

ENNHRI contribution at the second meeting of the Steering Committee for Human Rights Drafting Group on Human Rights and Environment (CDDH-ENV)

The European Network of National Human Rights Institutions (ENNHRI) represents more than 40 independent NHRIs established by constitution or law to protect and promote human rights in accordance with the [United Nations Paris Principles](#) and the [Council of Europe Committee of Ministers Recommendation 2021/1](#). ENNHRI is increasingly prioritizing environmental and climate related human rights work – we have established a Climate Core Group, published [a position paper on Climate Change and Human Rights in the European Context](#) and submitted a [third-party intervention](#) to the European Court of Human Rights (ECtHR) in the landmark climate case of *Verein KlimaSeniorinnen Schweiz and others v. Switzerland*, underlining States' responsibility to combat climate change effectively in order to protect the right to life.

A safe, clean, healthy and sustainable environment is essential to the realisation of the right to life, and of all other human rights. While 32 Council of Europe Member States already recognise the right to a healthy environment in their national legal systems, an explicit and comprehensive provision protecting this right is currently lacking in the Council of Europe system. **ENNHRI therefore supports the Drafting Group's work regarding consideration of the need for a new binding instrument recognising the right to a healthy environment.**

We note the great work already being done by CDDH-ENV on the elaboration of a non-binding instrument on human rights and the environment. Similarly, the UN Human Rights Council recently passed a resolution recognizing a safe, clean, healthy and sustainable environment as a human right. While such work sends a strong message and furthers understanding of human rights and the environment, only a legally binding instrument would obligate States to address the human rights impacts of climate change, loss of biodiversity and environmental degradation. It is time to take a step further and ensure that the 830 million people protected by the European Convention on Human Rights (ECHR) are afforded a **legally binding right to a healthy environment**, thus bringing the European human rights system in line with the African, Arab and Inter-American systems.

While ENNHRI notes that the Drafting Group's discussions regarding the form of a potential binding instrument are currently at an early stage, we wish to highlight the arguments in favour of an **Additional Protocol** to the ECHR. Such a Protocol would provide the most effective legal

protection of the right to a healthy environment because it would be enforceable by the European Court of Human Rights, which can issue legally binding judgements in individual complaints. As an Additional Protocol must be signed and ratified by a State, this solution would also enable those States who wish to move ahead to do so, while allowing others to join later.

In [Recommendation 2211 \(2021\)](#), the Parliamentary Assembly of the Council of Europe (PACE) has already put forward a suggestion for such a protocol. This recommendation could serve as a basis for further work of the Drafting Group, without binding it to any concrete solutions.

ENNHRI also notes that there are several climate cases currently before the European Court of Human Rights, and that the Court has previously been mindful of, and drawn conclusions from, the environmental work carried out by PACE and the Committee of Ministers, see for example *Ivan Atanasov v. Bulgaria*. It is thus important for the Drafting Group to **clarify in its preparatory work that any work on instruments** on the right to a healthy environment, whether binding or not, **shall be without prejudice with the level of environmental protection afforded under already existing human rights**. The work of this group should not undermine these existing human rights obligations in an environmental and climate context, as interpreted dynamically by the European Court of Human Rights.

About ENNHRI

ENNHRI is the European Network of National Human Rights Institutions. We bring together over 40 National Human Rights Institutions (NHRIs) to enhance the promotion and protection of human rights in Europe. Our network provides a platform for collaboration and solidarity in addressing human rights challenges and a common voice for NHRIs at the European level.