

Environmental human rights defenders: New developments and their implications for the European Union and the European Parliament



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Environmental human rights defenders: New developments and their implications for the European Union and the European Parliament

ABSTRACT

This paper provides an overview of both long-standing and new legal and policy developments concerning Environmental Human Rights Defenders (EHRDs). The focus is on four major components: i) observing different approaches and understandings about EHRDs; ii) analysing the content of international obligations concerning EHRDs and mechanisms for reviewing implementation and accountability; iii) discussing the opportunities and challenges of using European Union (EU) instruments to advance the realisation of EHRDs' rights; and iv) exploring EU collaboration with other regions on environmental democracy and EHRDs' rights. The paper reports on recent vital breakthroughs, driven partly by EHRDs, including recognition of the right to a healthy environment by the United Nations, as well as progress from voluntary guidelines to binding provisions on human rights and sustainability due diligence. Yet, contrary to the principles of non-regression and progression, the paper also shows that key legal and institutional advances are at risk of being weakened or even reversed. Recommendations are provided for the EU to strengthen the realisation of EHRDs' rights and their role as custodians of the right to a healthy environment, not only for themselves but also for others who cannot raise their voices, namely future generations and other living beings.

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List of abbreviations

ALLIED	Alliance for Land, Indigenous and Environmental Defenders
APNED	Asia Pacific Network of Environmental Defenders
ASEAN	Association of Southeast Asian Nations
CBD	Convention on Biological Diversity
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CEJIL	Centro de Justicia y Derecho Internacional
CoE	Council of Europe
COP	Conference of the Parties
CRC	Convention on the Rights of the Child
CRMA	Critical Raw Materials Act
CSDDD	Corporate Sustainability Due Diligence Directive
CSO	Civil Society Organisation
CSRD	Corporate Sustainability Reporting Directive
ECtHR	European Court of Human Rights
EHRD	Environmental Human Rights Defender
EU	European Union
FIDH	International Federation for Human Rights
FPIC	Free, Prior and Informed Consent
FTA	Free Trade Agreement
GBF	Global Biodiversity Framework
IACtHR	Inter-American Court of Human Rights
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social, and Cultural Rights
ICJ	International Court of Justice
ILO	International Labour Organisation
LAC	Latin America and the Caribbean
MEA	Multilateral Environmental Agreement
NBSAP	National Biodiversity Strategies and Action Plan
NDC	Nationally Determined Contribution

NGO	Non-Governmental Organisation
NHRI	National Human Rights Institute
OHCHR	Office of the United Nations High Commissioner for Human Rights
SLAPP	Strategic Lawsuits Against Public Participation
TSD	Trade and Sustainable Development
UK	United Kingdom
UN	United Nations
UNCCD	United Nations Convention to Combat Desertification
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
UNFCCC	United Nations Framework Convention on Climate Change
UNGA	United Nations General Assembly
UNHRC	United Nations Human Rights Council
UPR	Universal Periodic Review
USA	United States of America
VPA	Voluntary Partnership Agreement

Executive summary

European Parliament resolution 2020/2134, concerning the effects of climate change on human rights and the role of environmental defenders, was adopted in 2021 at a time when critical advances were being achieved for Environmental Human Rights Defenders (EHRDs)¹. Following decades of advocacy by EHRDs, key breakthroughs were made between 2021 to 2025, namely: recognition of the right to a clean, healthy and sustainable environment by the United Nations General Assembly²; transition from voluntary guidelines to binding provisions on human rights and sustainability due diligence³; and a target with explicit reference to EHRDs in the Global Biodiversity Framework⁴ under the Convention on Biological Diversity. Moreover, United Nations mechanisms that have been operating for decades are increasingly being used by EHRDs to address environmental-related human rights issues, especially when reviewing implementation and accountability within international human rights law⁵.

The European Parliament contributed to these advances by, for example, calling for recognition of the right to a healthy environment in the 2021 resolution (2020/2134). As with other global regions, the European Union (EU) faces unprecedented planetary socio-ecological challenges, which demand new ways of implementing human rights obligations and advancing environmental democracy in an interconnected world⁶. Increases in the demand for critical minerals, together with wind and/or solar energy resulting from green transition policies, together with the associated impacts on fresh water and ecosystems, have wide-ranging implications for both human rights and the environment⁷.

Using an interdisciplinary qualitative approach and based on a legal-doctrinal method, this paper shows that EHRDs are individuals and collectives in rural as well as urban areas around the globe mobilising to tackle climate, biodiversity, pollution and water crises along with those defending their lands and territories when their ways of life and livelihoods are threatened by environmental destruction or injustice. People who support individuals and collectives with their professional capacities (lawyers, journalists, scientists, practitioners, etc.) to advance the realisation of environmental rights at various geographical scales are also EHRDs, often conducting their work at high personal risk. Human rights obligations and businesses' responsibilities apply in the context of EHRDs – irrespective of people self-identifying as defenders. While they are all exposed to risks,

¹ European Parliament, [Resolution on the effects of climate change on human rights and the role of environmental defenders on this matter \(2020/2134\(INI\)\)](#), P9_TA(2021)0245, 12 January 2022.

² United Nations General Assembly, [The human right to a clean, healthy and sustainable environment](#), A/RES/76/300, 28 July 2022.

³ Such as the EU's new forestry legislation, namely the [Deforestation-Free Products Regulation](#) from 2023.

⁴ The Kunming–Montreal Global Biodiversity Framework (was adopted during the 15th meeting of the Conference of the Parties following a 4-year consultation and negotiation process. See more at CBD, [‘Preparations for the Post-2020 Biodiversity Framework’](#), webpage, nd.

⁵ N. S. Koh, et al., [‘Mind the Compliance Gap: How Insights from International Human Rights Mechanisms Can Help to Implement the Convention on Biological Diversity’](#), *Transnational Environmental Law*, Vol 11, No 01, 2022, pp. 39–67.

⁶ A. Lähteenmäki-Uutela, et al., [‘Planetary Boundaries Nurturing the Grand Narrative of the Right to a Healthy Environment?’](#), *Environmental Policy and Law*, Vol 54, No 1, 2024, pp. 15–26.

⁷ See for instance: UN Environment Programme, [Making Peace with Nature: A scientific blueprint to tackle the climate, biodiversity and pollution emergencies](#), 2021.

not all are exposed to violence in the same way: such risks range from pollution to criminalisation or even death. Policies and strategies concerning the rights of EHRDs need to be designed in accordance with public participation, considering the viewpoints and specificities of EHRDs in distinct contexts⁸. These tailored measures to advance the rights of specific groups, particularly those in vulnerable situations, should be subject to an intersectional lens and continually adapted, thereby effectively responding to changing socio-ecological and geopolitical circumstances.

For EU Member States, respecting, protecting and fulfilling the rights of EHRDs is an obligation emerging from international and EU human rights law. Fully implementing these obligations can also have broader positive policy consequences, contributing to tackling climate change and preventing the massive irreversible destruction of ecosystems, as well as achieving state commitments under Multilateral Environmental Agreements (MEAs)⁹. The EU and its Member States are parties to a significant number of international human rights treaties and MEAs, which help specify human rights obligations towards EHRDs¹⁰ in the context of distinct but interconnected environmental challenges. Yet, it is critical to ensure that regional and national legal frameworks are aligned with international human rights standards. Similarly, it is key to ensure that such international instruments are successfully complied with and properly enforced. Effective action to implement obligations that affect the nature and health of people as well as ecosystems is needed not only within Europe but also beyond, particularly so given that planetary crises are global in nature.

The EU has adopted directives specifically addressing challenges faced by defenders, such as the Anti-Strategic Lawsuits Against Public Participation Directive¹¹ and also, as a part of the European Green Deal, incorporated provisions and mechanisms within EU economic instruments with impacts outside the Union, for example, the Corporate Sustainability Due Diligence Directive¹². These instruments, complemented with policies and guidelines (e.g., EU guidelines on human rights defenders)¹³, set a framework for the EU to strengthen current approaches.

This paper shows there are various options open to the EU and its Member States to strengthen the rights of EHRDs through binding as well as non-binding instruments, namely:

- The EU and Member States should ensure the alignment of EU and national legislation with international human rights standards. The EU could do this, for example, through a dedicated Directive on EHRDs specifying both procedural and substantive obligations concerning EHRDs' rights, which would prompt member countries to identify and overcome gaps in constitutional, civil, criminal and administrative rules and procedures that limit or are an

⁸ UN Environment Programme, '[Who Are Environmental Defenders](#)', webpage, nd.

⁹ P. Moodley, et al., [Preventing Mass Human Rights Violations in the Context of the Climate Crisis](#), *The Prevention Project*, June 2024.

¹⁰ E. Morgera, [Biodiversity as a Human Right and its implications for the EU's External Action](#), European Parliament's Policy Department for External Relations, PE 603.491, 2020.

¹¹ European Parliament and Council, [Directive \(EU\) 2024/1069 on protecting persons who engage in public participation from manifestly unfounded claims or abusive court proceedings \('Strategic Lawsuits Against Public Participation'\)](#), Official Journal of the EU, PE/88/2023/REV/1, 16 April 2024.

¹² See more: European Parliament and Council, [Directive \(EU\) 2024/1760 on corporate sustainability due diligence and amending Directive \(EU\) 2019/1937 and Regulation \(EU\) 2023/2859](#), Official Journal of the EU, PE/9/2024/REV/1, 05 July 2024.

¹³ European External Action Service, [Ensuring Protection: European Union Guidelines on Human Rights Defenders](#), 2008.

obstacle to the enjoyment of EHRDs' rights, developing new legislation where it is missing and reforming the respective instrument if it is in divergence with EHRDs international human rights standards.

- The EU could call countries, in particular Member States, to ratify relevant treaties to advance EHRDs rights and fully implement the respective obligations through *inter alia*: supporting ongoing efforts of the Council of Europe to adopt an instrument on the right to a healthy environment, including explicit recognition of EHRDs' rights and corresponding state obligations, and calling countries that are not yet parties to the Aarhus Convention to join this legal framework.
- The EU could request its Member States to ensure adequate and effective measures on EHRDs' right of access to justice, including remedies, understood as a standalone right and as a procedural element on the right to a healthy environment, ensuring accountability and actual consequences for individuals, states, companies and banks under EU state jurisdiction that fail to support and protect EHRDs from attacks and other human rights violations that occur within and outside the EU.
- For EHRDs' rights to be realised, the EU should ensure the institutionalisation of effective measures along with adequate and reliable funding so that EU institutions, as well as its Member States' National Human Rights Institutions, have sufficient implementation capacity. The EU should provide effective access to information about funding and investments with impacts abroad, such as the Global Gateway, that have binding human rights safeguards applicable to projects, meaningful public participation from the design to the end of projects and grievance mechanisms in case of harm by these projects. The EU could also develop a communication strategy to foster a positive narrative acknowledging EHRDs as agents of change for long-term sustainability, countering smearing narratives framing EHRDs as an obstacle to development and security.
- Given their role in numerous MEAs and human rights treaties, the EU and its Member States could champion progress on EHRDs' rights in international and plurilateral fora.

These five key recommendations are further expanded in section 7.

1 Introduction

In May 2021, the European Parliament adopted resolution 2020/2134, which concerns the effects of climate change on human rights and the role of environmental defenders – an important measure at a time when defenders are increasingly at risk (hereafter, ‘2021 resolution (2020/2134)’)¹⁴. As with other global regions, the European Union (EU) faces unprecedented planetary socio-ecological challenges that demand new ways of understanding human rights and environmental democracy in an interconnected world¹⁵. For instance, increases in demand for wind and solar energy, as well as critical minerals, resulting from green transition policies, together with the associated impacts on freshwater and ecosystems, have wide-ranging implications for both human rights and the environment¹⁶.

This developing polycrisis – including interacting dynamics between climate change, biodiversity loss and pollution – does not affect all people in the same way. While not all Environmental Human Rights Defenders (EHRDs) bear the same responsibility for this, they are at the frontline in defending the right to a healthy, clean and sustainable environment, often in vulnerable situations and subjected to different sorts of violence (from criminalisation to death)¹⁷. Protecting the rights of EHRDs is an obligation emerging from international and EU human rights law. Moreover, implementing these obligations can also have broader positive policy consequences, contributing to the tackling of climate change and preventing the massive irreversible destruction of ecosystems. This, in turn, prevents other mass human rights violations not just against today’s defenders but also those from future generations¹⁸. EHRDs worldwide are proposing a shift towards just and sustainable pathways; many of them demonstrate that this is possible through innovative ways of interacting with nature and the economy¹⁹.

As countries seek to tackle socio-ecological challenges within and beyond their national borders, the EU has a critical role to play in effectively implementing new laws and policy frameworks concerning EHRDs and coordinating efforts with other regions in line with international standards. In this regard, the EU have already taken important steps towards advancing the rights of EHRDs.

In 2022, the EU supported a key development in international human rights, namely the 2022 United Nations General Assembly (UNGA) resolution 76/300, which recognises the right to a clean, healthy and sustainable environment²⁰. The EU has adopted directives specifically addressing challenges faced by defenders, such as the EU Directive against Strategic Lawsuits Against Public Participation

¹⁴ European Parliament, [Resolution on the effects of climate change on human rights and the role of environmental defenders on this matter \(2020/2134\(INI\)\)](#), P9_TA(2021)0245, 19 May 2021.

¹⁵ A. Lähteenmäki-Uutela, et al., ‘[Planetary Boundaries Nurturing the Grand Narrative of the Right to a Healthy Environment?](#)’, *Environmental Policy and Law*, Vol 54, No 1, 2024, pp. 15–26.

¹⁶ See for instance: UN Environment Programme, [Making Peace with Nature: A scientific blueprint to tackle the climate, biodiversity and pollution emergencies](#), 2021.

¹⁷ UN Environment Programme, ‘[Who Are Environmental Defenders](#)’, webpage, nd.

¹⁸ P. Moodley, et al., [Preventing Mass Human Rights Violations in the Context of the Climate Crisis](#), The Prevention Project, June 2024.

¹⁹ C. Ituarte-Lima, et al., ‘[Just Pathways to Sustainability: From Environmental Human Rights Defenders to Biosphere Defenders](#)’ *Environmental Policy and Law*, Vol 53, No 5–6, 2023, pp. 347–366.

²⁰ UNGA, [The human right to a clean, healthy and sustainable environment](#), A/RES/76/300, 28 July 2022.

(SLAPPs)²¹. Additionally, as part of the European Green Deal, the EU has incorporated provisions and mechanisms within EU economic instruments that have impacts outside the Union. These include, for instance, the Critical Raw Materials Act (CRMA)²² and the Corporate Sustainability Due Diligence Directive (CSDDD)²³. These EU instruments, complemented with their policies and guidelines (e.g., guidelines on human rights defenders)²⁴, set a framework for strengthening current approaches. Furthermore, the EU and its Member States are also parties to a significant number of international human rights treaties and Multilateral Environmental Agreements (MEAs), which help specify human rights obligations towards EHRDs²⁵. Yet, given the grave situation of EHRDs within and outside the EU, it is a critical moment to ensure not only that regional and national legal frameworks are aligned with international human rights standards but also that human rights and environmental treaties with relevant provisions for EHRDs are implemented and enforced.

This paper provides an overview of long-standing and new legal and policy developments concerning human rights defenders, applied in the specific context of EHRDs' rights, as well as existing review, implementation and accountability mechanisms. It also identifies strategic entry points and provides recommendations for the EU, its Member States, and the European Parliament to ensure that adequate measures are in place to respect, protect, and fulfil the rights of EHRDs, along with accountability measures for cases where governments and the business sector violate those rights. The paper explores how distinct complementary EU regional efforts can: contribute to ensuring the safety of EHRDs; promote the rights of women and girl defenders as well as other vulnerable groups; provide a foundation for engaging civil society in environmental governance; and promote the accountability of both state and non-state actors, including those in the business sector.

Contributing to realising EHRDs' rights and tackling socio-ecological challenges at international, regional and national levels will require collaboration between law and policy-makers, as well as scholars and practitioners from different parts of the world who bring together diverse disciplinary expertise and place-based knowledge. Accordingly, a multilevel approach to law and policy analysis, together with its application, is appropriate here.

This will feature four major components: i) key understandings of EHRDs; ii) contents of international obligations concerning EHRDs; accountability mechanisms and new developments after the 2021 resolution (2020/2134); iii) EU instruments – opportunities and challenges for the EU in advancing the realisation of EHRDs' rights; iv) EU collaboration with other regions on environmental democracy and EHRDs' rights.

²¹ European Parliament and Council, [Directive \(EU\) 2024/1069 on protecting persons who engage in public participation from manifestly unfounded claims or abusive court proceedings \('Strategic Lawsuits Against Public Participation'\)](#), Official Journal of the EU, PE/88/2023/REV/1, 16 April 2024.

²² See more: European Commission, ['Critical Raw Materials Act'](#), webpage, nd.

²³ See more: European Parliament and Council, [Directive \(EU\) 2024/1760 on corporate sustainability due diligence and amending Directive \(EU\) 2019/1937 and Regulation \(EU\) 2023/2859](#), Official Journal of the EU, PE/9/2024/REV/1, 05 July 2024.

²⁴ EEAS, [Ensuring Protection: European Union Guidelines on Human Rights Defenders](#), 2008.

²⁵ E. Morgera, [Biodiversity as a Human Right and its implications for the EU's External Action](#), European Parliament's Policy Department for External Relations, PE 603.491, 2020.

2 Methodology

This paper uses an interdisciplinary qualitative approach based on complementary data collection and analysis methods. It follows a doctrinal methodological approach characterised by desk-based analysis. The authors' systemic approach to protecting EHRDs combines their more than 20 years of expertise on relevant EHRDs-related issues, informed by international human rights law, international environmental law, human geography and feminist political ecology. Moreover, the authors' current academic research projects are explicitly focused on EHRDs, from which field research has been partly used to inform what follows²⁶.

Studied here are the many dimensions of violence and human rights violations suffered by EHRDs as well as their role as agents of change (*inter alia*, strengthening democracy, promoting environmental justice or designing alternative sustainable development projects) from an interdisciplinary perspective.

A combined multiscale and multilevel approach is relevant to illustrate different legal and policy opportunities for the EU and the European Parliament to continue expanding legal possibilities for the protection, prevention and fulfilment of EHRDs' rights, as well as the right to a healthy, clean and sustainable environment for all.

A legal-doctrinal method is applied to determine and interpret the content of legal obligations (mainly in components ii, iii and iv) relevant to protecting and advancing the rights of EHRDs²⁷. This method departs from the sources of law and general rules of treaty interpretation as set out in Articles 31–33 of the Vienna Convention on the Law of Treaties. Apart from mapping the relevant law protecting EHRDs, the purpose of this legal-doctrinal analysis is to systematise the legal sources to ensure a coherent application of rules. This method also takes into consideration case law and legal doctrine to identify the content of legal sources.

In addition, since this area of law contains a large amount of soft law (non-binding) instruments, such as guidelines and policies, it is also relevant to understand the impact of soft law not only on states' and corporations' behaviour but also on the creation of new regulations. Throughout this paper, concrete examples will illustrate how law and policy are applied in practice (for instance, the role of EHRDs in review mechanisms). Such illustrative examples focus on both legal and empirical cases within and outside the EU.

This paper is further supported by interviews conducted with key informants from diverse Civil Society Organisations (CSOs) working with EHRDs to complement the legal-doctrinal and document analysis. These interviews aim to provide first-hand knowledge of how different legal instruments have been or could be applied in protecting EHRDs and fulfilling their rights. In

²⁶ These projects include the EU Biodiversa+ project [DEFENDBIO – Biosphere defenders leveraging legal and governance tools for just sustainability transformations](#) and the Swedish Research Council for Environment, Agricultural Sciences and Spatial Planning (Formas) funded project [Environmental Human Rights Defenders – Change Agents at the Crossroads of Climate change, Biodiversity and Cultural Conservation](#).

²⁷ S. Besson, '[Theorizing the sources of international law](#)' in S. Besson and J. Tasioulas (eds.), *The philosophy of international law*, Oxford University Press, New York, 2010, pp. 163–185; S. Egan, '[The doctrinal approach in international human rights law scholarship](#)', in L. McConnell and R. Smith (eds.), *Research Methods in Human Rights*, Routledge, London, 2018.

addition, various organisations' experience in understanding the legal (and policy) gaps for protecting and fulfilling the rights of EHRDs in concrete contexts has been key in enhancing the trustworthiness of this analysis through (a) pointing out gaps in understanding and (b) corroborating ongoing analysis.

The paper has sought to provide a diverse sample of organisations to represent different voices and experiences. Hence, organisations working with EHRDs were selected in accordance with the following criteria: (a) one should be part of the Alliance for Land, Indigenous and Environmental Defenders; (b) one should be relatively small – to understand more fully the availability and visibility of EU mechanisms outside the EU; (c) one should be working in armed conflict zones – where the environment and its defenders receive less attention and are usually under-prioritised; (d) one of the organisations should have a gender focus; and (e) one should be based in Latin America – the continent where most EHRDs are killed. In addition, since our analysis pointed out the key role that National Human Rights Institutions (NHRIs) can have in protecting the rights of EHRDs, the authors decided to interview the Swedish NHRI. This organisation is situated in a country where Indigenous human rights defenders have been active for some time – particularly problematising the green transition in their lands (e.g., large-scale wind parks)²⁸ and where climate defenders have been criminalised. It dedicates a special chapter to EHRDs in its annual report²⁹.

The authors interviewed representatives from seven CSOs who work with transnational dimensions: Climate Alliance³⁰; Swedwatch³¹; CBD Women's Caucus³²; *Proyecto de Derechos Económicos, Sociales y Culturales*³³; Truth Hounds³⁴; Conflict and Environment Observatory³⁵ and Global Witness³⁶. Another interview was conducted with two NHRI members from the Swedish Institute for Human Rights³⁷.

3 The notion of environmental human rights defenders

Looking at the paper's first major component, i) key understandings of EHRDs, this section presents in conceptual terms the scope of EHRDs and human rights defenders on environmental matters, informed by authoritative interpretations of the United Nations (UN) human rights mechanisms. An intersectional approach is used to expand on this, showing how other actors engage in advancing the realisation of environmental-related human rights as being equally worthy of consideration in any law, policy or strategy to protect EHRDs (African descendants, rural marginalised communities, as well as youth and children environmental and climate activists).

²⁸ Business & Human Rights Resource Centre, [Sweden: Locals protest wind energy construction due to concerns over impacts on Sami reindeer grazing lands](#), 2022.

²⁹ Swedish Institute for Human Rights, [Annual Report 2024](#), 2024.

³⁰ See Climate Alliance [website](#).

³¹ See Swedwatch [website](#).

³² See CBD Women's Caucus [website](#).

³³ See The Economic, Social, and Cultural Rights Project (Proyecto de Derechos Económicos, Sociales y Culturales, A.C./ProDESC) [website](#).

³⁴ See Truth Hound [website](#).

³⁵ See Conflict and Environment Observatory [website](#).

³⁶ See Global Witness [website](#).

³⁷ See Swedish Institute for Human Rights [website](#).

3.1 Who are the EHRDs?

In 1998, the UNGA recognised the ‘key role of human rights defenders in the realisation of the human rights enshrined in the Universal Declaration of Human Rights and legally binding treaties and in the international human rights system’ in resolution A/RES/53/144³⁸. More recently, EHRDs have been defined as human rights defenders working in environmental matters. Resolutions A/HRC/RES/40/11 from 2019 and A/RES/78/216 from 2023 recognise the contribution of EHRDs to the enjoyment of human rights, environmental protection and sustainable development, mentioning Indigenous and women human rights defenders, along with those addressing issues related to land rights³⁹. Both resolutions clearly specify that EHRDs are the most exposed and at-risk human rights defenders.

Environmental and land defenders, environmental defenders, climate defenders, environmental activists or climate activists are some of the terms used when referring to EHRDs in various UN resolutions and UN Human Rights Special Procedures to address people advocating for human rights related to the protection of the environment and climate. These include those who are actively preserving their lands and natural resources, as well as others who are protesting against extractivist projects that destroy ecosystems or conservation projects that displace traditional land users such as Indigenous or African descendants’ communities.

The Special Rapporteur on Environmental Defenders under the Aarhus Convention, Michel Forst, provides a comprehensive definition of ‘environmental defenders’ as: ‘people and organisations – groups, movements, activists and scientists, and individuals from children to grandparents – [who] are taking action to defend their human right, and the human right of future generations, to a clean, healthy and sustainable environment’. He adds that ‘their actions take different forms, from traditional demonstrations, social media campaigns and advocacy, to more creative forms of mobilisation and direct action’⁴⁰.

A recent letter signed by three UN Special Rapporteurs and two regional experts mentions that ‘[e]nvironmental defenders are both on the front lines in the fight against environmental violations in their communities, cities, and countries, and the driving force behind efforts to address the triple planetary crisis of pollution, biodiversity loss and climate change’⁴¹. This includes scientists and

³⁸ See [Declaration on Human Rights Defenders](#).

³⁹ UNGA, [Recognizing the contribution of environmental human rights defenders to the enjoyment of human rights, environmental protection and sustainable development](#), A/HRC/RES/40/11, 02 April 2019; UNGA, [Implementing the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms through providing a safe and enabling environment for human rights defenders and ensuring their protection](#), A/RES/78/216, 22 December 2023.

⁴⁰ M. Forst, [State repression of environmental protest and civil disobedience: a major threat to human rights and democracy](#), 2024.

⁴¹ M. Lawlor et al., [Time to protect environmental defenders and ensure their safe participation in international forums relating to the environment and climate change](#), A joint statement by international and regional human rights experts, in the context of COP29, 29 October 2024.

journalists working for human rights related to a safe climate change, a healthy environment⁴² and on measures to restore ecosystems, including ocean habitats⁴³.

However, some EHRDs are more exposed, vulnerable and at risk, such as peasants, Indigenous Peoples, women and girls, youth and the elderly⁴⁴. States have been called upon to protect climate activists and scientists as human rights defenders, with a particular focus on vulnerable groups in the context of climate change and certain climate change solutions (e.g., green energy), including ethnic minorities and people of African descent⁴⁵.

3.1.1 Climate activists, children, youth and scientists as EHRDs addressing the root causes of climate change

According to Mary Lawlor, Special Rapporteur on the Situation of Human Rights Defenders, '[m]any child and youth human rights defenders do not identify as human rights defenders or activists. They may call themselves student counsellors, climate activists or peacebuilders'⁴⁶. Notwithstanding their titles, climate activists of all ages acting 'peacefully for the promotion and protection of human rights, [...] are considered human rights defenders'⁴⁷. In fact, not all climate activists identify as such but prefer to call themselves 'environmental defenders' or 'climate defenders'⁴⁸.

Climate defenders, including scientists, raise public awareness about the root causes of the climate crisis as well as environmental destruction and pollution, urging governments and companies to take preventative and remedial action. In doing so, they play an essential role in ensuring climate justice. Yet, their contributions are at risk in the face of civic space restrictions affecting environmental democracy⁴⁹.

⁴² UNHRC, [Report of the Special Rapporteur on the promotion and protection of human rights in the context of climate change: Access to information on climate change and human rights](#), A/79/176, 18 July 2024; UNHRC, [Exercise of the rights to freedom of peaceful assembly and of association as essential to advancing climate justice: Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Clément Nyaletsossi Voule](#), A/76/222, 23 July 2021.

⁴³ UNHRC, [The ocean and human rights: Report of the Special Rapporteur on the human right to a clean, healthy and sustainable environment](#), Astrid Puentes Riaño, A/HRC/58/59, 31 December 2024.

⁴⁴ M. Lawlor et al., [Time to protect environmental defenders and ensure their safe participation in international forums relating to the environment and climate change](#), A joint statement by international and regional human rights experts, in the context of COP29, 29 October 2024.

⁴⁵ UNHRC, [The toxic impacts of some proposed climate change solutions: Report of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes](#), Marcos Orellana, A/HRC/54/25, 13 July 2023.

⁴⁶ UNHRC, ['We are not just the future': challenges faced by child and youth human rights defenders: Report of the Special Rapporteur on the Situation of Human Rights Defenders](#), Mary Lawlor, A/HRC/55/50, 17 January 2024.

⁴⁷ UNHRC, ['We are not just the future': challenges faced by child and youth human rights defenders](#), 2024.

⁴⁸ Universal Rights Group, Freedom House and Lifeline, [Understanding and responding to the protection needs of climate activists and movements: A guide for donors and support organisations](#), March 2022.

⁴⁹ UNHRC, [Scene-setting report: Report of the Special Rapporteur on the promotion of human rights in the context of climate change](#), Elisa Morgera, A/HRC/56/46, 24 July 2024; UNHRC, ['We are not just the future': challenges faced by child and youth human rights defenders: Report of the Special Rapporteur on the Situation of Human Rights Defenders](#), Mary Lawlor, A/HRC/55/50, 17 January 2024.

3.1.2 Indigenous Peoples and African descendants defending their lands and territories against environmental injustice

Indigenous EHRDs and African descendants – women and girls in particular – have been at the front line in combating irresponsible business⁵⁰. Regarding the green transition, EHRDs from marginal and racialised communities are greatly exposed to harassment, attacks and criminalisation of their human rights work when defending their territories from unsustainable business activities⁵¹.

According to José Francisco Calí Tzay, UN Special Rapporteur on the Human Rights of Indigenous Peoples, '[t]ypical human rights risks in the context of green financing include forced evictions and resettlement, lack of consultation regarding land use and decision-making, environmental degradation, limited information provided on the governance of natural resources and inadequate environmental and social impact assessments'⁵².

3.1.3 Women and girls stand out as EHRDs

Women environmental human rights defenders are disproportionately affected by environment-related human rights violations, including those connected with climate change. When advocating for the human rights of their communities (for instance, clean water, food and education), they are not only opposing corporate power and state complicity but also patriarchy and racism. According to David Boyd, UN Special Rapporteur on the Issue of Human Rights Obligations relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment, 'because of gender discrimination and the power of their activism, women and girl defenders are stigmatised, marginalised, shamed and exposed to greater risks of violence and reprisals. They are accused of pursuing environmental justice to the detriment of their domestic duties and may be subject to coercion through threats against their families and loved ones. Hundreds of women have been murdered for their work as environmental, land, water and human rights defenders in recent years. Countless more experience violence, intimidation and criminalisation'⁵³.

3.2 Overview of risks faced by EHRDs in the context of transitions

The 2019 UN resolution on EHRDs' contribution to human rights, environmental protection and sustainable development recognises the many intersecting forms of violence and discrimination against women, Indigenous Peoples, children, persons belonging to minorities, as well as rural and marginalised communities who are defending the right to a healthy, clean and sustainable environment⁵⁴.

⁵⁰ UNHRC, [Business, planetary boundaries, and the right to a clean, healthy and sustainable environment: Report of the Special Rapporteur on the Issue of Human Rights Obligations relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment, David R. Boyd](#), A/HRC/55/43, 02 January 2024.

⁵¹ UNHRC, [Business, planetary boundaries, and the right to a clean, healthy and sustainable environment](#), 2024.

⁵² UNHRC, [Green financing – a just transition to protect the rights of Indigenous Peoples: Report of the Special Rapporteur on the human rights of Indigenous Peoples, José Francisco Calí Tzay](#), A/HRC/54/31, 21 July 2023.

⁵³ UNHRC, [Women, girls and the right to a clean, healthy and sustainable environment: Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, David R. Boyd](#), A/HRC/52/33, 05 January, 2023.

⁵⁴ UNGA, [Recognizing the contribution of environmental human rights defenders to the enjoyment of human rights, environmental protection and sustainable development](#), A/HRC/RES/40/11, 02 April 2019.

‘Routinised persecution’ of human rights defenders and those protecting their communities from environmental harm is one of the many expressions of environmental racism and patriarchy, structural forms of marginalisation and oppression. Indigenous, African descendants and racialised women, as well as girls, are identified as those at higher risk of violence⁵⁵.

One type of violence that has been identified, especially against those whose livelihoods and identities directly depend on their natural environment, comes in the form of pollution. For Indigenous Peoples and rural communities in particular, ‘mineral and metal extraction often generate intolerable toxic pollution, and biofuels use large amounts of fertilisers, pesticides and other chemicals’. This threatens ‘food safety, polluting soil, surface and ground water, and generating wastewater’, thus impacting various types of rights connected with the right to a healthy, clean and sustainable environment. Hence, there is a reduction in contributions to climate change adaptation measures, according to Marcos Orellana, UN Special Rapporteur on Toxics and Human Rights⁵⁶.

As many have shown, however, pollution and environmental destruction are root causes of climate change, affecting us all and not just those directly dependent on ecosystem services and natural resources⁵⁷. These include climate defenders, youth climate activists, climate justice activists, environmental justice advocates, environmental protesters, as well as environmental activists working and advocating for human rights in and from urban areas. Currently, climate activists, along with scientists and journalists working on the environment and climate crisis, are increasingly harassed or persecuted⁵⁸.

EHRDs and climate activists face similar challenges, such as: the use of SLAPP aimed at silencing and intimidating⁵⁹; the threat to various forms of public participation rights (freedoms of assembly, association and expression); access to information and harassment (from physical to psychological); stigmatisation⁶⁰; and disproportionate state responses to peaceful protest and civil disobedience⁶¹. State repression can take diverse forms ‘from protest bans and the passing of draconian laws criminalising legitimate acts of protest to stigmatising’ and ‘arresting them

⁵⁵ UNHRC, [Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, E. Tendayi Achiume: Ecological crisis, climate justice and racial justice](#), A/77/549, 25 October 2022.

⁵⁶ UNHRC, [The toxic impacts of some proposed climate change solutions: Report of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes, Marcos Orellana](#), A/HRC/54/25, 13 July 2023.

⁵⁷ UNHRC, [Exercise of the rights to freedom of peaceful assembly and of association as essential to advancing climate justice: Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Clément Nyaletsossi Voule](#), A/76/222, 23 July 2021.

⁵⁸ UNHRC, [The toxic impacts of some proposed climate change solutions: Report of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes, Marcos Orellana](#), A/HRC/54/25, 13 July 2023.

⁵⁹ UNHRC, [Overview of the implementation of the human right to a clean, healthy and sustainable environment: Report of the Special Rapporteur on the human right to a clean, healthy and sustainable environment](#), A/79/270, 02 August 2024; UNHRC, [Business, planetary boundaries, and the right to a clean, healthy and sustainable environment: Report of the Special Rapporteur on the Issue of Human Rights Obligations relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment, David R. Boyd](#), A/HRC/55/43, 02 January 2024.

⁶⁰ Universal Rights Group, Freedom House and Lifeline, [Understanding and responding to the protection needs of climate activists and movements: A guide for donors and support organisations](#), March 2022.

⁶¹ M. Forst, [State repression of environmental protest and civil disobedience: a major threat to human rights and democracy](#), 2024.

en masse, harassing them online and subjecting them to heavy surveillance', according to Clément Nyaletsossi Voule, Special Rapporteur on the Rights to Freedom of Peaceful Assembly and Association⁶².

EHRDs, together with environmental and climate movements, are stigmatised and labelled as 'anti-development', 'eco-terrorists' or as working against national interests, a narrative that undermines 'the legitimacy of civil society and its ability to contribute to policy debate and socioeconomic development more broadly, also affecting fair and just development'⁶³.

While most EHRDs suffer from stigmatisation, repression, unfair legal treatment, threats, and even killing, women and girls defending land and environmental rights, – whilst advocating for climate and environmental justice –, suffer distinct types of abuses due to gender norms that discriminate against them and their activism⁶⁴. They are 'stigmatized, marginalized, shamed and exposed to greater risks of violence and reprisals', such as sexual assault, and accused of neglecting what is framed in certain contexts as women's domestic duties, such as taking care of the children and cooking. Furthermore, they 'may be subject to coercion through threats against their families and loved ones'⁶⁵.

Regarding the green transition, it is key to observe that 'over half of the world's resource base for crucial energy transition materials is located on or near Indigenous Peoples' lands'⁶⁶. Unfortunately, 'the world's biggest producers of some of the key minerals needed for the zero-carbon transition are failing to address risks and impacts on local communities, including attacks on CSOs and their leaders'⁶⁷.

In 2024, Global Witness reported that 196 environmental defenders were killed in 2023, although the actual number is likely to be much higher. From 2012 to 2023, there were a total of 2 106 murders, with more than 1 500 environmental defenders murdered since the adoption of the Paris Agreement in 2015⁶⁸. Almost half of the environmental defenders killed in 2023 were Indigenous Peoples (43 %), people of African descent (6 %) and women (12 %). Most killings were reported in the mining and extractive industries (25 environmental defenders murdered)⁶⁹.

⁶² UNHRC, [Preserving the gains and pushing back against the global attack on civic space and growing authoritarianism: Report of the Special Rapporteur on the Rights to Freedom of Peaceful Assembly And Of Association, Clément Nyaletsossi Voule](#), A/HRC/56/50, 21 June 2024.

⁶³ UNHRC, [Protecting the rights to freedom of peaceful assembly and of association from stigmatization: Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Gina Romero](#), A/79/263, 31 July 2024.

⁶⁴ UNHRC, [Violence against women and girls in the context of the climate crisis, including environmental degradation and related disaster risk mitigation and response: Report of the Special Rapporteur on violence against women and girls, its causes and consequences, Reem Alsalem](#), A/77/136, 11 July 2022.

⁶⁵ UNHRC, [Women, girls and the right to a clean, healthy and sustainable environment: Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, David R. Boyd](#), A/HRC/52/33, 05 January, 2023.

⁶⁶ C. Dobson and H. Matthews, [People power under pressure: Human rights defenders & business in 2023](#), *Business and Human Rights Resource Centre*, nd.

⁶⁷ C. Dobson and H. Matthews, [People power under pressure](#), *Business and Human Rights Resource Centre*, nd.

⁶⁸ Global Witness, [Missing voices: The violent erasure of land and environmental defenders](#), September 2024.

⁶⁹ Global Witness, [Missing voices](#), September 2024.

This is consistent with reports from the Business & Human Rights Resource Centre, which are focused on human rights defenders being attacked for their work in addressing environmental harm caused by businesses. They report that 78 % of the attacks against people raising concerns about business-related harms were against people taking action to protect climate, environmental and land rights in 2023. Between 2010 and 2021, 495 allegations of human rights abuses and 148 attacks against defenders concerned the mining of transition minerals. One-third of these attacks were against Indigenous human rights defenders⁷⁰. They also document 'numerous instances of attacks against people engaged in civil disobedience to urge climate action' in the same year⁷¹.

Since early 2015 until 2023, 'sectors connected with the highest number of attacks – mining (1 475), agribusiness (984) as well as oil, gas and coal (491) – are those fuelling the planetary crisis and which have a significant influence on whether the energy transition will be just, given their roles in transition minerals mining and investment in renewable energy⁷².

Front Line Defenders reported that Indigenous Peoples or Indigenous Peoples' rights defenders were the most targeted group in 2023 (31 % of total human rights defenders killed), with a total of 92 killings registered in Brazil, Colombia, Ecuador, Guatemala, Honduras, Indonesia, Mexico, Nicaragua, Paraguay, Peru and the Philippines⁷³.

Anti-protest legislation was also used in Europe, the United States of America (USA) and the United Kingdom (UK) against EHRDs. Global Witness reports that peaceful climate activism and civil disobedience were criminalised by governments through strategies to disempower and disrupt climate and environmental defenders, as well as associated movements, throughout 2023. Various countries passed controversial anti-protest laws supposedly intended to protect national security or 'critical infrastructure'⁷⁴. Defenders have been arrested and detained across many European countries, from Finland and the Netherlands to Serbia⁷⁵. There has been a 'proliferation of laws used to restrict freedom of assembly and the heavy-handed policing of peaceful protests *inter alia* in Austria, France, Finland, Germany, Netherlands, Spain and the UK⁷⁶.

In conclusion, the definition of EHRDs includes individuals and collectives in urban and rural areas of the Global North and South protesting against climate change, as well as those defending their lands and territories when their ways of life and livelihoods are threatened by environmental destruction. EHRDs – irrespective of their self-identification – also include those who support individuals and collectives with their professional capacities (including lawyers, journalists, scientists and practitioners). All those who come from different socio-economic, cultural and political spaces denounce pollution, biodiversity loss and climate change from all ages and genders (for instance, climate and environmental activists/defenders) may also be considered EHRD. Unfortunately, their common denominator is that they are increasingly exposed to violence (from

⁷⁰ C. Avan, N. Daza Niño and E. R. Sirén Gualinga, [Transition Mineral Tracker: 2024 Analysis](#), *Business and Human Rights Resource Centre*, May 2024.

⁷¹ C. Dobson and H. Matthews, [People power under pressure: Human rights defenders & business in 2023](#), *Business and Human Rights Resource Centre*, nd.

⁷² C. Dobson and H. Matthews, [People power under pressure](#), nd.

⁷³ Front Line Defenders, [Global Analysis 2023/24](#), May 2024.

⁷⁴ Global Witness, [Missing voices: The violent erasure of land and environmental defenders](#), September 2024.

⁷⁵ Global Witness, [Missing voices](#), 2024.

⁷⁶ Front Line Defenders, [Global Analysis 2023/24](#), May 2024.

criminalisation to death). While all need protection, not all are exposed to the risk of violence in the same way. Using an intersectional approach involves recognising distinct, overlapping layers of vulnerabilities due to gender, ethnic background, and economic status. This approach is relevant for understanding how racialised and other marginalised communities, or women, children and youth, might be those most exposed and at risk for their work on the right to a healthy, clean and sustainable environment.

4 Content of international obligations, accountability mechanisms and new developments

This section addresses the paper's second major component: (ii) content of international obligations concerning EHRDs' accountability mechanisms and new developments after the 2021 resolution (2020/2134).

EHRDs' rights are recognised in a variety of existing international law sources. The principles, instruments and authoritative interpretations concerning these rights, as well as mechanisms for review, implementation, compliance and accountability, are rapidly evolving. Hence, rather than presenting an exhaustive analysis of all sources of law, the focus here will be on selected instruments and principles that are particularly useful when interpreting EHRDs' rights in light of developments after the 2021 resolution (2020/2134).

On the one hand, since 2021, certain advances have occurred concerning international instruments, particularly in their respective interpretation and implementation. Other legal and policy instruments not mentioned in the 2021 European Parliament resolution are also important in clarifying the rights of EHRDs. On the other hand, certain principles of international law help when clarifying how to interpret applicable law in the context of changing legal, social, economic, political and environmental dynamics.

4.1 Operationalising the principles of non-regression, progressive realisation and *pro persona*

Pursuant to the principles of international human rights law, including progression and non-regression⁷⁷, it is now more appropriate to apply a more comprehensive interpretation of EHRDs' rights compared to when the 2021 resolution (2020/2134) was adopted. These principles are relevant when interpreting advances in both international human rights law and the MEA, as addressed in this section. Following these principles, no provision in international or EU instruments should limit a more favourable interpretation of rights and guarantees, at present or in the future, in the legislation of a state party or in any other international agreement to which a state is a party. The principle of non-regression takes effect immediately and means that states must not weaken environmental quality regulations, standards or policies. The principle of progressive realisation means that some low- and middle-income states may not be able to fulfil the right to a healthy environment immediately; yet, they have obligations to act within the maximum capacity of their

⁷⁷ See e.g. M. Vordermayer-Riemer, [Progressivity and non-regression in International Human Rights Law: Going up on the escalator](#), in M. Vordermayer-Riemer (ed), *Non-Regression in International Environmental Law: Human Rights Doctrine and the Promises of Comparative International Law*, 2020, pp. 33-36.

available resources, in some cases supported with international cooperation⁷⁸. These principles are of particular importance considering the current political and economic dynamics, which put at risk the advances made on human rights and the environment in general, along with EHRDs in particular. More details on these risks, including the weakening of human rights safeguards through the 'Omnibus simplification package', are included in section 5 below.

State obligations towards defenders should be constructed and interpreted to cover the broadest spectrum of defenders' human rights, hence, not only civil and political rights and freedoms recognised in the International Covenant on Civil and Political Rights (ICCPR)⁷⁹ but also rights recognised in the International Covenant on Economic, Social, and Cultural Rights (ICESCR)⁸⁰. Most EU countries and their partners from other regions are parties to these treaties. This way of interpreting EHRDs' rights aligns with the principles of interdependence and indivisibility of human rights. State obligations concerning EHRDs are also derived from MEAs. The application of law should be undertaken from a systematic approach, including both international human rights and MEAs. To provide guidance on how to specify the content of EHRDs' rights and associated implementation, the authors conducted an analysis of selected human rights instruments and MEAs.

4.2 Content of international obligations concerning environmental human rights defenders

To identify state obligations concerning EHRDs, both MEAs and international human rights instruments are relevant. While there is no global binding treaty recognising the rights of EHRDs explicitly, state obligations regarding these rights can be derived from various sources of international public law, including international human rights law, MEAs and regional treaties to which states are parties (further explained in section 5).

The ICCPR and ICESCR together provide a foundation for specifying various obligations towards EHRDs. Moreover, there are many examples of connections between EHRDs based on their rights.

For instance, EHRDs can form associations (Article 22, ICCPR) to collaborate in regenerative economic activities, such as agroecology. These activities contribute to realising the right to adequate food (Article 11, ICESCR) by providing varied and nutritious foods while also safeguarding healthy ecosystems. When youth EHRDs educate themselves and others (Articles 13 and 14, ICESCR) on environmental and climate issues, they can more meaningfully participate in the policy process. Their right to education is then interconnected to exercising their freedom of expression and opinion (Article 19 ICCPR), for example, in public hearings regarding an environmental impact assessment process. While Article 13 of the ICESCR does not specifically reference gender equality and respect for the environment, General Comment 13 by the UN Committee on Economic, Social

⁷⁸ UNHRC, [Clean Air: Report of the Special Rapporteur on Human Rights and the Environment](#), A/HRC/40/55, 2019.

⁷⁹ UNGA, [International Covenant on Civil and Political Rights](#), Adopted and opened for signature, ratification and accession by UNGA resolution 2200A (XXI) of 16 December 1966, entry into force 23 March 1976, in accordance with Article 49, 16 December 1966.

⁸⁰ UNGA, [International Convention on the Elimination of All Forms of Racial Discrimination](#), Adopted and opened for signature and ratification by UNGA resolution 2106 (XX) of 21 December 1965, entry into force 4 January 1969, in accordance with Article 19, 21 December 1965.

and Cultural Rights highlights that these elements are implicit in and reflect a contemporary interpretation of Article 13(1)⁸¹.

The Aarhus Convention recognises the right to a healthy environment for present and future generations as well as access rights (to information, public participation and justice), thereby forming a key which enables individuals and environmental non-governmental organisations (NGOs) to defend their environment in the public interest and realise a broad range of rights. In recent years, there have also been significant new developments concerning EHRDs⁸². The first Special Rapporteur on Environmental Defenders was elected in June 2022⁸³, following a decision by the Meeting of the Parties to the Aarhus Convention to establish a rapid response mechanism for dealing with cases related to Article 3 (8) of the Convention⁸⁴.

Regional developments, in particular the Escazu Agreement in Latin America and the Caribbean, which entered into force in April 2021, have also contributed to specifying and contextualising the rights of EHRDs in connection with the right to a healthy environment in a specific region. Thereafter, in October 2021, the UN Human Rights Council (UNHRC) adopted a resolution⁸⁵ on the right to a clean, healthy and sustainable environment (hereafter, the right to a healthy environment) paved the way for the 2022 UNGA resolution on this right⁸⁶, thereby providing a valuable umbrella category within which to delineate EHRDs' rights. Uniting procedural and substantive human rights obligations, this right places emphasis on the participatory process while also contributing to socio-ecological substantive outcomes that EHRDs are aiming to achieve.

EHRDs' rights are often framed only in terms of civil and political rights, with a focus on personal integrity, freedom of opinion and expression, as well as peaceful assembly and association. However, the Office of the UN High Commissioner for Human Rights (OHCHR) points out that when analysing the content of the rights thoroughly, categories such as 'civil and political rights' or 'economic, social and cultural rights' make little sense. For this reason, it has become increasingly common to refer *en bloc* to 'civil, cultural, economic, political and social rights'⁸⁷. Hence, this broad spectrum of EHRDs' rights should be used when interpreting defenders' rights to a healthy environment and other interdependent freedoms. Furthermore, it must be noted that this is not only about EHRD's individual rights, given that they often act as custodians of future generations' rights to enjoy healthy flora, fauna and ecosystems. The 2021 UNHRC resolution makes explicit reference to EHRDs 'underscoring the responsibility of all business enterprises to respect human rights, including the rights to life, liberty and security of human rights defenders working in

⁸¹ UN Committee on Economic, Social and Cultural Rights, [Implementation of the International Covenant on Economic, Social and Cultural Rights: General Comment No. 13 \(Twenty-first session, 1999\)](#), E/C.1999/10, 08 December 1999.

⁸² Á. Ryall, '[A Brave New World: The Aarhus Convention in Tempestuous Times](#)', *Journal of Environmental Law*, Vol 35 No 1, 2023, pp. 161-166.

⁸³ M. Forst, [UN Special Rapporteur on environmental defenders under the Aarhus Convention to His Excellency, Mr. Espen Barth Eide, Minister of Foreign Affairs, Norway](#), ACSR/C/2024/66, 04 October 2024.

⁸⁴ UN Economic and Social Council, [Draft decision VII/9 on a rapid response mechanism to deal with cases related to article 3 \(8\) of the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters](#), ECE/MP.PP/2021/19, 06 August 2021.

⁸⁵ UNGA, [The human right to a clean, healthy and sustainable environment](#), A/HRC/RES/48/13, 08 October 2021.

⁸⁶ UNGA, [The human right to a clean, healthy and sustainable environment](#), A/RES/76/300, 28 July 2022.

⁸⁷ OHCHR, '[Key concepts on ESCRs – Are Economic, Social and Cultural Rights Fundamentally Different From Civil and Political Rights?](#)', webpage, nd.

environmental matters'. However, the 2022 UNGA resolution is not as specific in this regard but rather places more emphasis on gender equality. Nevertheless, these resolutions should be read together, considering both the rights of EHRDs generally as well as those of specific groups, such as women EHRDs, through a gender equality and intersectional lens.

Complementary to the ICCPR and ICESCR, other major human rights conventions such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)⁸⁸, the Convention on the Rights of the Child (CRC)⁸⁹ as well as the Indigenous and Tribal Peoples International Labour Organisation (ILO) Convention (hereafter, ILO Convention No 169)⁹⁰ contribute to specifying the heightened obligations of states and businesses towards certain groups of EHRDs. The UNHRC acknowledges that while climate change affects all individuals and communities around the world, those segments of the population that are most acutely affected are 'those already in vulnerable situations owing to factors such as geography, poverty, gender, age, Indigenous or minority status where applicable, national or social origin, birth or other status and disability'⁹¹. The risks increase even more when segments of these groups are also EHRDs, as shown earlier in section 3, and hence, states have heightened obligations towards these groups. The UN Secretary-General Report on the impacts of climate change on the human rights of people in vulnerable situations (A/HRC/50/57)⁹² stresses that there is a need for better promotion in protecting the rights of EHRDs so they can conduct their work within a supportive environment without fear of reprisals, threats, violence or killings.

States have heightened obligations towards people who are most vulnerable to being affected by environmental harm, which in many cases are Indigenous and African descendant EHRDs. Both the ILO Convention No 169⁹³ and the Universal Declaration of the Rights of Indigenous Peoples recognise Indigenous Peoples as collective subjects of rights, with Article 29 of the latter specifying their rights and corresponding states' obligations concerning a clean, healthy and sustainable environment. Fulfilment of these obligations by states can involve deliberate measures to address environmental injustices, racial disparities, as well as the differentiated impacts of the climate crisis and environmental racism on people of African descent, who should also participate in the formation of policy solutions⁹⁴.

In some regions of the world, Indigenous Peoples and tribal communities of African descent have the same rights (as recognised, for instance, by the Inter-American Court of Human Rights –

⁸⁸ UN, [Convention on the Elimination of All Forms of Discrimination against Women](#), 18 December 1979.

⁸⁹ UN, [Convention on the Rights of the Child](#), 20 November 1989.

⁹⁰ International Labour Organisation, [Indigenous and Tribal Peoples Convention](#), C169, 27 June 1989.

⁹¹ UNHRC, [Resolution adopted by the Human Rights Council on 5 July 2018. Human rights and climate change](#), A/HRC/RES/38/4, 18 July 2018.

⁹² OHCHR, ['The impacts of climate change on the human rights of people in vulnerable situations \(A/HRC/50/57\)'](#), Thematic report of the UN Secretary-General, 06 May 2022.

⁹³ The importance of ratifying ILO Convention on the Protection of Indigenous Peoples and EU extraterritorial obligations in particular has been promoted by organizations such as Climate Alliance who celebrates the ratification by Germany in 2021 (and Luxemburg in 2018) after many years of campaigning for it. See Climate Alliance, ['German Parliament ratifies ILO Convention on the Protection of Indigenous Peoples'](#), 16 April 2021.

⁹⁴ UNHRC, [Environmental justice, the climate crisis and people of African descent – Report of the Working Group of Experts on People of African Descent](#), A/HRC/48/78, 21 September 2021.

IACtHR)⁹⁵. The unsustainable extraction of critical minerals and biofuels can generate intolerable toxic pollution, threatening the pollution of soil, as well as surface and groundwater, thereby causing various impacts concerning the right to a healthy, clean, and sustainable environment⁹⁶. The heightened obligations of states and businesses towards Indigenous Peoples, local communities and African descendants are applicable in the context of just transitions and include deliberate measures to prevent these groups from bearing disproportionate costs of the green transition.⁹⁷ The importance of women⁹⁸, Indigenous Peoples⁹⁹, nature-dependent communities, communities of African descendants¹⁰⁰ and other racialised communities has been highlighted as 'vital guardians of the environment, including oceans, forests and other essential ecosystems'¹⁰¹. Indigenous women human rights defenders have demonstrated their contribution to safeguarding ecosystems and biocultural diversity as well as protecting their Indigenous identity, not only by defending lands and territories but also by nurturing the natural environment they traditionally own, use and/or occupy. The scientific knowledge they produce should be valued not as a commodity but rather for showing ways towards achieving just sustainable development, in 'designing collective futures to ensure human, multispecies and environmental justice and equity'¹⁰².

CEDAW (1979) is a treaty that can help tackle the interconnected problems which women EHRDs face, as it recognises civil, cultural, economic, political and social rights in a single instrument. Women EHRDs are entitled to different forms of participation, as specified in Article 14, including organising self-help groups and cooperatives for equal access to economic opportunities through employment or self-employment (paragraph e), as well as participating in the elaboration and implementation of development planning at all levels (paragraph a). CEDAW also acknowledges the problems faced by women in rural contexts and their significant role in the non-monetised and monetised economy. Women EHRDs undertake their initiatives in a marginalised and oppressed context, often without access to land tenure, education, resources and the ability to participate in decision-making processes. Moreover, Indigenous African descendants, together with racialised

⁹⁵ UNHRC, [The toxic impacts of some proposed climate change solutions: Report of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes, Marcos Orellana](#), A/HRC/54/25, 13 July 2023.

⁹⁶ UNHRC, [The toxic impacts of some proposed climate change solutions](#), A/HRC/54/25, 13 July 2023.

⁹⁷ UNHRC, [Green financing – a just transition to protect the rights of Indigenous Peoples: – Report of the Special Rapporteur on the human rights of Indigenous Peoples, José Francisco Calí Tzay](#), A/HRC/54/31, 21 July 2023.

⁹⁸ UN Women, [Brief: Women Environmental Human Rights Defenders](#), 2024; UNHRC, [Women, girls and the right to a clean, healthy and sustainable environment: Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, David R. Boyd](#), A/HRC/52/33, 05 January 2023.

⁹⁹ UNHRC, [The toxic impacts of some proposed climate change solutions: Report of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes, Marcos Orellana](#), A/HRC/54/25, 13 July 2023.

¹⁰⁰ UNHRC, [Environmental justice, the climate crisis and people of African descent – Report of the Working Group of Experts on People of African Descent](#), A/HRC/48/78, 21 September 2021.

¹⁰¹ UNHRC, [Expert seminar on the responsibility of business enterprises to respect the human right to a clean, healthy and sustainable environment: Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable, David R. Boyd](#), A/HRC/55/41, 02 January 2024.

¹⁰² UNHRC, [Indigenous women and the development, application, preservation and transmission of scientific and technical knowledge: Report of the Special Rapporteur on the rights of indigenous peoples, José Francisco Calí Tzay](#), A/HRC/51/28, 09 August 2022.

women and girls, form one of the groups identified as being at higher risk of violence¹⁰³. Accordingly, implementing the obligation to eliminate discrimination against women, including in political and public life¹⁰⁴, is vital for EHRDs.

A central obstacle to participation is that women have little or no discretionary time, resulting from a 'double-duty' in which they are part of the workforce and conduct significant unpaid work. This is known as time poverty¹⁰⁵. Hence, transforming patterns of behaviour that push women toward disproportionate unpaid care burden is part of implementing CEDAW Article 5¹⁰⁶. Taking gender-transformative measures, such as temporary special measures, to redistribute land, power and resources as well as bringing about equal participation in climate and environmental decision-making, can also help fulfil women EHRDs' rights¹⁰⁷. UNGA highlights that respect and support for the activities of women human rights defenders are essential in bringing about the overall enjoyment of human rights¹⁰⁸. In 2024, the UN calls for promoting women's 'voice, agency, leadership and meaningful participation in decision-making related to the environment at the local, national and international levels, including in climate and biodiversity discussions and negotiations'¹⁰⁹. At the same time, they should be protected from threats as well as the misuse of legal and judicial mechanisms, such as SLAPPs, and together with their organisations be provided with sustainable support *inter alia* 'through predictable, flexible and core funding'¹¹⁰.

Children and young EHRDs around the world are raising public awareness about the intergenerational dimensions of ecosystem degradation and the root causes of climate change, urging governments and companies to act promptly. Article 24(2) of the CRC recognises a child's right to enjoy the highest attainable standard of health and provides that states parties shall accordingly implement appropriate measures, taking into consideration the dangers and risks of environmental pollution. Children's right to education, including learning about the effects of pollution, should be read in connection with their rights to freedom of association and peaceful assembly in advocating for a clean, healthy and sustainable environment through diverse means. General Comment No 25 (2021) by the UN Committee on the Rights of the Child specifically refers to children as human rights defenders. This General Comment recognises that the digital environment enables child human rights defenders to communicate with one another, advocate for their rights and form associations. States should, therefore, support them by facilitating the

¹⁰³ UNHRC, [Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, E. Tendayi Achiume: Ecological crisis, climate justice and racial justice](#), A/77/549, 25 October 2022.

¹⁰⁴ UN Committee on the Elimination of Discrimination Against Women, [General recommendation No. 25, on article 4, paragraph 1, of the Convention on the Elimination of All Forms of Discrimination against Women, on temporary special measures](#), 2004.

¹⁰⁵ E. Hyde et al., '[Time poverty: Obstacle to women's human rights, health and sustainable development](#)', *Journal of Global Health*, Vol 10 No 2, 2020.

¹⁰⁶ Article 5. UN, [Convention on the Elimination of All Forms of Discrimination against Women](#), 18 December 1979.

¹⁰⁷ See UNHRC, [Women, girls and the right to a clean, healthy and sustainable environment: Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, David R. Boyd](#), A/HRC/52/33, 05 January, 2023.

¹⁰⁸ UNGA, [Resolution adopted by the General Assembly on 18 December 2013: Promotion of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms: protecting women human rights defenders](#), A/RES/68/181, 30 January 2014.

¹⁰⁹ UN Women, [Brief: Women Environmental Human Rights Defenders](#), 2024.

¹¹⁰ UN Women, [Brief](#), 2024.

creation of specific digital spaces and ensuring their safety¹¹¹. UN General Comment 26 (2023) of the CRC provides guidance on children EHRDs, framing them as agents of change, acknowledging the historic contributions to human rights and the environment they have made, as well as calling for states to realise children's demands for urgent measures in tackling global environmental harm¹¹².

While recognising and acting upon these obligations towards people in vulnerable situations, it is also important to highlight that EHRDs are important agents of change, producing and transmitting local scientific knowledge, traditions and cultures. Hence, they are preserving biodiversity as well as safeguarding ecosystem functions and services, addressing the root causes of climate change and environmental destruction¹¹³. It is precisely because of their role in denouncing extractive economies' harmful practices that they are increasingly at risk¹¹⁴ and vulnerable. EHRDs and other human rights defenders play a crucial role by representing impacted communities and stakeholders, acting as 'watchdogs' or early alert systems for potential human rights abuses¹¹⁵. The key role played by EHRDs in promoting, protecting and fulfilling the right to a clean, healthy and sustainable environment, in sustainable development, environmental justice and climate justice, as well as just transitions, has been widely recognised. More recently, their relevance has been emphasised in various UN resolutions, Special Procedures and guidelines¹¹⁶, which stress the importance of addressing civil and political rights in a coherent manner with economic, social and cultural rights, as discussed above, not least in regard to the rights of people in vulnerable situations.

In conclusion, human rights treaties, resolutions and declarations provide the basis for interpreting state obligations and business responsibilities towards EHRDs. Both civil and political rights, as well as economic, social and cultural rights treaties, are relevant in respecting, protecting and fulfilling

¹¹¹ UN, [General comment No. 25 \(2021\) on children's rights in relation to the digital environment](#), CRC/C/GC/25, 02 March 2021.

¹¹² UN, [General comment No. 26 \(2023\) on children's rights and the environment with a special focus on climate change](#), CRC/C/GC/26, 22 August 2023; Rights of Future Generations, [Maastricht Principles on the Human Rights of Future Generations](#), 2023; See Principle 2. Earth Trusteeship, [The Hague Principles for a Universal Declaration on Responsibilities for Human Rights and Earth Trusteeship](#), 2018.

¹¹³ UNHRC, [Indigenous women and the development, application, preservation and transmission of scientific and technical knowledge: Report of the Special Rapporteur on the rights of indigenous peoples, José Francisco Calí Tzay](#), A/HRC/51/28, 09 August 2022.

¹¹⁴ UNHRC, [The Guiding Principles on Business and Human Rights: guidance on ensuring respect for human rights defenders](#), A/HRC/47/39/Add.2, 22 June 2021.

¹¹⁵ UNHRC, [The Guiding Principles on Business and Human Rights](#), 22 June 2021.

¹¹⁶ UNGA, [Recognizing the contribution of environmental human rights defenders to the enjoyment of human rights, environmental protection and sustainable development](#), A/HRC/RES/40/11, 02 April 2019; UNGA, [Implementing the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms through providing a safe and enabling environment for human rights defenders and ensuring their protection](#), A/RES/78/216, 22 December 2023; UN Environment Programme, [Protecting the Frontline: Good practices for Recognising and Supporting Environmental Human Rights Defenders](#), 2024; M. Forst, [State repression of environmental protest and civil disobedience: a major threat to human rights and democracy](#), 2024; UN, [Guidance note for United Nations resident coordinators and country teams: supporting Governments to better respect, promote and protect environmental human rights defenders](#), 2023; UNHRC, [Sustainable development and freedom of expression: why voice matters: Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Irene Khan](#), A/HRC/53/25, 19 April 2023.

the rights of EHRDs. Defenders are not only passive rights-holders to be protected from violence but also active agents of change, signalling and constructing pathways towards just transitions.

4.2.1 EHRDs in Multilateral Environmental Agreements

Human rights treaties and MEAs are increasingly coming together, particularly regarding EHRDs. UNGA resolution from 2022 '(a)ffirms that the promotion of the human right to a clean, healthy and sustainable environment requires the full implementation of the MEAs under the principles of international environmental law'¹¹⁷.

The Convention on Biological Diversity (CBD), ratified by 196 nations¹¹⁸, is an MEA that focuses on the conservation, sustainable use and equitable sharing of genetic resources. This Convention sets clear obligations for states to integrate biodiversity into national decision-making as well as cross-sectoral plans, programmes and policies (Articles 6(d) and 10(a)). These obligations apply in the context of diverse ecosystems and are interconnected with the human rights of EHRDs. For instance, the UN Special Rapporteur on Human Rights and the Environment clarifies that ocean defenders are human rights defenders and human rights obligations include taking appropriate measures to promote and protect the rights and traditional knowledge, innovation and practices of small-scale fishers, which are relevant to the conservation and sustainable use of biological diversity.¹¹⁹ Furthermore, the Global Biodiversity Framework (GBF) explicitly refers to the 2022 UNGA resolution recognising the right to a healthy environment¹²⁰ adopted a specific target referring to the full protection of EHRDs (target 22). Additionally, it has another target on gender equality (target 23). Significant advocacy by EHRDs active in international fora, as well as collaboration between these groups and governmental delegates representing countries at the CBD Conference of the Parties (COP), preceded these developments¹²¹. National Biodiversity Strategies and Action Plans (NBSAPs) under the CBD are among the policy instruments in which EHRDs' rights could be mainstreamed. The CBD Secretariat has advised parties to include, for example, specific activities to tackle gender inequalities and the allocation of adequate funding in efforts to mainstream gender within NBSAPs¹²².

Implementing EHRDs' right to a healthy environment within the CBD framework involves a two-way process: incorporating biodiversity and ecosystem concerns into the interpretation of this right

¹¹⁷ UNGA, [The human right to a clean, healthy and sustainable environment](#), A/RES/76/300, 28 July 2022.

¹¹⁸ CBD, '[List of parties](#)', webpage, nd.

¹¹⁹ UNHRC, [The ocean and human rights: Report of the Special Rapporteur on the human right to a clean, healthy and sustainable environment Astrid Puentes Riaño](#), A/HRC/58/59, 31 December 2024.

¹²⁰ UNGA, [The human right to a clean, healthy and sustainable environment](#), A/RES/76/300, 28 July 2022.

¹²¹ See e.g., C. Ituarte-Lima and M. Schultz, '[Human right to a healthy environment for a thriving Earth: Handbook for weaving human rights, SDGs, and the post-2020 global biodiversity framework](#)', *SwedBio/Stockholm Resilience Centre, International Development Law Organization, Office of the High Commission of Human Rights-Special Procedures, UN Environment and Natural Justice*, 2019.

¹²² Secretariat of the CBD, [Review of implementation of the 2015-2020 Gender Plan of Action](#), CBD/SBI/3/2/Add.3, 14 April 2020.

while also applying a rights-based approach to the CBD¹²³. One example of the latter, especially relevant for women EHRDs, is the CBD 2015–2020 Gender Plan of Action. In 2022, a significant development aligned with the CEDAW was the adoption of the Gender Plan of Action (2023–2030) through CBD-COP Decision 15/11. The CBD Gender Action Plan makes particular reference to women EHRDs. More precisely, objective 1.5 is to 'Identify and eliminate, prevent and respond, to all forms of gender-based discrimination and violence in particular in relation to control, ownership and access to sustainable use and conservation of biodiversity, including protecting women EHRDs and park rangers'¹²⁴.

The CBD guidelines relevant for interpreting EHRDs' rights include those focusing on financing, such as the 2014 CBD Safeguards Guidelines¹²⁵. These emphasise the need for grounding safeguards in local contexts and integrating international human rights treaties (guideline c) within those focusing on Indigenous Peoples and local communities, such as the Akwé. Included are: the Kon Voluntary Guidelines connecting procedural dimensions (public participation and impact assessments) with substantive outcomes such as protecting sacred sites and the lands of Indigenous Peoples as well as local communities while considering gender, generational, health and social cohesion; and the CBD-COP Decisions under Articles 8(j) and 10(c) involve safeguarding Indigenous knowledge and tenure rights¹²⁶, especially important for Indigenous, peasant and African descendant EHRDs. The legitimacy of these guidelines follows from their adoption by the CBD Parties' consensus.

There is room to make further advances on EHRDs' rights within other MEAs. In particular, MEAs – such as the UN Framework Convention on Climate Change (UNFCCC) and the United Nations Convention to Combat Desertification (UNCCD) – present opportunities to incorporate commitments and targets concerning defenders, building on progress made in the GBF¹²⁷ context under the CBD, with explicit reference to EHRDs. UNFCCC has not included a specific target on EHRDs in its programme of work, despite the Paris Agreement calling on states to 'respect, promote and consider their respective obligations on human rights'¹²⁸. Nevertheless, within the UNFCCC's Local Communities and Indigenous Peoples Platform¹²⁹, there is an opportunity to expand further on the promotion, protection and fulfilment of EHRDs' rights generally, not just those concerning Indigenous Peoples and local communities. These rights should be integrated with Nationally Determined Contributions (NDCs) under the Paris Agreement. Article 4,

¹²³ Under the CBD, human rights language often includes significant qualifications such as 'as appropriate', 'in accordance with national legislation'. See e.g., COP to the CBD, [14/15. Safeguards in Biodiversity Financing Mechanisms](#), CBD/COP/DEC/14/15, 30 November 2018; Resource mobilization and respective annexe III. UNEP/CBD/COP/DEC/XII/3. See also C. Ituarte-Lima, '[Transformative biodiversity law and 2030 Agenda: mainstreaming biodiversity and justice through human rights](#)' in B. Hutter (ed.), *Resilience, Inequality and Environmental Law*, Edward Elgar Publishing, Cheltenham, 2017, pp. 84–107.

¹²⁴ COP to the CBD, [15/11. Gender Plan of Action](#), CBD/COP/DEC/15/11, 19 December 2022.

¹²⁵ C. Ituarte-Lima et al., [CBD voluntary guidelines for safeguards: implementation pathways](#), Information Document for the 14th COP to the CBD, CBD/COP/14/INF/22, 07 November 2018.

¹²⁶ CBD, [Principles, Guidelines and Other Tools Developed under the Convention](#) webpage, 11 July 2019.

¹²⁷ The Kunming–Montreal GBF was adopted during the fifteenth meeting of the COP following a four year consultation and negotiation process. See more at CBD, '[Preparations for the Post-2020 Biodiversity Framework](#)', webpage, nd.

¹²⁸ OHCHR, '[Integrating human rights at the UNFCCC](#)' webpage, nd.

¹²⁹ Local Communities and Indigenous Peoples, [website](#).

paragraph 2 requires each Party to prepare, communicate and maintain successive NDCs that it intends to achieve to reduce national emissions and adapt to the impacts of climate change¹³⁰. The UNCCD stresses the vital roles played by women in regions affected by desertification and/or droughts, particularly those in rural areas of developing countries, and how important it is to ensure the full participation of both women and men in associated programmes at all levels. While neither the UNFCCC nor the UNCCD has a specific objective on women EHRDs, they have adopted a Gender Action Plan, which presents an opportunity to include references to defenders.

As for measures for states to fulfil their obligations concerning a toxic environment, they could include right-to-know laws, access to information about potential hazards, risks and possible exposure to chemical and other types of pollution, by way of generating effective public participation to inform the implementation of policies for detoxifying sacrifice zones and eliminating environmental injustices urgently¹³¹. Integrating EHRD-specific targets in MEAs concerning toxic pollution, such as those outlined in the Basel Convention, the Rotterdam Convention, the Stockholm Convention, and the Minamata Convention, is another entry point for coherence between MEAs and international human rights law.

In summary, while advances have been made after the 2021 resolution (2020/2134) and the 2022 UNGA resolution calling for the implementation of MEAs in advancing the right to a healthy, clean and sustainable environment, the CBD seems to be one of those MEAs that has succeeded in establishing a target with specific reference to EHRDs and an objective with explicit reference to women defenders in its Gender Action Plan. There are also opportunities to include EHRDs in policy instruments implementing international commitments at national and local levels, such as NDCs and NBSAPs. The alignment of MEAs and environmental policy instruments with EHRDs' rights recognised in international human rights law will be key for countries to fulfil their obligations not only under international human rights law but also MEAs.

4.3 Mechanisms for review implementation and accountability

Whereas certain MEAs – including the CBD – lack mechanisms for review, implementation and accountability of their commitments, EHRDs have instead turned to review mechanisms which are recognised under international human rights law. These have been developed and tested for over a decade, including the Universal Periodic Review (UPR), the UN Special Procedures (including thematic and country Special Rapporteurs),

EHRDs have used UPR to voice their claims. UN Member States undergo a peer review of their respective human rights records every 4.5 years. To date, all 193 UN Member states have been reviewed three times since the first periodic review in 2008¹³². On the one hand, states report on actions taken to improve human rights situations in their countries and overcome associated challenges to the enjoyment of human rights. On the other hand, states receive recommendations,

¹³⁰ UN Climate Change, 'The Paris Agreement and NDCs', [webpage](#), nd.

¹³¹ UNHRC, '[The right to a clean, healthy and sustainable environment: non-toxic environment: Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment](#)', A/HRC/49/53, 12 January 2022.

¹³² See the UPR [website](#).

informed by multi-stakeholder inputs, including those from EHRDs, for the continual improvement of UN Members.

This mechanism has been used by EHRDs to review not only the implementation of international obligations, but also states' extraterritorial obligations. EHRDs working at the national level have collaborated with their international partner organisations, including those in Europe, to inform such reviews. For example, five CSOs with place-based work in Latin America collaborated with the International Federation for Human Rights (FIDH) on writing the report 'Civil Society's Evaluation of the Extraterritorial Obligations of the People's Republic of China: Case Studies from Argentina, Bolivia, Brazil, Ecuador and Peru'¹³³. The international solidarity of EHRDs in UPR processes is reflected in FIDH being an international human rights NGO, federating 188 organisations from 116 countries, headquartered in Paris, as part of the Extra Territorial Obligations Consortium. This is a network of academics and CSOs focusing on extraterritorial obligations, which reviewed and co-signed the report together with thirteen national CSOs from Latin America and Earth Rights International.

UN Special Rapporteurs write reports and conduct country visits by invitation¹³⁴. On the one hand, these visits can help clarify and review the implementation of obligations towards EHRDs in specific locations around the world. On the other hand, they provide opportunities for EHRDs to inform Rapporteurs' reports. For example, in his report on the Norway thematic, the Special Rapporteur on Human Rights and the Environment¹³⁵ recognised the country's leading role in adopting the UNHRC resolution on EHRDs and called on Norway to turn international commitments into national action. This report also made specific reference to the Sámi as Indigenous Peoples and EHRDs. It is recommended that Norway enhance its efforts to secure the free, prior and informed consent (FPIC) of the Sámi before making any decisions that affect their rights, in line with the UN Declaration on the Rights of Indigenous Peoples (UNDRIP). The Rapporteur also recommended amending the Reindeer Husbandry Act, thereby establishing a co-management regime to give Sámi reindeer herders an equal role in decision-making. Creating an ecosystem-based plan, in collaboration with the Sámi Parliament, for the reindeer herding regions and future industrial development was also part of the recommendations. This report, informed by EHRDs' inputs, also nudged Norway, an oil-exporting country, to prohibit further exploration of fossil fuels¹³⁶.

EHRDs have brought claims to human rights treaty bodies, another example of their role as agents of change in the international arena. UN human rights treaty bodies are established under each of the major human rights treaties and comprise independent experts who oversee the compliance of states with treaties to which they are party¹³⁷. The treaty bodies can also make recommendations to states regarding the effects of climate change on human rights¹³⁸. For example, a group of Torres

¹³³ FIDH et al., [Civil Society's Evaluation of the Extraterritorial Obligations of the People's Republic of China: Case Studies from Argentina, Bolivia, Brazil, Ecuador and Peru](#), report to the UPR, Third Cycle, 2018.

¹³⁴ In the previous section, see the wide range of relevant thematic reports for EHRDs adopted after the 2021 resolution (2020/2134).

¹³⁵ UNHRC, [Visit to Norway: Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment](#), A/HRC/43/53/Add.2, 03 January 2020.

¹³⁶ UNHRC, [Visit to Norway](#), 03 January 2020.

¹³⁷ See UN Human Rights Treaty Bodies, [website](#).

¹³⁸ J. Knox, [Climate Claims Before the UN Human Rights Treaty Bodies](#), *Oxford Human Rights Hub*, 07 May 2021.

Strait Islander EHRDs brought a claim against Australia to the UN Human Rights Committee in which they argued that Canberra had breached their human rights obligations for failing to reduce the country's emissions and support Indigenous efforts to adapt to the anticipated effects of climate change, such as sea-level rise. In September 2022, the UN Human Rights Committee ruled in favour of the Torres Strait Islanders¹³⁹.

The upcoming Advisory Opinion of the International Court of Justice to clarify states' legal obligations regarding climate change under international law and the consequences of failing to uphold them was spearheaded by youth EHRDs, specifically the Pacific Island Students Fighting Climate Change. Although youth EHRDs do not have direct access to the International Court of Justice (ICJ), EHRDs such as World's Youth for Climate Justice have used a process associated with the ICJ's advisory opinion to influence their respective states in demanding more effective action for intergenerational equity in the face of planetary crises. This initiative was first taken up by representatives from the Pacific Island nation of Vanuatu, who, in 2021, began lobbying other UN Member States. This culminated in 2024 with the adoption of UNGA resolution A/RES/77/276¹⁴⁰, co-sponsored by 132 countries¹⁴¹. The UN Secretary-General has highlighted that the ICJ's advisory opinion on climate change is 'of tremendous importance' and will help the UNGA, the UN and its member states to 'take the bolder and stronger climate action that our world so desperately needs'¹⁴².

In conclusion, the UN Special Procedures and the UPR are mechanisms for reviewing implementation, central to clarifying who EHRDs are (as shown in section 3), as well as making visible the plethora of ways in which EHRDs advance action towards a clean, healthy, and sustainable environment, and tackle the climate crisis. Not only do these mechanisms incorporate voices from a diversity of EHRDs (*inter alia* women, Indigenous Peoples, African descendants, youth, climate activists and defenders) but they also serve as institutional spaces to promote public participation (for instance, when calling for written inputs, in-country visits) as well as reviewing the level of compliance with human rights obligations that states have set for themselves.

5 EU instruments: Opportunities and challenges for the EU to advance the realisation of EHRDs' rights

This section focuses on the paper's third major component: (iii) EU instruments adopted after the 2021 resolution (2020/2134) and how this may challenge or advance the EU's realisation of EHRDs' rights¹⁴³.

¹³⁹ See Our Islands, Our Home, [website](#).

¹⁴⁰ UNGA, [Request for an advisory opinion of the International Court of Justice on the obligations of States in respect of climate change](#), A/RES/77/276, 29 March 2023.

¹⁴¹ UN, ['Landmark Climate Change Hearings Represent Largest Ever Case before UN World Court'](#), Press Release, 02 December 2024.

¹⁴² UN, ['International Court's Advisory Opinions on Climate Change Obligations of States 'of Tremendous Importance', Secretary-General Tells General Assembly'](#), UN Meetings Coverage and Press Releases, 2023.

¹⁴³ European Parliament and Council, [Directive \(EU\) 2024/1760 on corporate sustainability due diligence and amending Directive \(EU\) 2019/1937 and Regulation \(EU\) 2023/2859](#), Official Journal of the EU, PE/9/2024/REV/1, 05 July 2024.

Firstly, EU instruments focusing on human rights and democracy are considered, particularly those implementing the right of access to justice in environmental matters under the Aarhus Convention within the EU context. There is also an analysis of the EU Anti-SLAPP Directive from 2024, protecting individuals who engage in public participation from manifestly unfounded claims or abusive court proceedings. While it is too early to quantify the impact of recent instruments, the legislative design is evaluated to identify the extent to which EHRDs' rights are covered.

Secondly, recently adopted EU economic instruments are discussed, looking at three specific areas, namely, forestry legislation¹⁴⁴, free trade agreements (FTAs)¹⁴⁵, and CSDDD together with CRMA¹⁴⁶. EHRDs' access rights are used to analyse the design and impact of selected EU economic law instruments.

5.1 The EU and human rights and democracy instruments

The EU is a party to the Aarhus Convention¹⁴⁷ and, as such, is bound by Article 9, which guarantees rights to access information, participate in decision-making and access administrative or judicial procedures to challenge actions or inactions by private individuals or public authorities that violate national environmental laws. Article 9 has been incorporated into EU law mainly through Directive 2003/4/EC on public access to environmental information (Access to Information Directive) and Directive 2003/35/EC aiming to enhance public participation in environmental decision-making (Public Participation Directive). There are also a number of other instruments which provide for public participation in environmental decision-making, including the Environmental Impact Assessment Directive 85/337/EEC and the Strategic Environmental Assessment Directive 2001/42/EC. Together, these directives aim to ensure that individuals and civil society actors, including EHRDs, can *engage meaningfully* in environmental decision-making across the EU.

EU law, however, has been criticised for being fragmented and sectoral in implementing the right of access to justice, as stipulated in Article 9(3) of the Aarhus Convention. Article 9(3) establishes an obligation to provide the public with access to review procedures regarding acts and omissions by private individuals and public authorities that contravene national environmental law. EU Member States, party to the Convention, appear to be reluctant because of the Article's broad scope¹⁴⁸. Instead, the EU provides access to justice provisions in sector-specific legislation. An increasing number of new and revised EU legislative acts include access to justice provisions, the most notable example being the Seveso III Directive (2012/18/EU), which grants access to justice in cases involving acts or omissions related to the prevention of major accidents involving dangerous substances¹⁴⁹. Yet, the lack of dedicated legislation at EU level to implement Article 9(3)

¹⁴⁴ European Parliament and Council, [Regulation \(EU\) 2023/1115 on the making available on the Union market and the export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation \(EU\) No 995/2010](#), PE/82/2022/REV/1, Official Journal of the EU, L 150/206, 09 June 2023.

¹⁴⁵ See European Commission 'Negotiations and agreements', webpage, nd.

¹⁴⁶ European Parliament and Council, [Regulation \(EU\) 2024/1252 establishing a framework for ensuring a secure and sustainable supply of critical raw materials and amending Regulations \(EU\) No 168/2013, \(EU\) 2018/858, \(EU\) 2018/1724 and \(EU\) 2019/1020](#), Official Journal of the EU, L2024/1252, 03 May 2024.

¹⁴⁷ The Aarhus Convention is analysed under section 4.1.1.

¹⁴⁸ M. Eliantonio and J. Richelle, 'Access to Justice in Environmental Matters in the EU Legal Order: The "Sectoral" Turn in Legislation and Its Pitfalls', *European Papers*, Vol 9, No 1, 2024, pp. 261-274.

¹⁴⁹ European Commission, [The Aarhus Convention and the EU](#), webpage, nd.

of the Aarhus Convention raises concerns about consistency across the broader body of EU environmental law. Many environmental areas remain uncovered, thereby not only limiting access to justice mechanisms for EU citizens and NGOs but also presenting serious implications for EHRDs. Even within the current sectoral approach, discrepancies in scope create challenges for EU Member States in transposing these varied obligations. Overall, this undermines the Convention's aim of ensuring wide and effective access to justice in environmental matters within EU law¹⁵⁰.

Additionally, the Aarhus Regulation 1367/2006 allows environmental NGOs to file a request for internal review of administrative acts under environmental law adopted by an EU institution or body. This regulation was amended in 2021 to broaden its scope, thereby ensuring compliance with the Aarhus Convention. Under the current regulations, environmental NGOs may also challenge certain EU decisions that breach environmental laws. As a result, NGOs appear to address certain systemic issues, such as overfishing, or to clarify the interpretation of significant new legislation¹⁵¹. This use of internal review procedures by environmental NGOs is a step forward in strengthening the framework for access to justice in environmental matters, which also strengthens the rights of EHRDs¹⁵².

In summary, EU law implementing the Aarhus Convention establishes rules on access to environmental information by restricting grounds for refusal, securing the right to appeal refusals in court, and obliging EU Member States to disseminate environmental information to the public proactively. It also extends public participation requirements beyond individual decision-making to the adoption of plans, programmes and legislative processes, albeit in these areas, participation is consultative, leaving Member States considerable discretion over detailed procedures.

At the same time, there are certain ways that EHRDs can be prevented from enjoying these access rights. For instance, they can be targeted with unfounded claims in court by way of intimidation, thereby seeking to dissuade EHRDs from participating in environmental matters. The EU has recently adopted the Anti-SLAPP Directive 2024/1069e to prevent such litigation¹⁵³.

SLAPPs are legal actions by state or non-state actors, such as businesses, primarily intended to silence or intimidate individuals speaking out on matters of public interest rather than to resolve a legal dispute. SLAPPs have been described by some as a 'European problem', with 166 initiated SLAPPs only in 2023, of which 16 % were related to environmental matters¹⁵⁴ but it is also a global issue¹⁵⁵, as shown earlier in section 3.

Unlike regular proceedings, SLAPPs are not initiated with the intention of exercising the right to access justice or the purpose of winning legal proceedings or obtaining redress. Instead, they are

¹⁵⁰ M. Eliantonio and J. Richelle, '[Access to Justice in Environmental Matters in the EU Legal Order: The "Sectoral" Turn in Legislation and Its Pitfalls](#)', *European Papers*, Vol 9, No 1, 2024, pp. 261-274.

¹⁵¹ European Parliament and Council, [Regulation \(EU\) 2021/1767 amending Regulation \(EC\) No 1367/2006 on the application of the provisions of the Aarhus Convention to Community institutions and bodies](#), Official Journal of the EU, L 356, 08 October 2021.

¹⁵² J. Delarue, '[The amended EU Aarhus Regulation one year in: new requests in review](#)', *ClientEarth*, 07 March 2023.

¹⁵³ European Parliament and Council, [Directive \(EU\) 2024/ on protecting persons who engage in public participation from manifestly unfounded claims or abusive court proceedings \('Strategic lawsuits against public participation'\)](#) PE/88/2023/REV/1, Official Journal of the EU, L2024/1069 16 April 2024.

¹⁵⁴ Coalition Against SLAPPs in Europe, [SLAPPs in Europe: Mapping Trends and Cases](#). SLAPPs report, 2024.

¹⁵⁵ OHCHR, [The impact of SLAPPs on human rights & how to respond](#), 2024.

initiated in most cases with the ultimate goal of silencing those who are engaged in these matters and preventing them from pursuing their work by intimidating defendants and draining their resources¹⁵⁶. Recognising this, the EU has taken steps to protect EHRDs by adopting the Anti-SLAPP Directive, which entered into force in May 2024. However, the question is whether the Anti-SLAPP Directive *can* protect European EHRDs from becoming involved in abusive legal practices both within and outside Europe.

The aim of this Directive, to prevent ‘abusive court proceedings against public participation’, is defined in Article 4(3) as legal actions that are not genuinely intended to assert a legal right but rather aim to silence, penalise, or restrict public participation, often by exploiting power imbalances. Article 4(2) of the Directive defines ‘matter of public interest’ and covers ‘the environment or the climate’¹⁵⁷. Furthermore, Article 4(3) contains examples of proceedings typically involving unfounded claims which may be identified by certain features, such as: disproportionate or excessive claims, including inflated dispute values; repeated or coordinated lawsuits on similar issues; intimidation, harassment, or threats by the claimant; and procedural abuse, such as deliberate delays, bad-faith forum shopping, or withdrawing cases late in the process. This Directive enables early dismissal of such claims in Article 11 and allows judges to impose penalties on plaintiffs who misuse the legal system to silence public participation. Article 15 of the Directive requests that EU Member States shall ensure that penalties or other equally effective appropriate measures are applied, including paying compensation for damage to the claimant. Furthermore, in accordance with Article 14, the claimant shall bear the costs of such a proceeding, even if not guaranteed by national law.

However, as stated in Articles 1 and 2, this Directive is limited to *civil* proceedings ‘with cross-border implications’ both within and outside the EU. Yet, the Directive aims to set a minimum standard and EU Member States are encouraged to extend its application to other areas, including criminal or administrative proceedings, applying anti-SLAPP mechanisms to cases that do not have a cross-border character¹⁵⁸.

One of the first cases testing this EU Directive in relation to environmental matters may become the *Energy Transfer v Greenpeace* case in the USA¹⁵⁹. This SLAPP has resulted in a court requiring European NGO Greenpeace to pay over USD 600 million. The case revolves around protests taking place in 2016 against Energy Transfer’s construction of the Dakota Access Pipeline, which posed particular risks for the Indigenous Standing Rock Sioux Tribe in North Dakota¹⁶⁰. The protests and civil disobedience actions resulted in extensive policing, numerous arrests and significant use of force by law enforcement authorities. In March 2025, the state court jury found Greenpeace liable for this heavy payment, a devastating backlash for Greenpeace in their seeking to stand up for

¹⁵⁶ P. Shapiro, ‘SLAPPs: Intent or Content? Anti-SLAPP Legislation Goes International’, *Review of European Community & International Environmental Law*, Vol 19, No 14, 2010.

¹⁵⁷ Article 4(2)(a) in European Parliament and Council, [Directive \(EU\) 2024/ on protecting persons who engage in public participation from manifestly unfounded claims or abusive court proceedings](#) (‘Strategic lawsuits against public participation’) PE/88/2023/REV/1, Official Journal of the EU, L2024/1069 16 April 2024.

¹⁵⁸ D. Bychawska-Siniarska and Z. Nowicka, ‘From Zero to Hero: Once grappling with SLAPPs, Poland could now be a model for how to fight them’, *VerfBlog*, 04 September 2024.

¹⁵⁹ Climate Case Chart, ‘[Energy Transfer LP v. Greenpeace International](#)’, webpage, 2019.

¹⁶⁰ B. Bascomb, ‘[US jury sides with pipeline company in lawsuit against Greenpeace](#)’, *Mongabay*, 20 March 2025.

Indigenous rights and environmental protection¹⁶¹. Furthermore, this verdict denies any agency for the affected Sioux community and reinforces the past marginalisation of Indigenous Peoples in the USA¹⁶².

If a judgment is deemed manifestly unfounded or abusive under the laws of the EU Member State concerned, Article 16 of the Directive obliges EU Member States to refuse recognition and enforcement of SLAPP judgments from third countries, such as the USA. Nevertheless, with its substantial financial claims, the Energy Transfer lawsuit presents a more significant challenge to the Anti-SLAPP Directive's protective measures, as it involves civil disobedience. In the Energy Transfer's case, the company frames the lawsuit as a legitimate response to alleged offences. Yet, its disproportionate demands and attempt to hold Greenpeace responsible for individual actions reflect the characteristics of a SLAPP¹⁶³.

In conclusion, the EU has made important progress in implementing the Aarhus Convention through legislation on access to environmental information, public participation and internal review mechanisms for environmental NGOs. However, specific gaps remain, particularly regarding the sectoral and fragmented approach across the full breadth of EU environmental law in relation to the application of Article 9(3) of the Aarhus Convention, which has certain negative implications for EHRDs and civil society. Moreover, recent adoption of the Anti-SLAPP Directive marks another crucial step in safeguarding public participation, including the protection of EHRDs. The recent case of Energy Transfer v Greenpeace in the USA will be a test for the anti-SLAPP protections beyond cross-border cases to determine if domestic and international measures can effectively uphold the rights of EHRDs, as provided in the Directive.

5.2 EU economic instruments

The European Green Deal, launched by the European Commission in 2019, aims to transform the EU economy in a green manner and achieve climate neutrality by 2050¹⁶⁴. It has set in motion a comprehensive suite of environmental and climate-related policies along with regulatory measures¹⁶⁵, including various legislative instruments, *inter alia*, the CSDDD, the Taxonomy Regulation, the Corporate Sustainability Reporting Directive (CSRD) and the CRMA. All these instruments promote responsible business conduct with regard to environmental and human rights impacts. The Taxonomy Regulation is a key part of the EU's sustainable finance framework, establishing a common classification system to identify 'which economic activities can be considered environmentally sustainable'¹⁶⁶. Importantly, the regulation also includes a human rights

¹⁶¹ M. Steurer, '[Jury finds Greenpeace at fault for protest damages, awards pipeline developer more than \\$660 million](#)', *North Dakota Monitor*, 19 March 2025.

¹⁶² D. Bychawska-Siniarska and Z. Nowicka, '[From Zero to Hero](#)', *VerfBlog*, 04 September 2024.

¹⁶³ C. Eckes and P. Paiement, '[Silencing Greenpeace: Can the EU Prevent the Chilling Effect on Democracy From Crossing the Atlantic?](#)', *VerfBlog*, 31 March 2025.

¹⁶⁴ See European Commission, 'Delivering the European Green Deal: On the path to a climate-neutral Europe by 2050', [webpage](#).

¹⁶⁵ See for instance: European Parliament and Council, [Regulation \(EU\) 2021/1119 of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations \(EC\) No 401/2009 and \(EU\) 2018/1999 \('European Climate Law'\)](#), Official Journal of the EU, L 243/1, 9 July 2021. Further reading, see K. Arabadjieva, and S. Bogojević, [The European Green Deal: climate action, social impacts and just transition safeguards](#), *Yearbook of European Law*, 2024.

¹⁶⁶ ESGRID, '[Understanding EU Taxonomy Regulation and SFDR: A Comprehensive Guide](#)', 29 November 2024.

dimension through its 'minimum safeguards' requirement in Article 18, which stipulates that activities must respect international human rights and labour standards to qualify as sustainable¹⁶⁷. Pertinent here are the OECD Guidelines for Multinational Enterprises, the UN Guiding Principles on Business and Human Rights and the ILO core conventions. However, concerns remain about the practical enforcement of these safeguards, as companies largely self-assess their compliance, raising questions about the effectiveness of human rights protections within the sustainable finance agenda.

Accordingly, in February 2025, the Commission proposed an 'Omnibus simplification package' aimed at streamlining these due diligence requirements, which would effectively result in reducing reporting obligations under the CSDDD, CSRD and Taxonomy Regulation but would unfortunately affect EHRDs negatively¹⁶⁸. More specifically, the Omnibus proposal includes a planned postponement of the implementation of CSRD and CSDDD, which would result in banks lacking critical data for sustainable loans, thereby leaving human rights violations and environmental harm unaddressed for longer and denying EHRDs the information they need to hold companies accountable. The CSRD would cover only 5 000 companies instead of 50 000, which would limit public and civil society access to corporate human rights and environmental risk disclosures¹⁶⁹.

Under the revised CSDDD, due diligence obligations would apply only to direct business partners, excluding smaller suppliers and subcontractors where the gravest risks often occur, which weakens the ability of EHRDs to intervene in cases of abuse within supply chains. Additionally, scaling back stakeholder engagement duties deprives EHRDs of formal, meaningful avenues to raise concerns and participate in decision-making processes. Monitoring of adverse impacts would be required only every five years, thus reducing corporate accountability and leaving EHRDs with fewer opportunities to address ongoing harms. The removal of mandatory corporate liability for due diligence failures and the exclusion of representative actions by NGOs and trade unions would strip EHRDs and affected communities of effective legal remedies¹⁷⁰.

Finally, weakening climate action obligations and limiting transparency around taxonomy alignment would increase greenwashing risks, making it harder for EHRDs to identify harmful corporate practices and advocate for climate justice¹⁷¹.

In sum, these changes would significantly reduce corporate accountability, restrict access to information, limit opportunities for meaningful participation and weaken legal protections, all of which are essential tools for EHRDs to defend communities, ecosystems and human rights.

¹⁶⁷ Platform on Sustainable Finance, [Final Report on Minimum Safeguards](#), October 2022.

¹⁶⁸ European Commission, ['Commission proposes to cut red tape and simplify business environment'](#), webpage, 26 February 2025.

¹⁶⁹ European Commission, ['Commission proposes to cut red tape and simplify business environment'](#), webpage, 26 February 2025.

¹⁷⁰ See an overview of the proposed changes here: The Greens/European Free Alliance, ['Omnibus Simplification Package puts Green Deal at risk'](#), Press Release, 26 February 2025.

¹⁷¹ The Greens/European Free Alliance, ['Omnibus Simplification Package puts Green Deal at risk'](#), Press Release, 26 February 2025.

The proposed Omnibus package prompted reactions from several NGOs¹⁷² and the UN Special Rapporteur on Environmental Defenders, who issued a letter expressing concern by highlighting how key safeguards in these regulations are at risk of being dismantled¹⁷³. Although the EU seeks to position itself as a global leader in human rights and environmental protection, the economic activities endorsed under the Taxonomy Regulation and the CSDDD risk undermining these objectives if their provisions concerning the rights of EHRDs, as well as access to information, public participation and access to justice in environmental matters, are weakened or diverge from established international standard¹⁷⁴.

This section will next examine how EU economic instruments can affect EHRDs, which are frequently targeted in connection with logging, resource extraction and other activities in third countries where the EU trades or where European companies operate directly or through their supply chains.

5.2.1 Forestry legislation

The focus here is on the EU's new forestry legislation, namely the Deforestation-Free Products Regulation¹⁷⁵ adopted in 2023, which aims to reduce the EU's impact on global deforestation whilst also incorporating relevant provisions for EHRDs. This will eventually replace the Timber Regulation¹⁷⁶, which remains in force until 2027 for timber products produced before the Deforestation-free Regulation came into force on 29 June 2023. For EHRDs, these developments create both opportunities and challenges, as discussed below.

The Deforestation-free Regulation, together with other initiatives¹⁷⁷, has evolved EU forestry legislation to address illegal logging and deforestation by regulating both the export and import of

¹⁷² See the joint statement by over 170 NGOs, EHRDs, trade unions and climate activists: Business and Human Rights Resource Centre, [‘170 CSOs, human rights & environmental defenders, trade unions and climate activists call out against ‘Omnibus’ proposal’](#), 14 January 2025; also Global Witness, [“Total dereliction of responsibility, free pass for polluters”: Global Witness reacts to CSDDD omnibus proposal](#), 26 February 2025.

¹⁷³ M. Forst, [Letter of the UN Special Rapporteur on environmental defenders under the Aarhus Convention expressing concern](#), 2025. This was about the European Commission's announcement in November 2024 of an 'Omnibus simplification package' to 'reduce reporting burdens' under the CSDDD, CSRD and the Taxonomy Regulation, to the Ambassadors and Permanent Representatives to the EU, in Brussels, of the EU Member States with copy to the Permanent missions to the UN Office and other international organisations in Geneva and Member States.

¹⁷⁴ A. Kron, 'Calling for Coherence: Analysing the Protection of Environmental Defenders in the European Green Deal' in D. Duez and C. Rizcallah (eds), *Standing Up for the Voiceless? Exploring the EU's Capacity for Rights Protection*, Presses Universitaires Saint-Louis Bruxelles, Brussels (Forthcoming, 2025).

¹⁷⁵ European Parliament and Council, [Regulation \(EU\) 2023/1115 of 31 May 2023 on the making available on the Union market and the export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation \(EU\) No 995/2010 \(Text with EEA relevance\)](#), PE/82/2022/REV/1, Official Journal of the EU, L 150/206, 09 June 2023. This is open for changes to the annexe [Delegated Regulation amending Annex I of Regulation \(EU\) 2023/1115 \(EU Deforestation Regulation\)](#).

¹⁷⁶ European Parliament and Council, [Regulation \(EU\) No 995/2010 of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market Text with EEA relevance](#), Official Journal of the EU, L 295/23, 12 November 2010.

¹⁷⁷ See for instance [Biodiversity strategy for 2030 – European Commission](#), and [Farm to Fork Strategy – European Commission](#); also the [Team Europe Initiative](#), under the Global Gateway, aims to halt deforestation and promote sustainable, legal value chains and the [Forest Law Enforcement, Governance and Trade in ASEAN \(FLEGT ASEAN\)](#) supporting ASEAN Member States in reducing illegal logging through stronger forest governance, sustainable management and legal timber trade.

timber as well as related commodities. While early instruments centred on validating the legality of timber based on national laws, the Deforestation-free Regulation introduces more comprehensive requirements, including compliance with international human rights standards¹⁷⁸. For instance, in its preamble, the Deforestation-free Regulation explicitly makes references to EHRDs and Indigenous Peoples, as well as human rights violations linked to agricultural production. Furthermore, the Deforestation-free Regulation contains a due diligence obligation, expanding the scope by including additional commodities and stricter sustainability criteria compared to the EU Timber Regulation. Importantly, under the Deforestation-free Regulation, specifically under Article 2(40), the 'relevant legislation of the country of production' especially refers to laws on land use rights, environmental protection, labour rights, third-party rights, FPIC, and human rights protected under international law. This broader definition may indirectly support the work of EHRDs by requiring companies to account for rights violations when conducting due diligence.

In the risk assessment required by Article 10 of the Deforestation-free Regulation, companies are obliged to consider a number of criteria regarding their products' country of origin, including the presence, consultation and claims of Indigenous Peoples along with violations of international human rights which concern rights of Indigenous Peoples as well as the broader population. However, Article 10 does not specifically mention the need to consult 'local communities'¹⁷⁹. Article 12 requires companies to publish annual reports on their due diligence systems, and Article 4(2) mandates the submission of a due diligence statement before placing products on the EU market. These transparency requirements may improve access to information for EHRDs and affected communities, provided that the companies comply with these requirements. Additionally, Article 13(2) mandates that operators using simplified due diligence procedures must switch to full due diligence if they become aware of information that indicates elevated risk, such as concerns raised by civil society. This could allow EHRDs and NGOs to influence corporate compliance and raise the bar for human rights protection in supply chains.

Furthermore, the Deforestation-free Regulation includes provisions for cooperation with third countries (Articles 29 and 30), including Forest Partnerships and country benchmarking, aimed at supporting compliance in high-risk regions. These measures are intended to facilitate implementation, but concerns remain about how such cooperation will address protection and rights, including those of participating EHRDs¹⁸⁰.

¹⁷⁸ See Articles 10(2)(h), 29(3)(d) and 30(4) in European Parliament and Council, [Regulation \(EU\) 2023/1115 of 31 May 2023 on the making available on the Union market and the export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation \(EU\) No 995/2010 \(Text with EEA relevance\)](#), Official Journal of the EU, L 150/206, 09 June 2023. See also European Commission, [Regulation on Deforestation-free products](#), webpage, nd. See also C. Ituarte-Lima and R. Mares, 'Environmental democracy: Examining the interplay between Escazu Agreement's innovations and EU economic law', *Earth System Governance*, Vol 21, 2024.

¹⁷⁹ However, local communities are specifically mentioned in other parts of the regulation, see Preamble and Articles 12, 29, 30 and 34. European Parliament and Council, [Regulation \(EU\) 2023/1115 of 31 May 2023 on the making available on the Union market and the export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation \(EU\) No 995/2010 \(Text with EEA relevance\)](#), Official Journal of the EU, L 150/206, 09 June 2023.

¹⁸⁰ C. Ituarte-Lima and R. Mares, 'Environmental democracy: Examining the interplay between Escazu Agreement's innovations and EU economic law', *Earth System Governance*, Vol 21, 2024.

Articles 31 and 32 allow individuals or organisations to raise concerns with competent authorities and seek review of official decisions but do not establish civil liability for companies or enforceable rights to remedies for harmed parties. In fact, Article 32 of the Deforestation-free Regulation contains an access to justice provision that mirrors the requirements of Article 9(3) of the Aarhus Convention. As such, the deforestation framework lacks binding provisions directly protecting EHRDs or providing them with access to remedies against companies. A 2020 European Parliament report went further, calling for EU companies' civil liability and the right to judicial remedies for affected parties¹⁸¹, albeit this has yet to be fully realised.

The EU has created the option for timber-exporting states to enter the Forest Law Enforcement Governance and Trade Voluntary Partnership Agreements (VPAs)¹⁸² that emphasise stakeholder participation as a core principle requiring public consultation throughout negotiation and implementation, access to information and remedies by referring to the Aarhus Convention¹⁸³. Stakeholders are identified by stakeholder mapping – a 'tool that can help identify who may be affected or who may affect a policy or process'¹⁸⁴. According to this tool, stakeholders may include representatives or state officials of government, large and small private-sector stakeholders across the supply chain, CSOs, Indigenous Peoples and local communities¹⁸⁵. Thus, it is important to emphasise that certain stakeholders are also rights-holders, such as Indigenous Peoples and local communities who have rights to participation and consultation under specific circumstances directly under human rights law instruments (see section 4 above), regardless of the VPAs. In addition, due to their voluntary nature, use remains limited, with only ten states having concluded such VPAs to date¹⁸⁶.

In conclusion, the EU forestry legislation still gives relatively more weight to national law simply by referring to international standards while also leveraging the roles of non-state actors, including the private sector through due diligence obligations and civil society through participation¹⁸⁷. It recognises human rights and creates space for civil society engagement but clear safeguards for EHRDs are still lacking, including explicit protection against reprisals and access to justice.

¹⁸¹ Article 5.2. European Parliament, [Report with recommendations to the Commission on an EU legal framework to halt and reverse EU-driven global deforestation](#), A9-0179/2020, 07 October 2020.

¹⁸² See EUR-Lex, '[Voluntary partnership agreements on forest law enforcement, governance and trade](#)', webpage, nd.

¹⁸³ I. Zamfir, '[Human rights in EU trade agreements. The human rights clause and its application](#)', Briefing, European Parliamentary Research Service, PE 637.975, July 2019. For a more detailed discussion, see C. Ituarte-Lima and R. Mares, '[Environmental democracy: Examining the interplay between Escazu Agreement's innovations and EU economic law](#)', *Earth System Governance*, Vol 21, 2024.

¹⁸⁴ EUFLEGT Facility, '[How a VPA can increase participation](#)', webpage, nd.

¹⁸⁵ EUFLEGT Facility, '[How a VPA can increase participation](#)', webpage, nd.

¹⁸⁶ I. Zamfir, '[Human rights in EU trade agreements. The human rights clause and its application](#)', Briefing, European Parliamentary Research Service, PE 637.975, July 2019. For a more detailed discussion, see C. Ituarte-Lima and R. Mares, '[Environmental democracy: Examining the interplay between Escazu Agreement's innovations and EU economic law](#)', *Earth System Governance*, Vol 21, 2024.

¹⁸⁷ I. Zamfir, '[Human rights in EU trade agreements. The human rights clause and its application](#)', Briefing, European Parliamentary Research Service, PE 637.975, July 2019. For a more detailed discussion, see C. Ituarte-Lima and R. Mares, '[Environmental democracy: Examining the interplay between Escazu Agreement's innovations and EU economic law](#)', *Earth System Governance*, Vol 21, 2024.

5.2.2 Free Trade Agreements

According to the European Commission, FTAs¹⁸⁸ are 'platforms for enhanced cooperation pursuing their values and interests'¹⁸⁹. All EU FTAs include a Trade and Sustainable Development (TSD) chapter and a general human rights clause, referred to as an 'essential elements clause'. The human rights clause is enforced through political dialogue led by EU diplomatic missions and as a last resort, it has the potential to suspend any agreement¹⁹⁰.

The TSD chapters establish participatory mechanisms for civil society, including Domestic Advisory Groups and annual Civil Society Forums. CSOs can be involved at various stages, including during impact assessments, implementation (via Domestic Advisory Groups) and enforcement, where they can submit complaints to the Single-Entry Point¹⁹¹ and *amicus curiae* briefs to expert panels.

While the involvement of civil society during negotiations is limited, input can be provided at the compliance stage after the final panel reports. Local actors' participation appears to be largely symbolic, according to empirical studies conducted in Colombia and Peru¹⁹². State-centred dispute mechanisms constrain access to remedies under TSD chapters. While public submission of complaints is possible, only states can initiate proceedings, which typically involve consultations followed by expert panel reports¹⁹³.

In short, while EU FTAs mandate TSD chapters covering labour and environmental issues, participation is not treated as a right. Furthermore, access to remedies is state-controlled, leaving affected individuals and communities often without any enforceable standing. This imbalance is even more pronounced in investment chapters and bilateral investment treaties, where investors have direct remedies, but other rights-holders must rely on states. Scholars have stressed the gap between the expectations placed on participatory mechanisms and the lack of political support and follow-through. The European Commission acknowledged a need to improve the implementation of TSD chapters and, hence, in 2022, committed to applying trade sanctions for serious breaches¹⁹⁴.

The integration of TSD chapters and human rights clauses in EU FTAs offers a valuable framework for promoting environmental protection and human rights abroad. However, the practical implementation of current mechanisms is limited. CSO participation remains mostly symbolic and procedurally weak, particularly for EHRDs and local communities. Remedies are state-controlled, limiting access to justice for those most affected by environmental harms linked to EU trade and

¹⁸⁸ See European Commission '[Negotiations and agreements](#)', webpage, nd.

¹⁸⁹ European Commission, [Trade Policy Review – An Open, Sustainable and Assertive Trade Policy](#), COM(2021) 66 final, 18 February 2021.

¹⁹⁰ C. Ituarte-Lima and R. Mares, '[Environmental democracy: Examining the interplay between Escazu Agreement's innovations and EU economic law](#)', *Earth System Governance*, Vol 21, 2024.

¹⁹¹ The Single-Entry Point is the centralised contact point for all EU-based stakeholders who want to lodge a complaint on market access issues or about non-compliance with commitments taken by other countries under for instance the TSD provisions of EU trade agreements. See European Commission, [Operating guidelines for the Single Entry Point and complaints mechanism for the enforcement of EU trade agreements and arrangements](#), Directorate-General for Trade, 12 December 2023.

¹⁹² C. Ituarte-Lima and R. Mares, '[Environmental democracy: Examining the interplay between Escazu Agreement's innovations and EU economic law](#)', *Earth System Governance*, Vol 21, 2024.

¹⁹³ C. Ituarte-Lima and R. Mares, '[Environmental democracy](#)', *Earth System Governance*, Vol 21, 2024.

¹⁹⁴ C. Ituarte-Lima and R. Mares, '[Environmental democracy](#)', *Earth System Governance*, Vol 21, 2024.

investments. This imbalance is especially stark when compared to the broad remedial rights afforded to investors in investment chapters and bilateral investment treaties. There is a clear need – and opportunity – for the EU to strengthen participatory mechanisms, guarantee enforceable rights for EHRDs and ensure effective and accessible remedies for environmental and human rights harms in its trade agreements. The EU’s 2022 commitment to apply trade sanctions for serious breaches presents a concrete entry point to recalibrate these mechanisms toward reinforcing the standing and protection of EHRDs.

5.2.3 The Corporate Sustainability Due Diligence Directive

This section will focus on the CSDDD and its implications for EHRDs. However, one must be mindful that this Directive functions in a broader set of instruments, as with the above-mentioned CSRD and Taxonomy Regulation.

As many EU-based companies are linked to human rights and environmental harms through their global supply chains, the recent CSDDD adopted in 2024 aims to regulate this. It requires EU-based companies to identify and address actual or potential adverse impacts across their operations, subsidiaries and value chains, including those of business partners. With its extraterritorial scope, this CSDDD affects companies both within and beyond Europe, thereby offering some protection for EHRDs’ rights through its due diligence obligations on companies to prevent reprisals and address related risks throughout their activities¹⁹⁵.

Article 5 of the CSDDD sets out companies’ fundamental duties in relation to risk-based human rights and environmental due diligence. It requires EU Member States to ensure that European companies embed due diligence into their risk management frameworks. Companies must identify and evaluate actual or potential adverse impacts, prioritise them when appropriate and implement measures to prevent, mitigate, or address these impacts. Article 5 (1) (e) of the CSDDD contains a requirement for companies to carry out ‘meaningful engagement with stakeholders in accordance with Article 13’. Stakeholders are defined in the Directive as: ‘the company’s employees, the employees of its subsidiaries, trade unions and workers’ representatives, consumers and other individuals, groupings, communities or entities whose rights or interests are or could be affected by the products, services and operations of the company, its subsidiaries and its business partners, including the employees of the company’s business partners and their trade unions and workers’ representatives, national human rights and environmental institutions, CSOs whose purposes include the protection of the environment, and the legitimate representatives of those individuals, groupings, communities or entities’¹⁹⁶. Thus, even if EHRDs are not explicitly mentioned, they are covered by this very broad definition of stakeholders. In addition, Article 14 on the notification mechanism and complaints procedure expressly includes in paragraph (2)(a) human rights defenders in the group of relevant stakeholders and as rights-holders in complaints mechanisms having the right to submit a complaint.

¹⁹⁵ Front Line Defenders, [Global Analysis 2023/24](#), May 2024.

¹⁹⁶ Article 3(1)(n), European Parliament and Council, [Directive \(EU\) 2024/1760 on corporate sustainability due diligence and amending Directive \(EU\) 2019/1937 and Regulation \(EU\) 2023/2859](#), Official Journal of the EU, L2024/1760, 05 July 2024, p. 30.

Article 13, titled 'meaningful engagement with stakeholders', introduces several obligations for companies, including providing relevant and comprehensive information (paragraph 2), consulting with stakeholders (paragraph 3), identifying and addressing barriers to engagement and ensuring that participating stakeholders are not subject to retribution or retaliation (paragraph 5). Regarding consultation, paragraph 3 clarifies when stakeholders should be consulted, which is in five different stages of the due diligence process, namely: (a) when gathering information on actual or potential adverse impacts; (b) during the development of prevention and corrective action plans; (c) when making the decision to terminate or suspend a business relationship; (d) when adopting appropriate measures to remediate adverse impacts; and (e) when developing qualitative and quantitative indicators for monitoring. Furthermore, in case it is not possible to carry out effective engagement with stakeholders to the extent necessary, companies shall additionally consult credible experts (paragraph 4)¹⁹⁷. Thus, stakeholders such as EHRDs have a critical role to play in ensuring corporate accountability, particularly when submitting complaints. However, to facilitate the fulfilment of such a role, support through development cooperation focused on advancing and facilitating exchanges of capable actors should be a priority¹⁹⁸.

Article 29 regulates EU Member States' obligations to ensure liability of companies causing damage to natural or legal persons under certain circumstances. This includes cases when it can be established that they intentionally or negligently failed to fulfil the obligations set out in Articles 10 and 11. The CSDDD enables victims of corporate abuse to seek accountability not only for a company's own actions but also for those of its subsidiaries, suppliers and other actors within its value chain. Member States are required to ensure that their national provisions on limitation periods, legal costs, injunctive relief, and collective actions effectively facilitate access to justice for those seeking redress under the Directive (Article 29(2-3) CSDD).

5.2.4 Critical Raw Materials Act

As indicated earlier in section 2, the mining sector has been identified as high-risk for EHRDs, particularly concerning the green transition¹⁹⁹. In May 2024, the European CRMA was adopted, which concerns the extraction and use of critical raw materials. This Act aims to ensure a stable supply of critical raw materials in Europe to meet the growing demand required to facilitate a green transition in line with the European Green Deal. The CRMA includes 'measures to ensure that imports of critical raw materials become more diversified' with no 'more than 65 % dependence on a third country' and that the EU's capacity to extract these minerals increases to at least 10 % of annual consumption by 2030, processing at least 40 % of annual consumption and reusing at least 25 % of annual consumption²⁰⁰.

¹⁹⁷ C. Omari Lichuma, '[Harmonization Pains but Stakeholders' Gain: The EU Corporate Sustainability Due Diligence Directive and its Implications for the Meaningful Engagement Provisions of Member States with a Due Diligence Law](#)', *VerfBlog*, 25 May 2024.

¹⁹⁸ R. Mares, '[The Unintended Consequences of Mandatory Due Diligence: The Importance of Supportive Measures in the EU Corporate Sustainability Due Diligence Directive](#)', *VerfBlog*, 13 June, 2024

¹⁹⁹ Most killings of EHRDs in 2022 and 2023 were linked to the mining and minerals sector, as presented in section 3.

²⁰⁰ Article 5 title Benchmarks in CRMA on European Commission, '[Critical Raw Materials Act](#)', webpage, nd. See I. Kampourakis, '[Unpacking the Critical Raw Materials Act](#)', *VerfBlog*, 18 January 2024.

At least 50 % of mining activities for these minerals are conducted on or near Indigenous territories²⁰¹. In the CRMA, there are no explicit references to the FPIC principle. Instead, it is stated that affected Indigenous Peoples in the mining areas should be 'meaningfully consulted' in Article 7 (1)(j) and the CRMA's preamble. The CRMA encourages reference to international standards, such as those in Annexe III (for example, the Organisation for Economic Co-operation and Development Due Diligence Guidance and the UNDRIP), but non-compliance does not preclude a project's strategic designation.

There are references to meaningful engagement, involvement or active participation of local communities in various CRMA articles²⁰². Certification schemes for sustainable CRM supply chains are also promoted. Yet, the CRMA remains vague about how compliance with human rights and the rights of Indigenous Peoples, as well as local communities, is to be evaluated²⁰³.

Under the CRMA's Article 10(2), the Commission may designate certain initiatives as Strategic Projects, granting them 'overriding public interest' status. This entails fast-tracked permission and prioritisation in legal and administrative proceedings. Strategic Projects proposed by promoters are selected based on their potential to enhance the EU's secure and resilient supply of critical raw materials and must be treated as urgent by all relevant authorities under both EU and national law. While aimed at reducing risks and delays for new investments, this preferential treatment raises concerns about EHRDs, both in terms of the access rights granted by EU law and those granted elsewhere. As expressed by Sanja Bogojevic, 'Rushing to get 'special projects' off the ground, however, runs the obvious risk of compromising the interests of local stakeholders, and Indigenous communities more specifically, for the sake of securing the supply of critical raw materials'²⁰⁴. Thus, EHRDs may be prevented from acting by having limited time as well as insufficient information.

The CRMA has also established the European Critical Raw Materials Board, which is set up to assist the Commission in implementing the regulation and to conclude Strategic Partnerships with third countries to secure CRM supply. This derisking strategy includes improving access to finance and sharing financial risks for Strategic Projects through tools such as public support guarantees, debt products and even state aid, facilitating off-take agreements, or funding from the European Investment Bank Group. As Nicola Beer, Member of the European Parliament and Rapporteur of the Act, explained, the goal is to create 'project-planning certainty for private investors'²⁰⁵. The Strategic partnerships are intended to diversify supply for the EU while considering environmental protection, socially responsible practices, human rights, labour rights, as well as engagement with local and Indigenous communities. However, these safeguards influence a partnership's priority rather than its viability and leave significant discretion over what qualifies as 'meaningful engagement' or 'socially responsible' conduct. Even though the CRMA sets out criteria such as job creation and Indigenous engagement, there is little clarity on how to prioritise the public interest

²⁰¹ S. Bogojević, '[The European Green Deal, the rush for critical raw materials, and colonialism](#)', *Transnational Legal Theory*, Vol 15, No 4, 2024, pp. 600–615.

²⁰² See in regard to Strategic Partnerships, Articles 6, 7, 15 and 37 CRMA on European Commission, '[Critical Raw Materials Act](#)', webpage, nd.

²⁰³ S. Bogojević, '[The European Green Deal, the rush for critical raw materials, and colonialism](#)', *Transnational Legal Theory*, Vol 15, No 4, 2024, pp. 600–615.

²⁰⁴ S. Bogojević, '[The European Green Deal](#)', *Transnational Legal Theory*, Vol 15, No 4, 2024, pp. 600–615.

²⁰⁵ See also source of I. Kampourakis, '[Unpacking the Critical Raw Materials Act](#)', *VerfBlog*, 18 January 2024.

vis-à-vis the private interests of companies. This lack of clarity can significantly and detrimentally affect EHRDs²⁰⁶.

Nevertheless, despite its risks, the CRMA offers entry points for EHRDs through provisions on 'meaningful consultation,' references to international human rights standards, and the promotion of certification schemes. Creation of the European Critical Raw Materials Board and Strategic Partnerships also provides opportunities for EHRDs to advocate for stronger human rights and environmental safeguards. Crucially, there's a need to establish clear criteria for balancing public interest, including environmental protection and community rights, against economic benefits when designating Strategic Projects.

In sum, the EU's expanding framework of economic instruments under the European Green Deal – from the CSDDD, CSRD and Taxonomy Regulation to sector-specific measures such as the Deforestation-free Regulation, FTAs and CRMA – has incorporated certain sustainability and human rights considerations into trade and corporate governance. Collectively, these initiatives have introduced certain obligations on companies to engage with stakeholders, improve transparency and conduct risk-based due diligence across global value chains. For EHRDs, these instruments present both significant opportunities and persistent challenges. While instruments such as the Deforestation-free Regulation and CSDDD contain provisions that indirectly or explicitly recognise the role of EHRDs and mandate meaningful stakeholder engagement, there are still critical gaps. Explicit safeguards against reprisals, enforceable rights to access to justice and robust mechanisms for ensuring accountability – particularly in contexts involving third-country operations – are inconsistently provided. The recent Omnibus simplification proposal risks further weakening corporate accountability by narrowing due diligence obligations and reducing public access to vital information. Moreover, in high-risk sectors such as mining under the CRMA, prioritising economic and strategic interests threatens to marginalise the rights and participation of EHRDs. Even where international standards are referenced, their application remains discretionary and procedural guarantees for local actors are limited.

6 EU interaction with other regional initiatives

Section 6 focuses on the fourth major component of this paper: (iv) EU collaboration with other regions on environmental democracy and the protection, promotion and fulfilment of the right to a healthy, clean and sustainable environment as advocated by EHRDs, particularly those most at risk.

Environmental democracy is multidimensional, involving not only issues concerning free elections but also a range of values and procedural qualities such as civil liberties, the quality of public deliberation and decision-making and the accountability of decision-makers to right-holders in socio-ecological dynamics²⁰⁷.

The following sub-sections present current regional trends and economic sectors where EHRDs are most at risk, followed by a description of various initiatives and instruments developed by the

²⁰⁶ S. Bogojević, [‘The European Green Deal, the rush for critical raw materials, and colonialism’](#), *Transnational Legal Theory*, Vol 15, No 4, 2024, pp. 600-615.

²⁰⁷ J. Pickering et al., [Democratising Sustainability Transformations: Assessing the Transformative Potential of Democratic Practices in Environmental Governance](#), *Earth System Governance*, Vol 11, 2022.

EU to protect human rights defenders. This will conclude with a closer look at particular initiatives in different regions (Latin America, Asia, and Africa) to reflect on opportunities for the EU to collaborate in protecting, promoting, and fulfilling the right to a healthy, clean, and sustainable environment.

6.1 EU Guidelines and EU Action Plan on Human Rights and Democracy

The EU's Strategic Framework on Human Rights and Democracy, adopted in 2012, established the foundation for a more effective and coherent human rights policy. In its implementation, the EU introduced successive Action Plans (2012–2014, 2015–2019), with a continued commitment in the current 2020–2024 Action Plan²⁰⁸, which has been extended until 2027²⁰⁹. The 2020–2024 Action Plan identifies five main priorities, including the protection and empowerment of human rights defenders. It also responds to evolving challenges by focusing on digital technologies and the intersection between environmental issues and human rights. Together with the EU Guidelines on Human Rights Defenders²¹⁰ (EU Guidelines), the Action Plan is a key instrument for protecting EHRDs. These are complementary instruments within the EU's *external* human rights policy and provide guidance for the EU in its efforts to uphold human rights and globally support those who defend them.

Human rights defenders working on issues related to land, environment and Indigenous Peoples' rights have been identified as being increasingly targeted²¹¹. Although there is no specific protection addressing EHRDs in the EU Guidelines, the 2020–2024 Action Plan has prioritised protection for EHRDs. For instance, when 'promoting and empowering individuals', EHRDs are specifically mentioned because of the particular risk they are facing by promoting visibility, supporting initiatives and advocating for individual cases concerning, *inter alia*, legitimate land tenure rights, natural resources, environmental protection, the rights of Indigenous Peoples as outlined in the UNDRIP, climate change and harms arising from corporate misconduct²¹².

The EU Guidelines are intended for use in EU relations with third countries and international fora, emphasising support for UN and regional protection mechanisms. The European Parliament plays a key role in reinforcing this support and, through its Subcommittee on Human Rights, regularly holds hearings with human rights defenders, adopting resolutions that highlight their situations and needs²¹³.

²⁰⁸ European External Action Service, [EU Action Plan on Human Rights and Democracy 2020 – 2024](#), 2020.

²⁰⁹ European External Action Service, [The EU extends its Action Plan on Human Rights and Democracy until 2027](#), 07 May 2024.

²¹⁰ European External Action Service, [Revised EU Guidelines on Human Rights Dialogues with Partner/Third Countries](#), Annex, 6279/21, 2021.

²¹¹ See Front Line Defenders, [Global Analysis 2023/24](#), May 2024. This has also been acknowledged in the European Parliament report already in 2021.

²¹² I. Ioannides, [EU Guidelines on Human Rights Defenders, European Implementation Assessment](#), European Parliamentary Research Service, PE 730.345, 2022.

²¹³ See for instance European Parliament, [Resolution on human rights and democracy in the world and the European Union's policy on the matter – annual report 2022 \(2022/2049\(INI\)\)](#), P9_TA(2023)0011, 18 January 2022; European Parliament, [Resolution with recommendations to the Commission on corporate due diligence and corporate accountability \(2020/2129\(INL\)\)](#), P9_TA(2021)0073, 24 November 2021.

The Neighbourhood, Development and International Cooperation Instrument Global Europe guides most of the EU's external action financing. Through its mandate, it supports states in overcoming 'long-term developmental challenges and will contribute to achieving the international commitments and objectives that the Union has agreed to, in particular the 2030 Agenda and its Sustainable Development Goals and the Paris Agreement'. As a key priority for the 2021–2027 period, the multi-annual indicative programming for the Human Rights and Democracy thematic programme focuses on addressing the human rights impacts of environmental degradation and climate change²¹⁴.

The ProtectDefenders.eu is a human rights defender mechanism established in 2015 to provide urgent and long-term support to human rights defenders at risk. This mechanism is implemented by a consortium of 12 international NGOs and networks, including Front Line Defenders, Reporters Without Borders, FIDH, World Organisation Against Torture and Protection International. The organisation offers emergency grants, legal and medical assistance, relocation support, security training and capacity-building. It operates independently from the EU, with a hotline service for human rights defenders. Over the years, it has assisted thousands of defenders working in high-risk or repressive environments by offering, for instance, emergency visas and relocations²¹⁵. However, during interviews with organisations working with EHRDs within and outside Europe, it became clear that this mechanism is little known and, hence, not used by our key informants. The resources to support human rights defenders are insufficient under the ProtectDefenders.eu²¹⁶. Moreover, there seem to be certain issues related to the organisation's structure, with a more reactive and *ad hoc* response to the threats faced by EHRDs. At the same time, such a reactive approach may also offer adaptable, tailor-made and confidential solutions²¹⁷.

To implement the EU Action Plan on Human Rights and Democracy, the EU has developed a broad system of human rights dialogues and consultations with around 60 partner countries and regions. These are led by the European External Action Service, on behalf of the Vice President of the European Commission and the High Representative for Foreign Affairs and Security Policy and are carried out in coordination with EU delegations, Commission services and EU Member States. Each country or region is different, thereby issues will be country- or region-specific. This dialogue is embedded in the overall political relationship but should be linked with the Human Rights and Democracy Country Strategies. Indigenous Peoples, women and environmental activists have consistently been ranked among the top human rights defenders engaged by EU delegations²¹⁸.

²¹⁴ European Commission, [‘Thematic Programme on Human Rights and Democracy Multi-Annual Indicative Programming 2021–2027’](#), 2021.

²¹⁵ I. Ioannides, [EU Guidelines on Human Rights Defenders, European Implementation Assessment](#), European Parliamentary Research Service, PE 730.345, 2022, p. 7.

²¹⁶ I. Ioannides, [EU Guidelines on Human Rights Defenders](#), European Parliamentary Research Service, PE 730.345, 2022, p. 66.

²¹⁷ The 2017 Evaluation on the EU external financing instruments made such a comment in relation to the EIDHR. See in I. Ioannides, [EU Guidelines on Human Rights Defenders](#), European Parliamentary Research Service, PE 730.345, 2022, p.32.

²¹⁸ Indigenous peoples, women, and environmental activists have consistently ranked among the top human rights defenders engaged by EU delegations. The EU's 2018 Annual Report on Human Rights and Democracy highlights the importance of utilising human rights mechanisms to address issues such as land-grabbing in countries such as Peru, Nepal and the Philippines. Additionally, the EU has strengthened its collaboration with NHRIs, which serve as key accountability actors fostering an environment conducive to sustainable development.

For instance, during the EU-Vietnam Human Rights Dialogue in December 2017, the EU called for the release of environmental activists who had been detained for speaking out against an environmental disaster²¹⁹.

There are various types of dialogues, ranging from formal and informal arrangements to those based on bilateral or regional agreements. Some are locally conducted by EU Delegations (for instance, in the cases of Chile and Argentina), while others occur within specific subcommittees tied to cooperation or association agreements, such as those with Morocco, Tunisia, Lebanon, Jordan, Egypt and Iraq²²⁰. Civil society, including NGOs and human rights defenders, also participates in the dialogues. Consultations with civil society actors can offer insights into human rights situations within the country or region concerned, referring to potential individual cases and offering expertise on certain topics. These consultations are intended to be held in advance of the dialogue to set the agenda and debriefing sessions are also part of the standard procedure²²¹. Despite EHRDs being a priority, there seems to be no structured approach to address and reach out to EHRDs in these dialogues.

Furthermore, there are inconsistencies in how these instruments operate in the EU's external relations. For instance, issues related to the EU visa policy may conflict with its human rights policy, as outlined in the EU Guidelines. The EU Visa Handbook and the EU Visa Code need amendments to ensure they consistently reflect provisions on the mobility of human rights defenders in the EU Guidelines that offer emergency visas and relocation to human rights defenders at risk, which also regards EHRDs. Moreover, based on feedback received as part of this paper, there is a need to improve communication and transparency regarding civil society to strengthen the visibility of human rights focal points in EU delegations, as there are currently difficulties in identification and access²²².

Launched in 2021 by the European Commission, the Global Gateway has been promoted as the EU's collaboration with the Global South for sustainable and trusted connections that work for people and the planet²²³. The Global Gateway's main funding source is the EU's development policy and budget, which must have poverty reduction as its primary mission, with values relevant to advancing rights of EHRDs being promoted in Global Gateway-associated forums. For example, the Declaration of the Community of Latin American and Caribbean States Summit (or EU-CELAC Summit 2023) explicitly refers to human rights defenders²²⁴. More specifically, EU and Latin America and the Caribbean (LAC) States 'commit to fighting multiple and intersecting forms of discrimination [...] full and equal representation and participation of all women and girls in decision-making processes, rights of Indigenous peoples as set out in the UNDRIPs, rights of the child, human rights defenders, together with the rights of persons in situations of vulnerability and people

²¹⁹ I. Ioannides, [EU Guidelines on Human Rights Defenders](#), European Parliamentary Research Service, PE 730.345, 2022.

²²⁰ European External Action Service, [Revised EU Guidelines on Human Rights Dialogues with Partner/Third Countries](#), Annex, 6279/21, 2021.

²²¹ European External Action Service, [Revised EU Guidelines on Human Rights Dialogues with Partner/Third Countries](#), Annex, 6279/21, 2021, p. 7

²²² I. Ioannides, [EU Guidelines on Human Rights Defenders, European Implementation Assessment](#), European Parliamentary Research Service, PE 730.345, 2022, pp. 63-64.

²²³ European Commission, '[Global Gateway](#)', webpage, nd.

²²⁴ European Commission, [Declaration of the EU-CELAC Summit 2023](#), STATEMENT/23/3924, 18 July 2023.

of African descent'²²⁵. The underlying values of democracy, inclusive multilateralism and international cooperation are also reaffirmed (paragraph 7), along with the EU and LAC States' commitment to the CBD and the Kunming-Montreal Global Biodiversity Framework.

As part of the Global Gateway²²⁶, the President of the European Commission in 2023²²⁷ announced financing of over EUR 45 billion in Latin America and the Caribbean until 2027. Yet, it is unclear how much, if any, of this funding will be used to support EHRDs in the context of climate change, biodiversity and ecosystems as well as pollution. It is also unclear whether there are any human rights safeguards and associated mechanisms for reviewing implementation and accountability to ensure that this financing is aligned with human rights standards, including the rights of EHRDs. Eurodad, Counter Balance and Oxfam have all documented evidence from Global Gateway projects, including examples in Latin America, Africa and Asia, that raise concerns on the strategic framework of the Global Gateway being increasingly used to redirect the EU's development budget to support projects for European companies – some with problematic human rights track records – and EU geopolitical interests, rather than development objectives set out in treaties and policies such as poverty eradication and ending inequalities²²⁸.

6.2 EU collaboration with other regional initiatives

Environmental democracy dynamics in which EHRDs conduct their work take distinct forms in the various regions with which the EU interacts. Cooperation with European non-EU countries occurs through the Council of Europe (CoE) and civil society. In Europe, there are relevant instruments for EHRDs within the context of the CoE framework, notably the European Convention on Human Rights, the jurisprudence of the European Court of Human Rights (ECtHR), alongside the progressive development of EU laws and policies on environmental protection, participation, and access to justice.

The CoE has been encouraged to provide formal recognition of the right to a healthy environment. Most recently, six UN Special Rapporteurs called on the Council to do so, noting that all EU Member States had supported both UN resolutions (A/HRC/RES/48/13 and A/RES/76/300) affirming this right at the global level, which reflects a clear regional and international consensus. Experts underscored that recognising the right to a healthy environment is vital for advancing environmental democracy, ensuring access to information, public participation, transparency and accountability in environmental decision-making, as well as safeguarding the well-being of present and future generations²²⁹. Furthermore, the EU has taken a step forward in recognising the right to a healthy environment. In its written submission to the ICJ regarding the advisory opinion on the

²²⁵ European Commission, [Declaration of the EU-CELAC Summit 2023](#), 18 July 2023.

²²⁶ The European Commission and the EU High Representative have launched the Global Gateway, a strategy to enhance global connections in digital, energy, transport, health, education, and research. See European Commission, '[Global Gateway](#)', webpage, nd.

²²⁷ European Commission, [Commission presents Global Gateway Investment Agenda with Latin America and Caribbean](#), Press Release, IP/23/3863, 17 July 2023.

²²⁸ Eurodad, Counter Balance, and Oxfam, [Who profits from the Global Gateway? The EU's new strategy for development cooperation](#), 2025.

²²⁹ OHCHR, '[Council of Europe must recognise the right to a healthy environment, UN experts urge](#)', Press Release, 05 May 2025.

obligation of states in relation to climate change, the EU referred to these rights as an emerging customary international law norm²³⁰. If the CoE followed this path to formal recognition of the right to a healthy environment, it would strengthen the rights of EHRDs in Europe. Human rights and the environment are increasingly being merged, as evidenced by the ECtHR's rulings on approximately 300 environment-related cases. Many brought by EHRDs feature the right to life, freedom of expression and family life, with issues ranging from pollution and environmental disasters to the ease of accessing environmental information, including the recent case of *Verein Klimaseniorinnen Schweiz v Switzerland*, which addressed climate change²³¹. If the right to a healthy environment were recognised in a standalone capacity, this would probably mean that even more EHRDs and environmental NGOs could be active by bringing cases to the ECtHR.

There are certainly gaps in the effective implementation of legal standards, decisions and recommendations by states, which undermine the work and protection of EHRDs²³². Conversely, there are also promising developments by EHRDs, involving the application of the European Social Charter as well as the Bern Convention on the Conservation of European Wildlife and Natural Habitats to advance environmental stewardship.

Beyond relying on conceptualisations of democracy and EHRDs solely from a Eurocentric perspective, examples of other regional initiatives beyond Europe are provided here, with a focus on LAC, where EHRDs are disproportionately at risk but where significant regional legal advances have been made, which are relevant to their rights. LAC initiatives call on regionally rooted instruments with relevance to EHRDs in their interplay with the EU, not least in the context of EU-LAC economic dynamics.

The Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in LAC (better known as the Escazú Agreement, hereafter) is the first agreement with explicit reference to EHRDs. The Agreement recognises the rights of EHRDs (Article 9) and establishes obligations concerning gender-sensitive measures favourable to public participation in environmental decision-making processes (Article 7, paragraph 10). These provisions should be read together with the provision on pre-emptive actions, specifically the possibility of ordering precautionary and interim measures to prevent or halt damage to the environment (Article 8.3d). Prevention is especially relevant for EHRDs engaging in biodiversity stewardship and preventing toxic pollution, as the damage is often irreparable.

At the First Meeting of the Countries Signatories to the Escazú Agreement in October 2019, a discussion of actions carried out at a national level highlighted that many countries' governments collaborated with civil society in their work to implement the agreement²³³. Three Defenders Fora

²³⁰ International Court of Justice, [Written comments of the European Union. Request for Advisory Opinion](#), 2024.

²³¹ CoE, [Manual on Human Rights and the Environment. containing principles emerging from the case law of the European Court on Human Rights and the conclusions and decisions of the European Committee of Social Rights](#), 3rd edition, 2022. See also ECtHR, [Case Of Verein Klimaseniorinnen Schweiz And Others V. Switzerland](#), Grand Chamber, 09 April 2024

²³² OHCHR, [Joining forces to better support and protect environmental Human Rights Defenders \(EHRDS\) in Europe: preparatory meeting on the initiative of a European Forum for EHRDS](#), 08 October 2024.

²³³ UN Economic Commission for Latin America and the Caribbean, [Report of the First Meeting of the Countries Signatory to the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean](#), LC/ESZ.1/3, 13 January 2020.

under the Escazú Agreement have taken place so far, the latest being in 2025²³⁴. International solidarity between the EU and other regions may involve sustained spaces of 'learning by doing', such as these Defenders Fora, which support peer-to-peer regional and cross-regional learning. Other regional advances in LAC include the San Salvador Protocol under the American Convention on Human Rights, which recognises the right to a healthy environment. The IACtHR²³⁵, through its Advisory Opinion 23/17, has reiterated these connections between this and other rights. As for the IACtHR, in the context of its Advisory Opinion on Climate Emergency and Human Rights, CSOs have been active in providing inputs to inform the court, for example, in the form of *amici curiae* briefs and interventions in public hearings. For example, the *Centro de Justicia y Derecho Internacional* (CEJIL – Center for Justice and International Law) jointly with other national and international organisations submitted an *amicus curiae* brief on the human rights obligations concerning environmental and territorial defenders, as well as women, Indigenous Peoples and Afro-descendant communities in the context of the climate emergency highlighting that states should incorporate intersectional considerations to adequately guarantee the rights of defenders, not only by protecting them but also by creating favorable conditions for them to carry out their work²³⁶. In addition to binding instruments, there are also non-binding instruments such as the Inter-American Model Law on Prevention, Punishment and Eradication of Violence Against Women in Political Life. These are relevant for responding to the challenges of political women's rights and can be used to advance gender-specific challenges faced by women EHRDs.

Entry points for cross-regional collaboration between the EU and Africa can be built on legal frameworks such as the African Convention on the Conservation of Nature and Natural Resources²³⁷, along with the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (hereafter, the Maputo Protocol)²³⁸. This Protocol recognises the right to live in an acceptable living condition within a healthy environment (Article 16) and reaffirms the principle of gender equality enshrined in the Constitutive Act of the African Union as well as other principles, such as solidarity, democracy, freedom and peace. The African Commission has recognised the importance of human rights and public participation in protecting the natural environment in the Resolution on a Human Rights-Based Approach to Natural Resources Governance from 2012²³⁹. The East African Community Protocol on Environment and Natural

²³⁴ International Institute for Sustainable Development, '[A Legal Compass for Navigating Climate Financing in Turbulent Times](#)', 22 April 2025.

²³⁵ See e.g., IACtHR, [Case of Kichwa Indigenous people of Sarayaku v. Ecuador](#), Merits and Reparations, 2012, Series C No 245, 27 June 2012.

²³⁶ This amicus brief was signed by CEJIL in conjunction with Amazon Frontlines, Amazon Watch, Asociación Pro Derechos Humanos, the Center for Climate Crime Analysis, among others. CEJIL et al., '[Emergencia Climática y Derechos Humanos](#)', Amicus Brief to Advisory Opinion to the IACtHR, OC-32, 18 December 2023.

²³⁷ See African Union, [African Convention on the Conservation of Nature and Natural Resources](#), 1969.

²³⁸ See African Union, [Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa](#), 2019.

²³⁹ African Commission on Human and Peoples' Rights, [Resolution on a Human Rights-Based Approach to Natural Resources Governance](#). ACHPR/Res.224(LI)2012, 2012.

Resources Management from 2006 provides a cooperative framework for environmental management, emphasising sustainable development and environmental justice²⁴⁰.

Complementary to regional African treaties, EU opportunities to support initiatives emerging from Africa also include the Model Law developed by the Network of African NHRIs, offering pathways for countries to strengthen legal recognition, protection mechanisms and accountability measures for human rights defenders²⁴¹. In May 2025, the Pan African Lawyers Union in collaboration with other civil society organizations requested to the African Court on Human and People's Rights an advisory opinion on the obligations of states with respect to the climate change crisis, including a section on EHRDs as one of the groups of people most affected by climate change in the continent²⁴².

Finally, the African Environmental Defenders Fund initiative from the NGO Natural Justice stands out because it has supported EHRDs most at risk throughout the continent since 2019. As highlighted by their website: 'Initially, this fund targeted members of the International Land Coalition who faced threats and harassment due to their work as environmental defenders. In 2021, Natural Justice and its partners expanded the fund, with the result that they can now provide funding to a wider array of environmental defenders, including non-members of the International Land Coalition and targeting defenders in a number of countries on the African continent that are experiencing extractive and other industry development'²⁴³. Initiative partners include the International Land Coalition, the Indigenous Peoples' and Community Conserved Areas and Territories Consortium and the African Activists for Climate Justice coalition. This third grouping comprises Pan-African Climate Justice Activists, Oxfam Novib, the African Women's Development and Communication Network, and the African Youth Commission.

As for Southeast Asia, the Association of Southeast Asian Nations (ASEAN) Human Rights Declaration (2012) explicitly recognises the right to a safe, clean and sustainable environment (Article 28(f)). Other relevant instruments for EHRDs range from the ASEAN Political-Security Community Blueprint 2025²⁴⁴, which aims to ensure 'that countries in the region live at peace with one another and with the world in a just, democratic and harmonious environment', to the ASEAN Declaration on the Gender-Responsive Implementation of the ASEAN Community Vision 2025 and Sustainable Development Goals. However, the region lacks a review mechanism to ensure the consistent interpretation and implementation of human rights and the environment²⁴⁵.

The Asian Forum for Human Rights and Development (hereafter, FORUM-ASIA) has expressed growing concern about the region's shrinking civic space with a rise in the criminalisation of

²⁴⁰ R. Ibreck et al., [Taking Environmental Law To The People. The Risky Work Of Environmental Human Rights Defenders In East Africa](#), Policy Brief, *DefendDefenders*, 2025.

²⁴¹ See Network of African NHRIs, ['Defending Human Rights Defenders'](#), webpage, 2024.

²⁴² The Pan African Lawyers Union made the request in collaboration with the African Climate Platform and other African CSOs including the Environmental Lawyers Collective for Africa, Natural Justice and resilient40. See Pan African Lawyers Union, [Request for an advisory opinion to the African Court on Human and People's Rights on the obligations of the states with respect to the climate change crisis](#), 2025.

²⁴³ See African Environmental Defenders, Emergency Fund [website](#).

²⁴⁴ ASEAN Secretariat, [ASEAN Political-Security Community Blueprint 2025](#), Jakarta, 2016

²⁴⁵ C. Ituarte-Lima et al., ['Prosperous and green in the Anthropocene: The human right to a healthy environment in Southeast Asia'](#), *Raoul Wallenberg Institute of Human Rights and Humanitarian Law*, Lund, Sweden, 2022.

environmental defenders, often under restrictive laws²⁴⁶. FORUM-ASIA is a membership-based regional network of human rights organisations in Asia extending across 23 countries, mainly in Asia. The ongoing process of drafting an ASEAN Environmental Rights Declaration presents an opportunity to address these concerns by ensuring that the final text is aligned with international human rights law and acknowledges the importance of and a commitment to protecting the rights of EHRDs, including Indigenous Peoples. This network has called for 'the ASEAN Intergovernmental Commission on Human Rights and ASEAN Environmental Rights Working Group to adopt a significantly more comprehensive declaration on environmental rights'²⁴⁷.

EU collaboration opportunities with Southeast Asian countries include supporting ground-up initiatives by civil society, Indigenous Peoples and local communities for safeguarding the rights of EHRDs and advancing the right to a healthy environment. One of the most relevant regional initiatives is the Asia Pacific Network of Environmental Defenders (APNED), integrated by 'individuals, civil society groups, non-government organisations, grassroots and people's organisations who advocate and work on the issue of human rights, environmental protection and natural resource conservation'²⁴⁸. From numerous relevant activities and reports, the APNED, the UN Environment Programme, the UN Development Programme and others have developed a comprehensive toolkit to support the work of EHRDs in the region²⁴⁹. The EU could also contribute to supporting priorities expressed by regional EHRDs by participating in dialogue processes, such as the Asia-Pacific Environmental Human Rights Defenders Forums²⁵⁰. Advancing the rights of specific groups, such as children EHRDs, can be undertaken by backing local, national and regional actors in implementing the Principles and Policy Guidance on Children's Rights to a Safe, Clean, Healthy and Sustainable Environment in the ASEAN Region²⁵¹.

6.3 EU collaboration with National Human Rights Institutions in Europe and beyond

Synergies between EHRDs' initiatives and NHRIs in Europe, linking with other regions, can significantly contribute to the implementation of international commitments. EHRDs' collaboration with NHRIs, regional networks of NHRIs and the Global Network of Human Rights Institutions is instrumental in translating environmental and human rights commitments into results and action²⁵².

²⁴⁶ FORUM-ASIA, [Defending in Numbers: Rising Together Against All Odds](#), 2023.

²⁴⁷ FORUM-ASIA calls for 'the ASEAN Intergovernmental Commission on Human Rights (AICHR) and ASEAN Environmental Rights Working Group (AERWG) to adopt a significantly more comprehensive declaration on environmental rights'. FORUM-ASIA, ['AICHR should adopt a significantly more comprehensive ASEAN Declaration on Environmental Rights'](#), Press Release, 07 May 2024.

²⁴⁸ See APNED [website](#).

²⁴⁹ The toolkit can be accessed in APNED [website](#).

²⁵⁰ See more at OHCHR, ['About the 3rd Asia-Pacific Environmental Human Rights Defenders Forum'](#), webpage, nd.

²⁵¹ United Nations Environment Programme, [Principles and Policy Guidance on Children's Rights to a Safe, Clean, Healthy and Sustainable Environment in the ASEAN Region](#), Nairobi, 2021.

²⁵² For more information, see insights from a series of interactive webinars organised by Global Alliance for NHRIs, UN institutions and other groups which took place in November 2019, focusing on Africa, Asia and the Pacific, Canada, Europe and Latin America: Environmental Governance Programme, ['Webinar Series: Human Rights Institutions and the Environment'](#), webpage, nd. See also C. Ituarte-Lima, ['Why Empowering National Human Rights Institutions Helps on the Quest for Healthy Earth?'](#), 2020.

NHRIs are mandated by law, albeit yet independent from governments. In this context, NHRIs are especially well-placed to bridge the gap between ground-up efforts of defenders such as youth and women's movements and human rights duty-bearers, thereby 'contributing to the enjoyment of the right to a healthy environment'²⁵³. This benefits not only defenders but also the broader population. Yet, NHRIs also face challenges, such as their recommendations not being implemented by duty-bearers in some instances, as well as funding limitations that hinder their ability to fulfil their mandate.

Nonetheless, defenders gain a major comparative advantage by collaborating with NHRIs, many of which have a long history of working hand in hand with human rights defenders to advance the realisation of rights for people in the most vulnerable situations. In Mongolia, for instance, with the support of CSOs and environmental researchers, the NHRI has 'developed a draft law to safeguard the rights of EHRDs'²⁵⁴. The South African NHRI, together with food sovereignty CSOs, has 'developed a draft climate charter to be presented to Parliament with a more holistic approach to the current climate policy'²⁵⁵. NHRIs in Malaysia²⁵⁶ and Indonesia²⁵⁷ have collaborated closely with Indigenous peoples and local communities in enquiries concerning land and tenure rights.

Business and human rights are key issues raised by EHRDs, and there are good practices stemming from NHRIs' collaboration with defenders that contribute to addressing significant legal, institutional and financial obstacles to tackle the impacts of transnational corporations on the environment and their responsibilities concerning human rights. For example, following a request by a group of Filipino citizens and CSOs, the Human Rights Commission of the Philippines released on 06 May 2022 the findings of an inquiry into responsibility for the impacts of climate change on the so-called Carbon Majors²⁵⁸, a term referring to the world's largest companies dealing in crude oil, natural gas, coal and cement. This inquiry took place after various particularly violent typhoons, causing thousands of deaths and affecting countless livelihoods²⁵⁹. However, because climate change is a worldwide existential issue, the Philippines' national enquiry caught global attention, which led to in-person and virtual hearings by defenders in the Philippines, New York and London. This historic inquiry contributed to advancing the accountability of Carbon Majors for the impacts of climate change in the Philippines²⁶⁰.

²⁵³ C. Ituarte-Lima, '[Why Empowering National Human Rights Institutions Helps on the Quest for Healthy Earth?](#)', 2020.

²⁵⁴ C. Ituarte-Lima, '[Why Empowering National Human Rights Institutions Helps on the Quest for Healthy Earth?](#)', 2020.

²⁵⁵ Environmental Governance Programme, '[Webinar Series: Human Rights Institutions and the Environment](#)', webpage, nd.

²⁵⁶ See, for example, Human Rights Commission of Malaysia, [SUHAKAM National Inquiry into the Land Rights of Indigenous Peoples](#), report, 2013.

²⁵⁷ National Commission on Human Rights of Indonesia, [National Inquiry into Indigenous Peoples' Rights on their Territories in the Forest Zone](#), 2015.

²⁵⁸ See Republic of Philippines Commission on Human Rights, [website](#).

²⁵⁹ O. Milman, '[Life in the Philippines: preparing for the next typhoon Haiyan](#)', *The Guardian*, 25 March 2015.

²⁶⁰ A. Savaresi and M. Wewerinke-Singh, '[Historic inquiry holds the Carbon Majors accountable for the impacts of climate change in the Philippines](#)', *The Global Network for Human Rights and the Environment*, 06 May 2022.

7 Conclusions and recommendations

7.1 Conclusions

Five main conclusions emerge from this paper:

1. EHRDs are a broad collective of individuals and communities defending their environmental rights in different parts of the world and within different power structures (children and youth, women, Indigenous Peoples and professionals, in rural communities or urban settings). In some regions, EHRDs have been subject to negative and pejorative narratives. Legislation, policies and strategies that properly capture and contextualise the specificities of distinct groups of EHRDs, recognise them as right-holders and clarify the associated obligations of duty-bearers, if need be.
2. International human rights and soft law provide the basis for interpreting states' obligations concerning EHRDs in light of the green transition. Procedural and substantive obligations concerning EHRDs' rights have not been clearly specified in the 2021 resolution (2020/2134) on environmental defenders and climate change. ILO Convention No 169 is recognised as being particularly significant in advancing the protection of EHRDs' rights. International environmental law, MEAs in particular, has not as yet clearly specified the role of EHRDs, women EHRDs or Indigenous defenders, or climate and environmental activists in implementing and developing the green transition, although there are exceptions such as the CBD. There are opportunities to include EHRDs in policy instruments implementing international commitments at national and local levels, such as NDCs and NBSAPs. UN mechanisms for reviewing implementation are central for EHRDs, providing them with opportunities to participate and channel their concerns while assessing the level of compliance with human rights obligations that states have set for themselves in a transparent manner.
3. The EU has made important progress in implementing the Aarhus Convention through legislation on access to environmental information and public participation. However, specific gaps remain, particularly regarding the sectoral and fragmented approach across the full breadth of EU environmental law in regard to applying Article 9(3) of the Convention. The possibilities and procedures of the Aarhus Convention are not widely known. Furthermore, the current sectoral approach for implementing this particular article to guarantee access to justice in environmental matters is fragmented and undermines the consistency and accessibility to remedies and justice across EU Member States. Many development and environmental areas covered by EU directives are without adequate access to justice mechanisms, which prevents EHRDs, as well as citizens and NGOs, from challenging decisions and legislation.
4. Among recent EU developments, the adoption of the Anti-SLAPP Directive marks a crucial step in safeguarding public participation, including the protection of EHRDs. Although the EU seeks to position itself as a global leader in human rights and environmental protection, economic activities endorsed under the Taxonomy Regulation and the CSDDD risk undermining these objectives. This could be the case if their provisions concerning the rights

of EHRDs, as well as access to information, public participation, and access to justice in environmental matters, are weakened or diverge from established international standards.

5. There are relevant EU guidelines, action plans, and instruments on human rights and democracy that are not only relevant for protecting EHRDs outside Europe but also for protecting and fulfilling rights related to the environment. There are, though, inconsistencies in the way these are designed and implemented. In the case of European non-EU countries, there seem to be gaps in the effective implementation of legal standards, decisions and recommendations by states. In LAC, significant regional legal advances have been made with the Escazú Agreement, the first agreement to explicitly reference EHRDs. Entry points for cross-regional collaboration between the EU and Africa can build on legal frameworks such as the African Convention on the Conservation of Nature and Natural Resources and the Maputo Protocol. The ASEAN Declaration can inform collaboration opportunities with Southeast Asia on Human Rights and ASEAN Blueprints. Finally, synergies between EHRDs' initiatives and NHRIs in Europe and other regions can contribute significantly to the implementation of international commitments.

7.2 Recommendations

There are various options open to the EU and its Member States to strengthen the rights of EHRDs through both binding and non-binding instruments.

1. The EU and Member States should ensure the *alignment of EU and national legislation with international human rights standards*, specifically through:
 - a) Developing a dedicated EU Directive on EHRDs, specifying both procedural and substantive obligations concerning EHRDs' rights, which are based on states' international obligations established in a diversity of human rights and environmental treaties. This directive could contribute to ensuring that Article 9(3) of the Aarhus Convention is harmoniously implemented across EU Member States and sectors;
 - b) Identifying specific gaps in constitutional, civil, criminal and administrative rules and procedures that limit or are an obstacle to the enjoyment of EHRDs' rights, developing new legislation where it is missing and reforming the respective instrument if it is in divergence with EHRDs' international human rights standards. In such assessments and considering the principle of interdependence and indivisibility of human rights, the broad range of rights of EHRDs (civil, political, economic, social and cultural environmental-related rights) should be assessed, a baseline created and compliance with the respective obligations by diverse national institutions monitored;
 - c) Urging EU Member States to align MEA policy instruments, *inter alia*, NDCs and NBSAPs with international human rights law, as well as ensuring that EHRDs and affected communities can contribute safely and meaningfully to their development and implementation;
 - d) Aligning EU instruments with international instruments concerning EHRDs, specifying human rights obligations of duty-bearers and making them enforceable under EU law while recognising EHRDs as right-holders;

- e) Implementing the principles of non-regression and progressive realisation of human rights to ensure that no current or future EU Directive weakens standards relevant to EHRDs already adopted by the EU. For example, ensuring that no proposal reduces reporting obligations, including under the CSDDD, CSRD and Taxonomy Regulation;
- f) Streamlining due diligence obligations for companies in EU economic instruments clearly using a human rights form of language and framing EHRDs as right-holders instead of referring to the vaguer concept, namely 'meaningful engagement of stakeholders'. The Deforestation-free Regulation specifically refers to laws on land use rights, environmental protection, labour rights, FPIC and human rights protected under international law. Such as the Deforestation-free Regulation, other EU economic instruments should also incorporate explicit human rights language;
- g) Recognising explicitly the FPIC right of Indigenous Peoples in the CRMA and other green transition activities potentially affecting Indigenous rights in line with UNDRIP in relation to CRMA.

2. Complementary to the alignment of EU and national legal frameworks to international human rights standards, the *EU could also call countries, in particular EU Member States, to ratify relevant treaties to advance EHRDs' rights and fully implement the respective obligations through inter alia* the following:

- a) Supporting ongoing efforts by EHRDs and other actors who are calling for the Council of Europe to recognise the right to a healthy environment, with an explicit recognition of EHRDs' rights and corresponding state obligations and clearly stating in such an instrument the right to a healthy environment of present and future generations, taking into account that EHRDs' contributions often extend across generations;
- b) Encouraging countries which are not yet parties to the Aarhus Convention to sign up, given that it is open for global accession;
- c) Calling on EU Member States who are already parties to the Aarhus Convention to comply with their respective obligations by following its guidance for implementation, such as the 2012 Guideline for Practitioners on Gender Mainstreaming in Aarhus activities;
- d) Urging that compliance of obligations towards EHRDs in vulnerable situations should be undertaken in a contextualised way, recognising the intersecting identities of EHRDs as well as the risks taken and contributions made by respective active groups, while following the recommendations and general comments developed by specialised UN Human Rights Treaty Bodies and UN Human Rights Special Procedures;
- e) Calling for all EU Member States and other states to ratify the ILO Convention No 169, relevant for the realisation of the rights of Indigenous EHRDs within and outside Europe, considering the potential impacts of EU companies operating outside the EU on Indigenous peoples' land, water, culture and livelihoods;
- f) Analysing other ILO Conventions relevant to EHRDs, such as those specifying the rights of unions. Unions can be EHRDs when, as whistleblowers, they expose unsustainable and illegal practices. This is an emerging area that requires further research;

- g) Calling for all EU Member States and other states to ensure the mainstreaming of EHRDs' rights in environmental decision-making, from their participation in international fora such as UN human rights and MEA-COPs to their involvement at all stages of regional, national and local processes;
- h) Developing a communication strategy to foster a positive narrative that acknowledges EHRDs as agents of change for long-term sustainability, thereby countering any negative framing of EHRDs as obstacles to development and security.

3. The EU should request its Member States to ensure *adequate and effective measures on EHRDs' right to access to justice* – understood as a standalone right and as a procedural element on the right to a healthy environment – by:

- a) Ensuring accountability and actual consequences for individuals, state institutions, companies or banks under EU state jurisdiction that fail to support and protect EHRDs from attacks and other human rights violations that occur within and outside EU countries;
- b) Expanding the EU Anti-SLAPP Directive's scope to align better with international human rights law: from only covering civil proceedings with cross-border implications to include criminal and administrative proceedings, as well as instances without a cross-border character. Encouraging other regional bodies and countries outside the EU to adopt regional laws to prevent SLAPPs from violating EHRDs' rights;
- c) Responding promptly to requests for information and recommendations on EHRDs made by UN Special Procedures Mechanisms, such as UN Special Rapporteurs, the Aarhus Compliance Committee and NHRIs;
- d) Providing funding support to NHRIs working closely with EHRDs on access to justice in environmental matters, including those with bridging roles between defenders and human rights duty-bearers working across various jurisdictional scales while respecting NHRIs' independence in line with the Paris Principles;
- e) Providing support to academic institutions to develop tailored capacity-strengthening initiatives on EHRDs' rights for judges, prosecutors and bar associations, whose work may span across distinct topics beyond environmental issues both within the EU and throughout other regions. These initiatives can also be relevant in strengthening the capacities of specialised tribunals and prosecutors, who can, in turn, contribute to the enforcement of EHRDs' rights while increasing access to environmental justice in environmental matters.

4. For EHRDs' rights to be realised in practice, the EU should ensure *the institutionalisation of effective measures and adequate and reliable funding* so that EU institutions, as well as national institutions of its Member States, have the capacity to implement them. Specifically:

- a) Ensuring effective access to information about funding and investments with impacts abroad, such as the Global Gateway, incorporating meaningful participation from civil society and EHRDs at every stage of the initiative, binding human rights safeguards applicable to projects and grievance mechanisms, including remedies in case of harm by these projects;
- b) Making international cooperation and aid funding by the EU and its Member States for development, environment and climate projects conditional on the respect of EHRDs' rights;

- c) Providing information to CSOs on what the EU can do to support EHRDs in closing the implementation gap between their international and local initiatives;
 - d) Streamlining EU Guidelines on Human Rights Defenders in the work of EU missions and human rights focal points with the public participation of civil society;
 - e) Providing direct funding to EHRDs' endogenous and place-based initiatives, recognising their role in contributing to achieving the substantive outcomes of human rights treaties and MEAs;
 - f) Collaborating with regional intergovernmental bodies such as the Escazú Agreement COPs, the African Union and ASEAN, as well as UN regional organisations to advance EHRDs' rights with meaningful and effective EHRDs' participation in the design and implementation of the respective initiatives;
 - g) Supporting advances on national implementation of the Regional Action Plan on Defenders under the Escazú Agreement and conducting an assessment on how the EU could support the priorities and needs from the perspectives of defenders themselves as well as from the point of view of LAC public authorities responsible for implementing the Escazú Agreement's commitments and thereafter support these initiatives. This would be a way of following up commitments under the 2021 resolution (2020/2134) in which the European Parliament called on the European Commission and EU Member States to support countries in implementing the Escazú Agreement.
5. Given their role in numerous MEAs and human rights treaties, the EU and its Member States could champion progress on EHRDs' rights in international and plurilateral forums, for example by:
- a) Continuing to support ongoing negotiation and adoption of the UN Binding Treaty on Transnational Corporations and Human Rights – as called for in the 2021 resolution (2020/2134) – and seeking to ensure the inclusion of an operative section on EHRDs;
 - b) Providing economic and technical support to MEAs' Secretariats to work specifically on EHRDs, *inter alia*, on target 22 and target 23 of the CBD's Global Biodiversity Framework, as well as supporting the EU and other countries in the mainstreaming of EHRDs' rights in countries' NDCs and NBSAPs;
 - c) Encouraging EU Member States to include and integrate explicitly objectives on women EHRDs in their NBSAPs and National Reporting under the CBD, as well as calling on Member States to advocate for this under the UNFCCC and the UNCCD respective Gender Action Plans, along with respective planning and reporting mechanisms;
 - d) Encouraging EU Member States and other states to incorporate commitments on EHRDs in MEAs concerning toxic pollution, such as those outlined in the Basel Convention, the Rotterdam Convention, the Stockholm Convention and the Minamata Convention. Specific measures can include 'community right-to-know' about potential hazards, risks and possible exposure to chemical and other types of pollution, together with public participation to inform the urgent implementation of policies to detoxify sacrifice zones and eliminate environmental injustices;

- e) Catalysing the synergies between human rights and MEAs by generating formal mechanisms to advance the incorporation of human rights and the rights of EHRDs within MEAs, thereby opening new avenues to advance the right to a clean, healthy and sustainable environment for present and future generations.

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