

Vision for the Mandate

Statement by the Aarhus Convention's Special Rapporteur on Environmental Defenders

Meeting of the Special Rapporteur on Environmental Defenders with Aarhus Convention National Focal Points, other interested Member States and stakeholders

Online, 23 November 2022

Dear distinguished delegates,

When in October 2021, the Meeting of the Parties to the Aarhus Convention decided to establish a Rapid Response Mechanism in the form of an independent Special Rapporteur on environmental defenders, it acknowledged the seriousness of the risks that environmental defenders are facing, and recognised the urgency to better protect them from a variety of threats.

Today, I am glad to present to you how I envision this mission and the strategies that I intend to develop to fully implement the provisions of decision VII/9 that established the mandate.

Since I was elected by the Meeting of the Parties in June 2022, I have had the opportunity to present my mandate and discuss the situation of environmental defenders with a number of stakeholders, including representatives of governments and international organisations, other mandate holders involved in the protection of defenders, civil society organisations and a large number of environmental defenders themselves.

The vision I have for this mandate draws from these discussions, as well as from consultations I held with environmental human rights defenders in my previous role as UN Special Rapporteur on human rights defenders.

Reflecting on the last five months since my election, I can today already confirm that unfortunately the situation for environmental defenders has not improved, they continue to be exposed to significant risks of penalisation, persecution, harassment and even killings. And these risks do not spare the geographical area of the Aarhus Convention, where environmental defenders are facing reprisals, a shrinking civic space, restrictive legal frameworks and strong attacks from companies.

The individuals, groups, communities, movements, and organisations that are standing up for the enjoyment of the right to a clean, healthy and sustainable environment as recognized by the UN General Assembly, need to be better protected and supported. I am deeply convinced that the Rapid Response Mechanism established under the Aarhus Convention has a key role to play in that regard.

My efforts to develop this mechanism will rely on the seven principles of the protection of human rights defenders that I developed in my previous role as UN Special Rapporteur on human rights defenders, namely:

1. Adopting a rights-based approach to protection, empowering environmental defenders to know and claim their rights and increasing the ability and accountability of those responsible for respecting, protecting and fulfilling rights
2. Recognising that environmental defenders are diverse; they come from different backgrounds, cultures and belief systems. From the outset, they may not self-identify or be identified by others as environmental defenders;
3. Recognising the significance of gender in the protection of defenders and apply an intersectionality approach to the assessment of risks and to the design of protection initiatives. We should also recognize that some defenders are at greater risk than others because of who they are and what they do;
4. Focusing on the “holistic” security of defenders, in particular their physical safety, digital security and psychosocial well-being;
5. Acknowledging that defenders are interconnected. Protection initiatives should not focus on the rights and security of individual defenders alone, but also include the groups, organizations, communities and family members who share their risks;
6. Involving defenders in the development, choice, implementation and evaluation of strategies and tactics for their protection. The participation of environmental defenders is a key factor in their security;

7. And ensuring that protection measures are flexible, adaptable and tailored to the specific needs and circumstances of defenders.

Before entering into more detailed considerations on my priorities, I want to briefly stress two overarching points that draw from these principles and that are of particular importance for the vision that I have of my mandate.

First, I intend to ensure that the voices of environmental defenders contribute to shape and guide this mandate. In my view, the priorities, scope and working methods of the Special Rapporteur on environmental defenders have to be informed by what they have to say about their own protection needs. This is why, should I find the budget, I will organise a series of regional consultations with environmental defenders. I will incorporate the outcomes of these consultations in my work to continue refining the core priorities, scope, and working methods of the mandate that I am presenting today.

Secondly, I intend to implement my mandate in the most full, forward looking and effective way in order to make it as comprehensive and as effective as possible and to make it benefit to the largest number of environmental defenders

The presentation of my vision of the mandate today will unfold in four steps:

- I. I will start with the priorities that underline the establishment of the mandate;
- II. Secondly I will introduce the vision I have of the scope of the mandate;
- III. Thirdly I will present the working methods and tools that I intend to use as rapid protection responses;
- IV. And finally I will set out the priorities of the mandate on the longer term with a view of securing a safe and enabling environment for environmental defenders.

IMPLEMENTING THE MANDATE

The mandate is new, it needs to be based on robust foundations and this will be a priority. This will rely on securing funding, organising regional consultations with environmental defenders to understand their expectations, raising awareness of the Aarhus Convention, its article 3 (8), and the mandate itself, creating bridges between the human rights and environment movements, and establishing a strong cooperation with the Compliance Committee.

Securing funding for this mandate is the first step to make it operational and effective. And I would like to thank both Ireland and Austria for their very generous financial support and leadership for this work area. I also would like to express appreciation to Norway and Germany who also recently decided to provide additional generous contributions to the Aarhus Convention, earmarked for the mandate. Ensuring that the mandate receives an adequate financial support is a responsibility that lies first with the Parties to the Convention. This is why I made it a priority to engage with governments immediately after my election to explore funding opportunities. Although these meetings have been encouraging so far, more concrete commitments are still needed to make sure that the mandate receives both adequate and stable funding from the Parties. I am particularly – but not only – thinking of the EU, the world’s largest contributor to the protection of human rights defenders. I will also propose a number of visits to capitals through your permanent missions in Geneva with a view to present the mandate and secure funding. And I’m confident that I can count on the cooperation and support of all Parties.

Organising regional consultations with environmental defenders

The first activity that I will conduct is a series of regional consultations with environmental defenders across the Aarhus region to ensure that their voices contribute to shaping this mandate. An effective protection mechanism cannot be developed without the meaningful consultation of those that it aims to protect. This is a principle that I established previously as UN Special Rapporteur on human rights defenders, and I will continue to rely on it in my new role. To do so, I will invite environmental defenders to a series of consultations– in Central Asia, in Eastern and South-Eastern Europe and Caucasus and in the European Union and Western Europe to listen to their testimonies, hear stories on their situation and understand their expectations regarding

the mandate. The objective will be to identify key trends, threats, protection needs and good practices, as well as to identify the existence and effectiveness of laws, policies and programmes to safeguard and enable their work. The outcomes of these consultations will be used as a baseline to guide my work and will be presented to Parties in a report.

Raising awareness of the Aarhus Convention, the obligations of the Parties under article 3 (8) and the Special Rapporteur mandate

Another priority in establishing this new mandate is to inform the largest possible audience of its existence and its functioning, in order to enable and encourage any person who may be in need of protection or may know someone who is, to request it. It is essential that the possibility to submit a complaint is known to anyone who seeks to exercise their rights under the Convention, including those who are not familiar with the international human rights framework, or who may not spontaneously identify themselves as environmental defenders. Clearly, the large environmental organizations are not familiar at all with the human rights community. Many of them don't know the human rights tools and mechanisms that have been created to support and protect them or their members. They sometimes ignore that they are environmental defenders. They don't participate in the UN Human Rights Council sessions. And vice versa, speaking from my own experience, most human rights organizations don't speak enough or interact enough with environmentalists. They sometimes only see environmentalist as human rights defenders when they are persecuted by security forces or by companies. Human rights organizations and environmental organizations should try and build together coalitions or communities of environmental defenders. This will be one of the priorities of my mandate.

This implies conducting ongoing awareness raising about the Aarhus Convention, Parties' obligations under article 3 (8), and of the role of the Rapid Response Mechanism in providing protection to environmental defenders, which is the primary mission of the mandate. This is something I have already started as I have already be invited to a number of national and regional meetings. I will continue to raise awareness in these fora, as well as through the use of traditional and social media and by engaging all levels of civil society during my country visits.

I intend to elaborate a dedicated website for the mandate to make its work more visible and accessible, to provide a forum for engagement and discussion regarding key issues of concern to environmental defenders, and to ensure information can be shared in a timely and responsive way. I will count on the support of all stakeholders to support these efforts in raising the visibility of the mandate. I particularly encourage individuals, organisations and institutions that have a wide audience among environmental movements and fora to continue communicating about the mandate and to encourage those who are less familiar with these kind of protection mechanisms to resort to it when needed.

Creating bridges between the human rights and the environment movements

The existing gap between the environment and human rights movements, fora and organisations is another matter that I want to address as a priority and throughout my mandate, because environmental defenders are human rights defenders and must be protected as such. Climate change, pollution and biodiversity loss cannot be addressed without guaranteeing that those who stand up against this triple environmental emergency can safely exercise their fundamental freedoms of expression, association and assembly to do so.

The adverse human rights impact of environmental issues have been documented and this interdependence continues to gain visibility: human rights bodies are increasingly integrating environmental issues in their work, and the explicit recognition of the human right to a clean, healthy and sustainable environment by the UN General Assembly in July 2022 has paved the way for a more comprehensive inclusion within the international human rights framework.

However, at national, regional and international levels, the environment and the human rights movements are only slowly creating bridges. Stronger connections are needed to fill the gap between environmental defenders and human rights protection mechanisms and to join efforts and share information, experiences and practices including regarding protection strategies and resources that are essential to environmental defenders.

To contribute to reinforcing those links and fostering peer-exchange, I will support the establishment and strengthening of communication channels, coalitions and networks gathering environment and human rights civil society. This will be done through various actions, such as ensuring the inclusion of environmental defenders and organisations in regional and international human rights meetings and conferences, or organising, as part of the mandate, regular events that bring them together.

Close cooperation with the Compliance Committee to avoid duplication and improve efficiency

One of my objectives in establishing an effective mandate will be to ensure a close cooperation with the Compliance Committee, to coordinate our efforts in addressing situations that are addressed to us, to avoid dividing our resources and to improve our efficiency and our impact. The role of the Special Rapporteur in preventing and stopping penalisation, persecution and harassment of persons exercising their rights under the Convention is complementary to the work of the Compliance Committee. I already had a meeting with the Compliance Committee and we agreed that I would keep the Compliance Committee regularly informed of my work, refer to it when deemed necessary, and seek its assistance and advice when requested. Since my election, the Compliance Committee has introduced a standard agenda item at each of its meeting to take note of any relevant developments regarding my mandate. I will make sure that we coordinate our efforts in addressing issues that are brought to our attention, especially when I receive a complaint, while a related case is pending before the Compliance Committee, and vice versa. I would also like to ensure a follow up on the implementation of Compliance Committee recommendations concerning article 3 (8) through informal missions to Parties to which the Aarhus Compliance Committee has sent such recommendations with the purpose of assessing, updating, following up on and promoting implementation of recommendations.

MAKING USE OF THE MANDATE'S FULL POTENTIAL

In order to make the mandate as relevant and effective as possible, I will make full use of its potential. This will include promoting a broad and inclusive definition of environmental defenders; and making use of the extraterritorial scope of the mandate.

Promoting a broad and inclusive definition of environmental defenders

With the aim of really contributing to protecting any person exercising their rights in conformity with the Convention, as provided for in decision VII/9 which established this mandate, the promotion of a broad and inclusive approach of who is an environmental defender will be an important part of my work. Because environmental defenders, like all human rights defenders, are not defined by who they are but by what they do, they comprise a diverse range of people, profiles and trajectories. They are individuals, groups, movements, communities and organisations who may not see themselves as defenders, but who make use of their fundamental rights of freedom of expression, of association, and of assembly, to defend the environment. They can be small-scale farmers opposing the privatisation of a waterway or a well-structured organisation fighting against illegal logging; they can be professional environmental lawyers or journalists, or really young activists marching in the streets to demand climate justice; they can be grassroots movements denouncing harmful waste management or members of national human rights institutions investigating the impact of large residential development projects on the right to housing. Among them, many become environmental defenders by “accident” or “necessity”, as they take a stand against injustice and harmful practices to their environment. As I could see in my previous role as UN Special Rapporteur on Human Rights Defenders, those who do not identify as defenders are even more vulnerable to threats because they are often unaware of their rights, or of the mechanisms that exist to protect them. This is why promoting a broad definition of environmental defenders and carrying out awareness-raising and capacity-building to reach out even to those who do not themselves identify as environmental defenders will be an important component of my work. Given the growing mobilisation of the youth in environmental matters across Europe and within the Aarhus region as a whole, a particular attention will be paid to informing and supporting the protection of young activists through the work of the mandate.

Making use of the extraterritorial scope of the mandate

Another essential component of this mandate that I intend to fully act upon, is its extraterritorial scope that gives it the potential to protect not only environmental defenders of the Aarhus region, but defenders from Africa, Asia-Pacific, the Americas and UNECE countries that are not party to the Convention. Indeed, in addition to ensuring that the mandate covers all countries of the Aarhus Convention where a response is needed, the Rapid Response Mechanism will also consider complaints concerning the alleged penalisation, persecution and harassment of environmental defenders outside of the Aarhus region, in cases where the threats and risks they face are related to the operations of international companies based in a Party to the Aarhus Convention. This implies, for instance, that I can act upon receiving a complaint from a person threatened by the activities of a transnational company in Latin American, Africa or Asia, if this company has its headquarters in a State that is Party to the Aarhus Convention. Given the transboundary nature of climate change, pollution and biodiversity loss, the extraterritorial scope of the mandate is an essential component that I will fully explore and promote. And the future EU directive on corporate sustainability due diligence will clearly be an asset for the mandate, as national administrative authorities will be appointed by EU Member States and will be responsible for supervising these new rules and may impose fines in case of non-compliance.

USING ALL THE MEANS AT THE DISPOSAL OF THE MANDATE TO PROVIDE A RAPID PROTECTION RESPONSE TO ENVIRONMENTAL DEFENDERS AT RISK

The primary purpose of the Special Rapporteur's mandate is to provide a rapid protection response to environmental defenders at risk, and I will make use of all the means at my disposal to do so. This will include an accessible and inclusive process for the submission of complaints; issuing protection measures including relocation when necessary; using diplomatic channels and ensuring a thorough follow-up of actions taken; raising public awareness through public statements and press releases; ensuring strengthened cooperation with other regional and international protection mechanisms; attending trials of environmental defenders in courts as an observer; and orienting environmental defenders towards essential protection resources beyond the mandate's scope.

Accessible and inclusive process for the submission of complaints

Because complaints are the main tools at the disposal of environmental defenders to request protection, I am giving a particular attention to the development of the process to submit a complaint, with the aim of making it as accessible and inclusive as possible. This implies for instance that the admissibility criteria will be flexible, and that the form will be concise and phrased with a comprehensible wording. This also implies that complaints will be processed with a broad analysis of how "persecution, penalisation or harassment" can manifest, and of what can be considered an "imminent" threat. Here I would like to insist on three important points that directly draw from the decision that established the mandate, and that are a promising avenue in making complaints a powerful protection tool.

- The first point is that the allegations pointed out in a complaint can be related to either public or private actors, and may arise not only from their acts but also from their omissions.
- The second point is that complaints may be submitted by "any member of the public, either on their own behalf or on behalf of another member of the public".
- And the third point is that complainants are not required to have exhausted domestic remedies to submit a complaint. In previous consultations as UN Special Rapporteur on human rights defenders, it was brought to my attention that the lack of information on the processing of complaints was one of the main issues that discourages defenders.

In order to avoid this pitfall and encourage environmental defenders to seek support from the mandate, we will put in place a system of formal acknowledgment of receipt of a complaint to any person who refers a case, and of timely and continued follow up with complainants. Complaints will be investigated through various means: the UN field presence will be an asset to confirm allegations; other means will include media reports, documentation and reports from civil society and other human rights bodies or protection mechanisms; follow up questions sent to the complainant, and where circumstances permit to the Party concerned, to its National

Human Rights Institution and to alleged perpetrators; and by any other means deemed necessary on a case-to-case basis.

- The simple format for submitting complaints to me is available on my webpage. The format is currently available in English. The secretariat is arranging for its translation into Russian and French also.

Issuing protection measures

When processing a complaint, the Special Rapporteur's mandate will be able to issue two kinds of protection measures to the Party concerned:

- Either immediate protection measures, that rely on a precautionary approach and enable the Special Rapporteur to act on an urgent basis before the investigation into the complaint is completed.
- Or ongoing protection measures, that are issued upon completion of the investigation into the complaint.

Protection measures can be addressed to “any body of the executive branch of the government” or “any other public authority” of the Party and list “the particular actions the Party concerned is directed to take to ensure that the complainant and any other person(s) named in the protection measure are not subjected to further persecution, penalization and harassment”. This also may include relocation of environmental defenders through the EU “Protect Defenders” mechanism and the Lifeline consortium's emergency assistance.

In accordance with the seven principles that I mentioned earlier on, the design of these protection measures, either immediate or ongoing, will rely on a rights-based and gender-sensitive approach; will seek the consent of the victim and will involve the defenders concerned in order to be tailored to their specific needs and circumstances; and will focus on their holistic security, considering also the security of those who share their risks.

Using diplomatic channels and ensuring a thorough follow-up of actions taken

Country visits will be an important tool of the mandate: on many occasions in my previous role, defenders have encouraged me to conduct such diplomatic missions to raise concerns through direct dialogue with governments and public authorities. I will also rely on the diplomatic support of the Chair of the Bureau of the Meeting of the Parties where necessary.

Along with country visits, urgent appeals and letters of allegations are one of the main diplomatic channels that I intend to use. Through a process similar to those of the Special Procedures, letters of allegations and urgent appeals will be addressed to either governments or companies concerned and will invite them to submit comments and observations. My allegation letters and the response will be made public on our website after a period of 60 days. I have identified urgent appeals and allegation letters as potentially one of the most effective protection tools I have at my disposal for the mandate, especially with businesses that are particularly responsive to it. However, in my previous role as Special Rapporteur on Human Rights Defenders, I expressed concern at the lack of timely or substantive response to such letters by many governments, and a lack of follow up or communication with rights holders and victims. This is why an important part of my work as Special Rapporteur will focus on the thorough follow up of my allegation letters, through various means that will aim at enabling an intensive and systematic tracking of the actions taken, including during meetings of the Convention. Given that this mandate has only been recently established, we will dedicate specific time and resources to assessing how complaints are handled and what should be improved, and to capitalising on this feedback so that we can tailor improvements continuously and duplicate good practices. This may involve coordinating with institutional partners (whether universities or leading law firms acting on a pro bono basis) to undertake a qualitative and quantitative analysis of allegation letters issued and responses received, with a view to ascertaining their impact and identifying ways in which they could best be used to enhance protection.

Public statements and press releases

In addition to these diplomatic channels, I will issue public statements and press releases, with the support of UNECE media unit and my website and traditional and social media will support the dissemination of my statements. Responding to interview requests from media is indeed a type of support that environmental defenders have found useful in the past. Whenever it does not expose them to further threats, I will speak publicly of cases that are referred to the mandate in order to bring attention to the seriousness of allegations of penalisation, persecution, or harassment that are made.

Ensuring strengthened cooperation with other regional and international protection mechanisms

Since I have been appointed, I have considered the relevance and the added value of a coordinated response with other regional and international protection mechanisms, through joint country visits, urgent appeals and allegation letters, or public statements. I already had consultations with the UN Special Rapporteur on the situation of HRD and the Commissioner for human rights of the Council of Europe. In previous consultations that I had with other UN mechanisms our experiences of cooperation with international and regional protection mechanisms are sometimes mixed and should only be decided on an ad hoc basis.

Given that the mandate of the Special Rapporteur on environmental defenders is new, it will nonetheless be a priority for me to establish and enhance the cooperation with other protection mechanisms, including other UN mandate holders, the African and Inter-American human rights systems, the Commissioner for Human Rights of the Council of Europe and OSCE. In this perspective, one of the main events to which I will take part is the annual inter-mechanism meeting, and I have already requested other mandate holders to consider addressing specifically the situation of environmental human rights defenders at the next inter mechanism meeting in 2023.

Attending trials of environmental defenders in courts as an observer

In addition to diplomatic channels, public awareness-raising and cooperation, another mode of action that is of particular importance in the context of this mandate concerns abusive legal proceedings against environmental defenders. As a direct protection response against this widespread harmful practice, I will consider attending trials in courts as an observer where possible and relevant.

Abusive legal proceedings are a widespread risk for environmental defenders across the Aarhus region and a major threat against public participation in environmental matters, that the Aarhus Convention aims at protecting. The use of so-called Strategic Lawsuits Against Public Participation or SLAPPs is a very specific form of harassment that has unfortunately been increasingly trending in the last years and that is particularly used against environmental defenders and journalists due to the powerful economic interest that they tend to oppose in their efforts to speak up on issues of public interest.

Orienting environmental defenders towards essential protection resources beyond the mandate's scope

Before turning to the last part of my presentation, I want to stress that a few other areas require specific attention in terms of rapid protection response, although it may go beyond the mandate's capacities. I am thinking of issues such as digital security or psychosocial support. Digital security has, for example, been pointed out as a major issue by various stakeholders including several UN Special Rapporteurs and the Commissioner for Human Rights of the Council of Europe. Environmental defenders are targeted by digital surveillance, cyberbullying, cyberattacks, and other forms of digital threats. Human rights NGOs have documented these threats and have shown that, for many environmental defenders, there is a more significant feeling of unsafety with regards to their digital presence than to their physical safety in demonstrations to which they take part for instance. A number of human rights NGOs and other actors provide essential training, resources and support in these different areas, but those who need it, in particular environmentalists, are often not aware such support exists. Throughout my mandate, and in cooperation with the organisations concerned, I will contribute to making these resources, programmes and mechanisms more visible, by advertising it through the Special Rapporteur's dedicated website, during my discussions and meetings with environmental defenders at national,

regional and international levels, and by orientating defenders that solicit the mandate's protection towards these resources.

SECURING A SAFE AND ENABLING ENVIRONMENT FOR THE WORK OF ENVIRONMENTAL DEFENDERS

The scope of the mandate will not be limited to providing a rapid response to environmental defenders at risk but will also seek a longer-term impact for their protection. In addition to the various protection measures that I will use on a case-to-case basis as a rapid response, my work will also focus on securing a safe and enabling environment for their work. This will include promoting positive narratives about environmental defenders; strengthening their legal recognition and protection; protecting civic space and fundamental freedoms; acting against the use of SLAPPs; and fostering accountability for reprisals against environmental defenders.

Promoting positive narratives about environmental defenders

Positive narratives about human rights defenders are an important tool in securing a safe and enabling environment for their work. Narratives that discredit defenders do not only hinder their efforts, but also have an adverse impact on their physical and mental safety. By conveying a negative perception, such narratives can trigger hostile behaviours towards them, like harassment or smear campaigns. In the case of environmental defenders, there is a particularly common negative narrative that consists in depicting them as opponents to social and economic progress.

This is a point that I had already stressed in my report as UN Special Rapporteur on Human Rights Defenders to the UN General Assembly in 2017: environmental defenders are increasingly under pressure, including across the Aarhus region, for proposing alternative economic and development models that challenge powerful interests. In just a year, across the Aarhus region, many new forms of mobilisation for the environment have emerged, in particular among young climate activists and movements. Some of these actions have caught the attention of the general public, partly because they aimed, and sometimes succeeded, in disrupting our daily lives. While one may disagree with these modes of action – such as road blockades, the interruption of sporting events, or the targeting of paintings – civil disobedience remains an essential component of democratic life and should not be criminalised. Discourses that associate public participation and civil disobedience with grave and illegal actions, such as terrorism, do not only represent a threat to the safety of environmental defenders, but also to our democratic values. Unfortunately, such narratives are on the rise and are sometimes conveyed by public figures, as we have recently seen in France, when a minister referred to the mobilisation of activists who protested against the development of mega water basins as “ecoterrorism”. Part of the work of the mandate to better protect environmental defenders will consist in contributing to develop, strengthen and disseminate a change of narrative with the objective to raise awareness of the general public about how the mobilisation of environmental defenders against projects that are harmful to the environment and to human health are positively impacting the human rights of all. I would like to work with a variety of stakeholders to develop this positive narrative with clear and strong wording, focusing especially on countering the idea that environmental defenders are opponents to human development, and to disseminate it outside the environment and human rights communities, to reach outside actors and the general public and have more impact on the overall protection of environmental defenders.

Strengthening the legal recognition and protection of environmental defenders

Turning to the legal field, the mandate's work to secure a safe and enabling environment for environmental defenders will comprise four key components. The first component will be to support the development and enactment of specific national laws and policies on the protection of environmental defenders, and of human rights defenders as a whole. I intend to work on the assessment and enhancement of the effectiveness of recently enacted and existing laws and mechanisms, and provide expert technical and advisory services to States contemplating such legislation with a focus on the particular situation of environmental defenders. This role could extend to intervening or providing amicus curiae briefs to international, regional, or national courts or tribunals in order to develop jurisprudence consistent with the 1998 UN Declaration on Human Rights Defenders and article 3 (8) of the Aarhus Convention.

Protecting civic space and fundamental freedoms

The second key component of the mandate's work in securing a safe and enabling environment for environmental defenders will be the focus on the protection of civic space and fundamental freedoms. Within the Aarhus region, restrictions on civic space and fundamental freedoms are one of the main tools to penalise, persecute and harass environmental defenders, including journalists. A recent report of the Commissioner for Human Rights of the Council of Europe found that in many Council of Europe Member States, most of which are Parties to the Aarhus Convention, environmental-related protest movements are subjected to "constant and disproportionate criminalisation". Severe restrictions on the basic rights to freedoms of expression, association and assembly of environmental defenders have become frequent, especially through abusive restrictions on the right to peaceful protest by imposing bans on demonstrations or issuing preventive house arrests to protesters. Recently in Italy for instance, several climate activists were issued "fogli di via", a measure that bans them from the city of Turin, for having taken part in a peaceful protest in the city.

Adding to these restrictions on fundamental freedoms, across the region, environmental defenders also have to operate in increasingly restrictive frameworks, with a number of laws that are used to restrict the work of civil society organisations. These include, for instance, counterterrorism laws or legislation that impose disproportionate limitations on the registration of NGOs or on their funding. In addition to directly affecting environmental defenders, restrictive legal frameworks and restrictions of fundamental freedoms cause fear of being arrested or prosecuted for simply exercising these rights, which has a longer-term chilling effect on public participation. The work of the mandate will include supporting the protection of civic space and fundamental freedoms, in cooperation with other national, regional and international bodies (e.g. national human rights institutions, special rapporteur on freedom to peaceful assembly and of association, etc.)

Acting against the use of SLAPPs against environmental defenders

The third key component of the mandate's work in securing a safe and enabling environment for environmental defenders will be the focus on the increasing use of Strategic Lawsuits Against Public Participation (SLAPPs) against environmental defenders. As I already mentioned, this harmful practice is particularly used against environmental defenders and journalists and has been on the rise across Europe and the Aarhus region. This kind of abusive legal proceedings and legal intimidation, such as the threat of the use of a SLAPP, are used to silence environmental defenders and are a major barrier in securing an enabling environment. In addition to awareness-raising and to the rapid protection response that will consist in attending trials as an observer as I previously explained, the work of the mandate will also focus on the longer term, by contributing to the development and strengthening of national and regional legislative frameworks on the use of SLAPPs against environmental defenders. This will involve, for instance, supporting the work of the European Commission, the Council of Europe and the Human Rights Council in their current initiatives to develop such frameworks. The upcoming new EU anti-SLAPP directive will be an asset for the mandate if adopted.

Fostering accountability for reprisals against environmental defenders

The last component of the mandate's work in securing a safe and enabling environment for environmental defenders will be the fostering of prompt and independent investigations into reprisals against environmental defenders. Because the exploitation of natural resources and large-scale development projects often require vast financial investments, they can be subject to corrupt practices, and the complexity of their structures and processes often makes it difficult to clearly identify the chain of responsibility to ensure accountability for violations, including reprisals against environmental defenders. This context exposes environmental defenders to higher risks and holding perpetrators to account for persecution and harassment is essential to securing a safe and enabling environment and access to justice. Throughout the mandate, I will focus on raising awareness on the issue of accountability for reprisals against environmental defenders through various means, including for instance by raising my concerns regarding this issue through dialogues with governments during country visits and intergovernmental meetings.

As you may know, in 2013, the UN Human Rights Council adopted resolution 24/24 creating a special mechanism to address allegations of reprisals against individuals and groups for their cooperation with the UN systems. Any such allegations of reprisals for cooperation with my mandate will be immediately referred to the UN Assistant Secretary General for Human Rights in New York.

CONCLUSION

Like I said at the beginning, when in October 2021, the Parties to the Aarhus Convention decided to establish a Rapid Response Mechanism, they acknowledged the seriousness of the risks that environmental defenders face, and the urgency of better protecting them.

As the former UN Special Rapporteur on the situation of human rights defenders, I have often been asked by governments to remain a ‘watchdog’, an alerting voice and a recourse mechanism for human rights defenders who are playing a crucial role. Faced with an increase in violence on environmental defenders, I am convinced that this new mandate has a vital mission to fulfil.

I hope that I will be able to demonstrate in the months to come the usefulness of this important new mechanism to protect those whose lives are at risk for defending our environment and to ensure that they may exercise the rights granted them by the Convention without fear.

As our governments were discussing the future of our planet at COP 27 and we are now entering in the last phase of the 2030 agenda, I’m worried that the Sustainable Development Goals are doomed to fail if we are not able to protect those who protect our planet.

Thank you.
