



United Nations Special Rapporteur on Environmental Defenders under the Aarhus Convention

Oral update on activities under the Rapid Response Mechanism from 24 June 2022 to 23 June 2023

Working Group of the Parties to the Aarhus Convention
27th meeting, Geneva, 26-28 June 2023
Item 5(a) of the agenda
26 June, 16.45–18.00

Brief update by the Special Rapporteur on his work – 20 min (16.45-17.05)

Activities of the Special Rapporteur

1. Complaints

- 10 complaints received on alleged persecution, penalization, harassment since establishment of RRM
- All complaints remain confidential to date

2. Engagement with Parties to the Aarhus Convention

- *At national level:*
- Visited the following Parties: Austria, Belgium, Denmark, Germany, Ireland, Italy, Norway, Spain
- Held bilateral meetings with: Ministers and senior officials to raise awareness of the mandate, seek financial and political support + National Human Rights Institutions (NHRIs) and their regional (ENNHRI) and global (GANHRI) networks + Ambassadors and Permanent Representations of Parties in Geneva (e.g. France, Spain)
- *At EU level:*
- Participated to meetings of the Council of the EU's Working Party on International Environment Issues (WPIEI) (Brussels, June 2023) + Working Party on Human Rights (COHOM) (Brussels, April 2023)
- Held discussions with: Fundamental Rights Agency (FRA) + European Environment Agency (EEA) + European External Action Service (EEAS) + MEPs

3. Engagement with environmental defenders and the larger human rights community

- Participation to several public (and closed-door) events on various topics (women environmental defenders, defenders protection mechanisms, due diligence, environmental justice, Children HRD etc.)
- Bilateral and joint meetings with environmental defenders, including environmental and human rights NGOs, to present and discuss the mandate and to collect information and identify trends of challenges, risks, good practices

4. Engagement with regional and international organizations

- Council of Europe: Council of Europe and its institutions including Secretary General, European Court of Human Rights (Jurisconsult), Commissioner for Human Rights, Parliamentary Assembly of the Council of Europe (President, Secretary General, Network of Parliamentarians on the environment) → great meetings, lots of openings
- UN: UN Deputy High Commissioner for Human Rights (Nada Al-Nashif) + mandate of the Assistant SG on reprisals (provided input to SG report on reprisals) + UNSR on Human Rights Defenders + UNSR on Freedoms of Peaceful Assembly and Association + Committee on the Rights of Children
- Others: World Bank Inspection Panel + International (including cases) Organization of the Francophonie

5. Statements and media engagement

- Issued a joint press release with several Special Rapporteurs of the Human Rights Council Special Procedures on the excessive use of force during protests in France (June 2023)
- Intervened as an expert at the trial of activists of Dernière Rénovation in France, to provide inputs on the international human rights framework applicable to peaceful civil disobedience (Article 21 ICCPR, GC n° 37 of the Human Rights Committee) (May 2023)
- Published an editorial on the criminalization of environmental defenders in the Italian newspaper *Domani* (April 2023) and provided quotes/interviews to various newspapers (El Pais, Le Monde, Libération, Politico, The Guardian, etc.)
- Contributed to a statement on the withdrawal of Belarus from the Aarhus Convention (August 2022)

6. Input to relevant international processes

- Submitted comments and inputs on:
- Draft report of the EU Fundamental Rights Agency (FRA) on the entry and temporary stay of human rights defenders at risk coming to the European Union from third countries (June 2023)
- Draft update to the OECD Guidelines on Multinational Enterprises (February 2023)

- Draft general comment 26 by the Committee on the Rights of the Child on children's rights and the environment with a special focus on climate change (February 2023)
- Upcoming report on the UNSR on Freedom of Assembly and Association (February 2023)

7. Fundraising activities to support the mandate's activities

- Efforts to secure EU and other Parties funding (including requests for JPOs)
- Securing funding from other stakeholders (e.g. foundations)

Important upcoming activities

- Project on the protection of environmental defenders (including climate activists) engaged in civil disobedience (funded by ENNHRI) (July 2023)
- Regional consultations with environmental defenders in each sub-region of the Aarhus Convention (October-December 2023)

Important issues to address for the Special Rapporteur

1. Increasing trends that put environmental defenders at higher risks of being penalized, persecuted, harassed, including journalists working on the environment:
 - Public discourses on environmental defenders (labelling as “ecoterrorists” etc.)
 - Increasing restrictions of civic space and fundamental freedoms – expression, assembly, association, press – through policy developments and law enforcement)
2. Civil disobedience
 - Inappropriate responses from authorities to address civil disobedience:
 - Policy and legal developments that restrict civic space by aiming at limiting the possibility to resort to civil disobedience
 - Disproportionate and indiscriminate use of force in law enforcement and disproportionate penalties in the context of actions of civil disobedience
 - Prosecution and criminalization of environmental defenders resorting to civil disobedience (including heavy sentences, such as considerable fines, prison sentences...)
 - Peaceful civil disobedience = legitimate form of exercise of freedom of expression in international human rights law (Art 21 ICCPR, General Comment 37 Committee Human Rights)
 - Mandate focus on civil disobedience → project, workshop 19 July, guidance for the authorities on applicable international standards
3. SLAPPs

- Trending form of harassment of environmental defenders, including journalists working on the environment, and major barrier to public participation
- Promising international processes to stop this trend (current negotiations EU anti-SLAPP Directive + Council of Europe Committee of Ministers Recommendation on SLAPPs)
- But concerning and disappointing attempts of some States to limit the impact of these future instruments and their capacity to efficiently protect defenders from SLAPPs

Important calls on Parties from the Special Rapporteur

1. Calls on Parties regarding important issues mentioned before:

- *Public discourses on environmental defenders:*
- Call on Parties to firmly combat discourses of public officials that discredit environmental defenders and depict them as criminals
- *Civil disobedience:*
- The mandate is focusing on addressing this issue
- I strongly urge Parties to abide by their obligations under international human rights law when addressing actions of civil disobedience and their legal framework
- *SLAPPs:*
- The mandate will provide inputs in both processes (EU anti-SLAPP Directive + CoE's Committee of Ministers Recommendation on SLAPPs)
- I strongly urge Parties, as Member States of the EU and/or Council of Europe, to contribute to these negotiations processes with the aim to ensure that the texts adopted are ambitious instruments that actually allow to deal with this major issue of SLAPPs.

2. Calls on Parties regarding the work of the mandate:

- Call on Parties to extend an invitation for a visit of the Special Rapporteur
- Call on Parties to provide adequate funding to the mandate (+ JPOs)
 - Commitment of Parties in Decision VII-9, Art. 17: "*(The Meeting of the Parties) Also recognizes the ongoing need for extra-budgetary funding to support the work and calls upon Parties and interested organizations and other stakeholders to provide voluntary contributions to support the work*"
 - Funding received until now: Austria, Ireland and France, Germany, Italy, Norway (Spain?)
 - No more funding to travel !

Statements/Questions/Answers from delegations: 45 min (17.05-17.50)

Concluding remarks by SR: 5 min (5.50-5.55)

Summary of outcomes/decisions by the Chair of WGP: 5 min (17.55-18.00)