 of the African Charter, which states, “people shall have the right to a general satisfactory environment favourable to their development”. Through the adoption of such a right to a satisfactory environment, the African regional system became the first to adopt this right and the first to give meaning and content to the right (Van der Linde & Louw, 2003).

The Maputo Protocol (Protocol) to the African Charter was adopted by the African Union in 2003 (Viljoen, 2009). Notably, Article 18 of the Protocol states that women shall have the right to ‘live in a healthy and sustainable environment’ and obligates states to actively take measures to ensure participation of women in decision-making processes in environmental issues, regulate the disposal of domestic waste, and ensure proper care of toxic waste. This

Protocol not only highlights the impact of environmental degradation on women but also mandates that States empower women to play a crucial role in protecting the environment at the regional level (Boshoff, 2020, p. 124).

The Resolution on Climate Change and Human Rights and the Need to Study its Impact in Africa, also known as Resolution 153, was also adopted in 2009 by the African Commission, which emphasised the connection between human rights and climate change. Additionally, Resolution 127 obligates extractive industries to carry out a thorough investigation into the impact of climate change on human rights (Jegade, 2020). These soft law instruments may not ensure accountability, but they show the commitment of the African Commission in dealing with climate change and its effect on human rights, and their stance on the issue.

It is also important to analyse African human rights case law regarding environmental protection to understand the practical usage of such rights. *The SERAC v. Nigeria* case is the first instance where the right to a satisfactory environment granted under Article 24 of the African Charter was dealt with in a case law (Longo, 2011). The Social and Economic Rights Action Center (SERAC) and the Centre for Economic and Social Rights (CESR) brought a case against the government of Nigeria at the African Commission. The state of Nigeria was accused of letting oil companies cause environmental contamination that affected the indigenous community of the Ogoni people (Addaney, Mayo & Ramakhula, 2020). This case clearly shows how Article 24 of the African Charter has been enforced in several cases, and is not just a symbolic part of the legislation. The Commission found that the right to a sustainable environment was violated, and emphasised that states are obligated to protect such rights and regulate private entities from causing environmental damage (Addaney, Mayo & Ramakhula, 2020).

The Indigenous community of Ogiek from Kenya brought a case at the African Court of Human and Peoples' Rights, as Kenya had ordered their eviction from Mau Forest, with the aim of preserving the ecosystem (Claridge & Kobei, 2023). The Court found that there were violations of Articles 1, 2, 8, 14, 17(2) and (3), 21 and 22 of the African Charter. The Court did not consider Article 24 of the African Charter, but the Court found that a correlation between indigenous and sustainable development rights is necessary for the protection of the environment (Addaney, Mayo & Ramakhula, 2020). The Ogiek judgment is a landmark decision that highlights the intersectionality of indigenous and environmental rights.

In the African regional system, it is clear that the institutions responsible for upholding environmental rights are broadly focused on collective and indigenous rights. Indigenous communities are usually the communities that are considered sacred to the protection of the environment and conservation (Girard, Hall & Frison, 2022).

Whilst still facing post-colonial challenges, the African legal regional system has managed to provide significant protection to its indigenous population and reinforced collective obligation towards environmental preservation.

2.1.2 Inter-American Regional System

The Latin America and the Caribbean (LAC) region relies heavily on natural resources and primary products to sustain economies (Tigre, 2024). Ultimately, this makes the region particularly vulnerable to climate change, as environmental harm directly disrupts the ecosystem, which is necessary for livelihood and affects the rights of indigenous communities. The majority of countries in the region have therefore recognised the right to a healthy environment as a constitutional right (Tigre, 2024).

In 2023, Colombia and Chile sought guidance from the Inter-American Court of Human Rights (IACtHR) regarding the legal obligations of states to combat climate change and prevent human rights violations. The request acknowledged that while the effects of climate change are felt by everyone on the earth, countries in the Global South face environmental disasters and extremes more frequently than others, making the effects disproportionately and unfairly felt (Kaminiski, 2024). The Court has yet to issue its opinion, but it has the potential to shape global standards on state obligations under environmental human rights.

The Inter-American system heavily relies on a direct victim-based approach, as the Court has been engaging directly with the victims of climate change (Thériault, 2015). The Court emphasises the experiences of many victims, who have faced direct consequences for their lives and livelihoods from environmental harm. For instance, fossil fuel companies, which are active in the Americas, have directly affected the human rights and livelihoods of peoples and the Gulf's delicate ecosystem (Kaminiski, 2024).

The American Convention on Human Rights (ACHR) is one of the key legal instruments in the Inter-American regional system, which was adopted in 1969 and entered into force in 1978 (Peddicord, 1984). The ACHR does not guarantee the right to a healthy environment directly; however, the IACtHR has used other human rights within the ACHR to ensure that human rights, including those affected by environmental degradation, are guaranteed. In the *Case Mayagna (Sumo) Awas Tingni Community v. Nicaragua*, the IACtHR decided that Nicaragua violated Article 21 of the ACHR, the right to property, by not consulting the Indigenous communities residing in the Atlantic Coast region of Nicaragua before granting logging rights to a foreign company. Indigenous communities have the right to their land, and Nicaragua has the obligation to secure these rights for them (Anaya & Grossman, 2002). The Court also links environmental degradation with the loss of indigenous land and ensures protection of vulnerable communities from environmental harm.

In a landmark move in November 2017, the IACtHR, at the request of Colombia, issued a crucial Advisory Opinion OC-23/17, declaring a direct relationship between human rights and the environment (Siwior, 2021). The protection of the environment was considered to be 'fundamental to the existence of humanity' pursuant to the ACHR (Tigre, 2024). In paragraph 59 of the Advisory Opinion, the Court emphasised both the individualistic and collective dimensions of the right to a healthy environment owed not just to present but to future generations. The IACtHR has recognised the right to a healthy environment as an autonomous and justiciable right, and is to be protected by the Inter-American System of

Human Rights (IASHR) (Tigre, 2024). It is considered a significant innovative step taken to protect victims of environmental harm (Maridikian, 2023). In paragraph 104 of the Advisory Opinion, the Court declares that States are responsible for environmental violations happening on their territories, and also have extraterritorial obligations to prevent environmental harm that violates human rights.

Lhaka Honhat Association v. Argentina is the first case that was heard regarding the right to a healthy environment by the IACtHR. Indigenous communities from Salta, Argentina, were denied access to their land, which affected their access to adequate food and water, a healthy environment, and practising their cultural identity. The Court found that Argentina had violated its obligations under the ACHR (Carstens, 2020). This case resulted in a groundbreaking decision pursuant to Advisory Opinion OC-23/17 and again shows how indigenous rights and environmental degradation intersect.

In 2024, IACtHR issued another landmark judgment *La Oroya v. Peru*, in which it found Peru in violation of its obligation to protect the right to a healthy environment (Herbert Smith Freehills, 2024). The Court found that Peru failed to fulfil its obligation by not preventing metallurgical activity, which had spread toxic industrial emissions for decades in La Oroya, thereby violating the right to a healthy environment, among other rights, of the people living there (Trincado Vera, 2024). This decision further builds on the right to a healthy environment, already recognised by the Court in many case laws and the IACtHR's Advisory Opinion OC-23/17 (Herbert Smith Freehills, 2024). This crucial decision shows significant advancement and development of environmental human rights in the Inter-American regional system (Trincado Vera, 2024).

Although the protection of the environment seems to be a core human right in the Inter-American regional system, critics argue that there is some ambiguity around the granting of the right to a healthy environment. They claim that the right does not clearly define whether it is of a collective or individual nature, and even if it has been recognised, it has not brought any benefits or meaningful remedies to the victims (Maridikian, 2023). Despite all criticism, the region still has a proactive and evolving approach towards the relationship between environmental degradation and human rights. It places victims at the centre of efforts to address environmental harm, and has set impactful precedents in combating climate change. It can still serve as a great model for the protection of indigenous communities and their rights around the world.

In conclusion, while both African and Inter-American regional systems strongly emphasise the connection between indigenous rights and environmental protection, there are some notable disparities. For example, the African system recognises the right to a healthy environment essentially as a collective right, which is a reflection of communal values of the continent. The Inter-American system however even recognises the extraterritorial obligations of the state in relation to climate change, which is a huge success for global environmental protection.

Despite linguistic framings, the European, Inter-American, and African human rights systems acknowledge the right to a healthy environment and share a consensus on combating climate change. Although the protection in the Inter-American and African regional systems may

appear stronger in practice, the context in which the right to a healthy environment is violated differs fundamentally between the European regional system and the others.

Europe's contribution to climate change is usually through large-scale and widespread armed conflict and the use of weapons, leading to environmental degradation. For America and Africa, it is usually foreign corporations leading to resource exploitation through activities like extraction. The comparative lens shows that the right to a healthy environment might be universal, but the measures needed to combat it vary across continents, depending on the socio-economic state of the region.

2.2 Soft Law Progress

2.2.1 Right to a clean and healthy environment in International Soft Law

Soft law in international law refers to non-binding instruments like resolutions and declarations that states have agreed upon. States cannot be legally bound by them, but they do agree to follow normative standards (Kiss & Shelton, 2007). It is necessary to follow the timeline of major environmental soft law, which has led to the recognition of the right to a clean and healthy environment.

In the Resolutions 2581 (XXVI) and 2398 (XXIII), the UN General Assembly agreed to a global Conference in Stockholm in 1972, the aim of the conference was to encourage protection and improvement of the human environment and to remedy any impairment (Handl, 2012). The Stockholm Declaration was signed and included common principles agreed upon by the states to preserve and enhance the human environment. It was considered 'the most successful international conference' during that time (Sohn, 1973).

After 20 years precisely, in 1992, another conference, the United Nations Conference on Environment and Development (UNCED), was held in Brazil to discuss the impact of human activity on the environment. This was concluded by adopting the Rio Declaration on Environment and Development 1992. It was declared that sustainable development is an achievable goal for people worldwide and included the rights and obligations of the state in the field of environmental law in Principle 2 of the Declaration (United Nations, 1992). Neither the Stockholm nor the Rio Declarations are formally binding; however, both were considered to reflect customary international law practice or a normative standard at the time (Handl, 2012).

In 2002, the Johannesburg World Summit on Sustainable Development was held in South Africa. The Summit was held to assess the outcome of the Stockholm and Rio Declarations and to find gaps in the already existing soft law (Shelton, 2008). In 2017, the Global Pact for the Environment was proposed as a draft international treaty, intended to be legally binding. It aimed to recognise the right to a healthy environment and it synthesised principles from previous soft law declarations (International Union for Conservation of Nature, n.d.). This proposed treaty, besides being legally binding, would have set rights and duties of world citizens, businesses and states (Aguilla, 2020).

In 2012, the Human Rights Council adopted the Resolution 19/10, the mandate of Independent Expert on Human Rights and the Environment was established and John Knox, a law professor, was appointed for the position, tasked with clarifying and recommending human rights obligations, that are related to ensuring safe, clean and healthy environment (Bratspies, 2015; Boyd, 2012). This was the first initiative taken by the UN to explicitly show the correlation between the environment and human rights.



Source: Flags on a green grass field near a brown concrete building during daytime© Mathias Reding / Unsplash, 2020.

In 2021, the United Nations Human Rights Committee adopted Resolution no. 48/13 and it formally recognised the human right to a clean, healthy and sustainable environment. This resolution was adopted with 43 votes in favour, none against, and four abstentions (United Nations Human Rights Council, 2021), which indicates that this right is widely accepted within the international community. It was the first time the UN Human Rights Council acknowledged such a right. This resolution was considered a breakthrough for environmental justice by the Executive Director of the United Nations Environment Programme (UNEP) and was urged to be adopted universally at the UN General Assembly (United Nations Environment Programme, 2021).

Ultimately, in 2022, the United Nations General Assembly (UNGA) adopted a landmark Resolution 76/300, recognising the human right to a clean, healthy and sustainable environment (Desai, 2023). This resolution was a great success for environmental human rights law, as 161 states voted in favour, with just eight abstentions, which reflected global support for the right (United Nations General Assembly, 2022).

On April 3rd 2024, the Human Rights Council adopted Resolution 55/2, officially changing the name from ‘Special Rapporteur on the human rights and the environment’ to ‘Special Rapporteur on the human right to a clean, healthy and sustainable environment’ (A/HRC/RES/55/2). This name change reflects the institution's growing commitment to upholding these rights.

More recently, in 2023, the UN General Assembly requested an Advisory Opinion from the International Court of Justice (ICJ) about state obligations in relation to climate change. The decision of the ICJ is still pending, but it shows the commitment of the UN General Assembly to working towards achieving legal accountability for climate change. Despite the Advisory Opinion being non-binding, it still contributes to the development of customary international law.

Unfortunately, the Ukraine war has clearly shown that international soft law at the moment is not sufficiently developed. A much greater effort at codification of International law is necessary to hold accountability for environmental and related human rights violations. Some scholars like Durney (2018) have supported the idea of prosecuting individuals at the International Criminal Court (ICC) for crimes against humanity, those who use environmental degradation as a weapon to target specific groups. In 2021, the independent Expert Panel proposed a definition of the war crime of Ecocide and suggested it be included as the fifth core crime in the Rome Statute (Stop Ecocide Foundation, n.d.). Perez-Leon-Acevedo (2024) even suggests that the ICC adopt the IACtHR approach in future cases involving environmental reparations.

2.2.2 Customary International Law

For customary international law to be formed, two key elements are required: state practice and an *opinio juris*. Customary law is a fundamental source of international law, which is formed by widespread and consistent practice, and states need to believe in the obligatory nature of the law for it to become *opinio juris* (Kiss & Sheldon, 2007). While soft law instruments like the UN General Assembly Resolutions and Human Rights Council Resolutions might not be legally binding upon states, they are said to significantly contribute to the formation of customary international law on the right to a healthy environment and can reflect *opinio juris*.

Scholars like Daly and May (2018) have argued for the international human right to a healthy environment. They believe that having international standards would bind states to international environmental norms, but also affirm the interdependence of international human rights and environmental sustainability. Additionally, judicial developments within the Inter-American regional system have contributed to the trajectory. The IACtHR in paragraph 129 of the judgement in *La Oroya v. Peru* case, suggested that the right to a healthy environment should be considered as *jus cogens*, a peremptory norm of general international law, from which no derogation is allowed. The Court emphasised that

progressive recognition of the current climate crisis is needed to ensure protection of the international community as a whole, which further reinstates environmental protection as a fundamental legal principle (Trincado Vera, 2024).

However, several states like the United Kingdom, Russia, Germany and the United States (US) have come out to disagree with the crystallisation of new rules on the right to a healthy environment (McGowan, 2025). The US clarifies that even though there is a growing acceptance of the right to a healthy environment by the international community, through domestic, regional or international soft law, these sources unfortunately do not reflect the presence of customary international law (International Court of Justice, 2024). In response to Judge Aurescu's question in the case, the Russian Federation also reiterated its position by claiming that the right to a clean, healthy and sustainable environment does not exist as customary international law.

Although there is significant academic support, soft law development, and even judicial agreement on the existence of the right to a healthy environment, the crystallisation of customary international law is still contested. The divergence among state positions, especially by powerful states like the US, UK, and Russia, only leads to the hindrance of the formation of customs. However, many states, including those that disagree with the formation of customary international law, have voted in favour of soft law on the right to a healthy environment. The ICJ's Advisory Opinion, increasing involvement of the UN bodies and scholars show that the significance of the right to a healthy environment is growing.

CONCLUSION

The ongoing international and non-international conflicts have shown that the recognition of the right to a clean and healthy environment is an urgent necessity.

The first part of the report discussed the environmental protection under the ECHR, with its history, general observations, and relevant articles. Based on this, it can be concluded that the European human rights system has made some really important progress through the interpretation of existing rights, however, it still lacks a clear and enforceable legal framework that will protect the right to a clean and healthy environment as a basic human right.

In this context, it is essential to consider lessons from other regions, which is also discussed in the first part of the report. The African and Inter-American human rights systems, for instance, offer valuable examples of integrating environmental protections into human rights law. Another possible avenue to follow when enforcing environmental rights is soft law instruments, such as UN resolutions and non-binding agreements. This is an especially good avenue in the times when environmental laws are not high on the European countries' list of priorities.

The second part of the report will mostly focus on the ongoing war between Russia and Ukraine and its impact on the environment, how the war affects biodiversity, air and water. It will also delve deeper into human rights in an ecologically collapsing environment, and the lack of accountability mechanisms. Finally, it will provide some policy recommendations, how to strengthen the existing legal mechanism and what are the necessary steps towards the codification of the right to a healthy and safe environment.

BOOKS

- Addaney M and Jegede AO (eds), *Human Rights and the Environment under African Union Law* (Palgrave Macmillan 2020).
- Boshoff E, 'Women's Environmental Human Rights in Africa with Reflections on Key Provisions of the Maputo Protocol' in M Addaney and AO Jegede (eds), *Human Rights and the Environment under African Union Law* (Palgrave Macmillan 2020) 107–36
- Carson R, *Silent Spring* (Penguin UK 2020).
- Daly, E., & May, J. R. (2018). Learning from constitutional environmental rights. The human right to a healthy environment, 42-58.
- Dupuy P-M and Viñuales JE, *International Environmental Law* (Cambridge University Press 2018).
- Girard F, Hall I and Frison C, *Biocultural Rights, Indigenous Peoples and Local Communities: Protecting Culture and the Environment* (Taylor & Francis 2022).
- Kiss, A., & Shelton, D. (2007). *Guide to international environmental law*. Brill.
- Schabas WA, *The European Convention on Human Rights: A Commentary* (Oxford University Press 2015)
- Shelton D, 'Stockholm Declaration (1972) and Rio Declaration (1992)' in *Max Planck Encyclopedia of Public International Law* (Oxford University Press 2008).
- Thériault S, 'Environmental Justice and the Inter-American Court of Human Rights' in A Boyle and M Anderson (eds), *Research Handbook on Human Rights and the Environment* (Edward Elgar Publishing 2015) 309.
- Tigre MA, 'The Right to a Healthy Environment in Latin America and the Caribbean: Compliance Through the Inter-American System and the Escazú Agreement' in C Voigt and C Foster (eds), *International Courts Versus Non-Compliance Mechanisms* (Cambridge University Press 2024) 262.

ARTICLES

- Aguilla Y, 'A Global Pact for the Environment: The Logical Outcome of 50 Years of International Environmental Law' (2020) 12(14) *Sustainability* 5636.

- Amechi EP, 'Enhancing Environmental Protection and Socio-Economic Development in Africa: A Fresh Look at the Right to a General Satisfactory Environment under the African Charter on Human and Peoples' Rights' (2009) 5(1) Law Environment and Development Journal.
- Anaya SJ and Grossman C, 'The Case of Awas Tingni v Nicaragua: A Step in the International Law of Indigenous Peoples' (2002) 19(1) Arizona Journal of International and Comparative Law 1.
- Boyle A, 'Human Rights and the Environment: Where Next?' (2012) 23(3) European Journal of International Law 613–642.
- Bratspies R, 'Do We Need a Human Right to a Healthy Environment?' (2015) 13(1) Santa Clara Journal of International Law 31.
- Carstens M, 'Lhaka Honhat Association v Argentina: Landmark Decision on Direct Justiciability of Article 26 ACHR and the Autonomous Right to a Healthy Environment' (2020) 53(4) *Verfassung und Recht in Übersee / Law and Politics in Africa, Asia and Latin America* 492
- Claridge L and Kobei D, 'Protected Areas, Indigenous Rights and Land Restitution: The Ogiek Judgment of the African Court of Human and Peoples' Rights and Community Land Protection in Kenya' (2023) 57(3) *Oryx* 313
- Cullet P, 'Definition of an Environmental Right in a Human Rights Context' (1995) 13(1) *Netherlands Quarterly of Human Rights* 25-40.
- Desai BH, 'The Essentiality of Human Rights for the Sustainable Environment' (2023) 53(2–3) *Environmental Policy and Law* 95.
- Handl G, 'Declaration of the United Nations Conference on the Human Environment (Stockholm Declaration), 1972 and the Rio Declaration on Environment and Development, 1992' (2012) 11(6) *United Nations Audiovisual Library of International Law* 1.
- Kaminski, I. (2024). Nations prepare to give climate statements at the world's top court. *The Lancet Planetary Health*, 8(12), e984–e985.
- Mardikian L, 'The Right to a Healthy Environment Before the Inter-American Court of Human Rights' 72(4) *International and Comparative Law Quarterly* (2023) 945–975.
- Peddicord JA, 'The American Convention on Human Rights: Potential Defects and Remedies' (1984) 19 *Texas International Law Journal* 139.
- Pedersen OW, 'European Environmental Human Rights and Environmental Rights: A Long Time Coming?' (2008) 21(1) *Georgetown International Environmental Law Review*.

- Perez-Leon-Acevedo J. P, 'Reparations in Environmental Cases: Should the International Criminal Court Consider the Inter-American Court of Human Rights' Jurisprudence?' (2024) 15(3) Journal of International Dispute Settlement 377–403.
- Van Der Linde, M., & Louw, L. (2003). Considering the interpretation and implementation of article 24 of the African Charter on Human and Peoples' Rights in light of the SERAC communication: recent developments. African Human Rights Law Journal, 3(1), 167–187.
- Viljoen F, 'An Introduction to the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa' (2009) 16 Wash & Lee J Civil Rts & Soc Just 11.
- Siwior P, 'The Inter-American Court of Human Rights Advisory Opinion OC-23/17 on the Relationship Between Human Rights and the Environment' (2021) 46 Review of European and Comparative Law 177.
- Sohn LB, 'Stockholm Declaration on the Human Environment' (1973) 14(3) Harvard International Law Journal 423.

WEB

- Amnesty International, 'Council of Europe: Time for Action with a Protocol on the Right to a Clean, Healthy and Sustainable Environment' (13 January 2025) Amnesty International <<https://www.amnesty.eu/news/council-of-europe-time-for-action-with-a-protocol-on-the-right-to-a-clean-healthy-and-sustainable-environment/>> accessed 21 May 2025.
- ARTICLE 19, 'Council of Europe: Call for Recognition of Right to a Healthy Environment' (21 March 2024) <<https://www.article19.org/resources/council-of-europe-call-for-recognition-of-right-to-a-healthy-environment/>> accessed 21 May 2025.
- Frost R, 'Europe "Lagging" Behind on Human Rights by Not Recognising Right to Healthy Environment, Experts Say' (14 May 2025) Euronews <<https://www.euronews.com/green/2025/05/14/europe-lagging-behind-on-human-rights-by-not-recognising-right-to-healthy-environment-experts>> accessed 21 May 2025.
- Frost R, 'Is It "High Time" for Europe to Recognise the Human Right to a Healthy Environment?' (11 May 2024) Euronews

<<https://www.euronews.com/green/2024/05/11/is-it-high-time-for-europe-to-recognise-the-human-right-to-a-healthy-environment>> accessed 21 May 2025.

Harrison A and others, ‘Time’s Up: The Council of Europe Must Put the Right to a Healthy Environment in Law’ (6 May 2024) Amnesty International

<<https://www.amnesty.eu/news/times-up-the-council-of-europe-must-put-the-right-to-a-healthy-environment-in-law/>> accessed 21 May 2025.

Herbert Smith Freehills Kramer. (2024, May 9). Inter-American Court of Human Rights enforces the human right to a healthy environment. HSF Kramer Notes. Retrieved from

<https://www.hsfkramer.com/notes/latamlaw/2024-05/inter-american-court-of-human-rights-enforces-the-human-right-to-a-healthy-environment>

Longo E, ‘Article 24 of the African Charter on Human and Peoples' Rights: An Individual or Peoples' Right to a Satisfactory Environment?’ (Master’s thesis, The American University in Cairo 2011) AUC Knowledge Fountain <<https://fount.aucegypt.edu/etds/971/>> accessed 26 May 2025.

J McGowan, ‘In World Court, Countries Question “Right to a Healthy Environment”’ (14 January 2025) Forbes

<<https://www.forbes.com/sites/jonmcgowan/2025/01/14/in-world-court-countries-question-right-to-a-healthy-environment/>> accessed 20 May 2025.

Ordóñez Vahí A, ‘The Council of Europe and the Right to a Clean, Healthy, and Sustainable Environment’ (21 June 2023) Universal Rights Group

<<https://www.universal-rights.org/the-council-of-europe-and-the-right-to-a-clean-healthy-and-sustainable-environment/>> accessed 21 May 2025.

Trincado Vera P, ‘The Right to a Healthy Environment in *La Oroya v Peru*: A Landmark Judgement of the IACtHR’ (25 May 2024) Opinio Juris

<<https://opiniojuris.org/2024/05/25/the-right-to-a-healthy-environment-in-la-oroya-v-peru-a-landmark-judgement-of-the-iacthr/>> accessed 16 May 2025.

LEGISLATION

Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador) (adopted 17 November 1988, entered into force 16 November 1999) OAS Treaty Series A-52.

African Charter on Human and Peoples’ Rights (adopted 27 June 1981, entered into force 21 October 1986) OAU Doc CAB/LEG/67/3 rev 5, 21 ILM 58 (1982).

African Commission on Human and Peoples' Rights, Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) (11 July 2003).

African Commission on Human and Peoples' Rights, Resolution 153 on Climate Change and Human Rights and the Need to Study its Impact in Africa (2009).

African Commission on Human and Peoples' Rights, Resolution 127 on the Right to Participate in the Management of Natural Resources (2007).

African Union, African Convention on the Conservation of Nature and Natural Resources (adopted 15 September 1968, revised 11 July 2003).

Charter of Fundamental Rights of the European Union (2012) OJ C326/391.

Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (adopted 25 June 1998, entered into force 30 October 2001) 2161 UNTS 447 (Aarhus Convention).

Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights, as amended) (adopted 4 November 1950, entered into force 3 September 1953) ETS No 5.

International Court of Justice, Request for an Advisory Opinion on the Obligations of States in respect of Climate Change (Request by UNGA Res 77/276, 29 March 2023) [pending].

International Union for Conservation of Nature, Global Pact for the Environment [Draft Treaty] (n.d.) <<https://globalpactenvironment.org>> accessed 18 May 2025.

Johannesburg World Summit on Sustainable Development, Johannesburg Declaration on Sustainable Development and Plan of Implementation (4 September 2002) United Nations.

Organization of American States, American Convention on Human Rights (adopted 22 November 1969, entered into force 18 July 1978).

United Nations Conference on Environment and Development, Rio Declaration on Environment and Development (13 June 1992) UN Doc A/CONF.151/26 (Vol I).

United Nations Conference on the Human Environment, Stockholm Declaration on the Human Environment (16 June 1972) UN Doc A/CONF.48/14/Rev.1.

United Nations General Assembly, Question of the Environment, GA Res 2398 (XXIII) (3 December 1968) UN Doc A/RES/2398(XXIII).

United Nations General Assembly, Question of the Environment, GA Res 2581 (XXVI) (15 December 1971) UN Doc A/RES/2581(XXVI).

United Nations General Assembly, The Human Right to a Clean, Healthy and Sustainable Environment, GA Res 76/300 (28 July 2022) UN Doc A/RES/76/300.

United Nations Human Rights Council, Mandate of the Independent Expert on Human Rights and the Environment, HRC Res 19/10 (19 April 2012) UN Doc A/HRC/RES/19/10.

United Nations Human Rights Council, The Human Right to a Clean, Healthy and Sustainable Environment, HRC Res 48/13 (8 October 2021) UN Doc A/HRC/RES/48/13.

United Nations News. (2025, May 12). Climate change takes increasingly extreme toll on African countries. United Nations. Retrieved from <https://news.un.org/en/story/2025/05/1163126>

JURISPRUDENCE

European Human Rights Framework

Bahia Nova S.A. v Spain App no 50924/99 (ECtHR, 12 December 2000).

Brândușe v Romania App no 39951/05 (ECtHR, 7 April 2009).

Brincat and Others v Malta App nos 60908/11 and others (ECtHR, 24 July 2014).

Budayeva and Others v Russia App nos 15339/02, 21166/02, 20058/02, 11673/02 and 15343/02 (ECtHR, 20 March 2008).

Cannavacciuolo and Others v Italy App nos 51567/14 and others (ECtHR, 30 January 2025).

Di Sarno and Others v Italy App no 30765/08, (ECtHR, 10 January 2012).

Dubetska and Others v Ukraine App no 30499/03 (ECtHR, 10 February 2011).

Erdal Muhammet Arslan and Others v Türkiye App no 55591/18 (ECtHR, 21 November 2023).

Fadeyeva v Russia App no 55723/00 (ECtHR, 9 June 2005).

Guerra and Others v Italy App no 14967/89 (ECtHR, 19 February 1998).

Hamer v Belgium App no 21861/03 (ECtHR, 27 November 2007).

Kapsalis and Nima-Kapsali v Greece App no 20937/03 (ECtHR, 23 September 2004).

Kolyadenko and Others v Russia App nos 17423/05, 20534/05, 20678/05, 23263/05, 24283/05, 35673/05 (ECtHR, 28 February 2012).

Kyrtatos v Greece App no 41666/98 (ECtHR, 22 May 2003).

Ledyayeva and Others v Russia App nos 53157/99, 53247/99, 53695/00 and 56850/00 (ECtHR, 26 October 2006).

Lopez Ostra v Spain App no 16798/90 (ECtHR, 9 December 1994).

M. Özel and Others v Turkey App nos 14350/05, 15245/05 and 16051/05, ECtHR (17 November 2015).

Makaratzis v Greece [GC] App no 50385/99 (ECtHR, 20 December 2004).

Moreno Gómez v Spain App no 4143/02, ECtHR, 16 November 2004).

Öneryıldız v Turkey App no 48939/99 (ECtHR, 30 November 2004).

Pine Valley Developments Ltd and Others v Ireland App no 12742/87 (ECtHR, 29 November 1991).

Taşkın and Others v Turkey App no 46117/99 (ECtHR, 10 November 2004).

Tyrer v United Kingdom App no 5856/72 (ECtHR, 25 April 1978).

Z.A.N.T.E. – Marathonisi A.E. v Greece App no 14216/03 (ECtHR, 6 December 2007).

African Human Rights Framework

African Court on Human and Peoples' Rights, African Commission on Human and Peoples' Rights v Republic of Kenya (Ogiek case) Application No 006/2012 (African Court on Human and Peoples' Rights, 26 May 2017) (merits judgment).

Social and Economic Rights Action Center (SERAC) and Centre for Economic and Social Rights (CESR) v Nigeria (Communication No 155/96) [2001] ACHPR 35 (27 October 2001).

Inter-American Human Rights Framework

Inter-American Court of Human Rights, Advisory Opinion OC-23/17 "The Environment and Human Rights" (Inter-American Court of Human Rights, 15 November 2017).

Inter-American Court of Human Rights, Indigenous Communities Members of the Lhaka Honhat (Our Land) Association v Argentina (Merits, Reparations and Costs) (Inter-American Court of Human Rights, Series C No 400, 6 February 2020).

Mayagna (Sumo) Awas Tingni Community v Nicaragua (Merits, Reparations and Costs) (Inter-American Court of Human Rights, Ser C No 79, 31 August 2001).

COUNCIL OF EUROPE RECOMMENDATIONS

Parliamentary Assembly of the Council of Europe, Recommendation 1130 (1990) on the Formulation of a European Charter and a European Convention on Environmental Protection and Sustainable Development (28 September 1990).

Parliamentary Assembly of the Council of Europe, Recommendation 1431 (1999) on Future Action to be Taken by the Council of Europe in the Field of Environment Protection (4 November 1999).

Parliamentary Assembly of the Council of Europe, Recommendation 1614 (2003) on Environment and Human Rights (27 June 2003).

Parliamentary Assembly of the Council of Europe, Recommendation 1885 (2009) on Drafting an Additional Protocol to the European Convention on Human Rights Concerning the Right to a Healthy Environment (30 September 2009).

Parliamentary Assembly of the Council of Europe, Resolution 2396 (2021) Anchoring the Right to a Healthy Environment: Need for Enhanced Action by the Council of Europe (29 September 2021).

COUNCIL OF EUROPE OFFICIAL STATEMENTS AND REPORTS

Council of Europe, CDDH Study on the Need for and Feasibility of a Further Instrument or Instruments in the Field of Human Rights and the Environment, CDDH (2024) R101 Addendum 2 (29 November 2024)

<<https://rm.coe.int/steering-committee-for-human-rights-cddh-cddh-study-on-the-need-for-an/1680b2b196>> accessed 21 May 2025.

UN BODIES AND NGO OFFICIAL STATEMENTS AND REPORTS

OHCHR, Analytical Study on the Relationship Between Human Rights and the Environment UN Doc A/HRC/19/34 (16 December 2011).

United Nations Environment Programme, Landmark UN Resolution Confirms Healthy Environment is a Human Right (6 December 2021)

<<https://www.unep.org/news-and-stories/story/landmark-un-resolution-confirms-healthy-environment-human-right>> accessed 20 May 2025.

United Nations General Assembly, ‘With 161 Votes in Favour, 8 Abstentions, General Assembly Adopts Landmark Resolution Recognizing Clean, Healthy, Sustainable Environment as Human Right (GA/12437)’ (28 July 2022) United Nations

<<https://press.un.org/en/2022/ga12437.doc.htm>> accessed 20 May 2025.