

**INTERNATIONAL COURT OF JUSTICE**

**OBLIGATIONS OF STATES IN RESPECT OF CLIMATE CHANGE**

**(REQUEST FOR ADVISORY OPINION)**

**WRITTEN STATEMENT OF THE REPUBLIC OF SLOVENIA**

**22 March 2024**

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## WRITTEN STATEMENT OF THE REPUBLIC OF SLOVENIA

### Introduction

1. On 29 March 2023, the United Nations General Assembly adopted resolution 77/276 entitled “Request for an advisory opinion of the International Court of Justice on the obligations of States in respect of climate change”, by which it decided, pursuant to Article 65 of the Statute of the Court, to request the International Court of Justice to render an advisory opinion.<sup>1</sup> In accordance with Article 65, paragraph 2, of the Statute of the Court and Article 103 of the Rules of Court, the request was transmitted to the Court by the United Nations Secretary-General by a letter dated 12 April 2023.

2. In its Order of 20 April 2023, the Court decided that “the United Nations and its Member States are considered likely to be able to furnish information on the questions submitted to the Court for an advisory opinion” and fixed the time-limits for the submission of written statements and written comments.<sup>2</sup> These time-limits were subsequently extended by the Court twice.<sup>3</sup> The Court also decided to authorize several international organizations to submit their views and written observations within the relevant time-limits.

3. The Republic of Slovenia, together with all other Member States of the European Union supported and co-sponsored the resolution of the General Assembly requesting an advisory opinion of the Court.<sup>4</sup> As explained by the representative of the European Union after the adoption of Resolution 77/276, the “the requested advisory opinion of the International Court of Justice has the

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<sup>1</sup> United Nations, General Assembly, resolution 77/276, Request for an advisory opinion of the International Court of Justice on the obligations of States in respect of climate change, 29 March 2023 [Dossier No. 2].

<sup>2</sup> *Obligations of States in respect of Climate Change*, Order of 20 April 2023, paras. 1 to 3.

<sup>3</sup> *Obligations of States in respect of Climate Change*, Order of 4 August 2023; and *Obligations of States in respect of Climate Change*, Order of 15 December 2023.

<sup>4</sup> See General Assembly, Request for an advisory opinion of the International Court of Justice on the obligations of States in respect of climate change, Draft resolution, A/77/L.58, 1 March 2023. See also *Official Records of the General Assembly*, seventeen-seventh session, 64<sup>th</sup> plenary meeting, 29 March 2023, A/77/PV.64, p. 8 [Dossier No. 3].

potential to make a significant contribution to the clarification of the current state of international law”.<sup>5</sup> And he continued:

“The EU and its member States appreciate the choice of engaging the Court through advisory proceedings, whose non-contentious nature avoids disputes and encourages the continued pursuit by the international community of further ambitious and effective action, including through international negotiations, to tackle climate change.”<sup>6</sup>

4. In accordance with the decisions of the Court, and mindful of the importance of these advisory proceedings for the international community as a whole and, indeed, humankind, Slovenia is grateful of the opportunity to present certain information and elements that it considers relevant for answering the questions submitted to the Court by the General Assembly.

### **I. The questions submitted and the role of the Court**

5. Under Article 65, paragraph 1, of the Statute:

“[t]he Court may give an advisory opinion on any legal question at the request of whatever body may be authorized by or in accordance with the Charter of the United Nations to make such a request.”

The present request has been made pursuant to Article 96, paragraph 1, of the Charter of the United Nations, under which the General Assembly may seek an advisory opinion of the Court on any legal question.

6. The questions asked by the General Assembly is as follows:

“Having particular regard to the Charter of the United Nations, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the United Nations Framework Convention on Climate Change, the Paris Agreement, the United Nations Convention on the Law of the Sea, the duty of due diligence, the rights recognized in the Universal Declaration of Human Rights, the principle of prevention of significant harm to the environment and the duty to protect and preserve the marine environment,

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<sup>5</sup> *Official Records of the General Assembly*, seventeen-seventh session, 64<sup>th</sup> plenary meeting, 29 March 2023, A/77/PV.64, p. 7 [Dossier No. 3].

<sup>6</sup> *Ibid.*, p. 7-8.

- (a) What are the obligations of States under international law to ensure the protection of the climate system and other parts of the environment from anthropogenic emissions of greenhouse gases for States and for present and future generations?
- (b) What are the legal consequences under these obligations for States where they, by their acts and omissions, have caused significant harm to the climate system and other parts of the environment, with respect to:
  - (i) States, including, in particular, small island developing States, which due to their geographical circumstances and level of development, are injured or specially affected by or are particularly vulnerable to the adverse effects of climate change?
  - (ii) Peoples and individuals of the present and future generations affected by the adverse effects of climate change?”<sup>7</sup>

7. The two questions contained in the General Assembly’s request are undoubtedly legal questions concerning international law. The first question concerns the *existence* of obligations under international law in respect of the protection of the climate system and other parts of the environment. The second question relates to the *content* and the *legal consequences* provided for under these obligations in the specific case in which “significant harm” has been caused to the climate system and other parts of the environment. Both questions are “questions framed in terms of law and raise problems of international law”<sup>8</sup>. They are questions that “by their very nature [are] susceptible of a reply based on law”<sup>9</sup> and therefore “questions of a legal character”<sup>10</sup>.

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<sup>7</sup> United Nations, General Assembly, resolution 77/276, Request for an advisory opinion of the International Court of Justice on the obligations of States in respect of climate change, 29 March 2023 [Dossier No. 2].

<sup>8</sup> *Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo, Advisory Opinion, I.C.J. Reports 2010*, p. 414-415, para. 25; *Western Sahara, Advisory Opinion, I.C.J. Reports 1975*, p. 18, para. 15.

<sup>9</sup> *Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo, Advisory Opinion, I.C.J. Reports 2010*, p. 414-415, para. 25; *Western Sahara, Advisory Opinion, I.C.J. Reports 1975*, p. 18, para. 15. See also *Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, I.C.J. Reports 1996*, p. 233-234, para. 13; *Legality of the Use by a State of Nuclear Weapons in Armed Conflict, Advisory Opinion, I.C.J. Reports 1996*, p. 73, para. 15.

<sup>10</sup> See also *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965, Advisory Opinion, I.C.J. Reports 2019*, p. 112, para. 58.

8. The first of the two questions asks the Court to identify the obligations of States under international law in respect of the protection of the climate system and other parts of the environment. As formulated, the question refers to all sources of international law, as recalled in Article 38, paragraph 1, of the Statute. The latter provision remains fully relevant even in advisory proceedings,<sup>11</sup> because “[t]he Court, being a Court of Justice, cannot, even in giving advisory opinions, depart from the essential rules guiding their activity as a Court”<sup>12</sup>. The Court has not been asked to address or to identify obligations of States under domestic law or any body of law that is not international law, and would in any event be prevented to do so.<sup>13</sup> That being said, the Republic of Slovenia emphasizes that other sources of law, including domestic law or law established within regional integration organizations, like the European Union, also contain obligations for States and its authorities concerning the protection of the climate system and of the environment.

9. The first question, asking of obligations of States under international law, remains considerably large in scope. It refers to international law without any further qualification or restrictions and, virtually, includes all sources of international law. It is noteworthy that the introductory part of the General Assembly’s request refers to certain instruments and rules of international law to which the Court should have “particular regard”. These include specifically international conventions (the Charter of the United Nations, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the United Nations Framework Convention on Climate Change, the Paris Agreement, and the United Nations Convention on the Law of the Sea) which, as a matter of principle, create obligations only for those States that are parties to these conventions, on the one hand, and rules and principles that seem to be part of customary international law (the rights recognized in the Universal Declaration of Human Rights, the duty of due diligence, the principle of prevention

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<sup>11</sup> A. Pellet and D. Müller, “Article 38”, in A. Zimmermann *et al.* (eds.), *The Statute of the International Court of Justice: A Commentary*, 3<sup>rd</sup> edn., Oxford University Press, 2019, p. 839-840.

<sup>12</sup> *Status of Eastern Carelia, Advisory Opinion, 1923, P.C.I.J., Series B, No. 5*, p. 29. See also *Western Sahara, Advisory Opinion, I.C.J. Reports 1975*, p. 21, para. 23; *Application for Review of Judgment No. 158 of the United Nations Administrative Tribunal, Advisory Opinion, I.C.J. Reports 1973*, p. 175, para. 24; *Certain expenses of the United Nations (Article 17, paragraph 2, of the Charter, Advisory Opinion, I.C.J. Reports 1962*, p. 155.

<sup>13</sup> *Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo, Advisory Opinion, I.C.J. Reports 2010*, p. 415, para. 26. See also *ibid.*, Separate Opinion of Judge Yusuf, *I.C.J. Reports 2010*, p. 626, para. 21; *Consistency of Certain Danzig Legislative Decrees with the Constitution of the Free City, Individual Opinion of Judge Anzilotti, 1935, P.C.I.J., Series A/B, No. 65*, p. 61.

of significant harm to the environment and the duty to protect and preserve the marine environment) binding, in principle, on all States, on the other hand.

10. Yet, the actual question is not limited to these specifically mentioned rules and instruments. In fact, the Court seems to have been asked to restate the law and to draw a catalogue of all legal obligations relevant to the protection of the climate system and of other parts of the environment. Given the “great corpus of international law norms available to it”, this task seems to be particularly burdensome, and the Court might wish to limit its consideration to obligations for States under general international law, only. This holds true in particular given the fact that “the law lies within the judicial knowledge of the Court”<sup>14</sup>.

11. Importantly, the General Assembly sought the opinion of the Court on “[w]hat *are* the obligations of States” (emphasis added). The Court, as a court of law, is neither asked nor empowered to opine on the suitability of these obligations and, even less, on what should be the obligations of States to assure the protection of the climate system and the environment. The Court has clearly set out the inherent limitations of its judicial function in contentious cases. In its *South West Africa* judgment, it explained:

“As is implied by the opening phrase of Article 38, paragraph 1, of its Statute, the Court is not a legislative body. Its duty is to apply the law as it finds it, not to make it.”<sup>15</sup>

In its Advisory Opinion concerning the *Legality of the Threat or Use of Nuclear Weapons*, the Court further explained:

“It is clear that the Court cannot legislate, and, in the circumstances of the present case, it is not called upon to do so. Rather its task is to engage in its normal judicial function of ascertaining the existence or otherwise of legal principles and rules applicable to the threat or use of nuclear weapons. The contention that the giving of an answer to the question posed would require the Court to legislate is based on a supposition that the present *corpus juris* is devoid of relevant rules in this matter. The Court could not accede to this argument; it states the existing law and does not legislate. This is so even if,

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<sup>14</sup> *Fisheries Jurisdiction (United Kingdom v. Iceland)*, Merits, Judgment, I.C.J. Reports 1974, p. 9, para. 17; *Fisheries Jurisdiction (Federal Republic of Germany v. Iceland)*, Merits, Judgment, I.C.J. Reports 1974, p. 181, para. 18; *Military and Paramilitary Activities in und against Nicaragua (Nicaragua v. United States of America)*, Merits, Judgment, I.C.J. Reports 1986, p. 24-25, para. 29.

<sup>15</sup> *South West Africa (Ethiopia v. South Africa; Liberia v. South Africa)*, Second Phase, Judgment, I.C.J. Reports 1966, p. 48, para. 89.

in stating and applying the law, the Court necessarily has to specify its scope and sometimes note its general trend.”<sup>16</sup>

These inherent limitations of the Court’s mission when responding to the question asked by the General Assembly are of particular importance in respect of the ongoing negotiations and discussions concerning the legal framework for the protection of the climate system and the environment more largely. The mere fact that such negotiations are ongoing or are necessary is not a reason – and even less a decisive reason – for the Court to decline to respond to the question addressed to it.<sup>17</sup> However, it is not for the Court to prejudge the outcome of these ongoing efforts of States to define the appropriate legal framework.

12. The second question asked by the General Assembly also need some comments. According to the wording used by the General Assembly, it concerns only the issue of the legal consequences under the respective obligations if a State has or States have caused significant harm to the climate system and other parts of the environment. In other words, the question concerns the issue whether these obligations contain specific legal consequences for States when such significant harm was caused and what these consequences are. This is also a legal question that can be answered by identifying the relevant legal obligations and by interpreting these obligations in order to determine their content and scope.

13. The Court does of course have the power to interpret the question submitted to its scrutiny. In previous advisory proceedings, the Court has interpreted or even reformulated the question put to it because that question was not adequately formulated or did not concern the real issue in question<sup>18</sup>. In the present case, this is neither necessary nor warranted. Indeed, the question is clearly formulated and a narrow one. For this reason, and as the Court has previously acknowledged, “in giving its opinion the Court is, in principle, bound by the terms of the questions formulated in the request”<sup>19</sup>.

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<sup>16</sup> *Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, I.C.J. Reports 1996*, p. 237, para. 18.

<sup>17</sup> *Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, I.C.J. Reports 1996*, p. 237, para. 17; *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004*, p. 160, para. 51.

<sup>18</sup> *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004*, p. 153-154, para. 38.

<sup>19</sup> *Application for Review of Judgment No. 158 of the United Nations Administrative Tribunal, Advisory Opinion, I.C.J. Reports 1973*, p. 184, para. 41. See also *Voting Procedure on Questions relating to Reports and Petitions concerning the Territory of South West Africa, Advisory Opinion*,



14. The General Assembly has not asked the Court, as it did in other requests<sup>20</sup>, what are the legal consequences of a breach of the obligations referred to in the first question or, in other words, what would be the legal consequences of an internationally wrongful act of a State or States resulting from a breach of its or their obligations concerning the protection of the climate system or other parts of the environment. The Republic of Slovenia wishes to recall that the mere existence of harm – whether caused by the acts and omissions of a State or of States or not – is not sufficient to qualify the existence of an internationally wrongful act, in accordance with the rules and principles codified in the Articles on the Responsibility of States for internationally wrongful acts.<sup>21</sup>

15. In any event, whether a particular State has breached an obligation concerning the protection of the climate system or other parts of the environment, whether this internationally wrongful act has caused damage to another State, and whether one or several States are injured or specially affected depend not only on the obligations breached, but also on factual elements and circumstances. Assessing these questions in the abstract in advisory proceedings like the present one is, in the opinion of the Republic of Slovenia, impossible.

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16. In light of the above considerations, the present Written Statement will be limited in scope and extent. The Republic of Slovenia also reserves its right to present its position, comments and arguments on the written statements filed by

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*I.C.J. Reports 1955*, p. 71-72; *Judgments of the Administrative Tribunal of the ILO upon Complaints Made against Unesco, Advisory Opinion, I.C.J. Reports 1956*, p. 98-99.

<sup>20</sup> See, in particular, *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970), Advisory Opinion, I.C.J. Reports 1971*, p. 16; *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004*, p. 136; *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965, Advisory Opinion, I.C.J. Reports 2019*, p. 95. See also the request for advisory opinion concerning Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, in United Nations, General Assembly, Resolution 77/247, *Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem*, 30 December 2022, point 18.

<sup>21</sup> Articles on the Responsibility of States for Internationally Wrongful Acts, Article 2, in United Nations, General Assembly, Resolution 56/83, Responsibility of States for internationally wrongful acts, 12 December 2001, Annex; Draft Articles on the Responsibility of States for Internationally Wrongful Acts, *Yearbook of the International Law Commission*, 2001, vol. II (2), p. 36, para. (9) of the commentary to draft Article 2. See also *Responsibilities and obligations of States with respect to activities in the Area, Advisory Opinion, ITLOS Reports 2011*, p. 58, para. 178.

other States and international organizations in its Written Observations or, if appropriate, during its oral observations.

## **II. Obligations of States in respect to climate change and the right to a clean, healthy and sustainable environment**

17. In its Advisory Opinion on the *Legality of the Threat or Use of Nuclear Weapons*, the Court has already recognized that:

“the environment is not an abstraction but represents the living space, the quality of life and the very health of human beings, including generations unborn. The existence of the general obligation of States to ensure that activities within their jurisdiction and control respect the environment of other States or of areas beyond national control is now part of the corpus of international law relating to the environment.”<sup>22</sup>

In 1997, the Court confirmed “the great significance that it attaches to respect for the environment, not only for States but also for the whole of mankind”<sup>23</sup>.

18. The Court also recalled that under general international law it is:

“every State’s obligation not to allow knowingly its territory to be used for acts contrary to the rights of other States”<sup>24</sup>,

and that:

“A State is thus obliged to use all the means at its disposal in order to avoid activities which take place in its territory, or in any area under its jurisdiction, causing significant damage to the environment of another State.”<sup>25</sup>

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<sup>22</sup> *Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, I.C.J. Reports 1996*, p. 241-242, para. 29.

<sup>23</sup> *Gabčíkovo-Nagymaros Project (Hungary/Slovakia), Judgment, I.C.J. Reports 1997*, p. 41, para. 53.

<sup>24</sup> *Corfu Channel (United Kingdom v. Albania), Merits, Judgment, I.C.J. Reports 1949*, p. 22.

<sup>25</sup> *Pulp Mills on the River Uruguay (Argentina v. Uruguay), Judgment, I.C.J. Reports 2010*, p. 56, para. 101. See also *Certain Activities Carried Out by Nicaragua in the Border Area (Costa Rica v. Nicaragua) and Construction of a Road in Costa Rica along the San Juan River (Nicaragua v. Costa Rica), Judgment, I.C.J. Reports 2015*, p. 706, para. 104; *Dispute over the Status and Use of the Waters of the Silala (Chile v. Bolivia), Judgment, I.C.J. Reports 2022*, p. 648, para. 99.

19. There is no doubt that these general obligations of conduct concerning the protection of the environment, which, among others, find their concrete expression in the Convention on Environmental Impact Assessment in a Transboundary Context<sup>26</sup>, are equally relevant and applicable to the protection of the climate system as an integral part of the environment and, more largely, of “the living space” of humankind.

20. Moreover, these obligations are not owned by States only in their relation to other States. The United Nations Framework Convention on Climate Change, specifically mentioned by the General Assembly in its request, acknowledges that “[t]he Parties should protect the climate system *for the benefit of* present and future generations of humankind”.<sup>27</sup> Given the very object of the protection of the environment, of which the climate system is part, *i.e.*, the protection of “the quality of life and the very health of human beings”, States also have obligations deriving from the fundamental and basic rights of the human person, and in particular, the right to a clean, healthy and sustainable environment as a prerequisite for the enjoyment of a wide range of fundamental human rights, including the right to life, health, food, water, and development.

#### A. THE RIGHT TO A CLEAN, HEALTHY AND SUSTAINABLE ENVIRONMENT AS A WELL-ESTABLISHED HUMAN RIGHT

21. The right to a clean, healthy and sustainable environment is an integral part of the fundamental rights, recognized in Slovenia since 1974.<sup>28</sup> In the Constitution of the Republic of Slovenia of 1991, Article 72, paragraph 1, provides:

“Everyone has the right in accordance with the law to a healthy living environment.”<sup>29</sup>

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<sup>26</sup> Convention on Environmental Impact Assessment in a Transboundary Context, Espoo, 25 February 1991, United Nations, *Treaty Series*, vol. 1989, p. 309.

<sup>27</sup> United Nations Framework Convention on Climate Change, New York, 9 May 1992, Article 3 (1), United Nations, *Treaty Series*, vol. 1771, p. 107 (emphasis added).

<sup>28</sup> Article 192 of the 1974 Constitution of the Socialist Federal Republic of Yugoslavia provided: “A human being has a right to a healthy living environment. The society guarantees conditions for realization of this right.” [our translation of the Slovenian original: “Čovjek ima pravo na zdravu životnu sredinu. Društvena zajednica osigurava uvjete za ostvarivanje ovog prava.”].

<sup>29</sup> Constitution of the Republic of Slovenia, Article 72, *Official Gazette of the Republic of Slovenia*, Nos. 33/91-I, 42/97 – UZS68, 66/00 – UZ80, 24/03 – UZ3a, 47, 68, 69/04 – UZ14, 69/04 – UZ43, 69/04 – UZ50, 68/06 – UZ121,140,143, 47/13 – UZ148, 47/13 – UZ90,97,99, 75/16 – UZ70a and 92/21 – UZ62a (available at <https://www.us-rs.si/media/constitution.pdf>).

Mindful of the constitutional mission, the Republic of Slovenia has adopted legislation in order to fully implement its constitutional mission to promote a healthy living environment. It is reviewing and adapting this legislation in light of the international obligations and commitments under European Union law. The European Union, of which Slovenia has been a Member State since 2004, has also included the protection of the environment into the Charter of Fundamental Rights of the European Union. Article 37 (Environmental protection) provides:

“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.”<sup>30</sup>

In 2024, at least 161 of the 193 United Nations Member States recognized the right to a clean and healthy environment in their domestic law, at national or regional level.<sup>31</sup>

22. The clean, healthy and sustainable environment and its promotion are essential elements of basic human rights and have been expressly recognized as such in a number of international instruments:

(a) The United Nations Conference on Human Environment, held in Stockholm, proclaimed already in 1972 that:

“Man is both creature and moulder of his environment, which gives him physical sustenance and affords him the opportunity for intellectual, moral, social and spiritual growth. In the long and tortuous evolution of the human race on this planet a stage has been reached when, through the rapid acceleration of science and technology, man has acquired the power to transform his environment in countless ways and on an unprecedented scale. Both aspects of man’s environment, the natural and the man-made, are

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<sup>30</sup> Charter of Fundamental Rights of the European Union, Article 37, in *Official Journal of the European Union*, C 326, p. 403 (available at <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012P/TXT>).

<sup>31</sup> See Right to a healthy environment: good practices, Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, A/HRC/43/53, 30 December 2019, para. 13 and Annex II [Dossier No. 313]. See also Letter from the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, 19 January 2024; Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, A/73/188, 19 July 2018, paras. 29-32.

essential to his well-being and to the enjoyment of basic human rights—even the right to life itself.”<sup>32</sup>

It added that:

“The protection and improvement of the human environment is a major issue which affects the well-being of peoples and economic development throughout the world; it is the urgent desire of the peoples of the whole world and the duty of all Governments.

.....

To defend and improve the human present and future generations has become an imperative goal for mankind—a goal to be pursued together with, and in harmony with, the established and fundamental goals of peace and of world-wide economic and social development.”<sup>33</sup>

The Conference further stated the common conviction that:

“Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality environment that permits a life of dignity and well-being, and he bears a solemn responsibility to protect and improve the environment for present and future generations.”<sup>34</sup>

(b) The Rio Declaration on Environment and Development reaffirmed that human beings “are entitled to a healthy and productive life in harmony with nature”<sup>35</sup>.

(c) The Preamble of the Paris Agreement provides that State parties:

“should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights, the right to health, the

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<sup>32</sup> Declaration of the United Nations Conference on the Human Environment, 16 June 1972, in *Report of the United Nations Conference on the Human Environment*, Stockholm, 5-16 June 1972, A/CONF.48/14/Rev.1, para. 1 [Dossier No. 136].

<sup>33</sup> *Ibid.*, paras. 2 and 6.

<sup>34</sup> *Ibid.*, Principle 1.

<sup>35</sup> Resolution 1 of the United Conference on Environment and Development, Annex I: Rio Declaration on Environment and Development, Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 3-14 June 1992, A/CONF.151/26/Rev.1 (Vol. I), p. 3 [Dossier No. 137].

rights of indigenous peoples, local communities, migrants, persons with disabilities, and people in vulnerable situations”<sup>36</sup>.

This does not only imply that State parties need to ensure that their actions are consistent with their human rights obligations, but also that respect and enhancement of human rights constitute a reason to implement appropriate actions concerning the protection of the climate system and the environment more largely.

23. Elements of the right to a healthy, clean and sustainable environment are expressly recognized in a number of regional human rights instruments.

(a) Article 24 of the African Charter on Human and Peoples’ Rights, to which 54 States are parties, provides:

“All peoples shall have the right to a general satisfactory environment favorable to their development.”<sup>37</sup>

(b) Article 11 (Right to a healthy environment) of the Additional Protocol to the American Convention on Human Rights adopted in 1988, ratified by 18 States, provides:

“1. Everyone shall have the right to live in a healthy environment and to have access to basic public services.

2. The States Parties shall promote the protection, preservation, and improvement of the environment.”<sup>38</sup>

(c) Article 38 of the Arab Charter on Human Rights, adopted by the Council of the League of Arab States in 2004, also provides:

“Every person has the right to an adequate standard of living for himself and his family, which ensures their well-being and a decent life, including food, clothing, housing, services and the right to a healthy environment. The

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<sup>36</sup> Paris Agreement, Paris, 12 December 2015, United Nations, *Treaty Series*, vol. 3156, p. 79.

<sup>37</sup> African Charter on Human and Peoples’ Rights, Nairobi, 27 June 1981, United Nations, *Treaty Series*, vol. 1520, p. 217.

<sup>38</sup> Additional Protocol to the American Convention on Human Rights in the area of economic, social and cultural rights (Protocol of San Salvador), San Salvador, 17 November 1988, Organization of American States, *Treaty Series*, No. 69.

States parties shall take the necessary measures commensurate with their resources to guarantee these rights.”<sup>39</sup>

- (d) The 2012 Declaration on Human Rights of the heads of State or Government of the Member States of the Association of Southeast Asian Nations (ASEAN) also recognizes:

“Every person has the right to an adequate standard of living for himself or herself and his or her family including:

.....

- (f) The right to a safe, clean and sustainable environment.”<sup>40</sup>

24. Other international instruments also refer specifically to the right to a healthy environment:

- (a) The 1998 Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention), recalls Principle 1 of the Stockholm Declaration and recognizes that:

“every person has the right to live in an environment adequate to his or her health and well-being, and the duty, both individually and in association with others, to protect and improve the environment for the benefit of present and future generations”<sup>41</sup>.

- (b) The Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin American and the Caribbean (Escazú Agreement) also recognizes, as part of its object and purpose, the protection of “the right of every person of present and future generations to live in a healthy environment and to sustainable development”<sup>42</sup>.

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<sup>39</sup> For an English translation of the Arab Charter on Human Rights, see UN doc. CHR/NONE/2004/40/Rev.1.

<sup>40</sup> ASEAN Human Rights Declaration, 19 November 2012, para. 28 (available at <https://asean.org/asean-human-rights-declaration/>).

<sup>41</sup> Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, Aarhus, 25 June 1998, United Nations, *Treaty Series*, vol. 2161, p. 447.

<sup>42</sup> Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin American and the Caribbean, Escazú, 4 March 2018, United Nations, *Treaty Series*, vol. 3397.

25. Moreover, existing human rights instruments, even if they do not specifically mention a right to a clean, healthy and sustainable environment, necessarily include this right as an essential element of the realization and the respect of guaranteed rights, including in particular the right to life in dignity. Several treaty bodies have taken this view when interpreting human right treaties and their provisions stressing the interoperability between international environmental law and international human rights law: the latter needs to be assessed and interpreted also in the light of the former. All human rights depend on a healthy environment. As already recognized by the Court, the interpretation of these instruments by their respective treaty bodies specifically created to supervise the application of these treaties should be ascribed great weight in order to achieve the necessary clarity and the essential consistency of international law. It explained in relation to the findings of the Human Rights Committee:

“Since it was created, the Human Rights Committee has built up a considerable body of interpretative case law, in particular through its findings in response to the individual communications which may be submitted to it in respect of States parties to the first Optional Protocol, and in the form of its ‘General Comments’.

Although the Court is in no way obliged, in the exercise of its judicial functions, to model its own interpretation of the Covenant on that of the Committee, it believes that it should ascribe great weight to the interpretation adopted by this independent body that was established specifically to supervise the application of that treaty. The point here is to achieve the necessary clarity and the essential consistency of international law, as well as legal security, to which both the individuals with guaranteed rights and the States obliged to comply with treaty obligations are entitled.”<sup>43</sup>

26. In respect of the International Covenant on Civil and Political Rights, specifically mentioned by the General Assembly in its request, the Human Rights Committee considered that the duty to protect life implies that States parties take appropriate measures to address the general conditions in society that may give rise to direct threats to life or prevent individuals from enjoying their right to life with

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<sup>43</sup> *Ahmadou Sadio Diallo (Republic of Guinea v. Democratic Republic of the Congo), Merits, Judgment, I.C.J. Reports 2010, p. 639, para. 66.*



dignity, including, *inter alia*, degradation of the environment.<sup>44</sup> The Committee explained in this regard:

“Environmental degradation, climate change and unsustainable development constitute some of the most pressing and serious threats to the ability of present and future generations to enjoy the right to life. The obligations of States parties under international environmental law should thus inform the content of article 6 of the Covenant, and the obligation of States parties to respect and ensure the right to life should also inform their relevant obligations under international environmental law. Implementation of the obligation to respect and ensure the right to life, and in particular life with dignity, depends, *inter alia*, on measures taken by States parties to preserve the environment and protect it against harm, pollution and climate change caused by public and private actors. States parties should therefore ensure sustainable use of natural resources, develop and implement substantive environmental standards, conduct environmental impact assessments and consult with relevant States about activities likely to have a significant impact on the environment, provide notification to other States concerned about natural disasters and emergencies and cooperate with them, provide appropriate access to information on environmental hazards and pay due regard to the precautionary approach.”<sup>45</sup>

27. In its views concerning the communication in *Daniel Billy and others v. Australia*, the Committee confirmed this approach.<sup>46</sup> It underlined that in accordance with the preamble of the Covenant, referring to the Universal Declaration of Human Rights,

“the ideal of free human beings enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights”.

This does include, indeed, a clean and healthy environment, a condition that, in accordance with relevant principles of treaty interpretation, is relevant for the interpretation of the rights guarantees under the Covenant and the obligations for States in this regard<sup>47</sup>. The Committee considered further, on the basis of General

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<sup>44</sup> Human Rights Committee, General comment No. 36, Article 6: right to life, CCPR/C/GC/36, 3 September 1999, paras. 26 and 62 [Dossier No. 299].

<sup>45</sup> *Ibid.*, para. 62 (footnotes omitted).

<sup>46</sup> *Daniel Billy and others v. Australia*, Human Rights Committee, 21 July 2022, communication No. 3624/2019, CCPR/C/135/D/3624/2019.

<sup>47</sup> *Ibid.*, para. 8.4.

Comment No. 36,<sup>48</sup> that “the obligation of States parties to respect and ensure the right to life extends to reasonably foreseeable threats and life-threatening situations that can result in loss of life” and that “such threats may include adverse climate change impacts”<sup>49</sup>. It recalled that “environmental degradation, climate change and unsustainable development constitute some of the most pressing and serious threats to the ability of present and future generations to enjoy the right to life”<sup>50</sup>.

28. The Committee on the Rights of the Child also recognized that a clean and healthy environment constitutes a precondition for the full enjoyment of rights guaranteed under the United Nations Convention on the rights of the Child. Therefore, the right to a clean, healthy and sustainable environment is inherent in the Convention. The Committee explained:

“Children have the right to a clean, healthy and sustainable environment. This right is implicit in the Convention and directly linked to, in particular, the rights to life, survival and development, under article 6, to the highest attainable standard of health, including taking into consideration the dangers and risks of environmental pollution, under article 24, to an adequate standard of living, under article 27, and to education, under article 28, including the development of respect for the natural environment, under article 29.”<sup>51</sup>

29. The Committee on the Elimination of Discrimination against Women and the Committee on Economic, Social and Cultural Rights have also considered that the respect of the right to a clean and healthy environment constitutes a necessary element to be taken duly into account when assessing respect or the violation of convention rights<sup>52</sup>.

30. The right to a healthy, clean and sustainable environment as an inherent element of and for the enjoyment of fundamental rights had already been recognized by the Special Rapporteur on the issue of human rights obligations

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<sup>48</sup> See above, para. 26.

<sup>49</sup> *Daniel Billy and others v. Australia*, Human Rights Committee, 21 July 2022, communication No. 3624/2019, CCPR/C/135/D/3624/2019, para. 8.3.

<sup>50</sup> *Ibid.* See also *ibid.*, para. 8.5.

<sup>51</sup> Committee on the Rights of the Child General comment No. 26 (2023) on children’s rights and the environment, with a special focus on climate change, CRC/C/GC/26, 22 August 2023, para. 63 [Dossier No. 302A].

<sup>52</sup> Committee on the Elimination of Discrimination against Women, General recommendation No. 39 (2022) on the rights of Indigenous women and girls, CEDAW/C/GC/39, 31 October 2022, para. 60; Committee on Economic, Social and Cultural Rights, General comment No. 26 (2022) on land and economic, social and cultural rights, E/C.12/GC/26, 24 January 2023, paras. 1 and 56.

relating to the enjoyment of a safe, clean, healthy and sustainable environment. In the 2018 Framework principles on human rights and the environment, annexed to his report, he explained that:

“Human rights and environmental protection are interdependent. A safe, clean, healthy and sustainable environment is necessary for the full enjoyment of human rights, including the rights to life, to the highest attainable standard of physical and mental health, to an adequate standard of living, to adequate food, to safe drinking water and sanitation, to housing, to participation in cultural life and to development, as well as the right to a healthy environment itself, which is recognized in regional agreements and most national constitutions. At the same time, the exercise of human rights, including rights to freedom of expression and association, to education and information, and to participation and effective remedies, is vital to the protection of the environment.”<sup>53</sup>

31. The Human Rights Council endorsed these considerations and interpretations in 2021, recognizing that:

“sustainable development, in its three dimensions (social, economic and environmental), and the protection of the environment, including ecosystems, contribute to and promote human well-being and the enjoyment of human rights, including the rights to life, to the enjoyment of the highest attainable standard of physical and mental health, to an adequate standard of living, to adequate food, to housing, to safe drinking water and sanitation and to participation in cultural life, for present and future generations”<sup>54</sup>,

and that

“conversely, the impact of climate change, the unsustainable management and use of natural resources, the pollution of air, land and water, the unsound management of chemicals and waste, the resulting loss of biodiversity and the decline in services provided by ecosystems interfere with the enjoyment of a clean, healthy and sustainable environment, and that environmental damage has negative implications, both direct and indirect, for the effective enjoyment of all human rights”<sup>55</sup>.

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<sup>53</sup> Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, A/HRC/37/59, 24 January 2018, Annex, para. 4 [Dossier No. 308].

<sup>54</sup> United Nations, Human Rights Council, Resolution 48/13, The human right to a clean, healthy and sustainable environment, 8 October 2021, preambular considerations [Dossier No. 279].

<sup>55</sup> *Ibid.*

In its resolution 48/13 on the human right to a clean, healthy and sustainable environment, the Human Rights Council specifically emphasized not only the existence of the right to healthy, clean and sustainable environment, but also its close relationship with other fundamental rights of the human person. Hence, it recognized:

“the right to a clean, healthy and sustainable environment as a human right that is important for the enjoyment of human rights”<sup>56</sup>.

And it further noted that:

“the right to a clean, healthy and sustainable environment is related to other rights and existing international law”<sup>57</sup>.

32. The General Assembly endorsed this view in full in 2022 in its resolution 76/300.<sup>58</sup> The Republic of Slovenia was, from the outset, a sponsor of this resolution together with Costa Rica, the Maldives, Morocco, and Switzerland,<sup>59</sup> which built on the resolution of the Human Rights Council and followed a large consultation process within the United Nations Membership.<sup>60</sup> Noting that “a vast majority of States have recognized some form of the right to a clean, healthy and sustainable environment through international agreements, their national constitutions, legislation, laws or policies”<sup>61</sup>, the General Assembly

“[r]ecognize[d] the right to a clean, healthy and sustainable environment as a human right”<sup>62</sup>,

and

“[n]ote[d] that the right to a clean, healthy and sustainable environment is related to other rights and existing international law”<sup>63</sup>.

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<sup>56</sup> United Nations, Human Rights Council, Resolution 48/13, The human right to a clean, healthy and sustainable environment, 8 October 2021, para. 1 [Dossier No. 279].

<sup>57</sup> *Ibid.*, para. 2.

<sup>58</sup> United Nations, General Assembly, resolution 76/300, The human right to a clean, healthy and sustainable environment, 28 July 2022 [Dossier No. 260].

<sup>59</sup> Official Records of the General Assembly, Seventy-sixth session, 97<sup>th</sup> plenary meeting, 28 July 2022, A/76/PV.97, p. 5 (Ms. Chan Valverde (Costa Rica)).

<sup>60</sup> *Ibid.*

<sup>61</sup> United Nations, General Assembly, resolution 76/300, The human right to a clean, healthy and sustainable environment, 28 July 2022, preambular considerations [Dossier No. 260].

<sup>62</sup> *Ibid.*, para. 1.

<sup>63</sup> *Ibid.*, para. 2.

33. In December 2023, the Meeting of the State Parties to the Paris Agreement, which counts 195 States, also reaffirmed the existence of a right to a clean, healthy and sustainable environment. In its decision, adopted by consensus, on the Outcome of the first global stocktake, the Meeting of the State Parties acknowledged again that:

“climate change is a common concern of humankind and that Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights, the right to a clean, healthy and sustainable environment, the right to health, the rights of Indigenous Peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity”<sup>64</sup>.

34. The large consensus between States, within the General Assembly<sup>65</sup> or within the Conference of Parties to the United Nations Framework Convention on Climate Change and the Paris Agreement<sup>66</sup>, together with the widespread recognition of the right to a healthy, clean and sustainable environment in the domestic laws of a great number of States, as well as regional or international conventions and instruments confirms that, in the opinion of States and the international community, this right, as a human right, is an essential element of the existing international legal framework for the protection of the climate system and the environment.

#### B. THE OBLIGATIONS FOR STATES IN REGARD TO THE RIGHT TO A CLEAN, HEALTHY AND SUSTAINABLE ENVIRONMENT

35. The right to a clean, healthy and sustainable environment entails a number of obligations for States in respect of the protection of the environment and the climate system, as a part of it. It constitutes a further and important element ensuring a coherent and necessary “human rights-based approach” when addressing the protection of the environment and the climate system.

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<sup>64</sup> Decision [4]/CMA.5, Outcome of the first global stocktake, in United Nations Framework Convention on Climate Change, Report of the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement on its fifth session, held in Dubai from 30 November to 12 December 2023, Addendum, forthcoming.

<sup>65</sup> Resolution 76/300 was adopted by 161 votes against none, with eight abstentions. *See* Official Records of the General Assembly, Seventy-sixth session, 97<sup>th</sup> plenary meeting, 28 July 2022, A/76/PV.97, p. 11.

<sup>66</sup> *See* above, para. 33.

36. As a fundamental human right and as a necessary part of human rights legal framework, the obligations owed by States in order to implement the right to a clean, healthy and sustainable environment are obligations *erga omnes*, owed to the internationally community as a whole. This is further confirmed by their very nature, object and purpose: the protection of the environment and the climate system for all humankind. Therefore, these obligations of a State towards the international community as a whole are “[b]y their very nature ... the concern of all States. In view of the importance of the rights involved, all States can be held to have a legal interest in their protection; they are obligations *erga omnes*”<sup>67</sup>. Hence, all States bear the obligation, individually and collectively, to respect, ensure and promote the right to a clean, healthy and sustainable environment, on the one hand, and each State has a legal interest in its realization by any and all other States.

37. Consequently, the obligation to respect and ensure the right to a clean, healthy and sustainable environment, as a human right, is not reciprocal in nature. A State cannot rely on the non-implementation of this obligation by another State in order to suspend or justify its own disrespect of that obligation. Indeed, given the very object and purpose of the right to a clean, healthy and sustainable environment, States do not have any interests of their own; they have, one and all, a common, unique interest, namely, the protection of the environment, including the climate system, as the necessary prerequisite for the enjoyment and realization of the most fundamental human rights. This is the *raison d’être* of the right to a clean, healthy and sustainable environment. Consequently, to take the words of the Court, “one cannot speak of individual advantages or disadvantages to States, or of the maintenance of a perfect contractual balance between rights and duties”<sup>68</sup>.

38. The obligations of States arising under the right to a clean, healthy and sustainable environment are twofold.

39. *First*, the respect of the right to a clean, healthy and sustainable environment imposes negative obligations on States. These are obligations entailing that State authorities refrain from unjustifiably interfering with the environment or

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<sup>67</sup> *Barcelona Traction, Light and Power Company, Limited (New Application: 1962) (Belgium v. Spain), Second Phase, Judgment, I.C.J. Reports 1970*, p. 32, para. 33. See also *Questions relating to the Obligation to Prosecute or Extradite (Belgium v. Senegal), Judgment, I.C.J. Reports 2012*, p. 449, para. 68; *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar), Preliminary Objections, Judgment, I.C.J. Reports 2022*, p. 516, para. 107.

<sup>68</sup> *Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide, Advisory Opinion, I.C.J. Reports 1951*, p. 23.

the climate system in a way that would jeopardize the right to a clean, healthy and sustainable environment in itself and as a prerequisite for the realization of other fundamental human rights, including the right to life, to the highest standard of health, to adequate housing, to food security, to safe and clean drinking water and sanitations.

40. These negative obligations comprise the general duty of States not to allow knowingly their territories to be used for acts contrary to the rights of other States and to use means at their disposal in order to avoid activities causing significant harm to the environment in other States or to the global climate system and impact the rights of individuals, humankind and future generations. The United Nations General Assembly recognized that:

“the impact of climate change, the unsustainable management and use of natural resources, the pollution of air, land and water, the unsound management of chemicals and waste, the resulting loss of biodiversity and the decline in services provided by ecosystems interfere with the enjoyment of a clean, healthy and sustainable environment and that environmental damage has negative implications, both direct and indirect, for the effective enjoyment of all human rights”<sup>69</sup>.

This has also been confirmed by the Human Rights Committee and other regional human rights courts and tribunals<sup>70</sup>.

41. The Human Rights Council importantly recalled in this respect that:

“States have the obligation to respect, protect and promote human rights, including in all actions undertaken to address environmental challenges”<sup>71</sup>,

and that:

“the exercise of human rights, including the rights to seek, receive and impart information, to participate effectively in the conduct of government and public affairs and in environmental decision-making and to an effective

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<sup>69</sup> United Nations, General Assembly, resolution 76/300, The human right to a clean, healthy and sustainable environment, 28 July 2022, preambular considerations [Dossier No. 260].

<sup>70</sup> See *Daniel Billy and others v. Australia*, Human Rights Committee, 21 July 2022, communication No. 3624/2019, CCPR/C/135/D/3624/2019, para. 8.5.

<sup>71</sup> United Nations, Human Rights Council, Resolution 48/13, The human right to a clean, healthy and sustainable environment, 8 October 2021, preambular considerations [Dossier No. 279].

remedy, is vital to the protection of a clean, healthy and sustainable environment”<sup>72</sup>.

42. *Second*, the realization of the right to a clean, healthy and sustainable environment also entails positive obligations and duties of States. Consequently, States need to take active steps in order to safeguard this right and to actively promote its implementation and enjoyment. Indeed, although this right is protecting individuals against arbitrary interference by the public authorities into their living environment, it does not merely compel States to abstain from such interference. The effective respect and the full enjoyment of the right to a clean, healthy and sustainable environment require also affirmative actions.

43. These positive obligations of States to act are paramount in order to avoid frustration of the right to clean, healthy and sustainable environment in particular in light of climate change and the present acute climate crisis. These obligations concern mitigation of climate change, adaptation to climate change, and assistance and support to those who are the most vulnerable and to avoid that others will become vulnerable in the near future through financial assistance, technology transfer, and capacity building for adaptation measures.

44. In light of the object of the protection of the environment and the climate system, i.e., the realization of the right to clean, healthy and sustainable environment for humankind and future generations, all States have a common interest in the concrete definition of these positive obligations. States are not necessarily in the same position and condition to effectively put into place the necessary measures. The preamble of the United Nations Framework Convention on Climate Change acknowledges that:

“the global nature of climate change calls for the widest possible cooperation by all countries and their participation in an effective and appropriate international response, in accordance with their common but differentiated responsibilities and respective capabilities and their social and economic conditions”<sup>73</sup>.

45. The definition and the implementation of obligations of States aimed at the realization of the right to a clean, healthy and sustainable environment for all

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<sup>72</sup> United Nations, Human Rights Council, Resolution 48/13, The human right to a clean, healthy and sustainable environment, 8 October 2021, preambular considerations [Dossier No. 279].

<sup>73</sup> United Nations Framework Convention on Climate Change, New York, 9 May 1992, preamble, United Nations, *Treaty Series*, vol. 1771, p. 107.



individuals and for future generations requires an effective international cooperation. Without robust national and international efforts, the adverse effects of climate change will expose individuals to violations of their human rights, including the right to a clean, healthy and sustainable environment. States need to define, in light of their respective capabilities and differentiated responsibilities, what is necessary and appropriate in order to avoid the materialization of risks to the environment, the climate system, and as a result to the effective enjoyment of fundamental rights, including, and most importantly, the right to life in dignity.

46. States have already started to put into place a framework of international conventions concerning the protection of the environment and climate change. Within this framework, they have agreed to collective measures and obligations, which they consider appropriate and necessary, in order to address the climate crisis and environmental concerns. This does not only include obligations to reduce emissions, but also mechanisms to ensure financial and technical assistance for the adaptation measures in and by less developed States<sup>74</sup>, and, most recently, the development of mechanisms and organizations addressing loss and damage caused by climate change.<sup>75</sup> Yet, it is clear, that the relevant objectives and aims can only be achieved collectively, taking due consideration of the situation of all States, territories and communities. Indeed, as the Human Rights Council confirmed:

“the promotion of the human right to a clean, healthy and sustainable environment requires the full implementation of the multilateral environmental agreements under the principles of international environmental law.”<sup>76</sup>

The Republic of Slovenia fully shares this position. The effective realization of the right to a clean, healthy and sustainable environment, the right to life in dignity, the

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<sup>74</sup> See, for instance, Decision 1/CP.16, The Cancun Agreements: Outcome of the work of the Ad Hoc Working Group on Long-term Cooperative Action under the Convention, *in* United Nations Framework Convention on Climate Change, Report of the Conference of the Parties on its sixteenth session, held in Cancun from 29 November to 10 December 2010, Part Two, FCCC/CP/2010/7/Add.1, paras. 95 *ff.*; Decision 3/CP.17, Launching the Green Climate Fund, *in* United Nations Framework Convention on Climate Change, Report of the Conference of the Parties on its seventeenth session, held in Durban from 28 November to 11 December 2011, Part Two, FCCC/CP/2011/9/Add.1, p. 55 *ff.*

<sup>75</sup> See Decision -/CP.28, Operationalization of the new funding arrangements, including a fund, for responding to loss and damage referred to in paragraphs 2–3 of decisions 2/CP.27 and 2/CMA.4, *in* United Nations Framework Convention on Climate Change, Report of the Conference of the Parties on its twenty-eight session, held in Dubai from 30 November to 12 December 2023, Addendum, forthcoming.

<sup>76</sup> United Nations, Human Rights Council, Resolution 48/13, The human right to a clean, healthy and sustainable environment, 8 October 2021, preambular considerations [Dossier No. 279].

right to the highest standards of health, the right to clean water for all individuals and for future generations can only be achieved through meaningful international cooperation and due respect of international conventions and instruments entered into by States in this respect and with this aim.

47. This also implies that States need to regularly and appropriately review the existing legal framework with the view to make the necessary adjustments in light of available knowledge and their respective capabilities and the human rights dimension set out above. The crises and emergencies the international community faces today will not necessarily be the same that we will face tomorrow or that future generations will have to deal with.

48. The right to a clean, healthy and sustainable environment, as well as the fundamental human rights for which the realization of the former is a necessary prerequisite shall and must continuously be the relevant benchmark for States to duly and diligently implement their respective obligations and further develop, modify and adapt the necessary measures and relevant legal frameworks to adequately address adverse impacts of climate change.

Ljubljana, 22 March 2024



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