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## **Anchoring the right to a healthy environment: need for enhanced action by the Council of Europe**

**Reply to Recommendation<sup>1</sup>**: Recommendation 2211 (2021)  
Committee of Ministers

1. The Committee of Ministers has carefully examined Parliamentary Assembly [Recommendation 2211 \(2021\)](#) “Anchoring the right to a healthy environment: need for enhanced action by the Council of Europe” and forwarded it to the Steering Committee for Human Rights (CDDH) and the European Committee of Social Rights (ECSR) for information and possible comments. The Committee fully shares the Assembly’s concerns about the speed and extent of environmental degradation, the loss of biodiversity and the climate crisis that directly affect human health, dignity and life.

2. In this context, it recalls its recent reply to Parliamentary Assembly [Recommendation 2214 \(2021\)](#) “The climate crisis and the rule of law”, in which it presented some of the pioneering work already carried out by the Council of Europe in this area, including the 1979 Convention on the Conservation of European Wildlife and Natural Habitats (Bern Convention), the 1993 Convention on Civil Liability for Damage resulting from Activities Dangerous to the Environment, and the 1998 Convention on the Protection of the Environment through Criminal Law. It also indicated its ongoing work, notably the preparation of a Committee of Ministers’ Recommendation on human rights and the protection of the environment, as well as a study on the feasibility and appropriateness of modernising the above-mentioned Convention on the Protection of Environment through Criminal Law or of preparing a new instrument. These deliverables will be examined by the Committee of Ministers in the coming months.

3. Regarding the Assembly’s recommendation to draw up an additional protocol to the European Convention on Human Rights (paragraph 3.1), the Committee recalls its previous replies to Assembly [Recommendations 1614 \(2003\)](#) “Environment and human rights” and 1885 (2009) “Drafting an additional protocol to the European Convention on Human Rights concerning the right to a healthy environment”. It reiterates that the Convention system already indirectly contributes to the protection of the environment through certain convention rights and their interpretation by the European Court of Human Rights in its case law, thereby offering protection in relation to environmental issues. The “Manual on human rights and the environment – Principles emerging from the case law of the European Court of Human Rights and the conclusions and decisions of the European Committee of Social Rights”, which was updated in June 2021, clearly demonstrates the interconnection between the environment and the obligations of member States under the European Convention on Human Rights.

4. Nevertheless, the Committee informs the Assembly that it has instructed the CDDH to look into possible further work in this area, including the preparation of a study on the need for and feasibility of a further instrument or instruments on human rights and the environment, bearing in mind the Assembly’s recommendation (including in relation to paragraph 3.3). Discussions have already been initiated and the Committee will take the appropriate decisions on further action to be taken once it has examined the outcome of this work.

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1. Adopted at the 1444<sup>th</sup> meeting of the Ministers’ Deputies (27 September 2022).



5. As concerns the drawing up of an additional protocol to the European Social Charter (paragraph 3.2), the European Committee for Social Rights (ECSR) has addressed certain aspects of environmental protection through its monitoring procedures, in particular within the scope of application of Article 11 on the right to protection of health. As interpreted by the ECSR, this requires States to take measures designed to remove the causes of ill health resulting from environmental threats such as pollution. The Committee welcomes the fact that the ECSR has already recognised some aspects of environmental protection through its evolutive jurisprudence and interpretation of the European Social Charter. It further notes that the ECSR supports the Assembly's recommendation to draw up an additional protocol to the European Social Charter on the "right to a safe, clean, healthy and sustainable environment", and in this respect, the Committee also draws attention to the relevance of the work of its Ad hoc Working Party on improving the European Social Charter system (GT-CHARTÉ), which will be called on, in the second phase of its work, to examine longer term substantive and procedural issues related to the Charter.

6. With regard to the Assembly's call to revise Recommendation [CM/Rec\(2016\)3](#) on human rights and business (paragraph 3.4), the Committee informs the Assembly that the CDDH has recently finalised a report on the implementation of this recommendation, covering questions of how businesses conduct environmental and human rights due diligence and how victims of human rights and environmental adverse impacts access remedies. The CDDH will pursue its compliance examination in the framework of its mandate during the next quadrennium, and should it become clear that issues of corporate environmental responsibility require strengthening, the Committee could envisage a possible revision of this recommendation.