

Recommendation 2246 (2023)¹

Environmental impact of armed conflicts

Parliamentary Assembly

1. The Parliamentary Assembly refers to its [Resolution 2477 \(2023\)](#) “Environmental impact of armed conflicts” and underscores the role of the Council of Europe as a guardian of human rights and the rule of law in times of peace and war. It deplores the devastating effects that armed conflicts have on the environment as a source of life and insists on the co-application of human rights and humanitarian law during times of armed conflict, as confirmed by the United Nations Human Rights Committee and the European Court of Human Rights.
2. The Assembly moreover underlines the indivisibility of human rights and considers that, with the increased acceptance that the right to a healthy environment constitutes a human right, the member States of the Council of Europe should take ambitious measures to improve the legal framework to adequately protect human living space, the environment and the human rights to life and to a healthy environment in the context of armed conflict.
3. The Assembly therefore recommends that the Committee of Ministers:
 - 3.1. urge member and observer States to ratify the United Nations Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques (ENMOD Convention) and the Additional Protocol to the Geneva Conventions of 12 August 1949 relating to the Protection of Victims of International Armed Conflicts (Protocol I), if they have not yet done so;
 - 3.2. mandate a competent body to study the feasibility of drafting a new regional legal instrument or treaty under the Council of Europe’s auspices, with a view to identifying and filling the gaps identified in the existing legal regime for the protection of the environment and the human rights to life and to a healthy environment in armed conflicts, wartime or occupation (notably regarding the damage threshold, the characterisation of intent, behaviour that must be sanctioned, entities that should be held liable, enforcement, the scale of liability and proper interpretation of the principles of proportionality, military necessity and due diligence);
 - 3.3. urge member and observer States to make changes to the existing conventions on the environmental protection of certain areas and to propose mechanisms for the implementation of their principles and for monitoring and reporting on the conventions in times of armed conflicts;
 - 3.4. mandate the Standing Committee of the Convention on the Conservation of European Wildlife and Natural Habitats (ETS No. 104, “Bern Convention”) to draft recommendations regarding the protection of environmentally sensitive areas during armed conflicts, to study the feasibility of an additional protocol to the Bern Convention to this end and to consider creating a review mechanism to ensure that the recommendations are implemented by States parties (notably, transposed into domestic law, incorporated into military doctrine and shared broadly with a view to developing good practice);

1. *Assembly debate* on 25 January 2023 (5th sitting) (see [Doc. 15674](#), report of the Committee on Social Affairs, Health and Sustainable Development, rapporteur: Mr John Howell). *Text adopted by the Assembly* on 25 January 2023 (5th sitting).



- 3.5. ensure that the revised version of the Convention on the Protection of the Environment through Criminal Law (ETS No. 172) being prepared by the Council of Europe applies also in the context of armed conflicts, wars or occupation, and that it covers ecocide;
- 3.6. allocate sufficient means to ensure proper monitoring and implementation of commitments under the Council of Europe treaties, in particular the Bern Convention and the Council of Europe Landscape Convention (ETS No. 176);
- 3.7. promote and disseminate the United Nations principles on the protection of the environment in relation to armed conflicts;
- 3.8. support the creation of a permanent international mechanism to detect legal infringements and address compensation claims for environmental damage resulting from armed conflicts;
- 3.9. encourage the European Court of Human Rights to use the functional-impact model with regard to jurisdiction whenever the question of the extraterritorial application of human rights arises in situations of armed conflict or occupation;
- 3.10. encourage member States to map areas of particular environmental importance or sensitivity in anticipation of any form of armed conflict and to foresee the demilitarisation of such areas in the event that an armed conflict breaks out;
- 3.11. call on member States to update their legal arsenal to criminalise and effectively prosecute ecocide, establish domestic and/or regional solutions to provide relief to environmental refugees fleeing an armed conflict and take concrete steps to propose amendments to the Rome Statute of the International Criminal Court in order to add ecocide as a new crime;
- 3.12. draft recommendations to the member States on the protection of critical infrastructure.