



COMMISSION NATIONALE
CONSULTATIVE
DES DROITS DE L'HOMME

RÉPUBLIQUE FRANÇAISE

DECLARATION

Declaration « Climate, environment and human rights »

Plenary meeting of 25 November 2021 (adopted unanimously)

COP26.

1. The United Nations Conference of the Parties on Climate Change (COP26), which took place from 31 October to 12 November 2021 in Glasgow, needed to, according to the remarks made by the Secretary-General of the United Nations, António Guterres, “*act to save humanity*” by making sure not to exceed the threshold of +1.5 °C by 2030.

2. In its opinion on the climate emergency and human rights adopted on 27 May 2021¹, the National Consultative Commission on Human Rights (CNCDDH) called on France to put human rights at the heart of its action within multilateral forums in order to fight against climate change as well as to include the reference to human rights during the negotiation of international instruments relating to the environment and within the framework of the recommendations adopted by the COPs. This Conference led to some positive initiatives that the CNCDDH welcomes, such as the signing by France of the joint declaration to reduce methane emissions by 30% by 2030², or the joint declarations to put an end, on the one hand, by 2022, to the financing abroad of fossil fuels projects³, and on the other hand, by 2030, to deforestation⁴. The CNCDDH also welcomes France’s support for the just transition declaration⁵.

3. Nevertheless, the Commission regrets that this COP did not lead to the taking of ambitious measures in line with certain remarks made during its course in order to limit warming to 1.5 °C by 2030. In addition, the CNCDDH deplores the absence of any reference to human rights, “largely ignored” during negotiations, according to the United Nations Special Rapporteur on Human Rights and the Environment⁶.

4. The CNCDDH reiterates its concerns about the destructive effects of climate change on the most vulnerable states and is worried that the promise to mobilize the funds provided⁷ (\$100 billion per year from 2020), a major issue for the COP, has not been honoured. In this regard, the Commission urges France to take all measures, including adaptation, to pay the planned amount of six billion euros, which it has undertaken to pay annually until 2025⁸, for any project to fight against climate change. In addition, the CNCDDH encourages France to make the necessary commitments, according to the principle of common but differentiated responsibilities, for the establishment of an international financial mechanism, as desired by civil society and the most vulnerable States, which would repair the irreversible loss and damage, past and future, caused by climate change.

5. The CNCDDH regrets that the COP26, supposed to be “inclusive”, did not allow certain civil society actors, including representatives of youth and indigenous peoples, to attend the negotiations as observers. The same is true of representatives of the States most affected by climate change, particularly certain island States. The Commission therefore recommends that the fight against climate change, particularly with regard to adaptation measures, be inclusive and collaborative in order to enable people living in extreme poverty, indigenous peoples and island peoples in particular to participate. In the absence of such an attitude, it is to be feared that the declarations contained in the Glasgow agreement on the links between defending the environment and promoting human rights will be little followed.

6. The CNCDDH deplores France’s delay in adopting concrete measures to speed up the fight against climate change, such as encouraging the development of renewable energies. However, when it comes to the policy to be pursued in favour of the most vulnerable States, these questions were major challenges for the COP, especially since the financial commitments made at COP 21 were not kept by the developed countries.

¹ Opinion “Climate emergency and human rights”, Plenary meeting of 27 May 2021, JORF No. 0130 of June 6, 2021.

² About 100 states have pledged to reduce methane emissions by 2030, see Ministry for the Ecological Transition, *Adoption of the Glasgow climate pact at COP26: a dynamic to be continued*, 15 November 2021.

³ See Ministry for the Ecological Transition, COP26: France signs an agreement reaffirming its commitment to end public funding abroad for fossil energy projects, 12 November 2021.

⁴ See UN Info, COP26: more than 100 countries pledge to halt and reverse deforestation by 2030, 2 November 2021.

⁵ The European Union and fourteen other States signed a declaration aimed at the international implementation of the just transition. See *Supporting the Conditions for a Just Transition Internationally*, 4 November 2021.

⁶ Reuters, *Rights groups warn Paris pact rules on carbon markets leave indigenous people exposed*, 12 November 2021.

⁷ See UN Info, COP26 closes with “compromise” deal on climate, but it’s not enough, says UN chief, 13 November 2021.

⁸ French Development Agency, COP26: AFD Group strengthens its commitment to the fight against climate change and the protection of biodiversity, 4 November 2021.

United Nations Human Rights Council.

7. At its 48th ordinary session held from 13 September to 8 October 2021, the Human Rights Council adopted two major texts related to the environment, firstly resolution 48/13 recognizing “*the right to a healthy, clean, and sustainable environment*”⁹, and secondly resolution 48/14 creating a new special rapporteur “*on the promotion and protection of human rights in the context of climate change*”¹⁰. The CNCDH welcomes France’s vote in favour of these two texts.

8. As the CNCDH underlined in its aforementioned opinion and according to resolution 48/13, the right to a healthy, clean and sustainable environment being “*an important element of the enjoyment of human rights*”¹¹, governments should adopt ambitious policies in climate, environmental, and global public health matters. The CNCDH therefore recommends that France, elected member of the Human Rights Council in October 2020, actively cooperate with the new Special Rapporteur by providing them with the financial contribution necessary for the effective performance of their duties.

Council of Europe.

9. The issue of human rights and environmental protection is at the heart of the work of the Council of Europe. As recommended by the CNCDH¹², the Parliamentary Assembly of the Council of Europe recommended to member states, on 29 September 2021 “*to participate [...] in a political process aimed at developing legally binding and enforceable instruments, in the form of an Additional Protocol to the Convention and an Additional Protocol to the Charter, to more effectively protect the right to a safe, clean, healthy and sustainable environment [...]*”¹³. For its part, the Steering Committee for Human Rights instructed the Drafting Group on Human Rights and the Environment, which held its second meeting from 3 to 5 November 2021, to prepare a draft “*non-binding instrument (e.g., guidelines, recommendation) on human rights and the environment*” (called Preliminary draft recommendation on human rights and environmental protection)¹⁴.

10. The CNCDH welcomes these initiatives which demonstrate a real awareness within the Council of Europe. However, as it underlined in its opinion, the establishment of the right to a healthy environment at the European level must be carried out within the framework of a binding instrument. Only such an instrument will make it possible to consolidate the achievements of European case law in environmental matters. In addition, France will have to ensure that the Committee of Ministers and

the Parliamentary Assembly coordinate their work more, always bearing in mind the link between protecting the environment and respect for human rights.

11. To conclude, in her capacity as President of the Council of the European Union from January 2022, France, given the urgency of the situation, will now have to serve as an example¹⁵ and adopt concrete measures in the fight against climate change, the protecting the environment, and preserving biodiversity with regard to respect for human rights, particularly those of people in vulnerable situations.

¹⁵ According to the High Council for the Climate, the efforts of France, at the present time, remain “*insufficient to guarantee the achievement of the 2030 targets*”, see Straightening out, relaunching the transition, annual report 2021, June 2021, p. 5.

20 Avenue Ségur - TSA 40 720 - 75334 PARIS Cedex 07

Tel : 01.42.75.77.09

Mail : cncdh@cncdh.fr

www.cncdh.fr



@CNC DH



@cncdh.france

⁹ Resolution 48/13 adopted by the Human Rights Council on 8 October 2021, A/HRC/RES/48/13, *Right to a clean, healthy, and sustainable environment*.

¹⁰ Resolution 48/14 adopted by the Human Rights Council on 8 October 2021, A/HRC/RES/48/14, *Mandate of the Special Rapporteur on the promotion and protection of human rights in the context of climate change*.

¹¹ Resolution 48/13, *op. cit.*, § 1.

¹² Opinion, “*Climate emergency and human rights*” *op. cit.*, Rec. 6: “*The CNCDH recommends that France takes the necessary initiatives within the Council of Europe to have the right to a healthy environment laid down in a binding legal instrument, such as an additional protocol to the European Convention on Human Rights*”.

¹³ Council of Europe Resolution 2396 (2021), *Anchoring the right to a healthy environment: need for enhanced action by the Council of Europe*, 29 September 2021, § 14.3.

¹⁴ See *Report of the Drafting Group on Human Rights and the Environment* (CDDH-ENV) Second meeting, 3 - 5 November 2021 CDDH-ENV (2021) R205/11/2021.