‑

Office of the United Nations High Commissioner for Human Rights (OHCHR)

Palais Wilson
52 rue des Pâquis
CH-1201 Geneva, Switzerland

|  |  |  |  |
| --- | --- | --- | --- |
|

|  |
| --- |
|  |
| **Case officer:** |

 |  |
|

|  |
| --- |
|  |
| **Case officer:** |

 |  |

Budapest, 19 August 2021

To whom it may concern,

I would like to respond to your call for comments and textual suggestions on the Draft Convention on the Right to Development. The Hungarian NHRI is headed by the Commissioner for Fundamental Rights, with two Deputies, one responsible for the rights of national minorities and one for the rights of future generations. Our Office covers a wide array of human rights and – amongst others – dedicates special attention to the rights of future generations, which is closely interlinked with aspects of sustainable development. It is with this view that I would like to submit a comment related to Article 22 (Sustainable development).

It must be noted that while the 2030 Agenda for Sustainable Development affirms that sustainable development must be achieved in its three dimensions, namely, economic, social and environmental, an inherent tension can exist between the sometimes competing three dimensions. Article 22 of the draft Convention addresses the relationship between sustainable development and the right to development, but in its section (c) it seems to give preference to the right to development over sustainable development. This interpretation is also confirmed in the “Draft Convention on the Right to Development, with commentaries” document, page 71, section 4.

**“Article 22 – Sustainable development**

States Parties, individually and jointly, undertake to ensure that:

…..

(c) The formulation, adoption and implementation of all such laws, policies and practices aimed at realizing sustainable development are made fully consistent with the provisions of the present Convention.”

This could be a questionable approach in an era when climate change and the loss of biodiversity – just to name two of the most pressing environmental problems – require mankind to accelerate a global shift towards a more sustainable development. The Preamble and Article 3 (e) of the draft Convention demonstrates a different approach:

“*Recognizing* that the realization of the right to development constitutes both the primary end and the principal means of sustainable development, and that the right to development cannot be realized if development is not sustainable,”

“Article 3 – General Principles

…

(e) Sustainable development: development cannot be sustainable if its realization

undermines the right to development, and the right to development cannot be realized if

development is unsustainable;”

It is important to note that the Rio Declaration on Environment and Development explicitly linked and limited the right to development to the criteria of sustainable development. In its paragraph 3, the Rio Declaration affirmed that “*the right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations*”. The Vienna Declaration and Programme of Action echoed the Rio language in its paragraph 11.

Bearing all this in mind, I would suggest to reconsider the draft convention’s Article 22 – Sustainable development paragraph (c) for a more balanced approach that could better ensure an alignment between the two concepts in line with the Preamble and Article 3 (e). A textual suggestion would be the following:

**“Article 22 – Sustainable development**

States Parties, individually and jointly, undertake to ensure that:

c) *The formulation, adoption and implementation of all laws, policies and practices aimed at realizing the present Convention are made fully consistent with the concept of sustainable development*.”

Yours faithfully,

Dr. Ákos Kozma