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**Mapping Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment**

**Individual Report on the Asia-Pacific, Arab and African Regions**

**as well as the European Social Charter**

Report No. 12

Prepared for the Independent Expert on the Issue of Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy, and Sustainable Environment

December 2013

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# Introduction

1. This report examines States’ human rights obligations related to the environment as they have been elaborated in the African, Arab, and Asia-Pacific regional human rights systems as well as under the European Social Charter.
2. This report is one of a series of 14 reports that examine human rights obligations related to the environment, as they have been described by various sources of international law in the following categories: (a) UN human rights bodies and mechanisms; (b) global human rights treaties; (c) regional human rights systems; and (d) international environmental instruments. Each report focuses on one source or set of sources, and all reports follow the same format.
3. These reports were researched and written by legal experts working *pro bono* under the supervision of John H. Knox, the UN Independent Expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment. In March 2012, in Resolution 19/10, the Human Rights Council established the mandate of the Independent Expert, which includes, *inter alia*, studying the human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment and reporting to the Council on those obligations.
4. In his first report to the Council, U.N. Doc. A/HRC/22/43 (24 December 2012), the Independent Expert stated that his first priority would be to provide greater conceptual clarity to the application of human rights obligations related to the environment by taking an evidence-based approach to determining the nature, scope and content of the obligations. To that end, he assembled a team of volunteers to map the human rights obligations pertaining to environmental protection in as much detail as possible. The results of the research are contained in this and the other reports in this series.
5. The Independent Expert’s second report to the Council, U.N. Doc. A/HRC/25/53 (30 December 2013), describes the mapping project and summarizes its conclusions on the basis of the findings of the 14 specific reports. In brief, the main conclusions are that the human rights obligations relating to the environment include procedural obligations of States to assess environmental impacts on human rights and to make environmental information public, to facilitate participation in environmental decision-making, and to provide access to remedies, as well as substantive obligations to adopt legal and institutional frameworks that protect against environmental harm that interferes with the enjoyment of human rights, including harm caused by private actors. States are also subject to a general requirement of non-discrimination in the application of environmental laws, and have additional obligations to members of groups particularly vulnerable to environmental harm, including women, children and indigenous peoples
6. This report synthesises provisions in regional agreements, instruments and jurisprudence from the African, Asia-Pacific and Arab regional human rights systems, as well as the European Social Charter, which can be characterised as human rights obligations.
7. The remainder of this report presents the main findings of the research. Section II reviews the African region, Section III reviews the Asia-Pacific and Arab regions and Section IV addresses the European Social Charter. Section V makes some concluding observations. Each section begins by reviewing how the respective regional systems have connected environmental harm to infringements of particular human rights. The discussion then reviews human rights obligations relating to the environment. These obligations include procedural obligations, substantive obligations, and obligations relating to members of groups in vulnerable situations. Finally, each section addresses rights and obligations pertaining to various cross-cutting issues that cut across a range of possible rights and duties, such as obligations relating to transboundary environmental harm and obligations relating to non-state actors.

# African Region

1. The African Charter on Human and Peoples’ Rights (African Charter) sets out a wide spectrum of human rights, including a right to a healthy environment.[[1]](#footnote-1) The African Charter established the African Commission on Human and Peoples’ Rights (African Commission) to, *inter alia*, protect and promote human and peoples’ rights under the Charter and to interpret the Charter.[[2]](#footnote-2) Anyone may bring a complaint to the attention of the African Commission alleging that a State party to the African Charter has violated one or more of the rights contained therein.[[3]](#footnote-3)
2. Articles 6 and 15 of the Revised Treaty of the Economic Community of West African States (ECOWAS) establish the ECOWAS Court of Justice.[[4]](#footnote-4) The ECOWAS Court of Justice is mandated to ensure the observance of law and of the principles of equity and interpret and apply the provisions of the Revised ECOWAS Treaty and all other subsidiary legal instruments adopted by the Community.[[5]](#footnote-5) Among other powers, the Court has jurisdiction to determine cases of violation of human rights that occur in any Member State.[[6]](#footnote-6)
3. The following discussion reviews human rights obligations as set out in the Charter, and selected materials from the African Commission, including its jurisprudence and resolutions, as well as jurisprudence from the ECOWAS Court of Justice. In addition, it reviews the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa.[[7]](#footnote-7)

## Human Rights Threatened by Environmental Harm

### Right to health and right to healthy environment

1. Article 16 of the African Charter states:

1. Every individual shall have the right to enjoy the best attainable state of physical and mental health.

2. States Parties to the present Charter shall take the necessary measures to protect the health of their people and to ensure that they receive medical attention when they are sick.

1. Article 24 of the African Charter states:

All peoples shall have the right to a general satisfactory environment favourable to their development.

1. In *Social and Economic Rights Action Centre and another v. Federal Republic of Nigeria* (*Ogoniland* case),[[8]](#footnote-8) the Ogoni Communities in Nigeria alleged environmental degradation and health problems resulting from an oil consortium’s contamination of the environment. The Ogoni People alleged that the oil consortium’s exploitation of oil reserves in Ogoniland resulted in contamination of water, soil and air and “has had serious short and long-term health impacts, including skin infections, gastrointestinal and respiratory ailments, and increased risk of cancers, and neurological and reproductive problems.”[[9]](#footnote-9)
2. The African Commission stated that Articles 16 and 24 of the African Charter:

recognise the importance of a clean and safe environment that is closely linked to economic and social rights in so far as the environment affects the quality of life and safety of the individual. As has been rightly observed by Alexander Kiss, “an environment degraded by pollution and defaced by the destruction of all beauty and variety is as contrary to satisfactory living conditions and the development as the breakdown of the fundamental ecologic equilibria is harmful to physical and moral health.”[[10]](#footnote-10)

1. The ECOWAS Court of Justice in *SERAP v. Nigeria* affirmed that “it is public knowledge that oil spills pollute water, destroy aquatic life and soil fertility with resultant adverse effect on the health and means of livelihood of people in its vicinity” in the course of finding a violation of Article 24 of the Charter.[[11]](#footnote-11)

### Right to Property

1. The Africa Charter provides for the right to property in Article 14:

The right to property shall be guaranteed. It may only be encroached upon in the interest of public need or in the general interest of the community and in accordance with the provisions of appropriate laws.

1. In *Endorois Welfare Council vs. Kenya*, the African Commission found that the removal of the Endorois people from their land in order to build a game reserve and to grant a ruby mining concession constituted violations of their right to property.[[12]](#footnote-12) The Commission noted that “access roads, gates, game lodges and a hotel have all been built on the ancestral land of the Endorois community around Lake Bogoria and imminent mining operations also threatens to cause irreparable damage to the land.”[[13]](#footnote-13) The Commission further found that “in the pursuit of creating a Game Reserve, [Kenya] has unlawfully evicted the Endorois from their ancestral land and destroyed their possessions.”[[14]](#footnote-14)

### Right to life and physical integrity

1. In a resolution on climate change and human rights, the African Commission noted its concern that the “lack of human rights safeguards in various draft texts of the [climate change] conventions under negotiation could put at risk the life, physical integrity and livelihood of the most vulnerable members of society notably isolated indigenous and local communities, women, and other vulnerable social groups.”[[15]](#footnote-15)
2. In *SERAP v. Nigeria*, the ECOWAS Court of Justice confirmed that “[t]he environment is essential to every human being,” stating that “[t]he quality of human life depends on the quality of the environment.”[[16]](#footnote-16) The Court also quoted the International Court of Justice’s observation that the environment “is not an abstraction but represents the living space, the quality of life and very health of human beings, including generations unborn.”[[17]](#footnote-17)

### Cultural rights

1. Article 17 of the African Charter states:

(2) Every individual may freely take part in the cultural life of his community.

(3) The promotion and protection of morals and traditional values recognized by the community shall be the duty of the State.

1. In *Endorois v. Kenya*, the African Commission found that the removal of the Endorois people to establish a game reserve violated their cultural rights. The Commission found that the State “has not taken into consideration the fact that by restricting access to Lake Bogoria, it has denied the community access to an integrated system of beliefs, values, norms, mores, traditions and artifacts closely linked to access to the Lake.”[[18]](#footnote-18)

### Right to development

1. The African Commission in *Endorois* noted the impacts to the Endorois people’s right to development from the loss of access to their ancestral lands. The Commission found that

access to clean drinking water was severely undermined as a result of loss of their ancestral land (Lake Bogoria) which has ample fresh water sources. Similarly, their traditional means of subsistence – through grazing their animals – has been curtailed due to lack of access to the green pastures of their traditional land. Elders commonly cite having lost more than half of their cattle since the displacement.[[19]](#footnote-19)

## Obligations on States relating to the Environment

1. The African Commission and the ECOWAS Court of Justice have identified human rights obligations related to environment protection, including procedural and substantive obligations, as well as obligations relating to members of groups in vulnerable situations.

### Procedural obligations

#### Access to information and public participation

1. The African Commission has identified several procedural obligations related to Articles 16 and 24 of the African Charter, including with respect to monitoring, undertaking environmental and social impact studies, disseminating information and providing for meaningful public participation in decisions affecting communities. In the *Ogoniland* case*,* the Commission stated:

Government compliance with the spirit of Articles 16 and 24 of the African Charter must also include ordering or at least permitting independent scientific monitoring of threatened environments, requiring and publicising environmental and social impact studies prior to any major industrial development, undertaking appropriate monitoring and providing information to those communities exposed to hazardous materials and activities and providing meaningful opportunities for individuals to be heard and to participate in the development decisions affecting their communities.[[20]](#footnote-20)

#### Access to justice and remedy

1. The ECOWAS Court of Justice in *SERAP v. Nigeria* stressed the need for the State to hold accountable actors who cause environmental harm through oil pollution, and to ensure adequate reparation is provided for the victims. [[21]](#footnote-21) The Court explained that Nigeria was under an obligation to take “additional and concrete measures aimed at preventing the occurrence of damage or ensuring accountability, with the effective reparation of the environmental damage suffered.”[[22]](#footnote-22) In this case, the Court found that Nigeria had not seriously and diligently held accountable any of the perpetrators of the many acts of environmental degradation which occurred in the Niger Delta Region.[[23]](#footnote-23)

### Substantive Obligations

#### Obligation to adopt and implement reasonable measures to protect the environment

1. The obligation to protect human rights from environmental harm does not require the cessation of all activities that may cause any environmental degradation. The African Commission has made it clear that the African Charter does not require States to forego all oil development.[[24]](#footnote-24) However, as stated in the *Ogoniland* case, Article 24 of the Charter does require the State to take “reasonable and other measures to prevent pollution and ecological degradation, to promote conservation, and to secure an ecologically sustainable development and use of natural resources.”[[25]](#footnote-25) The Commission also noted that Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) requires “governments to take necessary steps for the improvement of all aspects of environmental and industrial hygiene.”[[26]](#footnote-26) In the *Ogoniland* case, the African Commission cited the enormous environmental harm to the rights of those in the Niger delta region in finding that “the care that should have been taken”, including by taking reasonable measures to prevent pollution and ecological degradation from oil production, “was not taken.”[[27]](#footnote-27)
2. In *SERAP v. Nigeria,* the ECOWAS Court of Justice also applied Article 24 of the African Charter to allegations that Nigeria did not prevent oil contamination from third parties. In interpreting the Charter, the Court found that the duty assigned by Article 24 is “both an obligation of attitude and an obligation of result,” and that Article 24 requires the State to adopt legislative or other measures to give effect to the right.[[28]](#footnote-28) The Court elaborated on this duty, explaining that:

Article 24 of the Charter thus requires every State to take every measure to maintain the quality of the environment understood as an integrated whole, such that the state of the environment may satisfy the human beings who live there, and enhance their sustainable development. It is by examining the state of the environment and entirely objective factors, that one judges, by the result, whether the State has fulfilled this obligation. If the State is taking all the appropriate legislative, administrative and other measures, it must ensure that vigilance and diligence are being applied and observed towards attaining concrete results.[[29]](#footnote-29)

1. Moreover, the Court noted that it is not enough to adopt legislation or other measures, but that such measures must be implemented to promote accountability and to ensure adequate reparation should environmental damage occur. The Court explained:

the adoption of the legislation, no matter how advanced it may be, or the creation of agencies inspired by the world's best models, as well as the allocation of financial resources in equitable amounts, may still fall short of compliance with international obligations in matters of environmental protection if these measures just remain on paper and are not accompanied by additional and concrete measures aimed at preventing the occurrence of damage or ensuring accountability, with the effective reparation of the environmental damage suffered.[[30]](#footnote-30)

#### Obligations to respect the health and environment of citizens

1. The African Commission has found that the right to health and right to a healthy environment “obligate governments to desist from directly threatening the health and environment of their citizens.”[[31]](#footnote-31) It further noted that “the State is under an obligation to respect the just noted rights [to health and to a healthy environment] and this entails largely non-interventionist conduct from the State for example, not from carrying out, sponsoring or tolerating any practice, policy or legal measures violating the integrity of the individual.”[[32]](#footnote-32)

### Obligations Relating to Members of Groups in Vulnerable Situations

#### Indigenous peoples

1. In *Endorois v. Kenya,* the African Commission identified several obligations necessary to protect the rights of indigenous peoples.
2. The Commission laid out a two prong test under Article 14 of the Charter to determine whether the land of indigenous people is lawfully encroached upon. In the case of the Endorois people the encroachment was due to the construction of a game reserve and mining activities. First, the State must demonstrate that the encroachment is “in the interest of public need” proportionate to the point of overriding the rights of indigenous peoples to their ancestral lands.[[33]](#footnote-33) In the case of indigenous people in particular, the “public interest” test is much more stringent than when applied to individual private property.[[34]](#footnote-34) In applying the first prong to the Endorois people, the Commission found that:

in the pursuit of creating a Game Reserve, the Respondent State has unlawfully evicted the Endorois from their ancestral land and destroyed their possessions. [The Commission] is of the view that the upheaval and displacement of the Endorois from the land they call home and the denial of their property rights over their ancestral land is disproportionate to any public need served by the Game Reserve.[[35]](#footnote-35)

1. Second, any encroachment must be done “in accordance with the law,” which the Commission has interpreted to mean that the removal satisfies both domestic and international law.[[36]](#footnote-36) Two important elements to satisfy this prong relate to consultation and adequate compensation.[[37]](#footnote-37)
2. With respect to the first of these elements, the Commission has stated that “[i]n terms of consultation, the threshold is especially stringent in favour of indigenous peoples” as it also places the duty on the State to obtain indigenous people’s consent.[[38]](#footnote-38) Moreover, in order to flesh out the obligations related to adequate consultation, the Commission relied on the decision of the Inter-American Court of Human Rights in *Saramaka People v. Suriname*,[[39]](#footnote-39) to set out three additional duties: 1) to ensure effective participation of the indigenous peoples in conformity with their customs and traditions; 2) to provide reasonable benefit to the community; and 3) to perform a prior environmental and social impact assessment. In this regard, the African Commission found that:

no effective participation was allowed for the Endorois, nor has there been any reasonable benefit enjoyed by the community. Moreover, a *prior* environment and social impact assessment was not carried out. The absence of these three elements of the ‘test’ is tantamount to a violation of Article 14, the right to property, under the Charter. The failure to guarantee effective participation and to guarantee a reasonable share in the profits of the Game Reserve (or other adequate forms of compensation) also extends to a violation of the right to development.[[40]](#footnote-40)

1. With respect to compensation, the second element of the second prong of this test, the Commission referred to the requirements set out in the United Nations Declaration on the Rights of Indigenous Peoples, and stated:

indigenous peoples have the right to restitution of the lands, territories and resources which they have traditionally owned or otherwise occupied or used; and which have been confiscated, occupied, used or damaged without their free and informed consent. Where this is not possible, they have the right to just and fair compensation. Unless otherwise freely agreed upon by the peoples concerned, *compensation shall take the form of lands, territories and resources equal in quality, size and legal status*.[[41]](#footnote-41)

#### Women

1. In 2003, the African Union adopted the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa, which states that women “shall have the right to live in a healthy and sustainable environment” and “the right to fully enjoy their right to sustainable development.”[[42]](#footnote-42)
2. In its Article 18, the Protocol sets out specific duties in relation to this right, which require State parties to take all appropriate measures to:

a) ensure greater participation of women in the planning, management and preservation of the environment and the sustainable use of natural resources at all levels;

b) promote research and investment in new and renewable energy sources and appropriate technologies, including information technologies and facilitate women’s access to, and participation in their control;

c) protect and enable the development of women’s indigenous knowledge systems;

d) regulate the management, processing, storage and disposal of domestic waste;

e) ensure that proper standards are followed for the storage, transportation and disposal of toxic waste.

1. Article 19 sets out, *inter alia*, the following requirements on State Parties that are relevant to environmental protection:

b) ensure participation of women at all levels in the conceptualisation, decision-making, implementation and evaluation of development policies and programmes;

c) promote women’s access to and control over productive resources such as land and guarantee their right to property.

## Cross-cutting Issues

### Obligations relating to transboundary environmental harm

1. The African Commission has adopted a resolution on climate change and human rights, which requests States to ensure that certain provisions be included in any agreement, instrument or text on climate change. Specifically, the resolution urges the Assembly of Heads of State and Government of the African Union to “ensure that human rights standards safeguards, such as the principle of free, prior and informed consent, be included into any adopted legal text on climate change as preventive measures against forced relocation, unfair dispossession of properties, loss of livelihoods and similar human rights violations.”[[43]](#footnote-43) The resolution also urges the Assembly of Heads of State and Government of the African Union to ensure “that special measure of protection for vulnerable groups such as children, women, the elderly, indigenous communities and victims of natural disasters and conflicts are included in any international agreement or instruments on climate change.”[[44]](#footnote-44)

### Obligations related to non-State actors

1. In the *Ogoniland* case, the African Commission stated that “Governments have a duty to protect their citizens, not only through appropriate legislation and effective enforcement but also by protecting them from damaging acts that may be perpetrated by private parties,” and held that by allowing oil companies “to devastatingly affect the well-being of the Ogonis,” the State “falls short of the minimum conduct expected of governments.”[[45]](#footnote-45)

# Asia-Pacific and Arab regions

## Human Rights Threatened by Environmental Harm

1. The 2004 Arab Charter on Human Rights includes a right to a healthy environment as part of the right to an adequate standard of living that ensures well-being and a decent life.[[46]](#footnote-46)
2. The ASEAN Human Rights Declaration adopted by the Association of Southeast Asian Nations incorporates a “right to a safe, clean and sustainable environment” as an element of the right to an adequate standard of living (para. 28 (f)).[[47]](#footnote-47)
3. Various Asian and Pacific regional instruments have linked environmental threats to harms to humans.
4. The Asian and Pacific Declaration on Population and Development, adopted in September 2013, recognises that the international community has been challenged by multiple and interrelated crises, including “the increasing challenges posed by natural disasters, conflicts, complex emergencies, climate change and the loss of biodiversity, all of which have increased vulnerabilities and inequalities and have adversely affected development gains.”[[48]](#footnote-48)
5. The 2010 Ministerial Declaration on Environment and Development in Asia and the Pacific recognises that “[a]ir, water, land and biodiversity in ecosystems are essential for supporting economies and societies alike in the Asian and Pacific region,” and that “unsustainable consumption and production patterns could put increasing pressure on the carrying capacity and result in declining quality of life.”[[49]](#footnote-49)
6. The Yangon Resolution on Sustainable Development recognises “that effective environmental and natural resources management, and sustainable utilisation of these resources are critical to alleviate poverty, promote healthy living, reduce the incidence of diseases, and enhancing economic growth in the ASEAN region.”[[50]](#footnote-50)
7. Some instruments also note the impacts of climate change on humans.
8. The ASEAN Declaration on Environmental Sustainability notes “with concern, the adverse impacts of climate change caused by global emissions of greenhouse gases, particularly to the developing countries, such as the loss of biodiversity and severe environmental, social, health and economic consequences.”[[51]](#footnote-51)
9. The Singapore Declaration on Climate Change, Energy and the Environment expresses concern about the adverse impact of climate change on socio-economic development, health and the environment, particularly in developing countries.[[52]](#footnote-52)
10. The 2009 ASEAN Joint Statement on Climate Change to the 15th Session of the Conference of the Parties to the United Nations Framework Convention on Climate Change and the 5th Session of the Conference of Parties serving as the Meeting of Parties to the Kyoto Protocol (2009 ASEAN Joint Statement on Climate Change) recognises the threat of climate change to food production and sustainable economic development.[[53]](#footnote-53)

## Obligations of States relating to the Environment

### Procedural and substantive obligations

1. Few instruments from the Asia-Pacific and Arab regions set out explicit obligations related to protecting humans from environmental harm.
2. The Asian and Pacific Declaration on Population and Development sets out various duties on States related to addressing natural disasters. It lists as priority actions for States to “[p]romote participation of the affected sections of the population in the planning and decision-making processes on relevant natural disaster risk reduction strategies,” and to “[e]nsure forecasting of the consequences of climate conditions and climate change, and prioritize addressing the needs of people living in fragile ecosystems in planning and decision-making processes on economic activities that affect the environment, including through such policies as those for promoting employment.”[[54]](#footnote-54)
3. The 1991 Arab Declaration on Environment and Development and Future Perspectives refers to the right of individuals and non-governmental organizations to acquire information about environmental issues relevant to them.[[55]](#footnote-55)

### Obligations Relating to Members of Groups in Vulnerable Situations

#### Vulnerable groups generally

1. The Asian and Pacific Declaration on Population and Development calls on States to “[d]evelop measures to prevent and mitigate the effects of natural disasters in urban areas, and ensure the provision of necessary and prompt assistance to affected populations, especially vulnerable groups, such as persons with disability, migrants and older adults.”[[56]](#footnote-56)

#### Youth

1. The Asian and Pacific Declaration on Population and Development requests States as a priority action to “[p]romote public education, giving special attention to youth, about the need for sustainable production and consumptions patterns, sustainable natural resource use and prevention of environmental degradation.”[[57]](#footnote-57)

#### Women

1. The Asian and Pacific Declaration on Population and Development requests States as a priority action to:

Undertake, where appropriate, legislative, administrative, financial and other measures to give women full and equal access to economic resources, particularly women facing multiple and intersecting forms of discrimination, including the right to inheritance and to ownership of land and other property, assets, investments, credit, natural resources and appropriate technologies, among other things, by means of international cooperation.[[58]](#footnote-58)

## Cross-cutting Issues

### Obligations relating to transboundary environmental harm

1. In the ASEAN Declaration on Environmental Sustainability, States declare to “adopt a holistic approach in fostering regional cooperation on environmental issues, with the participation of all relevant stakeholders; including business, academics, NGOs and civil society organizations.”[[59]](#footnote-59)
2. With respect to climate change, the Asian and Pacific Declaration on Population and Development calls on States as a priority action to “ensure collective efforts to halt global carbon dioxide and greenhouse gas emissions, as part of protecting livelihoods and ensuring survival, as well as to support and facilitate adaptation and/or migration with dignity and respect for identity where countries can no longer support the lives of people due to adverse changes in their circumstances and environment resulting from climate change.” [[60]](#footnote-60)
3. The Singapore Declaration on Climate Change, Energy and the Environment sets out the need to deepen understanding of the region's vulnerability to climate change and implement appropriate mitigation and adaptation measures, including through promoting “public awareness of the impacts of climate change and enhancing participation in efforts to mitigate the effects of climate change.”[[61]](#footnote-61)

### Obligations relating to future generations

1. States in the ASEAN Declaration on Environmental Sustainability reiterate “the need to build an ASEAN Community that is economically vibrant and environmentally friendly, so that the present and future generations can enjoy a clean and sustainable environment.”[[62]](#footnote-62)
2. The 2009 ASEAN Joint Statement on Climate reaffirms “that Parties should protect the climate system for the benefit of present and future generations of humankind on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities.”[[63]](#footnote-63)

# European Social Charter

1. This section examines environmental and health related human rights provided in the European Social Charter as well as the procedural and substantive obligations attached to these rights in specific judicial cases examined by the European Committee of Social Rights.
2. The European Social Charter (“the Charter”) is a Council of Europe Treaty that secures social and economic human rights. The Charter was first adopted in 1961 and was revised in 1996. The European Committee of Social Rights (“the Committee”) oversees compliance with the European Social Charter, the 1998 Additional Protocol and the Revised European Social Charter.[[64]](#footnote-64) The Committee consists of 15 independent, impartial experts, elected by the Committee of Ministers for a six-year term, which is renewable once.[[65]](#footnote-65) The Committee adopts conclusions in regard to national reports[[66]](#footnote-66) and adopts decisions in regard to collective complaints.[[67]](#footnote-67)
3. The cases examined in this report were selected by conducting searches of both decisions on admissibility and on the merits on the European Committee of Human Rights Search Screen.[[68]](#footnote-68) The following search terms were used: *environment*, *pollution*, *prevention of disease*, *promotion of health*, *removal of causes of illness*, *health*, and *promotion of disease*.
4. In the cases discussed in this report, the Committee addresses a wide range of human rights as they pertain to the environment, ranging from working conditions to housing and to fair treatment. Subsection A addresses human rights threatened by environmental harm as recognized in the Charter and by the Committee in selected cases. Subsection B speaks to the obligations on the State Parties relating to the environment, including both procedural and substantive obligations, as well as obligations relating to member so groups in vulnerable situations.

## Human Rights Threatened by Environmental Harm

1. The European Social Charter and the European Committee for Social Rights have recognized the following as rights that have been threatened or infringed by environmental harm: the right to just conditions of work (Article 2 of the Charter), the right to enjoy the highest possible standard of health attainable (Article 11 of the Charter), and the right to a healthy environment.
2. The two main cases discussed below are *Marangopoulos Foundation for Human Rights (MFHR) v. Greece*[[69]](#footnote-69) and *International Federation for Human Rights (FIDH) v. Greece.*[[70]](#footnote-70)
3. In *Marangopoulos*, claimants alleged, *inter alia*, that Greece violated Article 11 of the European Social Charter because it did not take proper affirmative or preventive action to fight public health risks due to environmental harm in the lignite mining region. Specifically, claimants alleged that Greece was not protecting its citizens from air pollution “in accordance with Article 11§1 of the Charter, by authorizing the Public Power Corporation (DEH) to operate lignite mines and power stations fuelled by lignite, without taking sufficient account of the environmental impact and without taking all necessary steps to reduce this impact.”[[71]](#footnote-71)
4. *FIDH* concerned severe surface and groundwater pollution of the Greek River Asopos and of the area adjacent to the Oinofyta industrial region from the emission of industrial liquid waste.[[72]](#footnote-72) At the time of the decision, more than a thousand heavy and light industry units were functioning in the Asopos River region.[[73]](#footnote-73) This waste resulted in detrimental health consequences to the people situated in the area, constituting a breach of the right to health enunciated in Article 11.[[74]](#footnote-74)

### Right to just conditions of work

1. The European Social Charter provides the right to just conditions to work in Article 2(4), which elaborates that the Parties “undertake:…(4) to eliminate risks in inherently dangerous or unhealthy occupations, and where it has not yet been possible to eliminate or reduce sufficiently these risks, to provide for either a reduction of working hours or additional paid holidays for workers engaged in such occupations.”[[75]](#footnote-75)
2. The Committee in *Marangopoulos* connected environmental hazards of the mining industry with workers’ health and safety obligations. According to the Committee:

the mining industry is still one of the particularly dangerous industries in which workers’ health and safety risks cannot be eliminated, and that Greek law still classifies mining as an arduous and hazardous occupation. It therefore considers that, in addition to preventive and protective measure, the state was required to provide for compensation in this sector.[[76]](#footnote-76)

### Right to enjoy the highest possible standard of health attainable

1. The European Social Charter provides in Article 11 that “[e]veryone has the right to benefit from any measures enabling him to enjoy the highest possible standard of health attainable.” Furthermore, the Charter elaborates:

With a view to ensuring the effective exercise of the right to protection of health, the Parties undertake, either directly or in cooperation with public or private organisations, to take appropriate measures designed inter alia:

(1) to remove as far as possible the causes of ill-health;

(2) to provide advisory and educational facilities for the promotion of health and the encouragement of individual responsibility in matters of health;

(3) to prevent as far as possible epidemic, endemic and other diseases, as well as accidents.[[77]](#footnote-77)

1. The Committee in *FIDH v. Greece*,[[78]](#footnote-78) with a view to Article 11(2),linked large-scale water pollution to its harmful effects on human health.
2. In *Marangopoulos*,the Committee linked the environmental pollution and harm resulting from lignite mining to a “higher prevalence of respiratory diseases such as rhinitis and chronic bronchitis, and even of cardiovascular diseases or cancers.”[[79]](#footnote-79)

### Right to healthy environment

1. The Committee interprets Article 11 as including the right to a healthy environment.[[80]](#footnote-80) In *Marangopoulos,* the Committeestated that it has “taken account of the growing link that states party to the Charter and other international bodies ... now make between the protection of health and a healthy environment, and has interpreted Article 11 of the Charter (right to protection of health) as including the right to a healthy environment.”[[81]](#footnote-81)
2. The Committee reaffirmed in *FIDH* that Article 11 includes the right to a healthy environment.[[82]](#footnote-82)

## Obligations on States relating to the Environment

1. This section describes the obligations that the Committee has placed on State Parties to secure compliance with the European Social Charter in relation to the environment.

### Procedural obligations

1. The Committee has provided for the following procedural obligations: (1) the obligation to take precautionary measures, and (2) the obligation to provide information about environmental harm.

#### The obligation to take precautionary measures

1. The Committee discussed the duty to take precautionary measures in *FIDH v. Greece,* in which FIDH claimed that the Greek authorities did not take sufficient measures to remove or diminish the adverse effects of the pollution on the health of the people in the Oinofyta region and to secure that these individuals could wholly enjoy their right to protection of health.[[83]](#footnote-83)
2. The Committee acknowledged evidence presented by FIDH which showed, among other things, heavy metal and other contamination in the Asopos and groundwater, an increase in cancer mortalities in the region, and a high rate of respiratory disorders in children. The Committee concluded that a State must take precautionary measures “consistent with the high level of protection established by Article 11,” “when a preliminary scientific evaluation indicates that there are reasonable grounds for concern regarding potentially dangerous effects on human health.”[[84]](#footnote-84) The Committee elaborated that when appropriate, such measures need to be enacted in compliance with applicable national legislation and regulations.[[85]](#footnote-85) According to the Committee:

More specifically, such measures should have included regular analyses of the surface and ground water in the region of Oinofyta, scientific investigation of possible threats to human health linked to heavy metals (including Cr-6) and comprehensive epidemiological studies. In this framework, given the scientific uncertainty related to the health problems caused by the ingestion of Cr-6, the Greek authorities should also have taken urgent measures, including - at least for the areas directly concerned by the pollution - the setting of maximum contaminant levels concerning Cr-6 in drinking water and water for agricultural use.[[86]](#footnote-86)

#### The duty to provide information about environmental harm

1. In *FIDH,* the Committee discussed how harmful effects of pollution should have necessitated a systematic public information system at the national, regional and local levels.[[87]](#footnote-87)The Committee found that the Greek authorities were aware for extended amounts of time of the extreme pollution and its negative effects on human health and that “the public information initiatives described by the Government in its reply to the Committee were not only initiated too late, but also, in most cases, sporadic and insufficiently co-ordinated.”[[88]](#footnote-88) The Greek authorities “should have required the design and implementation of a systematic information and awareness-raising programme for the population concerned, with the active and regular contribution of all the administrative institutions concerned (at national, regional, and local level).”[[89]](#footnote-89) Specifically, the Committee, referring to precedent, stated that “[i]nforming the public, particularly through awareness-raising campaigns, must be a public health priority. The precise extent of these activities may vary according to the nature of the public health problems in the countries concerned (Conclusions XV-2, Belgium)”,[[90]](#footnote-90) and that “States must demonstrate through concrete measures that they implement a public health education policy in favour of (…) population groups affected by specific problems.”[[91]](#footnote-91)
2. In *Marangopoulos*, the Committee found that in order to comply with Article 11, Greece must, among other things, “inform and educate the public, including pupils and students at school, about both general and local environmental problems.”[[92]](#footnote-92)

### Substantive obligations

#### Obligation to adopt measures

1. The Committee has required States to take various measures to guarantee a healthy environment. For example, in *Marangopoulos*, the Committee held that Greece must “develop and regularly update sufficiently comprehensive environmental legislation and regulations” and “take specific steps, such as modifying equipment, introducing threshold values for emissions and measuring air quality, to prevent air pollution at local level and to help it reduce on a global scale.”[[93]](#footnote-93) In addition, the Committee in *Marangopoulos* required Greece to undertake monitoring to access health risks from mining activities, holding that Greece should “assess health risks through epidemiological monitoring of the groups concerned.”[[94]](#footnote-94)
2. In *FIDH,* the Committee also found violations of Article 11(1) and (3) because Greece did not take appropriate actions to reduce and prevent as much as possible the causes of illness due to the failure to timely implement adequate measures, did not adequately apply existing pollution laws, and did not take sufficient initiatives to limit the hazardous waste.[[95]](#footnote-95) Due to these findings, the Committee declared that Article 11(1) of the Charter requires that a State “respond appropriately to avoidable health risks, i.e. ones that can be controlled by human action, and states must guarantee the best results in line with the available knowledge.”[[96]](#footnote-96) Furthermore, the Committee declared that Article 11(3) of the Charter requires Greek authorities to implement “appropriate measures to prevent as far as possible activities which are detrimental to human health (diseases and accidents). The Committee is of the view that where there are threats of serious damage to human health, lack of full scientific certainty should not be used as a reason for postponing appropriate measures.”[[97]](#footnote-97)
3. Moreover, it is not sufficient to enact measures; States must ensure that such measures are adequately implemented. The Committee stated that Greece must “ensure that environmental standards and rules are properly applied, through appropriate supervisory machinery.”[[98]](#footnote-98)
4. Furthermore, any measures should be calculated to eliminate the sources of illness caused by environmental harm.[[99]](#footnote-99) In *Marangopoulos*, the Committee found in a violation of sections 1, 2, and 3 of Article 11 of the Charter because “Greece has not managed to strike a reasonable balance between the interests of persons living in the lignite mining areas and the general interests.”[[100]](#footnote-100)

#### Obligation to create and comply with threshold values for emissions

1. The Committee in *FIDH* cited *Marangopoulos* when reaffirming the duty to take steps under Article 11 requires introducing threshold values for emissions.[[101]](#footnote-101) In order to evaluate whether a State is in compliance with such thresholds, the Committee will look to “the norms and guidelines established by various public bodies and national and international level.”[[102]](#footnote-102) In this case, the Committee looked to, among other things, World Health Organisation Guidelines on Drinking Water, to find that the level of Cr-6 in the water of the Oinofyta area for drinking and agricultural functions is likely to be adverse to human health and as a result would mandate the state to take precautionary measures.[[103]](#footnote-103)

### Obligations relating to members of groups in vulnerable situations

1. In *European Roma Rights Centre (ERRC) v. Bulgaria*,[[104]](#footnote-104) the Committee found that because Bulgaria failed to take reasonable measures to deal with the problems confronting the Roma people due to their unhealthy living circumstances and inability to access adequate health care, Bulgaria failed to reach its positive obligations to secure the Roma’s adequate access to health care.[[105]](#footnote-105) As such, Bulgaria violated Article 11(1)-(3) of the Revised Charter in conjunction with Article E on non-discrimination due to the “failure of the authorities to take appropriate measures to address the exclusion, marginalization and *environmental hazards which Romani communities are exposed*to in Bulgaria, as well as the problems encountered by many Roma in accessing health care services.”[[106]](#footnote-106) To support its holding, the Committee found that the “Roma communities do not live in healthy environments,” in part due to the lack of prevention measures by the State, such as the lack of guarantees to clean water in Romani areas and the failure to provide public health standards in housing in Romani areas.[[107]](#footnote-107)
2. In another case recognizing discrimination against the Roma people, *Medecin du Monde v. France*, the Committee found a violation of Article E taken in conjunction with Article 11(3).[[108]](#footnote-108) This case noted Recommendation “Rec(2005)4 of the Committee of Ministers to member states on improving the housing conditions of Roma and Travellers in Europe, adopted on 23 February 2005” entitled, “Preventing segregation in environmentally hazardous areas.”[[109]](#footnote-109) Relevant provisions referred to by the Committee are quoted below:

21. Member states should take measures to combat any forms of segregation on racial grounds in *environmentally hazardous areas*. This includes investing in the development of safe locations and taking steps to ensure that Roma communities have practical and affordable housing alternatives, so as to discourage settlements in, near or on hazardous areas. (…);

Access to health and sanitary services

34. (…) Roma who are permanently and legally settled in derelict or unhealthy surroundings should receive assistance in order to improve the sanitary conditions of their homes (help for repairs, assistance in improving their living conditions and environment, measures to allow them better access to short-term loans for acquiring better housing, mediation in their relations with administrations or public services). (…)

VIII. Housing standards

(…)

Standard for housing location and surroundings

48. Member states, through their relevant authorities, should ensure that Roma housing is located in areas that are fit for habitation or suitable for construction under current legislation, and in ecologically healthy surroundings. (…) The existing settlements which cannot be removed from unsuitable locations should be improved by appropriate and constructive environmental measures.[[110]](#footnote-110)

1. The Committee determined that the Roma do not live in healthy environments[[111]](#footnote-111) due to their poor living circumstances and as such, the state parties have a duty to “take appropriate measures to prevent, as far as possible, epidemic, endemic, and other diseases as well as accidents.”[[112]](#footnote-112)

1. African Charter on Human and Peoples’ Rights, 27 June 1981, OAU Doc.CAB/LEG/76/3 rev.5, 21 I.L.M. 58. [↑](#footnote-ref-1)
2. *Ibid*. art. 45. [↑](#footnote-ref-2)
3. Information about the African Commission is available on its web page, http://www.achpr.org/. [↑](#footnote-ref-3)
4. *See* Economic Community of West African States (ECOWAS), Revised Treaty of the Economic Community of West African States, 24 July 1993, available at http://www.comm.ecowas.int/sec/?id=treaty&lang=en. [↑](#footnote-ref-4)
5. *See* Supplementary Protocol A/SP.1/01/05 Amending the Preamble and Articles 1, 2, 9 and 30 of Protocol A/P.1/7/91 relating to the Community Court of Justice and Article 4 Paragraph 1 of the English Version of the Said Protocol, 19 January 2005, available at http://www.courtecowas.org/site2012/pdf\_files/supplementary\_protocol.pdf. Additional information about the ECOWAS Court of Justice is available at its website, <http://www.courtecowas.org/site2012/index.php?option=com_content&view=article&id=2&Itemid=5>. [↑](#footnote-ref-5)
6. *Ibid*. [↑](#footnote-ref-6)
7. Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa, 11 July 2003, available at the African Commission website, http://www.achpr.org/instruments/women-protocol/. [↑](#footnote-ref-7)
8. *Social and Economic Rights Action Centre and another v. Federal Republic of Nigeria*, Communication 155/96 (African Commission on Human and Peoples’ Rights 2001), available at <http://www.cesr.org/downloads/AfricanCommissionDecision.pdf> (hereafter *Ogoniland* case). [↑](#footnote-ref-8)
9. *Ibid.* ¶ 2 [↑](#footnote-ref-9)
10. *Ibid.* ¶ 51. [↑](#footnote-ref-10)
11. *SERAP v. Nigeria*, No. ECW/CCJ/JUD/18/12 (ECOWAS Court of Justice 2012), ¶ 96. [↑](#footnote-ref-11)
12. Center for Minority Rights Development (Kenya) and Minority Rights Group International on behalf of the Endorois Welfare Council v. Kenya, Case No. 276/2003 (African Commission for Human and Peoples’ Rights 2009). [↑](#footnote-ref-12)
13. *Ibid.* ¶ 210. [↑](#footnote-ref-13)
14. *Ibid.* ¶ 214. [↑](#footnote-ref-14)
15. African Commission on Human and Peoples' Rights, Resolution 153 on Climate Change and Human Rights and the Need to Study its Impact in Africa (25 November 2009), available at <http://www.achpr.org/sessions/46th/resolutions/153/>. [↑](#footnote-ref-15)
16. *SERAP v. Nigeria*, note 11 *supra,* ¶ 100. [↑](#footnote-ref-16)
17. *Ibid*. (citing ICJ Advisory Opinion of 8 July 2006, *Legality of the threat or use of nuclear arms*, ¶ 28). [↑](#footnote-ref-17)
18. *Endorois v. Kenya*, note 12 *supra*, ¶ 250. [↑](#footnote-ref-18)
19. *Ibid.* ¶ 288. [↑](#footnote-ref-19)
20. *Ogoniland* case, note 8 *supra*, ¶ 53. [↑](#footnote-ref-20)
21. *SERAP v. Nigeria*, note 11 *supra*, ¶ 97. [↑](#footnote-ref-21)
22. *Ibid*. ¶ 97. [↑](#footnote-ref-22)
23. *Ibid.* ¶ 110. [↑](#footnote-ref-23)
24. *Ogoniland* case, note 8 *supra*, ¶ 54. [↑](#footnote-ref-24)
25. *Ibid.* ¶ 52. [↑](#footnote-ref-25)
26. *Ibid*. [↑](#footnote-ref-26)
27. *Ibid.* ¶ 54. [↑](#footnote-ref-27)
28. *SERAP v. Nigeria*,note 11 *supra*, ¶ 99. [↑](#footnote-ref-28)
29. *Ibid.* ¶101. [↑](#footnote-ref-29)
30. *Ibid.* ¶ 105. [↑](#footnote-ref-30)
31. *Ogoniland* case, note 8 *supra*, ¶ 52. [↑](#footnote-ref-31)
32. *Ibid*. [↑](#footnote-ref-32)
33. *Endorois v. Kenya*, note 12 *supra*, ¶ 211. [↑](#footnote-ref-33)
34. *Ibid.* ¶ 212. [↑](#footnote-ref-34)
35. *Ibid.* ¶¶ 214, 292-93. [↑](#footnote-ref-35)
36. *Ibid.* ¶¶ 211, 219. [↑](#footnote-ref-36)
37. *Ibid.* ¶ 224 [↑](#footnote-ref-37)
38. *Ibid.* ¶ 226. [↑](#footnote-ref-38)
39. *Case of the Saramaka People v. Suriname* (Preliminary Objections, Merits, Reparations, and Costs), Ser. C No. 172 (Inter-American Court of Human Rights 2007. [↑](#footnote-ref-39)
40. *Endorois v. Kenya*, note 12 *supra*, ¶ 228. [↑](#footnote-ref-40)
41. *Ibid*. ¶ 232 (quoting Declaration on the Rights of Indigenous Peoples, preamble ¶ 5, E/CN.4/Sub.2/1994/2/Add.1 (1994) (emphasis added). [↑](#footnote-ref-41)
42. Protocol to the African Charter on the Rights of Women in Africa, note 7 *supra*, arts. 18, 19. [↑](#footnote-ref-42)
43. African Commission, Resolution 153 on Climate Change and Human Rights, note 15 *supra*. [↑](#footnote-ref-43)
44. *Ibid*. [↑](#footnote-ref-44)
45. *Ogoniland* case, *supra* note 8,¶¶ 57 - 58. [↑](#footnote-ref-45)
46. League of Arab States, Arab Charter on Human Rights, 22 May 2004 (entered into force 15 March 2008), *reprinted in* 12 Int'l Hum. Rts. Rep. 893 (2005), ¶ 38. [↑](#footnote-ref-46)
47. ASEAN Human Rights Declaration, 18 November 2012, available at http://www.asean.org/news/asean-statement-communiques/item/asean-human-rights-declaration. [↑](#footnote-ref-47)
48. Asian and Pacific Declaration on Population and Development, 20 September 2013, available at <http://www.unfpa.org/webdav/site/global/shared/documents/news/2013/APPC6_WP1ER3.pdf>, PP 17. [↑](#footnote-ref-48)
49. Ministerial Declaration on Environment and Development in Asia and the Pacific, 20 October 2010, E/ESCAP/MCED(6)/11, Part 1 (g)-(h). [↑](#footnote-ref-49)
50. Yangon Resolution on Sustainable Development, 18 December 2003, available at http://environment.asean.org/yangon-resolution-on-sustainable-development/, preamble*.* [↑](#footnote-ref-50)
51. ASEAN Declaration on Environmental Sustainability, 20 November 2007, available at <http://www.asean.org/news/item/asean-declaration-on-environmental-sustainability>, preamble. [↑](#footnote-ref-51)
52. Singapore Declaration on Climate Change, Energy and the Environment, 21 November 2007, available at http://www.asean.org/news/item/singapore-declaration-on-climate-change-energy-and-the-environment. *See also* Singapore Resolution on Environmental Sustainability and Climate Change, 29 October 2009, available at http://environment.asean.org/wp-content/uploads/2012/11/Singapore-AMME-Resolution.pdf. [↑](#footnote-ref-52)
53. 2009 ASEAN Joint Statement on Climate Change, 24 October 2009, available at http://www.asean.org/news/item/asean-joint-statement-on-climate-change-to-the-15th-session-of-the-conference-of-the-parties-to-the-united-nations-framework-convention-on-climate-change-and-the-5th-session-of-the-conference-of-parties-serving-as-the-meeting-of-parties-to-the-kyoto-proto, ¶ 1. [↑](#footnote-ref-53)
54. Asian and Pacific Declaration on Population and Development, note 48 *supra*, part III (J)(f)-(g), *priority actions*. [↑](#footnote-ref-54)
55. Arab Declaration (Cairo, September 1991), A/46/632, cited in U.N. Doc. E/CN.4/Sub.2/1992/7, 20. [↑](#footnote-ref-55)
56. Asian and Pacific Declaration on Population and Development, note 48 *supra*, part III (I)(j), *priority actions*. [↑](#footnote-ref-56)
57. *Ibid.* part III (J)(d), *priority actions*. [↑](#footnote-ref-57)
58. *Ibid.* part III (E)(j), *priority actions*. [↑](#footnote-ref-58)
59. ASEAN Declaration on Environmental Sustainability, note 51 *supra*, ¶ 3. [↑](#footnote-ref-59)
60. Asian and Pacific declaration on population and development, note 48 *supra*, part III (J)(g bis.), *priority actions*. [↑](#footnote-ref-60)
61. Singapore Declaration on Climate Change, Energy and the Environment, note 52 *supra,* ¶ 7. [↑](#footnote-ref-61)
62. ASEAN Declaration on Environmental Sustainability, note 51 *supra*, preamble. [↑](#footnote-ref-62)
63. 2009 ASEAN Joint Statement on Climate Change, note 53 *supra*, preamble. [↑](#footnote-ref-63)
64. *See* European Social Charter (Revised), 3 May 1996, ETS 163, available at the Council of Europe web page, <http://www.coe.int/T/DGHL/Monitoring/SocialCharter/>. [↑](#footnote-ref-64)
65. *See* *About the Committee*, available at <http://www.coe.int/t/dghl/monitoring/socialcharter/ECSR/ECSRdefault_en.asp>. [↑](#footnote-ref-65)
66. In regard to national reports, State parties annually present a report describing their application of the Charter in law and practice. The Committee reviews the reports, rules on whether the State Parties are in conformity with the Charter, and publishes its decisions, known as “conclusions,” annually. When the Committee of Social Rights finds that a State party is not in compliance with the Charter, the Committee of Ministers may offer a recommendation to that State, requesting it to make changes to come into compliance. *See European Social Charter*, note 64 *supra*. [↑](#footnote-ref-66)
67. *See About the Committee*, note 65 *supra.* Pursuant to a protocol that entered into force in 1998, collective complaints of breaches of the Charter can be made to the Committee. There are four types of organizations eligible to file complaints with the Committee: (1) European Trade Union Confederation (ETUC), BusinessEurope (formerly UNICE) and International Organisation of Employers (IOE); (2) Non-governmental organisations (NGOs) with participative status with the Council of Europe which are on a list drawn up for this purpose by the Governmental Committee; (3) Employers’ organisations and trade unions in the country concerned; and if States have specifically consented, (4) National NGOs. The Committee then reviews the complaint for admissibility, and if deemed admissible, a written procedure begins, memorials are shared among the parties, and the Committee may choose to have a public hearing. The Committee will subsequently make a decision on the merits of the complaint, a decision which is forwarded to the parties involved and made public within four months of it being revealed to the parties involved. Lastly, the Committee of Ministers adopts a resolution and can recommend that the State involved adopt particular measures to achieve compliance with the Charter. [↑](#footnote-ref-67)
68. See European Committee of Social Rights, Search Screen, <http://hudoc.esc.coe.int/esc2008/query.asp?action=page&page=0&view=searchform&timestamp=19969.8>. [↑](#footnote-ref-68)
69. *Marangopoulos Foundation for Human Rights v. Greece*, Complaint No. 30/2005 (European Social Committee 2006), ¶ 235. [↑](#footnote-ref-69)
70. *International Federation for Human Rights (FIDH) v. Greece*, Complaint No. 72/2011 (European Social Committee 2013). [↑](#footnote-ref-70)
71. *Marangopoulos*, note 69 *supra, ¶* 11. [↑](#footnote-ref-71)
72. *FIDH*, note 70 *supra*, ¶ 7. [↑](#footnote-ref-72)
73. *Ibid.* ¶ 54. [↑](#footnote-ref-73)
74. *Ibid.* ¶ 7.  [↑](#footnote-ref-74)
75. European Social Charter, note 64 *supra,* art. 2(4). [↑](#footnote-ref-75)
76. *Marangopoulos*, note 69 *supra*, ¶ 235. [↑](#footnote-ref-76)
77. European Social Charter, note 64 *supra,* art. 11 §§ 1-3. [↑](#footnote-ref-77)
78. Note 71 *supra*. [↑](#footnote-ref-78)
79. *Marangopoulos*, note 69 *supra*, ¶ 200. [↑](#footnote-ref-79)
80. *Ibid.* ¶ 195; *FIDH*, note 70 *supra*,¶ 49. [↑](#footnote-ref-80)
81. *Marangopoulos* , note 69 *supra*, ¶ 195. [↑](#footnote-ref-81)
82. *FIDH*, note 70 *supra*, ¶ 49. [↑](#footnote-ref-82)
83. *Ibid*. ¶ 7. [↑](#footnote-ref-83)
84. *Ibid.* ¶ 150. [↑](#footnote-ref-84)
85. *Ibid*. [↑](#footnote-ref-85)
86. *Ibid*.¶151. [↑](#footnote-ref-86)
87. *Ibid.* ¶157. [↑](#footnote-ref-87)
88. *Ibid*. [↑](#footnote-ref-88)
89. *Ibid.* [↑](#footnote-ref-89)
90. *Ibid*. ¶ 158. [↑](#footnote-ref-90)
91. *Ibid*. (citing *Marangopoulos*, note 69 *supra,* ¶¶ 216, 219). [↑](#footnote-ref-91)
92. *Marangopoulos*, note 69 *supra,* ¶ 203. [↑](#footnote-ref-92)
93. *Ibid*. ¶203. [↑](#footnote-ref-93)
94. *Ibid*. [↑](#footnote-ref-94)
95. *FIDH*, note 70 *supra,* ¶ 153. [↑](#footnote-ref-95)
96. *Ibid.* ¶144. [↑](#footnote-ref-96)
97. *Ibid.* ¶ 145. [↑](#footnote-ref-97)
98. *Marangopoulos*, note 69 *supra*, ¶ 203. [↑](#footnote-ref-98)
99. *Ibid.* ¶202. [↑](#footnote-ref-99)
100. *Ibid.* ¶221. [↑](#footnote-ref-100)
101. *FIDH*, note 70 *supra*, ¶146. [↑](#footnote-ref-101)
102. *Ibid.* ¶ 148 (c). [↑](#footnote-ref-102)
103. *Ibid.* ¶¶ 148-149, 42-44. [↑](#footnote-ref-103)
104. *European Roma Rights Centre (ERRC) v. Bulgaria*, Complaint No. 46/2007 (European Social Committee 2008). [↑](#footnote-ref-104)
105. *Ibid*. ¶ 49. [↑](#footnote-ref-105)
106. *Ibid.* ¶ 51 (emphasis added). [↑](#footnote-ref-106)
107. *Ibid*. ¶ 47. [↑](#footnote-ref-107)
108. *Medecin du Monde v. France*, Complaint No. 67/2011, 11 Sept 2012, ¶ 164. [↑](#footnote-ref-108)
109. *Ibid.* ¶ 21. [↑](#footnote-ref-109)
110. *Ibid.* ¶ 21 (emphasis added). [↑](#footnote-ref-110)
111. *Ibid.* ¶ 158. [↑](#footnote-ref-111)
112. *Ibid*. *¶* 164. [↑](#footnote-ref-112)