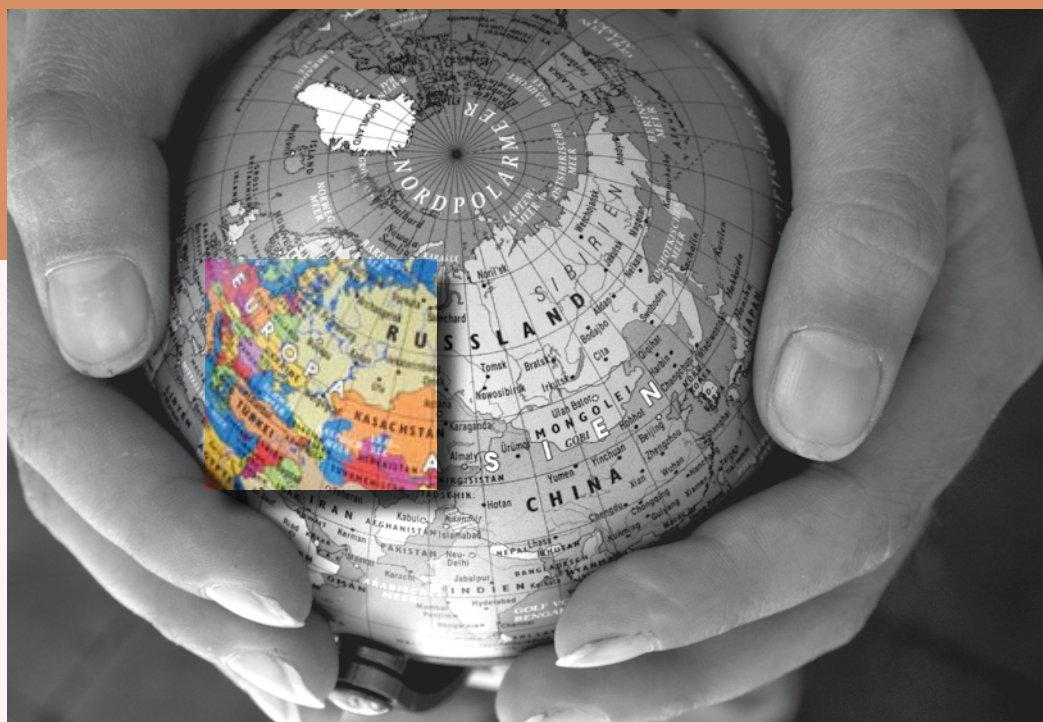


Author and Editor

Anke Stock, WECF

The Right to a Healthy Environment

How to use international legal mechanism
for the protection of our environment and our health – A Manual



WECF

Women in Europe for a Common Future

Publication Data

2007 WECF
Published by WECF
Utrecht/Munich, September 2007

Prepared for WECF by

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Donor:
European Commission DG Environment,
LIFE+ programme

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This publication was realized with financial support
of Netherlands Ministry of Foreign Affairs

Bank account numbers for tax deductible donations:

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Account Number: 1266 45 11
IBAN: NL96 RABO 0126 6451 16
BIC: RABONL2U



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ABBREVIATIONS

CAT ¹	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CoE	Council of Europe
CRC	Convention on the Rights of the Child
ECHR	European Convention on Human Rights
EECCA	Eastern Europe, Caucasus and Central Asia
GA	General Assembly
HR	Human Right
ICCPR	International Covenant on Civil and Political Rights
ICCPR-OP1	First Optional Protocol to the ICCPR
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
MEA	Multilateral Environmental Agreement
OP-CEDAW	Optional Protocol to CEDAW
POPs	Persistent Organic Pollutants
UDHR	Universal Declaration of Human Rights
UNECE	United Nations Economic Commission for Europe



I. INTRODUCTION

1. General

The successes of the human rights movement led to the idea to apply a rights-based approach to confront global environmental devastation. But it was not until the Stockholm Conference in 1972 that the right to a healthy environment was explicitly recognised in an international environmental law document (see Principle 1 of the Stockholm Declaration²). The Stockholm Declaration had a major impact on the next two decades of the development of international environmental law. However, it took until 1992 to the UN Conference on Environment and Development in Rio de Janeiro to reiterate the link between the rights of human beings and the protection of the environment. Principle 1 of the Rio Declaration³ reads as follows: *“Human beings are at the centre of concerns for sustainable development. They are entitled to a healthy and productive life in harmony with nature.”* The principles of both Declarations are based on a rights approach

which is still relatively new to the concept of international environmental law.

Neither the Stockholm nor the Rio Declaration is intended to create legally binding rights, but they build the basis for the discussion about the right to a healthy environment⁴. Apart from these two principles, there are many other international⁵ and European⁶ conventions, declarations and resolutions which provide different norms aiming at the protection of specific human rights, such as e.g. the right of life and the right to standard of living adequate to health and well-being. These specific human rights always contain a component that is linked to the right to a healthy environment, since e.g. the right of life can be infringed if a human being has to live without access to clean water. These specific human rights are actionable which makes them very powerful.

This manual provides the reader with a basic overview of international law and its mechanisms, in particular those of human rights law, in order to allow individuals and/or NGOs to claim their rights related to the environment and their health and to make their voices heard on the international platform. Furthermore, this publication aims at stirring the discussion about a right to a healthy environment as a separate right.

Since WECF's outreach covers mainly EECOA countries this manual focuses on mechanisms that go beyond EU level.

2. Use of the Manual

On the one hand this manual is thought to give an overview of the international legal mechanisms, on the other hand it shall also provide the reader with guidance on how to choose the right mechanism and how to undertake the first steps in addressing an international body. Quick overviews will show which information has to be collected, which evidence is needed and which forms have to be filled in. Furthermore, contact addresses and more information about each specific forum and/or committee will be provided.

In general, there are three different types of procedures/mechanisms that can be invoked by individuals and/or groups, e.g. NGOs.

- Individual Case/Complaint/Communication
- Inquiries
- State Reporting

Before choosing a type of procedure and a body it is always important to reflect which right is violated and what aim does the claimant/author pursue by addressing an international body.

- Does he/she want to create publicity for a specific problem or does she/he want to have a specific remedy?
- Is a speedy decision a major priority or is it an interim measure/urgent action that the claimant aims for?

Furthermore, there are some more practical criteria one has to observe before choosing a body:

- Has the State the claimant is complaining against ratified⁷ the specific treaty he/she wants to complain under? Has the State made reservations⁸ to this treaty?

- Does the author's claim adhere to a general set of admissibility criteria⁹ (e.g. standing, time limits etc.) or not?
- Do States generally comply with the recommendation/decision taken by an international body?

All these considerations have to be taken into account before taking action. The following sections will assist the reader in deciding on which action she/he will take.



II. THE UN–SYSTEM

The United Nations officially came into existence on 24 October 1945, when the United Nations Charter had been ratified by a majority of signatories that had worked on it and signed it a few months before. The system of the United Nations¹⁰ provides different instruments for the protection of the right to health and the environment. There are several human rights bodies and other multilateral environmental agreements (MEAs), such as the Aarhus Convention, that will be discussed under this section.

UN – SYSTEM – HUMAN RIGHTS BODIES

CHARTER-BASED BODIES		TREATY-BASED BODIES	
RIGHT	MECHANISM	RIGHT	MECHANISM
Any HR (e.g. UDHR)	Human Rights Council Complaint Procedure ¹¹	Right to Life (art. 6 ICCPR)	Human Rights Committee (HRC)
Right to Health	Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health	Right to Life (art. 6 CRC)	Committee on the Rights of the Child (CRC)
Right to Food	Special Rapporteur on the right to food	Right to Health (art. 12 ICESCR)	Committee on Economic, Social and Cultural Rights (CESCR)
Right to Development	Independent Expert on human rights and international solidarity	Right to Health (art. 5 ICERD)	Committee on the Elimination of Racial Discrimination (CERD)
Right to a Clean and Healthy Environment	Special Rapporteur on the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights	Right to Health (art. 12 and 14 CEDAW)	Committee on the Elimination of Discrimination against Women (CEDAW)
		Right to Health (art. 24 CRC)	Committee on the Rights of the Child (CRC)
		Right to Food (art. 11 ICESCR)	Committee on Economic, Social and Cultural Rights (CESCR)

Amongst the human rights bodies a distinction has to be made between those bodies that are based on the Charter of the United Nations and bodies that are based on other human rights treaties.

The charted-based bodies were established from provisions contained in the Charter of the United Nations. They hold broad human rights mandates, address an unlimited audience and take action based on majority voting. The treaty-based bodies derive their existence from provision contained in a specific legal instrument (e.g. the ICCPR). Their mandates are narrower, they address a limited audience (dependent on the legal instrument involved and the countries that ratified it) and base their decision-making on consensus.



1. Charter-based Bodies

Charter-based bodies reflect the rights safeguarded by the United Nations Charter. They address a broad audience and are concerned with a large spectrum of human rights. The two main mechanisms available under the most relevant body, the

Human Rights Council, are the complaint procedure and the special procedures.

The Human Rights Council¹² was established in April 2006 replacing the Commission on Human Rights. In June 2007 it was decided to take over

the main mechanisms that were dealt with by the Commission on Human Rights, but the process of reviewing and amending these mechanisms is still ongoing.

Form of Procedure: Individual Complaint

Admissibility Criteria

Who

By a person or a group of persons claiming to be the victim of violations of human rights and fundamental freedoms or by any person or group of persons, including NGOs, claiming to have direct and reliable knowledge of those violations.

When

After the exhaustion of domestic remedies, unless it appears that such remedies would be ineffective or unreasonably prolonged.

How

Factual description of the alleged violations, including the rights which are alleged to be violated

What not to do

- Manifestly ill-founded complaints
- Anonymous complaints
- Basing the complaint on manifestly political motivations
- Its object is not consistent with the UN Charter, the Universal Declaration of Human Rights and other applicable instruments in the field of human rights law
- Its language is abusive
- Case has already been dealt with by a special procedure, a treaty body or other United Nations or similar regional complaints procedure in the field of human rights

Where to send to

Treaties and Human Rights Council Branch
 OHCHR-UNOG
 1211 Geneva 10, Switzerland
 Fax: (41 22) 917 90 11
 E-mail: CP@ohchr.org

Process to Decision Taking

Working Group on Communications (WGC) assess the admissibility and the merits of a communication, including whether the communication alone or in combination with other communications, appears to reveal a consistent pattern of gross and reliably attested violations of human rights and fundamental freedoms. All admissible communications and recommendations thereon are transmitted to the *Working Group on Situations (WGS)*. It examines the communications transferred to it including the replies of States thereon, as well as the situations which the Council is already seized of under the complaint procedure. The Working Group on Situations, on the basis of the information and recommendations provided presents the Council with a report on consistent patterns of gross and reliably attested violations of human rights and fundamental freedoms and makes recommendations to the Council on the course of action to take. Subsequently, it is the turn of the Council to take a decision concerning each situation thus brought to its attention.



1.1 Complaint Procedure

The Complaint Procedure (the former 1503 procedure) is being established to address consistent patterns of gross and reliably attested violations of all human rights and all fundamental freedoms occurring in any part of the world and under any circumstances.

It retains its confidential nature, with a view to enhancing co-operation with the State concerned. The procedure, inter alia, is to be victims-oriented and conducted in a timely manner.

1.2 Special Procedures

„Special procedures“ is the general name given to the mechanisms established by the Commission on Human Rights and assumed by the Human Rights Council to address either specific country situations or thematic issues in all parts of the world. Currently, there are 28 thematic and 10 country mandates. The most relevant mandate-holders for the environment and our health are the following:

- Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health;
- Special Rapporteur on the right to food;
- Independent Expert on human rights and international solidarity;
- Special Rapporteur on the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights.

Special procedures' mandates usually call on mandate holders to examine, monitor, advise and publicly report on human rights situations in specific countries or territories, known as country mandates, or on major phenomena of human rights violations worldwide, known as thematic mandates. Various activities can be undertaken by special procedures, including responding to *individual complaints*, conducting *studies* and *country visits*.

Mandate-holders are either an individual or a working group. They serve in their personal capacity, and do not receive salaries or any other financial compensation for their work. The independent status of the mandate-holders is crucial in order to be able to fulfil their functions in all impartiality.

a) Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

The mandate of the Special Rapporteur focus on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, as reflected in article 25 (1) UDHR, article 12 ICESCR, article 24 CRC, article 12 CEDAW, article 5 (e) (iv) ICERD.

The Special Rapporteur is requested to:

- gather, request, receive and exchange information on the right to health from all relevant sources;
- discuss possible areas of co-operation with all relevant actors, including Governments, relevant United Nations bodies, specialised agencies and programmes, as well as NGOs and international financial institutions;
- report on the status, throughout the world, of the right to health, including laws, policies, good practices and obstacles;
- make recommendations on appropriate measures that promote and protect the right to health.

The Special Rapporteur undertakes *country visits*, transmits communications to States with regard to alleged violations of the right to health (*individual complaints* – see below) and submits *annual reports* on the activities carried out under the mandate to the Council and the General Assembly.

b) Special Rapporteur on the right to food

The mandate of the Special Rapporteur focus on The mandate of the Special Rapporteur focus on the right of everyone to food, as reflected in article 11 ICESCR, article 6 ICCPR, articles 24, 27, 32 CRC and the Universal Declaration on the Eradication of Hunger and Malnutrition¹³. In addition the Commission requested the Special Rapporteur to pay attention to the issue of drinking water, taking into account the interdependence of this issue and the right to food.

The Special Rapporteur's tasks are the following:

- to seek, receive and respond to information on all aspects of the realisation of the right to food,



including the urgent necessity of eradicating hunger;

- to establish co-operation with Governments, intergovernmental organizations, and NGOs, on the promotion and effective implementation of the right to food, and to make appropriate recommendations on the realisation thereof, taking into consideration the work already done in this field throughout the United Nations system;
- to identify emerging issues related to the right to food worldwide.

The Special Rapporteur undertakes *country visits*, transmits communications to States with regard to alleged violations of the right to food (*individual complaints* – see below) and submits *annual reports* on the activities carried out under the mandate to the Council and the General Assembly.

c) Independent Expert on human rights and international solidarity

The widening gap between the economically developed and developing countries and its impact on the realisation of human rights in the international community lead to the idea that every nation, according to its capacities, has to make the maximum possible effort to close this gap. International solidarity is vital for developing countries in order to realise the right to development of their peoples and to promote the full enjoyment of economic, social and cultural rights by everyone.

The mandate of the Independent Expert is to develop guidelines, standards, norms and principles with a view to promoting and protecting rights closely interrelated to the fundamental value of solidarity.

The Independent Expert is requested to:

- study the issue and prepare a draft declaration on the right of peoples to international solidarity;
- take into account the outcomes of all major United Nations and other global summits and ministerial meetings in the economic and social fields and to seek views and contributions from

Governments, United Nations agencies, other relevant international organizations and NGOs in the discharge of her/his mandate;

- report annually to the Council on the progress made in the fulfilment of his/her mandate.

d) Special Rapporteur on the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights

The mandate of the Special Rapporteur focus on the right to life and health of individuals in developing countries where the increasing rate of illicit dumping of toxic and dangerous products and wastes adversely affects these rights. These rights are reflected in the UDHR, the ICCPR, the ICESCR, the ICRMW, the Declaration on the Right to Development¹⁴, the Basel Convention¹⁵, the Stockholm Convention on POPs¹⁶, the Rotterdam Convention¹⁷ and the Aarhus Convention¹⁸.

The Special Rapporteur is requested to:

- investigate and examine the effects of the illicit dumping of toxic and dangerous products and wastes in African and other developing countries on the enjoyment of human rights, in particular on the human rights to life and health of everyone;
- investigate, monitor, examine and receive communications and gather information on the illicit traffic and dumping of toxic and dangerous products and wastes in African and other developing countries;
- make recommendations and proposals on adequate measures to control, reduce and eradicate the illicit traffic in, transfer to and dumping of toxic and dangerous products and wastes in African and other developing countries;
- produce annually a list of the countries and transnational corporations engaged in the illicit dumping of toxic and dangerous products and wastes in African and other developing countries and a census of human persons killed, maimed or otherwise injured in the developing countries through this heinous act.

The Special Rapporteur undertakes *country visits*, transmits communications to States with regard





to alleged violations of the right to life and health (*individual complaints* – see below) and submits *annual reports* on the activities carried out under the mandate to the Council and the General Assembly.

e) Individual Complaint Procedure to Special Rapporteurs

Three of the above introduced special procedures, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, the Special Rapporteur on the right to food and the Special Rapporteur on

the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights, hold the power to receive *individual complaints* and to transfer alleged violations of specific human rights to States. The complaint by an individual or an NGO shall contain the following information:

Form of Procedure: Individual Complaint

Admissibility Criteria

Who	Any person(s) or organization(s) (this information will be kept confidential)
When	Anytime (past, ongoing or future human rights violation); no exhaustion of domestic remedies required
What and How	<ul style="list-style-type: none"> • Full name of alleged victim(s), age, sex, place of residence and origin • Identification of as many details as possible • Date and place of incident • Detailed description of circumstances of the incident in which the alleged violation occurred • Name(s) of the alleged perpetrator(s) if known • Report about steps that have been taken on national and/or international level • Remaining within the scope of the specific mandate
What not to do	<ul style="list-style-type: none"> • Basing the complaint on manifestly political motivations • Using abusive language
Where to send to	By fax to +41 22 917 90 06, by e-mail to urgent-action@ohchr.org , or by postal mail to: OHCHR-UNOG 8-14 Avenue de la Paix 1211 Geneva 10 Switzerland
Process to Decision Taking	<p>The decision to intervene is at the discretion of the special procedure mandate holder and will depend on the various criteria established by him or her.</p> <p>The process, in general, involves sending a letter to the concerned Government requesting information and comments on the allegation and, where necessary, asking that preventive (in case of an “urgent appeal”¹⁹) or investigatory action (in case of a “letter of allegation”²⁰) be taken. Depending on the replies received, the special procedure may decide to inquire further or make recommendations.</p> <p>At the end of the reporting cycle the special procedure submits an annual report to the Human Rights Council on communications sent and replies received from Governments on specific cases. Until then everything remains confidential. In the reports the names of the alleged victims are published, except in the case of children or specific circumstances.</p>



2. Treaty-based Bodies

Treaty-based bodies are Committees set up by the seven major human rights treaties²¹ in order to monitor the implementation of treaty obligations. Except for CEDAW, which meets in New York and is serviced by the UN Division for the Advancement of Women, all treaty bodies meet primarily in Geneva and are serviced by the Office

of the UN High Commissioner for Human Rights (OHCHR). The bodies relevant for the environment and our health are the following²²:

- Human Rights Committee (HRC)
- Committee on the Economic, Social and Cultural Rights (CESCR)
- Committee on the Elimination of Racial Discrimination (CERD)
- Committee on the Elimination of Discrimination Against Women (CEDAW)
- Committee on the Rights of the Child (CRC)

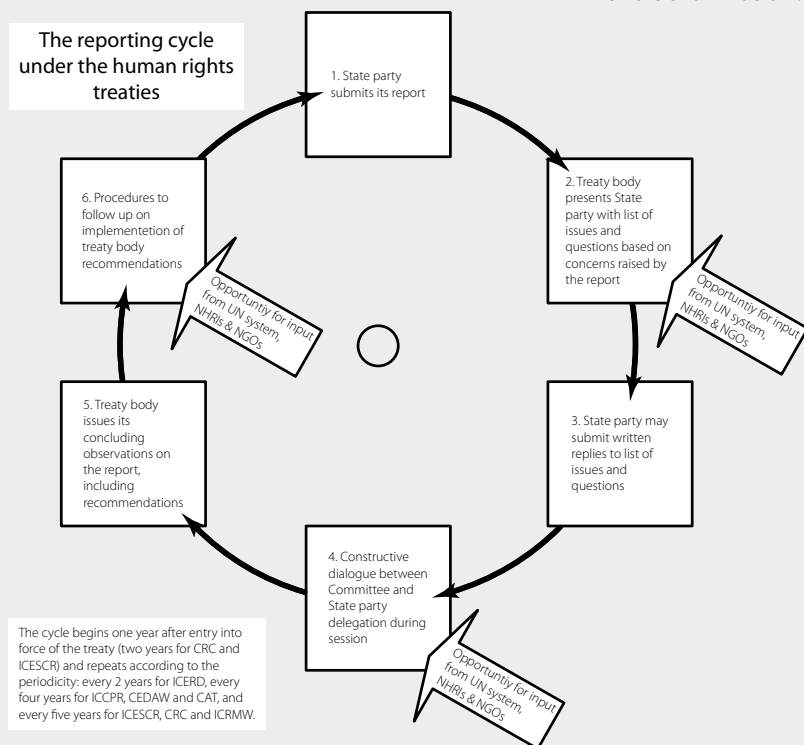
The treaty bodies are composed of members who are elected by the State parties to each treaty. In the selection process, consideration is given to equitable geographical distribution and the representation of different cultures as well as principal legal systems. The members work as independent experts meeting regularly throughout the year.

The use of the bodies is strictly associated with ratification of the human rights treaty by the respective State. The monitoring activities of the treaty bodies, which apply to all of them, are based on the *examination of State reports*, which have to be submitted by the States on a regular basis. In the case of HRC, CERD and CEDAW *individuals may complain* of violations of their rights under the respective treaty²³. CEDAW also provides an *inquiry procedure*, which includes undertaking investigations or sending missions to State parties in connection with concerns about systematic or grave violations of treaty rights.

2.1 Reporting System

The main function of the treaty bodies is to serve as a reviewing and commenting board on the reports which are submitted periodically by State parties²⁴. The reports follow a structure that is provided by guidelines²⁵ on the form and the content of the reports and show the steps undertaken by the State

The reporting follows different steps which are shown below:



From: <http://www.ohchr.org/english/bodies/docs/ReportingCycle.gif>



parties to implement the provisions of the respective treaty. Each State party undertakes the submission of an initial report shortly after ratification or accession to the respective Convention and later undertakes to submit subsequent periodic reports at a specified interval²⁶.

The system provides different opportunities for NGOs to give input and to influence the treaty bodies' concluding observations on the report as well as the follow-up process. Ideally, it is the State that invites NGOs to comment on their draft report or to submit information. But it is often that NGOs take the opportunity to submit their own shadow report to the treaty body. Sometimes they even get invited to the sessions when the reports are dis-

cussed and scrutinised²⁷. In any case it is a useful tool for NGOs to get their voices heard at international level.

2.2 Individual Complaint Procedure

The most powerful function of the treaty bodies is to consider *individual complaints/communications*.

The Committee on the Rights of the Child cannot consider *individual complaints*, although child rights may be raised before other committees with competence to consider *individual complaints*.

Furthermore, the Committee on Economic, Social and Cultural Rights has no competence to consider *individual complaints*, although a draft Optional Protocol to the Covenant is under consideration which could give the Committee competence in this regard. However, it may be possible for another committee with competence to consider *individual communications* to consider issues related to economic, social and cultural rights in the context of its treaty.

Three for the purpose of the environment and our health relevant human rights treaty bodies (Human Rights Committee, Committee on the Elimination

of Racial Discrimination and Committee on the Elimination of Discrimination Against Women) may, under certain circumstances, consider *individual complaints or communications*:

The Human Rights Committee may consider *individual communications* relating to State parties to the First Optional Protocol to the ICCPR²⁸;

The Committee on the Elimination of Discrimination Against Women may consider *individual communications* relating to State parties to the Optional Protocol to CEDAW²⁹;

The Committee on the Elimination of Racial Discrimination may consider *individual communications* relating to State parties who have made the necessary declaration under article 14 of CERD³⁰.

Each of these treaties establishes a quasi-judicial committee to examine complaints. The complaint procedures are designed to be uncomplicated and accessible to lay persons. One does not need to be a lawyer or even be familiar with legal and technical terms to bring a complaint before the bodies concerned. On the contrary, the system is intended to be as straightforward as possible.

In general, the complaint shall contain the following information:

Form of Procedure: Individual Complaint

Admissibility Criteria

Against whom

A complaint can be brought only against a State that satisfies two conditions:

- it must be a party to the treaty in question, having ratified or otherwise accepted it;
- the State party must have recognised the competence of the committee established under the relevant treaty to consider complaints from individuals (no reservations).³¹

Who

Anyone can lodge a complaint with a committee claiming that his or her rights under the relevant treaty have been directly violated. One may also bring a claim on behalf of another person on condition that one obtains his or her written consent. There are cases where one does not need such consent; e.g. where parents bring cases on behalf of young children, or where a person is in prison without access to the outside world.

When

In general, there is no formal time limit after the date of the alleged violation for filing a complaint under the relevant treaties. However, it is best to submit your complaint as soon as possible. Exhaustion of domestic remedies is necessary, unless it appears that such remedies would be ineffective or unreasonably prolonged



What and How

- No need for specific form, but model complaint form³² and guidelines³³ available
- Claim should be in writing and signed
- Claim has to name State against which the claim is brought
- Full name of alleged victim(s), age, sex, place of residence and origin
- Identification of as many details as possible
- Date and place of incident
- Detailed description of circumstances of the incident in which the alleged violation occurred and identification of the articles of the treaty that have allegedly been violated
- Name(s) of the alleged perpetrator(s) if known
- Report about steps that have been taken to exhaust the remedies available in victim's country
- Report whether one has submitted this case to another means of international investigation or settlement
- Claim should provide this information in one of the secretariat's working languages
- Attachment of all documents of relevance to the claims and arguments, especially administrative or judicial decisions national authorities. It is also helpful to provide copies of relevant national laws (if possible in translations)

What not to do

- To substantiate insufficiently (claim „manifestly ill-founded“)
- A complaint should not relate to events that occurred prior to the entry into force of the complaint mechanism for the respective State (claim “*ratione temporis*”)
- Claim should not be an abuse of the complaints process

Where to send to

ICCPR and CERD:
 Mail: Petitions Team
 Office of the High Commissioner for Human Rights
 United Nations Office at Geneva
 1211 Geneva 10, Switzerland
 Fax: + 41 22 917 9022
 (particularly for urgent matters)
 E-mail:tb-petitions@ohchr.org

CEDAW:
 Mail: Committee on the Elimination of Discrimination against Women
 c/o Division for the Advancement of Women, Department of Economic and Social Affairs
 United Nations Secretariat
 2 United Nations Plaza, DC-2/12th Floor
 New York, NY 10017, USA
 Fax: + 1 212 963 3463

Urgent

Each committee has the facility to take urgent action where irreparable harm would otherwise be suffered before the case is examined in the usual course. The common feature is that the committee in question may, at any stage before the case is considered, issue a request to the State party for what are known as „interim measures“ in order to prevent any irreparable harm. This has to be stated explicitly in the claim.

Process to Decision Taking

If all necessary information is provided the case is registered, that is to say formally listed as a case for consideration by the relevant committee. At that point, the case is transmitted to the State party concerned to give it an opportunity to comment. The State is requested to submit its observations within a set time frame. Once the State replies to the submission, the claimant is offered an opportunity to comment. The time frames vary somewhat between procedures. At that point, the case is ready for a decision by the relevant committee. If the State party fails to respond to the claimant's complaint, the claimant is not disadvantaged. Reminders are sent to the State party and if there is still no response, the committee takes a decision on the case on the basis of the claimant's original complaint.



2.3 Investigative Procedure

In addition to the reporting and the individual complaint procedures the Optional Protocol to CEDAW sets out a procedure to undertake investigations in response to allegations of rights violations. The Committee on the Elimination of Discrimination Against Women may, on its own initiative, initiate inquiries if they have received reliable information containing well-founded indications of serious or systematic violations of CEDAW in a State party.

The procedure is confidential and the co-operation of the State party must be sought throughout.

Form of Procedure: Investigative Procedure

Admissibility Criteria

<i>Against whom</i>	Against State parties who have recognised the competence of the Committee on the Elimination of Discrimination Against Women in this regard. State parties to the CEDAW Optional Protocol may exclude the competence of the Committee by making a declaration under article 10.
<i>Who</i>	Any individual or NGO can prepare a petition in order to initiate an investigation by the Committee. It may be made on behalf of others. A petition may be made anonymously.
<i>When</i>	Any time; domestic remedies do not need to be exhausted.
<i>What and How</i>	To initiate an investigation one must submit reliable information which indicate that there are "grave or systematic violations of the rights set forth in the Convention by a State party" (Article 8 Optional Protocol to CEDAW).
<i>Where to send to</i>	Mail: Committee on the Elimination of Discrimination against Women c/o Division for the Advancement of Women, Department of Economic and Social Affairs United Nations Secretariat 2 United Nations Plaza, DC-2/12th Floor New York, NY 10017, USA Fax: + 1 212 963 3463
<i>Process to Decision Taking</i>	At first the Committee invites the State party to co-operate in the examination of the information by submitting observations. The Committee may, on the basis of the State party's observations and other relevant information available, decide to designate one or more of its members to make a confidential inquiry and report to the Committee urgently. The CEDAW procedure specifically authorises a visit to the territory of the State concerned, where warranted and with the State's consent. The findings are then examined by the Committee and transmitted to the State party together with any appropriate comments or suggestions/ recommendations. The CEDAW procedure sets a six-month deadline for the State party to respond with its own observations on the Committee's findings, comments and recommendations and, where invited by the Committee, to inform it of the measures taken in response to the inquiry. The Committee may decide, in consultation with the State party, to include a summary of the results of the proceedings in its annual report.



2.4 Other

Several of the human rights treaties contain provisions to allow for State parties to complain to the relevant treaty body about alleged violations of the treaty by another State party. However, these procedures have never been used.

In CERD and the ICCPR there exists a procedure for the resolution of disputes between State parties over a State's fulfilment of its obligations under the relevant Convention/Covenant through the establishment of an *ad hoc* Conciliation Commission. CEDAW provides for disputes between State parties concerning interpretation or application of the Convention to be resolved in the first instance by negotiation or, failing that, by arbitration.

3. Specific UN Treaties: Aarhus Convention

3.1 The Convention

In 1998 the UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, the so-called Aarhus Convention³⁴, was adopted. It is the first legally binding instrument guaranteeing access to information, public participation in decision-making and access to justice in environmental matters. The Convention entered into force on 30 October 2001. So far 41 countries are parties to the Convention³⁵.

The Convention is a new kind of environmental agreement linking environmental and human rights. Thus it contains a rights based approach which is represented by a three pillar structure within the Convention:

- the information pillar: State parties promise to disclose government files containing environmental information;
- the public participation pillar: State parties promise to let the public participate in governmental decision-making and to make it transparent;
- the access to justice pillar: State parties promise to allow people to take government or private enterprises to court when they fail to comply with their responsibilities.

These rights have to be implemented by State parties on the national level. The implementation is controlled by a review mechanism of the meeting of the parties: regular national reports have to be submitted by State parties for progress review. This is a good opportunity for national and international NGOs to provide their input and views. As an international mechanism the Compliance Committee has been established to address issues of alleged non-compliance with the Convention.

3.2 The Compliance Committee

According to article 15 of the Convention the Parties adopted in 2002 the Decision I/7 on Review of Compliance³⁶ and elected the first Compliance Committee.

The compliance mechanism may be triggered in four ways:

- a party may make a submission about compliance by another party;
- a party may make a submission concerning its own compliance;
- the secretariat may make a referral to the Committee;
- members of the public may make communications concerning a party's compliance with the convention.

In addition, the Committee may examine compliance issues on its own initiative and make recommendations; prepare reports on compliance with or implementation of the provisions of the Convention at the request of the meeting of the parties; and monitor, assess and facilitate the implementation of and compliance with the reporting requirements under article 10 (2) of the Convention.



Form of Procedure: Individual Communication

Admissibility Criteria

Against whom

A communication may be made concerning a State that fulfils two conditions:

- the State in question must be a party to the Aarhus Convention³⁷;
- the State party should not have 'opted out' of the compliance mechanism with respect to communications from members of the public.

Who

Any member of the public, i.e. any natural or legal person, may submit a communication to the Committee. A communication may also be filed by a NGO.

When

Communications may be made concerning States which were parties on 23 October 2002 (provided that they have not opted out). Concerning other States, communications may only be made one year or more after the date of the entry into force of the Convention for that party (the one-year grace period). Domestic remedies should be exhausted before filing a communication with the secretariat, unless it appears that such remedies would be ineffective or unreasonably prolonged.

What

A communication may address any of the following:

A general failure by a party to take the necessary legislative, regulatory or other (e.g. institutional, budgetary) measures necessary to implement the Convention as required under its article 3 (1), in a manner which is in conformity with its objectives and provisions;

Legislation, regulations or other measures implementing the Convention which fail to meet the specific requirements of certain of its provisions;

Specific events, acts, omissions or situations which demonstrate a failure of the State authorities to comply with or enforce the Convention.

How

A communication to the Committee should be in writing but otherwise need not take any particular form³⁸.

Communications should be kept as concise as possible.

The communication should provide basic information – name and contact details – on the identity of the communicant.

The communication should also set out, in chronological order, the facts on which the communication is based. It should indicate whether it refers to a general situation of non-compliance in the party concerned, or to a specific situation of alleged non-compliance, or both.

The communication should clearly indicate the specific provisions of the Convention that had allegedly not been complied with and to make explicit links between these provisions and concrete facts presented in the communication.

If the communicant is concerned that the disclosure of information submitted to the Committee could result in persecution or any other harassment one can request that such information should be kept confidential.



How

Copies of all documents of relevance to the communication, especially any legislative and administrative acts transposing the Convention into national legislation in the State concerned, should be submitted. Communications may be submitted in any of the official languages of the Convention (English, French or Russian). English is recommended and will speed up the process.

What not to do

- Send an anonymous communication;
- Abuse the right to make such a communication;
- To be manifestly unreasonable;
- Communication is incompatible with the Decision on Review of Compliance (decision I/7) or with the Convention.

Where to send to

Communications should be addressed to the Committee but sent via the secretariat by e-mail and post:

Jeremy Wates
Secretary to the Aarhus Convention
United Nations Economic Commission for Europe
Environment and Human Settlement Division
Room 332, Palais des Nations
CH-1211 Geneva 10, Switzerland
E-mail: Jeremy.wates@unece.org

Process to Decision Taking

Once the communication is received it is registered. Then the secretariat circulates the communication to the members of the Committee. A summary of the communication will be posted on the website. Then the Committee considers the admissibility of the communication. If the communication is not admissible it will not be brought to the attention of the State party concerned. If the communication is held admissible a file is opened and it is brought to the attention of the State party. The State party should reply within five months.

If the Committee determines that the State party is or has been failing to comply with the Convention, it will then consider what measures would be appropriate in the specific circumstances of non-compliance. The draft conclusions and possibly draft recommendations are sent to the State party concerned and to the communicant for comments. Once the Committee has reached its final conclusions, these are communicated to the State party and the communicant. In any case, all measures proposed by the Committee are subject to decision by the meeting of the parties except for urgent measures. The meeting of the parties makes the final decision on specific measures aimed at bringing about full compliance with the Convention. The meeting of the parties may decide to give a mandate to the Committee to monitor the implementation, e.g. of a strategy to achieve compliance that it has requested the party to submit to the Committee. If given such a mandate, the Committee will in turn report on this to the meeting of the parties.



III. REGIONAL SYSTEMS

Apart from all those different mechanisms of the UN-system there are more mechanisms at regional level. For WECF and its members, the Council of Europe is the most interesting and important regional system.

1. Council of Europe

The CoE was founded in 1949. It seeks to develop throughout Europe common and democratic principles based on the European Convention on Human Rights and other reference texts on the protection of individuals. Up to date the Council of Europe has 47 member countries³⁹, Belarus is an applicant country⁴⁰.

The mechanisms that are of most importance for the protection of our environment and health are the European Convention on Human Rights (ECHR)⁴¹ and the European Social Charter⁴².

1.1 The European Convention on Human Rights

The ECHR was the first Convention adopted by the Council of Europe in 1950 and is integrally linked with the founding principles of the organisation. One of the conditions for Member States to enter the CoE is to sign and ratify the ECHR and its Protocols. Once the Member State has incorporated the ECHR into its domestic legal system, one can raise a Convention issue before local courts.

Over time the ECHR has evolved and besides the original Convention there are now a number of additional Protocols in force which either add new rights⁴³ or improve the Convention machinery⁴⁴.

The right to a healthy environment is protected by article 2 (right to life) and article 8 (right to respect for private and family life) ECHR. The European

Form of Procedure: Individual Complaint⁴⁵

Admissibility Criteria

Against whom

- Against one or more of the States bound by the ECHR which allegedly has/have (through one or more acts or omissions directly affecting the complainant) violated the ECHR.
- The act or omission complained of must have been by one or more public authorities in the State(s) concerned (for example, a court or an administrative authority).

Who

- One may lodge an application with the Court if one considers that he/she has personally and directly been the victim of a violation of the rights and guarantees set out in the ECHR or its Protocols.
- One can be a private individual or a legal entity such as a company or association.
- One cannot make a general complaint about a law or a measure, for example because it seems unfair; nor can one complain on behalf of other people (unless they are clearly identified and the one is their official representative – see authority form⁴⁶).

When

- One must have used all the remedies in the State concerned that might have been able to redress the situation one is complaining about (usually, this will mean an application to the appropriate court, followed by an appeal, where applicable, and even a further appeal to a higher court such as the supreme court or constitutional court, if there is one).
- In so doing, one must also have actually raised the complaints, named the rights of the ECHR.
- One has only six months from the date of the final decision at domestic level (generally speaking, the judgment of the highest court) to lodge an application.



Court of Human Rights developed some case law⁴⁷ to article 8. In *Guerra and Others v Italy* (no. 14967/8, 19.2.1998) the Court held "...severe environmental pollution may affect individuals' well-being and prevent them from enjoying their homes in such a way as to affect their private and family life adversely."⁴⁸

The uniqueness of the Convention system is that once domestic legal remedies have been exhausted, an individual may lodge a complaint to the European Court of Human Rights for an alleged violation of the ECHR by a State party. The court may find the State in violation of the Convention and hand down a judgement which requests the State to remedy the breach.

What

The application must relate to one of the rights set out in the ECHR.

How

- By sending a letter to the Court giving clear details of one's complaint (then one will be asked to fill in an application form⁴⁹ later) or by filling out an application form directly.
- One may write in one of the Court's official languages (English and French) or in an official language of one of the States that have ratified the Convention.
- The form should contain: a brief summary of the facts and one's complaints; an indication of the Convention rights one thinks have been violated; the remedies one has already used; copies of the decisions given in the case by all the public authorities concerned; and the applicant's signature or the applicant's representative's signature.
- If one does not wish her/his identity to be disclosed, one must inform the Court immediately, giving reasons. The President will determine whether the request is justified.
- At this stage of the proceedings one does not have to be represented by a lawyer.

Where to send to

European Court of Human Rights
 Council of Europe
 67075 Strasbourg-Cedex
 France

Tel: +33 (0)3 88 41 20 18
 Fax: +33 (0)3 88 41 27 30

Process to Decision Taking

The Court must first examine whether the application is admissible. This means that the case must comply with certain requirements set out in the ECHR. If the conditions are not satisfied, the application will be rejected. If the application or one of the complaints is declared inadmissible, that decision is final and cannot be reversed. If the application or one of the complaints is declared admissible, the Court will encourage the parties to reach a friendly settlement. If no settlement is reached, the Court will consider the application "on the merits", i.e., it will determine whether or not there has been a violation of the Convention. The Court will generally do this in a written procedure, but it might also hold a public hearing.



1.2 The European Social Charter

The European Social Charter guarantees social and economic human rights. It was adopted in 1961 and revised in 1996. The European Committee of Social Rights is the body responsible for monitoring compliance in the State party to the Charter. In regard to health it is mainly article 11 of the Charter that protects the right to health.

The European Committee of Social Rights ascertains whether countries have honoured the undertakings set out in the Charter. There are two procedures available to the Committee:

- Monitoring procedure
- Collective complaints procedure

a) Monitoring Procedure

Every year the State parties submit a report indicating how they implement the Charter in law and in practice. Each report concerns some of the accepted provisions of the Charter. The Committee examines the reports and decides whether or not the situations in the countries concerned are in conformity with the Charter. Its decisions, known as “conclusions”, are published every year. If a State takes no action on a Committee decision to the effect that it does not comply with the Charter, the Committee of Ministers⁵⁰ addresses a recommendation to that State, asking it to change the situation in law and/or in practice.

b) Collective Complaints Procedure

Under a protocol⁵¹ opened for signature in 1995, which came into force in 1998, complaints of violations of the European Social Charter may be lodged with the European Committee of Social Rights.

Certain organisations are entitled to lodge complaints with the Committee⁵²:

- International organisations of employers and trade unions (category 1);
- Employers’ organisations and trade unions in the country concerned (category 2);
- NGOs enjoying participatory status with the CoE which are on a list drawn up for this purpose by the Governmental Committee⁵³ (category 3);
- National NGOs (if accepted by the State party) (category 4).





Form of Procedure: Collective Complaints Procedure

Admissibility Criteria

Against whom	A complaint may be brought against any State party to the European Social Charter.
Who	Any organisation entitled to lodge complaints with the Committee (see above) in respect of those matters regarding which they have been recognised as having particular competence.
When	Any time. A complaint may be declared admissible even if a similar case has already been submitted to another national or international body
What	The complaint must raise the issue of non-compliance of a State's law or practice with one of the articles of the Charter.
How	The complaint file must contain the following information: <ul style="list-style-type: none"> • the name and contact details of the organisation submitting the complaint; • proof that the person submitting and signing the complaint is entitled to represent the organisation lodging the complaint; • the State against which the complaint is directed; • an indication of the provisions of the Charter that have allegedly been violated; • the subject matter of the complaint, i.e. the point(s) in respect of which the state in question has allegedly failed to comply with the Charter, along with the relevant arguments, with supporting documents; • must be drafted in English or French in the case of organisations in categories 1 and 2 above. In the case of the others (categories 3 and 4), it may be drafted in the official language, or one of the official languages, of the State concerned.
What not to do	Because of their „collective“ nature, complaints may only raise questions concerning non-compliance of a State's law or practice with one of the provisions of the Charter. Individual situations may not be submitted.
Where to send to	Executive Secretary acting on behalf of the Secretary General of the Council of Europe Avenue de l'Europe 67075 Strasbourg Cedex Tel. +33 (0) 3 88 41 20 00
Process to Decision Taking	The Committee examines the complaint and, if the formal requirements have been met, declares it admissible. Once the complaint has been declared admissible, a written procedure is set in motion, with an exchange of memorials between the parties. The Committee may decide to hold a public hearing. The Committee then takes a decision on the merits of the complaint, which it forwards to the parties concerned and the Committee of Ministers in a report, which is made public within four months of its being forwarded. Finally, the Committee of Ministers adopts a resolution. If appropriate, it may recommend that the State concerned take specific measures to bring the situation into line with the Charter.

2. Other

There are other regional mechanisms, such as the African Charter of Human and Peoples' Rights⁵⁴ and the American Convention on Human Rights⁵⁵, which provide extensive rights for the protection of our environment and our health. But since these regions do not lie within WECF's remit they are not explained in detail.



IV. CONCLUSION

A variety of mechanisms has been presented in this manual. Some purely offer the possibility to raise one's voice, such as the reporting mechanisms, others provide the opportunity for a victim to lodge an individual complaint, however, with different outcomes. The most effective is the European Court of Human Rights which also shows its popularity. Due to the workload of the Court one may have to wait for a decision up to eight years. The treaty bodies do not have a comparable power, but they are also much quicker in publishing their concluding observations. And even if their power to enforce these decisions is small compared to the power of the CoE, their decisions do have an impact on the international agenda. So it is worth while taking the use of these mechanisms into consideration.

Not only for WECF as an international NGO working on environmental and women's issues it is crucial to take up these opportunities provided by international law in the name of our environment and our health. Only the constant request for a right to a healthy environment will lead to establish such a right as a proper human right.



FOOTNOTES

- [1] For the full text of all the conventions see:
<http://www.ohchr.org/english/law/>
for a list of ratifications etc. see:
<http://www.ohchr.org/english/bodies/docs/status.pdf>
- [2] See: <http://www.unep.org/Documents.Multilingual/Default.asp?DocumentID=97&ArticleID=1503>
- [3] See <http://www.unep.org/Documents.Multilingual/Default.asp?DocumentID=78&ArticleID=1163>.
- [4] Apart from regional or national approaches
(see African Charter of Human and Peoples' Rights (Nairobi 1981):
Article 24: "all peoples shall have the right to a general satisfactory environment favourable to their development"; American Convention on Human Rights Article, 11-1 of the Additional Protocol adopted in San Salvador on 17.11.1998: "Everyone shall have the right to live in a healthy environment and have access to basic public services.").
- [5] See e.g. articles 3 and 25 of the Universal Declaration of Human Rights, articles 6(1) and 24 of the UN Convention of the Rights of the Child.
- [6] See e.g. articles 2 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.
- [7] "Ratification, acceptance and approval all refer to the act undertaken on the international plane, whereby a State establishes its consent to be bound by a treaty. Most multilateral treaties expressly provide for States to express their consent to be bound by signature subject to ratification, acceptance or approval." (see Glossary of Treaty Body Terminology at:
<http://www.ohchr.org/english/bodies/treaty/glossary.htm>).
- [8] Vienna Convention on the Law of Treaties: Article 2 (1) (d) "reservation" means a unilateral statement, however phrased or named, made by a State, when signing, ratifying, accepting, approving or acceding to a treaty, whereby it purports to exclude or to modify the legal effect of certain provisions of the treaty in their application to that State;"
- [9] Admissibility refers to rules concerning the handling of an individual case. Only if a certain set of pre-conditions is met, the case is admissible and the body can proceed to consider the substance of the case (merits).
- [10] Former 1503 procedure.
- [11] Charter of the United Nations 1945, see: <http://www.ohchr.org/english/docs/UNcharter.pdf>
- [12] GA Resolution 60/251 of 3 April 2006.
- [13] See: <http://www.ohchr.org/english/law/malnutrition.htm>
- [14] See: <http://www.unhchr.ch/html/menu3/b/74.htm>
- [15] See: <http://www.basel.int/text/con-e-rev.pdf>
- [16] See: http://www.pops.int/documents/convtext/convtext_en.pdf
- [17] See: <http://www.pic.int/en/ConventionText/ONU-GB.pdf>
- [18] See: <http://www.unece.org/env/pp/documents/cep43e.pdf>
- [19] "Urgent Appeals" are used to communicate information about a violation that is allegedly ongoing or about to occur
(see <http://www.ohchr.org/english/bodies/chr/special/communications%20english.pdf>).
- [20] "Letter of Allegation" are used to communicate information about violations that are said to have already occurred and whose impact on the alleged victim can no longer be changed
(see <http://www.ohchr.org/english/bodies/chr/special/communications%20english.pdf>).
- [21] CAT, CEDAW, CRC, ICCPR, ICERD, ICESCR, ICRMW.
- [22] See also table on UN-system.
- [23] Further requirements apply (see below).
- [24] For the States' reporting history see <http://www.ohchr.org/english/bodies/docs/RRH.pdf>.



- [25] See <http://daccessdds.un.org/doc/UNDOC/GEN/G04/413/80/PDF/G0441380.pdf?OpenElement>
- [26] For the intervals see: <http://www.ohchr.org/english/bodies/docs/ReportingBurden.gif>.
- [27] For more information re input of NGOs, e.g. to the Committee on Economic, Social and Cultural Rights see: <http://www.ohchr.org/english/bodies/cescr/NGOs.htm>
- [28] See: <http://www.ohchr.org/english/law/ccpr-one.htm>.
- [29] See: <http://www.ohchr.org/english/law/cedaw-one.htm>.
- [30] See: <http://www.ohchr.org/english/law/cerd.htm>.
- [31] In the case of the International Covenant on Civil and Political Rights and the Convention on the Elimination of All Forms of Discrimination against Women, a State recognises the Committee's competence by becoming a party to a separate treaty (ICCPR-OP1; OP-CEDAW). In the case of the Convention on the Elimination of Racial Discrimination, States recognise the Committee's competence by making a declaration to that effect under a specific article of the Convention, article 14 respectively.
- [32] See for ICCPR and CERD <http://www.ohchr.org/english/bodies/docs/annex1.pdf> (also Annex 4).
- [33] See for CEDAW <http://www.ohchr.org/english/bodies/docs/annex2.pdf> (also Annex 3).
- [34] For the text of the Convention see: <http://www.unece.org/env/pp/documents/cep43e.pdf>.
- [35] For a list of ratifications see: http://www.unece.org/env/pp/ctreaty_files/ctreaty_2007_03_27.htm.
- [36] See: <http://www.unece.org/env/pp/documents/mop1/ece.mp.pp.2.add.8.e.pdf>.
- [37] See for list of ratifications etc.: <http://www.unece.org/env/pp/ctreaty.htm>.
- [38] See Annex 2.
- [39] For a list see http://www.coe.int/T/E/Com/About_Coe/Member_states/default.asp.
- [40] Belarus ' special guest status has been suspended due to its lack of respect for human rights and democratic principles.
- [41] For the full text see:
<http://www.echr.coe.int/NR/rdonlyres/D5CC24A7-DC13-4318-B457-5C9014916D7A/0/EnglishAnglais.pdf>.
- [42] For the full text of the revised Charter see:
<http://conventions.coe.int/Treaty/en/Treaties/Html/163.htm>.
- [43] See: Protocols No. 1, 4, 6, 7, 12 and 13.
- [44] See: Protocols No. 11 and 14 (when it enters into force).
- [45] See: also Application Form, Annex 5.
- [46] See: Annex 6.
- [47] See: inter alia *López Ostra v Spain* (no. 16798/90, 9.12.1994) and *Guerra and Others v Italy* (no. 14967/89, 19.2.1998).
- [48] See: paragraph 60.
- [49] See: Annex 5.
- [50] The Committee of Ministers is the Council of Europe's decision-making body. It comprises the Foreign Affairs Ministers of all the member States, or their permanent diplomatic representatives in Strasbourg.
- [51] See: <http://conventions.coe.int/Treaty/en/Treaties/Html/158.htm>.
- [52] For more details see:
http://www.coe.int/t/e/human_rights/esc/4_collective_complaints/Organisations_entitled/default.asp#TopOfPage.
- [53] For more information on this process see:
<http://conventions.coe.int/Treaty/en/Reports/Html/158.htm> (para. 20).
- [54] See: <http://www1.umn.edu/humanrts/instree/z1afchar.htm>.
- [55] See: <http://www.cidh.org/Basicos/English/Basic3.American%20Convention.htm>.

ANNEX

Annex 1

Rights

Website see:

<http://www.ohchr.org/english/law/> and <http://www.echr.coe.int/NR/rdonlyres/D5CC24A7-DC13-4318-B457-5C9014916D7A/0/EnglishAnglais.pdf> <http://conventions.coe.int/Treaty/en/Treaties/Word/163.doc>

For status of ratifications see:

<http://www.ohchr.org/english/bodies/docs/status.pdf>

<http://www.echr.coe.int/ECHR/EN/Header/Basic+Texts/Basic+Texts/Dates+of+ratification+of+the+European+Convention+on+Human+Rights+and+Additional+Protocols/>

<http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=163&CM=7&DF=26/10/2005&CL=ENG>

Universal Declaration of Human Rights (1948)

Article 3

Everyone has the right to life, liberty and security of person.

Article 25

1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.
2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

International Covenant on Civil and Political Rights (1966)

Article 6

1. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life. ...

International Covenant on Economic, Social and Cultural Rights (1966)

Article 11

1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.
2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed:
 - (a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources;
 - (b) Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.



Article 12

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.
2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:
 - (a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;
 - (b) The improvement of all aspects of environmental and industrial hygiene;
 - (c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;
 - (d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

International Convention on the Elimination of All Forms of Racial Discrimination (1965)

Article 5

In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:

- (a) The right to equal treatment before the tribunals and all other organs administering justice;
- (b) The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution;
- (c) Political rights, in particular the right to participate in elections-to vote and to stand for election-on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service;
- (d) Other civil rights, in particular:
....
- (iv) The right to public health, medical care, social security and social services; ...

Convention on the Elimination of All Forms of Discrimination against Women (1979)

Article 12

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.
2. Notwithstanding the provisions of paragraph 1 of this article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.

Article 14

1. States Parties shall take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families, including their work in the non-monetized sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of the present Convention to women in rural areas.
2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:



- (a) To participate in the elaboration and implementation of development planning at all levels;
- (b) To have access to adequate health care facilities, including information, counselling and services in family planning;
- (c) To benefit directly from social security programmes;
- (d) To obtain all types of training and education, formal and non-formal, including that relating to functional literacy, as well as, inter alia, the benefit of all community and extension services, in order to increase their technical proficiency;
- (e) To organize self-help groups and co-operatives in order to obtain equal access to economic opportunities through employment or self employment;
- (f) To participate in all community activities;
- (g) To have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes;
- (h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.

Convention on the Rights of the Child (1989)

Article 6

1. States Parties recognize that every child has the inherent right to life.
3. States Parties shall ensure to the maximum extent possible the survival and development of the child.

Article 24

1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.
2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:
 - (a) To diminish infant and child mortality;
 - (b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;
 - (c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;

European Convention on Human Rights (1950)

Article 2

- Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.
- Deprivation of life shall not be regarded as inflicted in contravention of this article when it results from the use of force which is no more than absolutely necessary:
- (a) in defence of any person from unlawful violence;
 - (b) in order to effect a lawful arrest or to prevent escape of a person lawfully detained;
 - (c) in action lawfully taken for the purpose of quelling a riot or insurrection.



Article 8

Everyone has the right to respect for his private and family life, his home and his correspondence. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

European Social Charter (revised ; 1996)

Article 11 – The right to protection of health

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

1. to remove as far as possible the causes of ill-health;
2. to provide advisory and educational facilities for the promotion of health and the encouragement of individual responsibility in matters of health;
3. to prevent as far as possible epidemic, endemic and other diseases, as well as accidents.



Annex 2

Checklist for communications to the Aarhus Compliance Committee

I. Information on correspondent submitting the communication

Full name of submitting organization or person(s):

Permanent address:

Address for correspondence on this matter, if different from permanent address:

Telephone:

Fax:

E-mail:

If the communication is made by a group of persons, provide the above information for each person and indicate one contact person.

If the communication is submitted by an organization, give the following information for the contact person authorized to represent the organization in connection with this communication:

Name:

Title/Position:

II. State concerned

Name of the State concerned by the communication:

III. Facts of the communication

Detail the facts and circumstances of the alleged non-compliance. Include all matters of relevance to the assessment and consideration of your communication. Explain how you consider that the facts and circumstances described represent a breach of the provisions the Convention:

IV. Nature of alleged non-compliance

Indicate whether the communication concerns a specific case of a person's rights of access to information, public participation or access to justice being violated as a result of non-compliance or relates to a general failure to implement, or to implement correctly, (certain of) the provisions of the Convention by the Party concerned:

V. Provisions of the Convention relevant for the communication

List as precisely as possible the provisions (articles, paragraphs, subparagraphs) of the Convention that the State is alleged to not comply with:

VI. Use of domestic remedies or other international procedures

Indicate if any domestic procedures have been invoked to address the particular matter of non-compliance which is the subject of the communication and specify which procedures were used, when which claims were made and what the results were:

If no domestic procedures have been invoked, indicate why not:

Indicate if any other international procedures have been invoked to address the issue of non-compliance which is the subject of the communication and if so, provide details (as for domestic procedures):

VII. Confidentiality

Unless you expressly request it, none of the information contained in your communication will be kept confidential. If you are concerned that you may be penalized, harassed or persecuted, you may request that information contained in your communication, including the



information on your identity, be kept confidential. If you request any information to be kept confidential, you are invited to clearly indicate which. You may also elaborate on why you wish it to be kept confidential, though this is entirely optional.

VIII. Supporting documentation (copies, not originals)

- Relevant national legislation, highlighting the most relevant provisions.
- Decisions/results of other procedures.
- Any other documentation substantiating the information provided under VII.
- Relevant pieces of correspondence with the authorities.

Avoid including extraneous or superfluous documentation and, if it is necessary to include bulky documentation, endeavour to highlight the parts which are essential to the case.

XI. Summary

Attach a two to three-page summary of all the relevant facts of your communication.

X. Signature

The communication should be signed and dated. If the communication is submitted by an organization, a person authorized to sign on behalf of that organization must sign it.

XI. Address

Please send the communication to:

Mr. Jeremy Wates
Secretary to the Aarhus Convention
United Nations Economic Commission for Europe
Environment and Human Settlement Division
Room 332, Palais des Nations
CH-1211 Geneva 10, Switzerland
Phone: +41 22 917 2384
Fax: +41 22 907 0107
E-mail: jeremy.wates@unece.org

Clearly indicate: "Communication to the Aarhus Convention's Compliance Committee"

Complaint Guidelines

For communications under the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women

1. Information concerning the author(s) of the communication

- Family name
- First name
- Date and place of birth
- Nationality/citizenship
- Passport/identity card number (if available)
- Sex
- Marital status/children
- Profession
- Ethnic background, religious affiliation, social group (if relevant)
- Present address
- Mailing address for confidential correspondence (if other than present address)
- Fax/telephone/e-mail
- Indicate whether you are submitting the communication as:
 - Alleged victim(s). If there is a group of individuals alleged to be victims, provide basic information about each individual.
 - On behalf of the alleged victim(s). Provide evidence showing the consent of the victim(s), or reasons that justify submitting the communication without such consent.

2. Information concerning the alleged victim(s) (if other than the author)

- Family name
- First name
- Date and place of birth
- Nationality/citizenship
- Passport/identity card number (if available)
- Sex
- Marital status/children
- Profession
- Ethnic background, religious affiliation, social group (if relevant)
- Present address
- Mailing address for confidential correspondence (if other than present address)
- Fax/telephone/e-mail

3. Information on the State party concerned

- Name of the State party (country)

4. Nature of the alleged violation(s)

Provide detailed information to substantiate your claim, including:

- Description of alleged violation(s) and alleged perpetrator(s)
- Date(s)
- Place(s)

- Provisions of the Convention on the Elimination of All Forms of Discrimination against Women that were allegedly violated. If the communication refers to more than one provision, describe each issue separately.

5. Steps taken to exhaust domestic remedies

Describe the action taken to exhaust domestic remedies; for example, attempts to obtain legal, administrative, legislative, policy or programme remedies, including:

- Type(s) of remedy sought
 - Date(s)
 - Place(s)
 - Who initiated the action
 - Which authority or body was addressed
 - Name of court hearing the case (if any).
- If domestic remedies have not been exhausted, explain why.

Please note: Enclose copies of all relevant documentation.

6. Other international procedures

Has the same matter already been examined or is it being examined under another procedure of international investigation or settlement? If yes, explain:

- Type of procedure(s)
- Date(s)
- Place(s)
- Results (if any)

Please note: Enclose copies of all relevant documentation.

7. Date and signature

Date/place: _____

Signature of author(s) and/or victim(s): _____

8. List of documents attached (do *not* send originals, only copies)

Model Complaint Form

For communications under:

- Optional Protocol to the International Covenant on Civil and Political Rights
- Convention against Torture, or
- International Convention on the Elimination of Racial Discrimination

Please indicate which of the above procedures you are invoking:

Date:

I. Information on the complainant:

Name:

First name(s):

Nationality:

Date and place of birth:

Address for correspondence on this complaint:

Submitting the communication:

on the author's own behalf:

on behalf of another person:

[If the complaint is being submitted on behalf of another person:]

Please provide the following personal details of that other person

Name:

First name(s):

Nationality:

Date and place of birth:

Address or current whereabouts:

If you are acting with the knowledge and consent of that person, please provide that person's authorization for you to bring this complaint

Or

If you are not so authorized, please explain the nature of your relationship with that person:
and detail why you consider it appropriate to bring this complaint on his or her behalf:

II. State concerned/Articles violated

Name of the State that is either a party to the Optional Protocol (in the case of a complaint to the Human Rights Committee) or has made the relevant declaration (in the case of complaints to the Committee against Torture or the Committee on the Elimination of Racial Discrimination):
.....

Articles of the Covenant or Convention alleged to have been violated:
.....

III. Exhaustion of domestic remedies/Application to other international procedures

Steps taken by or on behalf of the alleged victims to obtain redress within the State concerned for the alleged violation – detail which procedures have been pursued, including recourse to the courts and other public authorities, which claims you have made, at which times, and with which outcomes:
.....

If you have not exhausted these remedies on the basis that their application would be unduly prolonged, that they would not be effective, that they are not available to you, or for any other reason, please explain your reasons in detail:

Have you submitted the same matter for examination under another procedure of international investigation or settlement (e.g. the Inter-American Commission on Human Rights, the European Court of Human Rights, or the African Commission on Human and Peoples' Rights)?

If so, detail which procedure(s) have been, or are being, pursued, which claims you have made, at which times, and with which outcomes:

IV. Facts of the complaint

Detail, in chronological order, the facts and circumstances of the alleged violations. Include all matters which may be relevant to the assessment and consideration of your particular case. Please explain how you consider that the facts and circumstances described violate your rights.

.....
.....
.....

Author's signature:

[The blanks under the various sections of this model communication simply indicate where your responses are required. You should take as much space as you need to set out your responses.]

V. Checklist of supporting documentation (copies, not originals, to be enclosed with your complaint):

- Written authorization to act (if you are bringing the complaint on behalf of another person and are not otherwise justifying the absence of specific authorization):
- Decisions of domestic courts and authorities on your claim (a copy of the relevant national legislation is also helpful):
- Complaints to and decisions by any other procedure of international investigation or settlement:
- Any documentation or other corroborating evidence you possess that substantiates your description in Part IV of the facts of your claim and/or your argument that the facts described amount to a violation of your rights:

If you do not enclose this information and it needs to be sought specifically from you, or if accompanying documentation is not provided in the working languages of the Secretariat, the consideration of your complaint may be delayed.

Voir Note explicative
See Explanatory Note

Numéro de dossier <i>File-number</i>

COUR EUROPÉENNE DES DROITS DE L'HOMME
EUROPEAN COURT OF HUMAN RIGHTS

Conseil de l'Europe – *Council of Europe*
Strasbourg, France

REQUÊTE
APPLICATION

présentée en application de l'article 34 de la Convention européenne des Droits de l'Homme,
ainsi que des articles 45 et 47 du règlement de la Cour

*under Article 34 of the European Convention on Human Rights
and Rules 45 and 47 of the Rules of Court*

IMPORTANT: La présente requête est un document juridique et peut affecter vos droits et obligations.
This application is a formal legal document and may affect your rights and obligations.

I. LES PARTIES
THE PARTIES

A. LE REQUÉRANT/LA REQUÉRANTE
THE APPLICANT

(Renseignements à fournir concernant le/la requérant(e) et son/sa représentant(e) éventuel(le))
(Fill in the following details of the applicant and the representative, if any)

- | | |
|--|----------------------|
| 1. Nom de famille | 2. Prénom(s) |
| <i>Surname</i> | <i>First name(s)</i> |
| Sexe : masculin / féminin <i>Sex: male / female</i> | |
| 3. Nationalité | 4. Profession |
| <i>Nationality</i> | <i>Occupation</i> |
| 5. Date et lieu de naissance | |
| <i>Date and place of birth</i> | |
| 6. Domicile | |
| <i>Permanent address</i> | |
| 7. Tel. N° | |
| 8. Adresse actuelle (si différente de 6.) | |
| <i>Present address (if different from 6.)</i> | |
| 9. Nom et prénom du/de la représentant(e) ¹ | |
| <i>Name of representative*</i> | |
| 10. Profession du/de la représentant(e) | |
| <i>Occupation of representative</i> | |
| 11. Adresse du/de la représentant(e) | |
| <i>Address of representative</i> | |
| 12. Tel. N° | Fax N° |

B. LA HAUTE PARTIE CONTRACTANTE
THE HIGH CONTRACTING PARTY

(Indiquer ci-après le nom de l'Etat/des Etats contre le(s)quel(s) la requête est dirigée)
(Fill in the name of the State(s) against which the application is directed)

13.

¹

Si le/la requérant(e) est représenté(e), joindre une procuration signée par le/la requérant(e) et son/sa représentant(e).
If the applicant appoints a representative, attach a form of authority signed by the applicant and his or her representative.

II. EXPOSÉ DES FAITS
STATEMENT OF THE FACTS

(Voir chapitre II de la note explicative)
(See Part II of the Explanatory Note)

14.

Si nécessaire, continuer sur une feuille séparée
Continue on a separate sheet if necessary

**III. EXPOSÉ DE LA OU DES VIOLATION(S) DE LA CONVENTION ET/OU DES
PROTOCOLES ALLÉGUÉE(S), AINSI QUE DES ARGUMENTS À L'APPUI
*STATEMENT OF ALLEGED VIOLATION(S) OF THE CONVENTION AND/OR
PROTOCOLS AND OF RELEVANT ARGUMENTS***

(Voir chapitre III de la note explicative)
(See Part III of the Explanatory Note)

15.

IV. EXPOSÉ RELATIF AUX PRESCRIPTIONS DE L'ARTICLE 35 § 1 DE LA CONVENTION
STATEMENT RELATIVE TO ARTICLE 35 § 1 OF THE CONVENTION

(Voir chapitre IV de la note explicative. Donner pour chaque grief, et au besoin sur une feuille séparée, les renseignements demandés sous les points 16 à 18 ci-après)

(See Part IV of the Explanatory Note. If necessary, give the details mentioned below under points 16 to 18 on a separate sheet for each separate complaint)

16. Décision interne définitive (date et nature de la décision, organe – judiciaire ou autre – l'ayant rendue)
Final decision (date, court or authority and nature of decision)
17. Autres décisions (énumérées dans l'ordre chronologique en indiquant, pour chaque décision, sa date, sa nature et l'organe – judiciaire ou autre – l'ayant rendue)
Other decisions (list in chronological order, giving date, court or authority and nature of decision for each of them)
18. Dispos(i)ez-vous d'un recours que vous n'avez pas exercé? Si oui, lequel et pour quel motif n'a-t-il pas été exercé?
Is there or was there any other appeal or other remedy available to you which you have not used? If so, explain why you have not used it.

Si nécessaire, continuer sur une feuille séparée
Continue on a separate sheet if necessary

V. EXPOSÉ DE L'OBJET DE LA REQUÊTE
STATEMENT OF THE OBJECT OF THE APPLICATION

(Voir chapitre V de la note explicative)
(See Part V of the Explanatory Note)

19.

VI. AUTRES INSTANCES INTERNATIONALES TRAITANT OU AYANT TRAITÉ
L'AFFAIRE
STATEMENT CONCERNING OTHER INTERNATIONAL PROCEEDINGS

(Voir chapitre VI de la note explicative)
(See Part VI of the Explanatory Note)

20. Avez-vous soumis à une autre instance internationale d'enquête ou de règlement les griefs énoncés dans la présente requête? Si oui, fournir des indications détaillées à ce sujet.
Have you submitted the above complaints to any other procedure of international investigation or settlement? If so, give full details.

VII. PIÈCES ANNEXÉES

**(PAS D'ORIGINAUX,
UNIQUEMENT DES COPIES ;
PRIÈRE DE N'UTILISER NI AGRAFE,
NI ADHÉSIF, NI LIEN D'AUCUNE SORTE)**

LIST OF DOCUMENTS

***(NO ORIGINAL DOCUMENTS,
ONLY PHOTOCOPIES,
DO NOT STAPLE, TAPE OR BIND DOCUMENTS)***

(Voir chapitre VII de la note explicative. Joindre copie de toutes les décisions mentionnées sous ch. IV et VI ci-dessus. Se procurer, au besoin, les copies nécessaires, et, en cas d'impossibilité, expliquer pourquoi celles-ci ne peuvent pas être obtenues. Ces documents ne vous seront pas retournés.)

(See Part VII of the Explanatory Note. Include copies of all decisions referred to in Parts IV and VI above. If you do not have copies, you should obtain them. If you cannot obtain them, explain why not. No documents will be returned to you.)

21. a)
b)
c)

VIII. DÉCLARATION ET SIGNATURE
DECLARATION AND SIGNATURE

(Voir chapitre VIII de la note explicative)
(See Part VIII of the Explanatory Note)

Je déclare en toute conscience et loyauté que les renseignements qui figurent sur la présente formule de requête sont exacts.

I hereby declare that, to the best of my knowledge and belief, the information I have given in the present application form is correct.

Lieu/*Place*

Date/*Date*

(Signature du/de la requérant(e) ou du/de la représentant(e))
(*Signature of the applicant or of the representative*)

EUROPEAN COURT OF HUMAN RIGHTS

A U T H O R I T Y¹ (Rule 36 of the Rules of Court)

I,

.....
(name and address of applicant)

hereby authorise

.....
(name, address and occupation of representative)

to represent me in the proceedings before the European Court of Human Rights, and
in any subsequent proceedings under the European Convention on Human Rights,
concerning my application introduced under Article 34 of the Convention against

.....
(respondent State)

on
(date of letter of introduction)

.....
(place and date)

.....
(signature of applicant)

I hereby accept the above appointment

.....
(signature of representative)

1. This form must be completed and signed by any applicant wishing to be represented before the Court and by the lawyer or other person appointed.

WECF The Netherlands

PO Box 13047
3507 LA, Utrecht
The Netherlands
Phone: +31 - 30 - 23 10 300
Fax: +31 - 30 - 23 40 878

WECF Germany

Sankt-Jakobs-Platz 10
D – 80331 München
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E-mail: wecf@wecf.eu



WECF

Women in Europe for a Common Future