

Response to the call for input: Overview of the implementation of the Right to a clean, healthy, and sustainable environment

The Green Rights Coalition (GRC), formerly known as the Global Pact Coalition, welcomes and thanks the UN Special Rapporteur on the right to a healthy environment for the call for inputs: “Overview of the Implementation of the Right to a Clean, Healthy, and Sustainable Environment.” We are honored to contribute to this vital initiative.

The GRC commends the Special Rapporteur’s dedication to advancing the human right to a clean, healthy, and sustainable environment (hereinafter “the right to a healthy environment”), especially given the ongoing challenges of pollution, climate change, and biodiversity loss. We are eager to support efforts to find effective solutions for the implementation of this right, ensuring it is recognized and upheld globally.

Our mission is to build a global movement for the recognition of environmental rights and duties. We advocate for the adoption of an international text enshrining these rights and duties, aiming to fill the current gaps in international environmental law and contribute to the emergence of a global legal framework that better protects ecosystems and biodiversity.

In this submission, we have focused specifically on Question 6 of the call for inputs: “**Main challenges for the effective implementation of the human right to a clean, healthy, and sustainable environment, including ongoing policies or efforts to overcome these.**”

We are honored to share our inputs and hope they will be valuable to your report and contribute meaningfully to the important discussion on the right to a healthy environment.

I. The main challenges affecting the effectiveness of the right to a healthy environment at the international level

1. International environmental law has significantly developed since the first United Nations Conference on the Human Environment held in Stockholm in 1972. Estimates indicate that there are more than 500 multilateral environmental agreements. Yet, this fragmentation of international environmental law hinders the effective implementation of standards due to the absence of a globally applied single agreement. This issue was notably highlighted by the UN Secretary-General in his report “Gaps in International Environmental Law and Environment-Related Instruments: Towards a Global Pact for the Environment.”¹

¹ UN Secretary-General, Gaps in international environmental law and environment-related instruments : towards a Global Pact for the Environment, UN, 30 Nov. 2018 [Gaps in international environmental law and environment-related instruments : towards a Global Pact for the Environment](https://www.un.org/en/secretary-general/2018-11-30-gaps-in-international-environmental-law-and-environment-related-instruments-towards-a-global-pact-for-the-environment) : (un.org)

2. The right to a healthy environment is primarily recognized in soft law instruments, such as UN declarations and resolutions.² However, there is no legally binding international framework guaranteeing the exercise and implementation of this right, which reduces its effectiveness. Since the right to a healthy environment is not codified in an international legally binding treaty, similar to major human rights treaties, there is a resulting complexity in effectively implementing this right in many countries.
3. Consequently, this situation harms the coherence of international environmental law as states and judges refer to sectoral treaties (like the Aarhus Convention) or regional agreements (like the African Charter on Human and Peoples' Rights) for the implementation of this right.
4. Furthermore, despite international recognition, with 161 states incorporating the right to a healthy environment into their national legislation, and due to various regional agreements that mention it, this does not necessarily translate into constitutional recognition of the right to a healthy environment. As a result, this right does not necessarily take precedence over other national laws, limiting its effectiveness and primacy within the internal legal order of these states.
5. In the absence of a definition enshrined in a legally binding international instrument, it is difficult to measure the compliance of national laws with the UN conception of the right to a healthy environment. This difficulty is exacerbated by the significant disparity between states in terms of human rights implementation and institutional capacity.
6. Moreover, the effectiveness of a right depends on the control of its implementation. However, there is currently no monitoring or enforcement mechanism to verify the application of the right to a healthy environment and, above all, to ensure its effective protection worldwide.

II. An international treaty protecting environmental rights as a remedy to the effectiveness of the right to a healthy environment through the establishment of a monitoring mechanism

We suggest the establishment of a legally binding global instrument to recognize, fulfill and protect environmental human rights, including the right to a healthy environment. Such an instrument would ensure that all states adopt a harmonized definition of this right, thus providing a solid basis for the uniformity of national legislation and the reduction of current inconsistencies and fragmentation. It would create a global minimum standard, serving as a reference to continuously strengthen environmental protection. This would also facilitate the establishment of measures to assess the effectiveness of this protection, providing a stable and unified reference for better protection on a global scale.

Furthermore, State responsibility is a major issue for the protection of the right to a healthy environment. In the absence of a legally binding international framework, it is difficult to hold states accountable for their shortcomings or inadequacies in environmental protection. A global instrument would address this gap by explicitly stating clear and legally binding obligations for states and other duty-bearers.

²For reference, please see resolution A/HRC/RES/48/13 of the Human Rights Council dated October 8, 2021 [g2128950.pdf \(un.org\)](#) and resolution A/76/L.75 of the United Nations General Assembly dated July 26, 2022 [The human right to a clean, healthy and sustainable environment : \(un.org\)](#).

Therefore, it is crucial to implement effective monitoring mechanisms, such as periodic reports, inspections, field visits, individual complaint mechanisms, and independent evaluations. These mechanisms can include non-judicial procedures, offering increased speed, flexibility, and accessibility compared to judicial procedures. While these non-judicial procedures offer such advantages, they should not exclude the use of judicial mechanisms as a means of control. Inspired by best practices in the human rights field, these mechanisms allow for monitoring the implementation of states' international obligations, clarifying often vague treaty terms, promoting transparency, and sharing of best practices.

Consequently, it is necessary to adopt a legally binding global instrument, accompanied by a well-designed monitoring and control mechanism tailored to current challenges.

III. Proposals for implementing a legally binding global instrument: illustrations from the project of the Global Pact for the Environment and the draft international pact on the right of human beings to the environment

1. The Global Pact for the Environment by the Green Rights Coalition

The Global Pact for the Environment (hereinafter “the Global Pact”) is an initiative led by the Green Rights Coalition (formerly the Global Pact Coalition), aimed at establishing an international treaty in the field of environmental law to strengthen environmental protection. This idea was proposed in 2015 by the Club des Juristes, a French think tank, during COP21 in Paris. The Global Pact was drafted by a network of experts known as the "International Group of Experts for the Pact" (IGEP). The group was made up of more than a hundred legal experts in environmental law and is chaired by former COP21 President Laurent Fabius. In 2017, French President Emmanuel Macron presented the Pact to the UN General Assembly. In May 2018, the General Assembly adopted resolution 72/277 “Towards a Global Pact for the Environment”, launching negotiations to assess the necessity of such a Pact. In 2022, the United Nations Environment Assembly adopted a political declaration recognizing the need to strengthen global environmental governance.

As a proposal for a legally binding global instrument, the Global Pact would define environmental human rights for humanity. It aims to harmonize international environmental law by consolidating and codifying emerging principles currently fragmented in various multilateral agreements, particularly in non-binding declarations. Codification would provide essential legal responses to these substantial gaps in international environmental law.

The Global Pact would recognize the right to a healthy environment, confirming the fundamental importance of this right for the security of all other environmental human rights. The effective implementation of the right to a healthy environment depends on universal acceptance of its content, making its immediate inclusion in the Global Pact imperative.

A monitoring or a review mechanism is an essential element of the effectiveness of the right to a healthy environment, without which it would be difficult to establish violations of this right and measure national implementation. In Article 21, the draft Global Pact establishes a monitoring mechanism.

This mechanism would rely on a committee of independent experts, designed to facilitate the implementation of the Global Pact's provisions. It would operate transparently, non-accusatorily, and non-punitively, considering each country's specific situations and capacities, following the principle of common but differentiated responsibilities and respective capabilities. Each state party would have to periodically submit reports on progress made in implementing the Pact's provisions. The frequency of these reports would have to be determined, although it would not exceed four years. This mechanism would ensure regular and transparent monitoring of environmental commitments, thereby enhancing state accountability and compliance with their obligations.

2. The Draft International Pact on the Right of Human Beings to the Environment by the CIDCE

The Draft International Pact on the Right of Human Beings to the Environment (PIDE) is an initiative of the International Center for Comparative Environmental Law (CIDCE) founded in 1982 by Professor Michel Prieur. Similar to the Global Pact, the PIDE aims to complement existing international covenants on civil and political rights, as well as on economic, social, and cultural rights, which do not explicitly mention the environment.

The PIDE would recognize the right of every person, including future generations, to live in an ecologically balanced environment, ensuring their health, safety, and well-being (Article 1).

The issue of effective implementation of the right to a healthy environment is addressed through monitoring and control mechanisms detailed in Articles 25 to 30. The PIDE assigns the Committee on Economic, Social and Cultural Rights, created by resolution 1985/17 of May 28, 1985, the responsibility to ensure compliance with the PIDE obligations, thus avoiding the creation of a new ad hoc institution. State parties would be required to submit regular reports on measures adopted and progress made, allowing the committee to make recommendations. Additionally, recourse to the committee would be provided through an individual communication system, similar to those of other UN human rights bodies, thereby enhancing the effectiveness and control of the right to a healthy environment.

In conclusion, the PIDE and the Global Pact for the Environment are two major and essential initiatives addressing the urgent need for an international framework with a legally binding global instrument for environmental protection. It is crucial, at a time when global crises continue to intensify, to mobilize efforts towards states for the adoption of a legally binding global instrument: this is the *sine qua non*-condition for universal protection of the right to a healthy environment. Regardless of the specific differences between these draft instruments, their importance lies in their common recognition of the right to a healthy environment as the foundation of an indispensable legal framework for protecting our planet and its inhabitants.

IV. Implementation of the right to a healthy environment at the regional level: the importance of an additional protocol to the European Convention on Human Rights

In the absence of concrete discussions on establishing a global instrument, it is imperative to support regional initiatives contributing to the effectiveness of the right to a healthy environment. While Latin America is leading the path of environmental protection through the Escazù agreement, it is worth mentioning the current campaign led by civil society for the adoption of an additional protocol to the European Convention on Human Rights enshrining this right.

The adoption of an additional protocol to the European Convention on Human Rights would explicitly integrate the right to a healthy environment into a solid regional legal framework. This would strengthen the effectiveness of this right and could serve as a catalyst for broader and more coherent norms at the international level. Establishing clear and binding obligations at the regional level would strengthen the pressure for similar commitments at the international level, thus contributing to the effective international implementation of this right.

Currently, the lack of recognition of the right to a healthy environment within the Council of Europe's system marks a significant gap. Addressing this gap would align the Convention with its foundational principles and strengthen its effectiveness. By adopting this instrument, the Council would reaffirm its commitment to comprehensive human rights protection and maintain its relevance and leadership in the 21st century.

Although the effectiveness of the right to a healthy environment is better guaranteed by an international treaty, the adoption of this additional protocol is an essential initiative to ultimately promote the full implementation of this right on a global scale. These efforts would not only help people living in Europe but also people globally.