



# **State repression of environmental protest and civil disobedience: a major threat to human rights and democracy**

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under the Aarhus Convention

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*The repression that environmental activists who use peaceful civil disobedience are currently facing in Europe is a major threat to democracy and human rights. The environmental emergency that we are collectively facing, and that scientists have been documenting for decades, cannot be addressed if those raising the alarm and demanding action are criminalized for it. The only legitimate response to peaceful environmental activism and civil disobedience at this point is that the authorities, the media, and the public realize how essential it is for us all to listen to what environmental defenders have to say.*

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Michel Forst,

UN Special Rapporteur on Environmental Defenders under the Aarhus Convention

## UN Special Rapporteur on Environmental Defenders under the Aarhus Convention

The UN [Special Rapporteur on Environmental Defenders](#) under the *Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters* (the [Aarhus Convention](#)) is the first rapid response mechanism to protect environmental defenders established within a legally-binding international framework. Article 3(8) of the Aarhus Convention imposes a legally-binding obligation on countries that are Parties to the Convention ([Aarhus Parties](#)) to ensure that persons exercising their rights under the Convention are not penalized, persecuted or harassed for doing so. In October 2021, alarmed by the serious situation faced by environmental defenders, including threats, violence, intimidation, surveillance, detention and even killings, the Meeting of the Parties to the Aarhus Convention adopted, by consensus, [Decision VII/9](#) establishing a rapid response mechanism in the form of a Special Rapporteur on Environmental Defenders, whose role is to take measures to protect environmental defenders experiencing (or at imminent threat of experiencing) persecution, penalization or harassment. Any member of the public seeking to protect the right to live in an environment adequate to their health and well-being is an environmental defender.<sup>1</sup> In June 2022, the Meeting of the Parties, by consensus, elected Michel Forst as the first UN Special Rapporteur on Environmental Defenders under the Aarhus Convention.

## Peaceful environmental protest - protected by article 3(8) of the Aarhus Convention

The Aarhus Convention Compliance Committee has made clear that peaceful environmental protest is a legitimate exercise of the public's right to participate in decision-making as recognized in article 1 of the Convention.<sup>2</sup> The Compliance Committee has also held that persecuting, penalizing or harassing members of the public seeking to exercise this right violates article 3(8) of the Convention.<sup>3</sup>

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<sup>1</sup> See the Compliance Committee's 'Findings and recommendations with regard to communication ACCC/C/2014/102 concerning compliance by Belarus', ECE/MP.PP/C.1/2017/19, para. 66.

<sup>2</sup> Ibid., para. 96.

<sup>3</sup> Ibid., para. 109.

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## INTRODUCTION

### The context: triple environmental crisis

The triple environmental crisis of pollution, biodiversity loss and climate change has been documented by the scientific community for decades. The urgency of taking action, especially against climate change, has been explained many times, and the solutions on how to do so have been presented extensively. Despite their commitment to take the necessary measures to limit global warming to 1.5°C, to restore 30 percent of all degraded ecosystems by 2030,<sup>4</sup> and to substantially reduce deaths and illnesses from air pollution,<sup>5</sup> States have made insufficient progress in that direction since 2015, when the 2030 Agenda for Sustainable Development was adopted and the Paris Agreement under the United Nations Framework Convention on Climate Change was agreed upon. To date, governments continue to take decisions that directly contradict the clear and urgent recommendations of scientists.

### Increasing use of peaceful civil disobedience in environmental activism

Faced with this situation and with the legitimate impression that decision-makers are failing them, a growing number of people and organizations – groups, movements, activists and scientists, and individuals from children to grandparents – are taking action to defend their human right, and the human right of future generations, to a clean, healthy and sustainable environment, as recognized by the United Nations General Assembly.<sup>6</sup> In doing so, they are exercising their fundamental rights to freedom of expression, peaceful assembly and association, guaranteed under international human rights law. Their actions take different forms, from traditional demonstrations, social media campaigns and advocacy, to more creative forms of mobilization and direct action. It is important to stress that, whatever form their actions take, they are “environmental defenders” and, as such, the mandate of the Special Rapporteur is to protect them from any form of penalization, persecution, or harassment, or the threat thereof.

Due to the growing sense of urgency, and because of the inadequate response from governments to the environmental emergency, environmental defenders are, in addition to other forms of political engagement, increasingly using forms of peaceful protest that may cause disruption in the public space, such as occupying construction sites, or slow marches or roadblocks that create traffic jams. Despite being peaceful, these forms of protest, sometimes labelled as civil disobedience, attract considerable media attention, and are often wrongly described by the media and political figures as “anti-democratic” or even “violent”.

Drawing on more than a year of information gathering, this position paper presents a snapshot of the repression and criminalization of peaceful environmental protest and civil disobedience observed by the Special Rapporteur in European countries that are Parties to the Aarhus Convention.<sup>7</sup> It explains why the Special Rapporteur considers this repression and criminalization

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<sup>4</sup> Convention on Biological Diversity, Kunming-Montreal Global Biodiversity Framework, Global targets for 2030, [target 2](#).

<sup>5</sup> Sustainable Development Goal 3, [target 3.9.1](#).

<sup>6</sup> United Nations General Assembly, [A/RES/76/300](#).

<sup>7</sup> The Special Rapporteur plans to conduct outreach activities with environmental defenders from all countries that are Parties to the Aarhus Convention, including environmental defenders from Central Asia, Eastern/Southeastern Europe and the Caucasus, and Guinea Bissau. This will include, for instance, several regional consultations with environmental

to constitute a major threat to democracy, human rights, the civic space, and to the exercise of the rights guaranteed under the Aarhus Convention, and therefore why he has made this issue a priority topic under his mandate. It sets out why the Special Rapporteur considers a profound change in how States respond to environmental protest to be urgently required and features five calls for action to States on how to do so. It also urges the human rights community to coordinate their efforts to support this call for action.

## The protection of peaceful civil disobedience under international human rights law

There is no universally agreed definition of civil disobedience.<sup>8</sup> It is a form of political participation that refers to varied and evolving forms of mobilization, and that can broadly be described as acts of deliberate law-breaking, concerning a matter of public interest, conducted publicly, and non-violently. These are the four cumulative criteria that the Special Rapporteur uses.

Under international human rights law, civil disobedience is recognized as a form of exercising the rights to freedom of expression and freedom of peaceful assembly, as guaranteed by articles 19 and 21 of the International Covenant on Civil and Political Rights (ICCPR) respectively. Peaceful protest can take many forms and mostly will not amount to “civil disobedience” (since civil disobedience involves an act of deliberate law-breaking). However, all acts of civil disobedience are a form of protest, and, as long as they are non-violent, they are a legitimate exercise of this right.

In its General Comment No. 37 (2020) on the right of peaceful assembly, the UN Human Rights Committee specifically recalled that “*collective civil disobedience or direct action campaigns can be covered by article 21 provided that they are non-violent*”<sup>9</sup> and that disruption or unrest, such as “*mere pushing and shoving or disruption of vehicular or pedestrian movement or daily activities*”,<sup>10</sup> does not amount to violence. Indeed, as the UN Human Rights Committee further clarified, to be considered non-peaceful, an assembly must be characterized by “*widespread and serious*” violence, entailing “*the use by participants of physical force against others that is likely to result in injury or death, or serious damage to property*”.<sup>11</sup> Therefore, isolated acts by some participants do not qualify an assembly as non-peaceful and do not justify the excessive use of force by State authorities to disperse or interrupt a protest.

The UN Human Rights Committee also clarified that, while restrictions imposed on assemblies may be necessary for the protection of the rights and freedoms of others, assemblies are also a legitimate use of public spaces and “*since they may entail by their very nature a certain level of disruption to ordinary life, such disruptions must be accommodated, unless they impose a*

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defenders throughout 2024. Within the first year of his mandate, the Special Rapporteur has mostly travelled to Northern and Western Europe. The observations in the position paper are drawn from this period.

<sup>8</sup> The OSCE/ODIHR and the Venice Commission, however, describe civil disobedience, in their [Guidelines on Freedom of Peaceful Assembly](#), 3<sup>rd</sup> edition (2020), as “*non-violent actions that, while in violation of the law, are undertaken for the purpose of amplifying or otherwise assisting in the communication of a message.*”

<sup>9</sup> Human Rights Committee, [General comment No. 37 \(2020\) on the right of peaceful assembly \(article 21\)](#), para 16.

<sup>10</sup> Ibid., para 15.

<sup>11</sup> Ibid., para 15.

*disproportionate burden, in which case the authorities must be able to provide detailed justification for any restrictions.*<sup>12</sup>

As such, States hold the primary responsibility under international human rights law to protect those rights and to ensure an appropriate response to forms of protest using direct action or civil disobedience. Just as they have an obligation to respect and ensure the right of peaceful assembly, States have an obligation to respect and protect the right to engage in peaceful civil disobedience, regardless of whether it takes place outdoors, indoors, online, or in public or private spaces. Whether intended or not, any disruptions that these actions may cause, such as traffic jams or disturbances to normal economic activity, does not remove the protection for the exercise of fundamental rights during such action under international human rights law. Indeed, the UN Human Rights Committee has made clear that *“private entities and broader society may be expected to accept some level of disruption”* as a result of the exercise of the right of peaceful assembly.<sup>13</sup>

In its *Guidelines on Freedom of Peaceful Assembly*, the Organization for Security and Cooperation in Europe’s Office for Democratic Institutions and Human Rights (OSCE/ODIHR) further elaborates on the importance of protecting the exercise of peaceful civil disobedience, highlighting that *“State responses, including arrests and penalties, should be proportional to the respective offenses”*,<sup>14</sup> that *“any discretionary powers afforded to law enforcement officials should be narrowly framed”* and that *“domestic legislation designed to counter terrorism or extremism should narrowly define the terms ‘terrorism’ and ‘extremism’ so as not to include forms of civil disobedience and protest”*.<sup>15</sup>

## **Reason for the Special Rapporteur’s work on environmental protest and civil disobedience**

Following his election in June 2022, the Special Rapporteur visited a number of countries that are Parties to the Aarhus Convention and that therefore have a binding obligation under article 3(8) of the Convention to ensure that environmental defenders are not penalized, persecuted, or harassed for exercising their rights under the Convention. He observed that in many countries, the State response to peaceful environmental protest is increasingly to repress, rather than to enable and protect, those seeking to speak up for the environment. The Special Rapporteur received numerous reports of the discrediting, criminalization of, and improper use of administrative and civil measures against environmental movements and activists who use peaceful civil disobedience, such as tree climbing to prevent the cutting down of trees, roadblocks, the interruption of sporting events, occupation of airports, and the blocking of shareholder meetings of oil multinationals, to bring attention to their urgent message. He observed that, in many countries, the State response to these protests, and to environmental activism more broadly, is disproportionate. He noted that the repressive measures taken by the authorities in response to peaceful environmental protests often appear to amount to violations of article 3(8) of the Aarhus Convention and of other international human rights obligations. He also noted that, in many contexts, in addition to a disproportionate response to peaceful civil

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<sup>12</sup> Ibid., para 47.

<sup>13</sup> Ibid., para 31.

<sup>14</sup> Venice Commission and OSCE/ODIHR *Guidelines on Freedom of Peaceful Assembly*, 3<sup>rd</sup> edition (2020), para 11.

<sup>15</sup> OSCE/ODIHR, [Guidelines on Freedom of Peaceful Assembly](#), 2<sup>nd</sup> edition, (2010), para 91.

disobedience, there is a worrying trend to severely restrict legal forms of environmental protest. Environmental defenders are thus not only increasingly threatened themselves, but they are also increasingly limited in their forms of action.

More and more, public authorities appear to consider any disruption as a form of violence or threat to public safety, and, on this basis, unduly restrict the exercise of the right to peaceful assembly or prohibit certain forms of protests entirely. Before imposing an unnecessary or disproportionate sanction or punishment, there should first be an assessment of whether the civil disobedience was in fact a legitimate exercise of the protester's fundamental rights. While acts of civil disobedience relating to the environment are not new, State responses in recent years show a stark increase in repression. The way that public authorities are dealing with environmental civil disobedience is the result of their deliberate choices.

In a context in which: parliaments create new criminal offenses to prohibit the forms of protest used by environmental movements; peaceful environmental activists are compared to "terrorists" by government ministers; counter-terrorism laws are used against environmental activists to place them under heavy surveillance; the police use water cannons, pepper spray, teargas, flash balls or methods that are deliberately painful, such as "pain grips", to disperse peaceful environmental protests; protesters are arrested, subjected to strip searches and held in police custody for several days without charge solely to "check their identity"; journalists are arrested while covering environmental protests; and courts have imposed a three-year prison sentence on an environmental activist who blocked a bridge, States create a climate of fear and intimidation for environmental defenders, in violation of their international obligations, including the Aarhus Convention and international human rights law. These crackdowns on environmental defenders have a concrete and dangerous chilling effect on the exercise of fundamental rights, on civil society and democracy, and ultimately on society's capacity to address the environmental crisis with the required urgency.



# OBSERVATIONS BY THE SPECIAL RAPPORTEUR ON THE REPRESSION AND CRIMINALIZATION OF ENVIRONMENTAL PROTEST AND CIVIL DISOBEDIENCE

## Methodological foreword

The observations made in this position paper draw from information that the Special Rapporteur has received through various means, including in closed-door settings. Where the information provided to the Special Rapporteur is also publicly available (e.g., in media reports, court decisions, etc.), appropriate external sources are provided in footnotes or hyperlinks for ease of reference for the reader. Where the information shared with the Special Rapporteur is not publicly available, or when it draws from several similar cases (e.g., an issue observed multiple times, at different occasions, such as various protests), sources are not provided.

Through his visits to various countries that are Parties to the Aarhus Convention, the holding of a closed-door workshop on civil disobedience, and other forms of information gathering, the Special Rapporteur has identified a trend of repression and criminalization of environmental defenders engaged in peaceful protest and civil disobedience. This trend spans at least four dimensions: the media and political discourse, legislation and policy, law enforcement, and the courts. The present section of this position paper presents an overview of the main issues identified by the Special Rapporteur, illustrated by examples drawn from various countries. These examples are by no means exhaustive, but rather reflect the nature of the information the Special Rapporteur has received. As such, the fact that a particular country is not explicitly mentioned does not mean that repression or criminalization is not taking place in that country. On the contrary, the Special Rapporteur has seen that each of the issues listed below are occurring in a growing number of countries, as their authorities look to and replicate the practices of other countries. The Special Rapporteur will continue to monitor and gather information on the situation in countries that are Parties to the Aarhus Convention going forward.

## The media and political discourse

The Special Rapporteur has observed that environmental defenders, including those engaged in peaceful protest and civil disobedience, are increasingly portrayed in the media and by political figures in a negative light. Such discourse, which is not only derogatory but also often defamatory, contributes to endangering environmental defenders, is used to justify their repression and a corresponding shrinking of the civic space, and deters members of the public from participating in protests out of fear of being categorized as criminals and treated as such.

In a number of countries (including Austria, France, Germany, Spain, Sweden and the United Kingdom (UK)), public figures, including representatives of political parties, members of parliament, and even ministers, have described environmental movements as a “dictatorship” and a “threat to democracy” (e.g., in [Spain](#) and [Sweden](#)), and have referred to environmental organizations and activists as “ecoterrorists” and likened them to criminal organizations (e.g., in



[Austria](#), [Germany](#), [France](#) and [the UK](#)). Such statements have been made by political figures in parliaments, in public interviews and on social media. In many countries, it seems to have become acceptable to compare disruptive protests, such as roadblocks or the occupation of a construction site, with organized crime, terrorism, violence and the killing of civilians. Indeed, many political figures, including members of the government themselves, deliberately conflate “disruption” with “violence”, and thereby justify the excessive use of force by law enforcement on protesters. They also promote the erroneous idea that all protesters present should be held liable for any isolated use of violence that may take place on the margins of a protest.

The media provides a prominent stage for disseminating and embedding these negative narratives. In addition to publishing the statements made by political figures, media outlets themselves frequently use derogatory and defamatory language to describe environmental defenders and their actions. They also focus on any disruption the protests cause and fail to explain adequately the reasons why the protesters are resorting to such actions. In doing so, the media spreads and reinforces the idea that environmental protests are illegitimate, illegal, and even violent, and that environmental movements are criminal organizations that should be dealt with as such. In doing so, the media plays a significant role in shaping public opinion around the idea that environmental protests are whims of “radical”, “selfish” “eco zealots”, rather than the expression of a profound concern for the future of humanity, and an illustration of genuine despair, particularly in the face of climate inaction.

This discourse has concrete negative impacts on the well-being and safety of environmental defenders, as well as on the legitimate exercise of their freedoms of expression, peaceful assembly, and association, among other fundamental human rights guaranteed under the Aarhus Convention and other international instruments. Conveying the idea that environmental protesters are criminals encourages violent behavior towards them, such as in Germany where road users have dragged protesters from the road [by their hair](#), [punched and kicked them](#), or [run them over](#) with their vehicles. Such rhetoric also makes it easier for public authorities to justify the use of repressive measures, including the use of measures that are designed to fight organized crime and terrorism. Moreover, by deterring members of the public from exercising their fundamental right to protest out of fear of being treated like criminals, the negative discourse impacts on the healthy functioning of democracy.

## Legislation and policy

The repression and criminalization of environmental defenders is also increasingly visible in the policies and legislation of countries that are Parties to the Aarhus Convention. In several countries, environmental activism has been labelled as a potential terrorist threat. Legislation is increasingly being used to stifle environmental protest through the introduction of new offences, harsher sentences, and bans on particular forms of protest.

Regarding the categorization of environmental activism as a “terrorist threat”:

- The 2023 European Union *Terrorism Situation and Trend* (TE-SAT) [report](#) features environmental activism in its entries on current “*Extremism*”, and on the “*Outlook on potential developments in terrorism and violent extremism in the EU*”. Worryingly, the report classifies roadblocks and the occupation of bank buildings or airports as “*extremism*” and appears to take the view that being worried about climate change is

an extremist viewpoint: “Environmental extremists are concerned with various themes, such as climate change and earth resources.”

- In Denmark, “climate extremists” have been included on the [list](#) of “terrorist threats to Denmark” by the Danish Security and Intelligence Service (PET) since 2022. The same report also states that “there are currently no climate extremist groups in Denmark who are willing to use violence in their fight.”
- In Spain, the 2022 [report](#) of the Public Prosecutor’s Office includes the movement Extinction Rebellion under “International terrorism”. The 2023 [report](#) originally included two peaceful movements (Extinction Rebellion and *Futuro Vegetal*) under “National Terrorism”, before removing them after receiving public complaints from the groups concerned.

Examples of legislative changes that have introduced severe restrictions on, harsher sentences for, or have prohibited entirely, certain forms of protest include:

- In Germany, several cities have imposed city-wide bans on *Letzte Generation* and any other climate-related protests that are not notified to the authorities prior to the protest, if it involves any use of the driving lane of roads and expressly prohibits participants in such protests from sitting down, glueing or otherwise attaching themselves to roads or cars nearby.
- In Italy, the so-called “eco-vandalism” law,<sup>16</sup> adopted in January 2024, has introduced new provisions against “vandalism” during assemblies, with sanctions ranging from one to five years imprisonment, and a fine of up to €10,000. The law also includes a sanction of up to six months’ imprisonment or a fine from a minimum of €300 up to €1,000 for causing superficial damage, not only to artworks themselves, but also to the material used for their display or protection. This means, for instance, that an environmental activist could be imprisoned for up to six months for having sprayed washable paint on the base of a statue or a glass covering of, or frame around, a painting.
- In the UK, the 2022 Police, Crime, Sentencing and Courts Act enables the police to restrict and even ban ‘noisy’ or ‘disruptive’ public assemblies. In addition, the 2023 Public Order Act grants the police extended powers to restrict peaceful protests. It also introduces new criminal offenses that make some forms of protest illegal, such as creating a criminal offense for “locking-on” (i.e., attaching oneself to another person, to an object or to a building), or even for being “equipped” for such acts. This means, for instance, that carrying a bike lock in a public space with the intent to attach something, such as a bike, to something else, such as a fence, could be considered illegal. The UK Government’s [factsheet](#) on the 2023 Public Order Act expressly refers to environmental protests by Extinction Rebellion, Insulate Britain and Just Stop Oil, all peaceful movements, as the reason for passing this law.

In addition to direct restrictions impacting on the right to protest, legislation further impeding the exercise of this right includes:

- In Bavaria, Germany, the Bavarian Police Act grants the courts the power to order a person to be held in preventive detention for a period of 30 days (renewable once, for 30 additional days), without the need for the person to be suspected or accused of a

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<sup>16</sup> [Law No. 6/2024 of January 22, 2024](#), which entered into force on February 8, 2024.

specific crime. In 2022 and 2023, this legislative provision was used against many peaceful climate activists (see section on *The courts* below).

By categorizing environmental activism as a potential terrorist threat, by limiting freedom of expression and by criminalizing certain forms of protests and protesters, these legislative and policy changes contribute to the shrinking of the civic space and seriously threaten the vitality of democratic societies. They also provide the legal basis for the repression of environmental defenders by law enforcement.

## Law enforcement (policing and prosecution)

The Special Rapporteur has received numerous reports of heavy-handed, brutal, and abusive policing before, during and after peaceful environmental protests in countries that are Parties to the Aarhus Convention. In addition, environmental defenders taking part in peaceful protest and civil disobedience actions are increasingly being prosecuted, and subject to increasingly serious charges. Peaceful environmental movements are also being targeted as criminal organizations.

### Harassment of protesters through abusive identity checks, arrests, and fines

Examples of harassment of peaceful protesters before and during protests include:

- In France, people who tried to join an authorized demonstration have been subjected to widespread identity checks, vehicle searches and confiscation of their personal items by the police.
- Also in France, activists at or near the site of a protest have been identified and fined for very minor traffic law infractions, such as supposed “excessive use of the car horn”, “not wearing a seatbelt”, or “dangerous” or “illegal parking”.
- In [Northern Ireland \(UK\)](#), peaceful anti-mining protesters have been arrested for “jaywalking” and protesters taking video footage charged with harassment.
- In Spain, peaceful protesters have been subjected to systematic and indiscriminate identity checks lasting several hours during a protest by *Rebelión Científica*.
- In Italy, peaceful protesters have repeatedly been fined individually during protests, which has now forced protest organizers to limit the number of participants at a protest in order to ensure that they can cover the payment of the fines of all protesters. Protesters have 48 hours to pay the fine, or otherwise face criminal proceedings.
- In Portugal, peaceful protesters have been arrested and detained by the police for “disruption of traffic”, even though the protest in which they took part was undertaken legally and its itinerary had been notified to the authorities in advance.
- In Denmark and Spain, peaceful protesters have been arrested indiscriminately and charged for offenses committed at the protest without taking into account the individual involvement of that protester. For example, protesters who were simply present or holding banners have been arrested for vandalism in the same way as protesters who had, for instance, thrown paint at a building.

## Harassment and prosecution of journalists during protests

In addition to being denied access to or prevented from filming environmental protests and civil disobedience actions either by being physically moved away from the site (e.g., in Portugal) or by being denied access to a narrow street where the police had gathered activists and blocked access with police trucks (e.g., in Spain), journalists have also themselves been targeted by police, including:

- In [France](#) and Spain, journalists covering environmental protests have been arrested, detained, and prosecuted as if they were taking part in the protest.
- In [Poland](#), [Sweden](#), and the [UK](#), journalists covering environmental protests have also been arrested. In Sweden, a journalist was arrested at a climate protest, subjected to a full strip search at the police station, held in police custody for six hours, and had their equipment confiscated.

## Police brutality and abuse of authority during protests

There have been countless reports of abuse of authority, excessive use of force and brutality by police during environmental protests and civil disobedience actions. These include:

- In Portugal, peaceful protesters who were not resisting arrest have been handcuffed.
- In Poland and Spain, police officers have shoved and removed by force peaceful protesters glued to the ground or cuffed to fences, resulting in bruising, scratches and a broken collarbone and wrist.
- In France, Poland and Spain, police officers have beaten peaceful protesters, including protesters who had fallen on the ground.
- In Germany and occasionally in Poland, police officers have used so-called “pain grips” on peaceful protesters, deliberately inflicting intense pain by folding their hands down flat against their wrists, sometimes with plastic cable ties, in order to forcibly remove protesters from the road.
- In Austria, Finland, France and the Netherlands, the excessive use of force to disperse peaceful protesters, including children, has included the use of pepper spray in Austria and Finland, watercannon in the Netherlands, causing bruises and hypothermia, and the use of teargas and “flash balls” in France, which has become so frequent that protesters and journalists now attend protests with protective equipment (diving masks, scarfs, saline solutions, etc.). The excessive use of force to disperse peaceful protesters has resulted in a number of injuries.

## Abuse in police custody

In a number of countries, abuse against environmental protesters while in police custody has also been reported, including:

- In Poland, where an arrested activist was transported in a police car for a long distance while held in a seatbelt with her hands still cuffed behind her back.
- In Germany, Poland, Portugal and Spain, lengthy detentions for identity checks. These have included detentions that exceed the legally authorized duration (e.g., in Spain), or

that are unnecessarily long for simple identity checks, with protesters held for 9 hours in Portugal, 30 hours in Poland, and 7 days in Germany.

- Humiliation, intimidation, and violence against environmental defenders in police custody:
  - > In Poland, where a young female activist was repeatedly asked, while cuffed to a police officer, whether she was going to “be a good girl”.
  - > Also in Poland, activists being subject to body searches multiple times; humiliating and sexist comments by police officers during searches; conducting a body search in the restroom, with the door locked and no record made of the search (which resulted in the activist being subject to a further body search).
  - > In Spain, where police officers violently grabbed protesters by the cheeks while threatening them with further physical harm, if they arrested them again.
  - > In Denmark, Finland, the Netherlands, Poland, and Spain, where protesters in police custody have been denied access to toilets, medication and to a doctor.
  - > In Denmark and Portugal, where protesters in police custody have been subject to full strip searches. In Portugal, a male police officer also forced women activists to entirely undress and then crouch. After a complaint was submitted against him, the police officer received a warning only.

## **Increasing prosecution and charges for environmental protest**

Environmental movements in several countries have reported that, since the beginning of 2023, the charges against peaceful protesters have become more severe for similar actions. They have also reported that protesters are increasingly being prosecuted, even though there are relatively few convictions. These trends give rise to the impression that the authorities’ intention is primarily to intimidate people from engaging in protest. Examples include:

- In Spain, peaceful protesters have been prosecuted and notified of their upcoming trial several months after a protest took place, although during the protest itself the police had only checked their identity and they had not been arrested or detained.
- In Denmark, France, Germany, Italy, Poland, Spain and Sweden, similar conduct is being charged under more serious offenses than in the past:
  - > In Italy, conduct that may previously have been charged as “soiling” is increasingly charged as “damage”, and likewise, “damage” as “destruction”, leading to harsher sentences for the same actions.
  - > In France, peaceful environmental protesters who took part in roadblocks have been charged not only with “obstruction of road traffic”, but also with “endangering the lives of others”.
  - > In Denmark, Spain and Sweden, actions that used to be categorized as misdemeanors are now resulting in criminal charges. In Denmark, the criminal charge of “vandalism” or “organized vandalism” is being used, which carries a sentence of up to six years’ imprisonment. In Sweden, there is a steady increase in the number of environmental activists being charged and convicted in relation to their engagement in peaceful protests. Acts that used to be categorized as

“disobeying police orders” are now increasingly considered as acts of “sabotage” by prosecutors and the courts.

- > In Germany and Poland, laws on “criminal coercion” have been used against peaceful protesters. In Germany, authorities have asserted that, by blocking traffic, protesters have exerted criminal coercion on drivers and other road users. In Poland, protesters have been charged with coercion for having glued themselves to the ground in a public building.
- In Spain, the public prosecutor charged activists from *Rebelión Científica* who had thrown dyed water at the Congress building with “damage to historical heritage” and requested a sentence of one year and nine months of imprisonment.
- In Poland, protesters have been regularly charged with offenses that do not correspond to the actions they undertook. For example, protesters protesting outside a building have been charged with “trespassing” in that building, even though the law requires that the person has entered inside the building to receive such a charge.
- In France and Italy, activists have been banned from the cities where they live, study or work, for participating in peaceful protests. In Italy, the authorities are increasingly using the so-called “Anti-Mafia Code” to issue restraining orders banning peaceful environmental protesters from particular cities. Activists who distributed flyers during a protest in Turin against the fossil fuel industry have been banned from the city of Turin, and similar bans have been used in various cities across Italy. In [France](#), activists who climbed and blocked the entrance of the Ministry of Ecological Transition by unfurling a banner reading “Ministry of the Ecological Treason” were prosecuted for “bearing of arms” as they had carabiner knives as part of their climbing safety equipment. They were banned for six months from the city of Paris in return for the discontinuance of the prosecution against them. Other protesters who took part in peaceful civil disobedience actions, such as roadblocks, have also received six-month bans from the cities in France where the actions took place.
- In Portugal, until 2023, peaceful protesters, and especially school students participating in climate sit-ins in their schools, were almost never fined for taking part in protests. Since 2023, students taking part in these sit-ins and who have refused to stop protesting have been almost systematically arrested, charged with “disregarding a police order” and fined.
- In Sweden, peaceful protesters have been increasingly fined for taking part in a protest and the level of fines has been increasing.
- In France, fines have become increasingly common as an “alternative to prosecution”. The fines are imposed by a prosecutor without the intervention of a judge, and often include a six-month ban from the city where the protest took place.
- In Denmark, France and Sweden, foreign nationals residing in the country who have joined in peaceful environmental protests have been requested to leave the country. For example, foreign nationals living in France who have taken part in environmental protests have been issued “obligations to leave French territory” (OQTF) on the grounds that their presence in France posed “a real, present and sufficiently serious threat to a fundamental interest of society”.

## Extensive investigation and surveillance measures based on organized crime legislation

In several countries, environmental defenders have reported that the police are using measures from organized crime legislation to carry out extensive investigation and surveillance:

- In France, Poland, and Spain, environmental defenders have been tailed by the police and followed to their homes and, in France, Germany, and Spain, activists have had their phones tapped and vehicles tracked.
- In France, Germany, Spain, and the UK, the homes of environmental defenders have been raided, often very early in the morning, and, in France and Spain, arrests have sometimes been carried out by counterterrorist units. In Spain and the UK, environmental defenders have also been searched or arrested at their workplaces.
- In Spain and the UK, environmental movements have been infiltrated by undercover police, who have taken part in meetings at activists' homes and engaged in intimate relationships with some of them.

## Criminalization of particular environmental movements

In a number of countries, specific environmental movements have been targeted and criminalized. For example:

- In [Spain](#), several activists from *Futuro Vegetal*, an environmental movement engaged in peaceful civil disobedience, have been under investigation for allegedly belonging to “a criminal organization”.
- In France, *Soulèvements de la Terre*, an environmental grassroots citizen movement of about 100,000 people, was dissolved by a government decree in June 2023.<sup>17</sup> The decree was challenged before the Conseil d'Etat (the highest administrative court) which, in November 2023, annulled the decree,<sup>18</sup> thereby cancelling the dissolution of the movement.
- In [Austria](#) and [Germany](#), the authorities are prosecuting the climate movement *Letzte Generation* on the charge of “forming a criminal organization”, an offense that implies that an organization intends to commit serious crimes that pose significant threats to public safety. In Germany, this has a concrete impact on members of the movement as the charge allows for far-reaching powers of investigation, such as telephone-tapping, geolocating and property searches. The charge also has severe implications for the movement itself as members of the public can no longer donate to the movement because they would otherwise be liable for the criminal charge of “financing a criminal organization”.

Many environmental defenders have informed the Special Rapporteur about the impact that the harsh and brutal tactics of police and prosecutors has had on their personal wellbeing and mental health. They spoke of the fear of injuries and of the psychological pressure they experienced from being harassed, arrested, or detained, and from seeing other activists being subjected to such

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<sup>17</sup> [Decree of 21 June 2023 dissolving a de facto group \(Décret du 21 juin 2023 portant dissolution d'un groupement de fait\)](#)

<sup>18</sup> Conseil d'Etat, [Decision n°476384](#).

treatment. The Special Rapporteur is particularly concerned about the chilling effect that such practices can have on environmental defenders engaging in peaceful protest and civil disobedience.

## The courts

As one of the three branches of government, the courts play a crucial role in upholding justice and the rule of law. However, through the misuse of preventive and pre-trial detention, severe bail conditions, lengthy and unpredictable court proceedings, the removal of defenses, and increasingly harsh and disproportionate sentences, the courts are themselves contributing significantly to the repression and criminalization of environmental defenders engaged in peaceful protest and civil disobedience in a number of countries that are Parties to the Aarhus Convention.

### Preventive and pre-trial detention and onerous bail conditions

In addition to approving requests by the police to use investigation and surveillance measures based on organized crime legislation against environmental defenders, as outlined in the previous section, the courts have also contributed significantly to the repression of environmental defenders through preventive and pre-trial detention and onerous bail conditions.

Examples include the following:

- In Bavaria, [Germany](#), activists from *Letzte Generation* have been held in preventive detention under the Bavarian Police Act for up to 30 days to prevent them from participating in further protests (see section on *Legislation and policy*).
- In France, Poland, Spain, and the UK, the courts are increasingly resorting to pre-trial detention and restrictive bail conditions for environmental defenders who have taken part in peaceful protests and civil disobedience actions, even for protesters charged with only minor offenses:
  - > In France, environmental protesters have been placed under judicial supervision pending trials – often for several months – with significant restrictions on their freedom of movement and on who they can meet, and a prohibition on taking part in any protests.
  - > In the UK, environmental protesters have been placed in pre-trial detention, even on occasion in solitary confinement, or have been given severe bail conditions, including reporting requirements, curfews, restrictions on travel and on who they can meet, and electronic ankle tags.
  - > In Poland, protesters charged with coercion have been required to report twice a week to a given police station, including to police stations that are located at a significant distance from the protester’s place of residence.



## Lengthy judicial procedures, overcrowded court systems and unpredictable outcomes

- In Denmark, Portugal and Spain, very lengthy court proceedings against environmental protesters are having a chilling effect on activists' participation in peaceful protest. For example, in Portugal, an activist who interrupted the Prime Minister's speech by flying paper planes has been faced with ongoing court proceedings since 2019.
- In France, lawyers defending environmental protesters report that the unpredictability of judicial outcomes, due to disparate decisions by the courts on very similar offenses, impedes their ability to properly defend and advise protesters.
- In Berlin, Germany, several thousand environmental protesters were awaiting criminal trials as of November 2023, meaning lengthy delays until trial and a lack of available criminal defense lawyers and funding. This may result in environmental protesters being de facto denied the right to a proper defense.

## Harsh and disproportionate sentences and removal of defenses

- In Denmark, courts have ordered environmental protesters to pay damages to companies that had had paint thrown at their buildings, or windows damaged during an action of civil disobedience that far exceed the costs for cleaning a wall or replacing a glass window.
- In [the Netherlands](#), a court has found peaceful environmental protesters guilty of seditious – a crime punishable to up to five years imprisonment – for having encouraged the public to join a roadblock demonstration, and has ordered the protesters to provide DNA samples, to be stored for 20 years.
- In the [UK](#), courts have prohibited environmental protesters from putting forward defenses based on “necessity” or “proportionality”. They have also forbidden protesters from mentioning climate change, thereby preventing them from explaining the reasons for their protest. Courts have held convicted environmental defenders who disregarded this prohibition in “contempt of court” and imprisoned them for up to 8 weeks.
- In the UK, a number of environmental defenders have been imprisoned for peaceful protest, including one defender who [received](#) a six-month prison sentence for participating for 30 minutes in a slow march; and two others who were [sentenced](#) to two years and seven months and three years of prison respectively, for the blocking of a bridge. The two activists were denied the right to challenge their prison sentences before the Supreme Court.
- Also in the UK, in addition to criminal prosecutions by the State, companies, including companies owned or controlled by the UK government, have taken out civil injunctions against environmental protesters without their knowledge. The injunctions list the names of individuals who have been arrested in relation to protests on a public road or motorway in the past, and are also against “persons unknown” who may take part in a protest on a public road or motorway in the future. The individuals named in the injunction have been held liable to pay the company's legal costs for obtaining the injunction, even though those individuals had no knowledge that the injunction was being taken out. Moreover, anyone who breaches one of these injunctions is liable for unlimited fines and imprisonment for up to two years. To date, environmental defenders have

[received](#) prison sentences of between three to six months for being involved in a road protest in breach of a civil injunction. The fines or imprisonment imposed for breach of a civil injunction is in addition to the sentence the protesters may receive for the criminal charges brought against them regarding the same protest.

The increasingly harsh approach by the courts in a number of countries towards environmental defenders who have engaged in peaceful protest or civil disobedience, including the courts' ready use of measures designed for counter-terrorism and organized crime, sends a highly alarming signal regarding the state of the civic space and the free enjoyment of fundamental human rights.



## LOOKING FORWARD: KEY MESSAGES REGARDING STATES' RESPONSES TO ENVIRONMENTAL PROTEST AND CIVIL DISOBEDIENCE

### **States must take urgent measures to address the triple environmental crisis**

Unless governments take urgent action to address the triple environmental crisis, mobilization for the environment against climate change and for a just energy transition will only continue to grow in the coming years. More environmental and climate movements will emerge, and environmental defenders will continue to organize, build networks, take action, and invent new forms of protest, until governments finally implement comprehensive and effective measures to address the climate emergency and environmental crises.

The current trend of repression of peaceful environmental protest is the opposite of what States should do in response to growing environmental mobilization: instead of criminalizing environmental defenders, governments should address the root causes of their mobilization. This will require that governments take effective measures to address the triple environmental crisis, while ensuring the participation of the public in decision-making and the protection of the rights that enable public participation, such as the freedoms of expression, peaceful assembly and association, and a safe and enabling space for meaningful democratic dialogue. Effective implementation of the rights and obligations under the Aarhus Convention must be the starting point.

### **States, media outlets and the human rights community must ensure a safe and enabling environment for environmental defenders**

It is imperative that governments, and the wider public, understand that crackdowns on the right to engage in peaceful protest are a critical democratic, human rights and civic space issue. The trend of repression can and must be reversed: an urgent and profound change in how States respond to environmental protest and civil disobedience is needed and various stakeholders have a role to play. It will be essential that the human rights community – including UN treaty bodies, regional and international organizations, national human rights institutions, non-governmental organizations, and others – coordinate their efforts towards this aim.

The Aarhus Convention and the existing international human rights framework provide the legal grounds to reverse this trend. States hold the primary responsibility to protect human rights, including the human right to a clean, healthy, and sustainable environment as recognized by the UN General Assembly, and countries that are Parties to the Aarhus Convention have binding obligations in that regard, including the obligation to protect environmental defenders against penalization, persecution, and harassment. Given their key role in shaping public opinion, it is also essential that media outlets act in accordance with the UN Guiding Principles on Business and Human Rights, both in their editorial content and when reporting on environmental protest and civil disobedience. Media outlets must cease their negative portrayals of environmental defenders and protests. They should also ensure that they provide context to such action, including giving a greater voice to environmental defenders to explain why they are engaging in protest and civil disobedience.

## Five calls to action for States

Having witnessed with grave concern the widespread and growing trend to repress and criminalize peaceful environmental protest and civil disobedience in an increasing number of countries that are Parties to the Aarhus Convention, the Special Rapporteur has made this issue a priority topic under his mandate. In 2024, the Special Rapporteur will develop guidance to assist States, and other stakeholders, to comply with their international obligations regarding environmental defenders engaged in peaceful protest, including civil disobedience.

Given the urgency of this issue, the Special Rapporteur calls on States, at the outset and as a first step, to commit to the following basic principles and corresponding actions:

First and foremost:

1

**States must address the root causes of environmental mobilization.** They should implement the Paris Agreement fully, respect their commitment to take the necessary measures to limit global warming to 1.5°C, to reduce deaths and illnesses from air pollution and to restore 30 percent of all degraded ecosystems by 2030. They should apply a human rights-based approach to the energy transition and respect their binding obligations under the Aarhus Convention to ensure access to information, public participation, and access to justice in environmental matters. States should also promote these principles in international fora related to the environment, such as at their Conferences of the Parties (COPs), and ensure the safe participation of environmental defenders in these fora.

In terms of the media and political discourse:

2

**States must take immediate action to counter narratives that portray environmental defenders and their movements as criminals.** Political figures, and especially members of parliament and of governments, must refrain from such discourse. They must by no means liken environmental defenders to criminals. States should also publicly acknowledge the important role played by environmental defenders and promote the protection of their freedoms of expression, peaceful assembly and association. They must refrain from conveying the idea that peaceful civil disobedience, and any resulting disruption it causes, is a violent or criminal activity, and hence refrain from putting environmental movements that resort to peaceful civil disobedience in the same category as criminal organizations.

Regarding their legislation and policy:

3

**States must not use the increase of environmental civil disobedience as a pretext to restrict the civic space and the exercise of fundamental freedoms.** States have an obligation to facilitate the exercise of the freedoms of expression, peaceful assembly and association and to create a safe and enabling environment for them. They should assess the conformity with international human rights standards of any legislation proposed and/or implemented to respond to civil disobedience, refrain from adopting any new laws and policies that impede or obstruct the exercise of freedoms of expression, peaceful assembly and association or that restrict and criminalize peaceful protest, and revise existing laws and policies that do so, in accordance with international human rights standards and obligations. States should also ensure that their authorities at all levels are trained to take the necessary measures, in accordance with international human rights standards, to facilitate peaceful protest, including peaceful civil disobedience, and that they do not take measures to unduly restrict or ban peaceful protests.

In terms of law enforcement:

4

**States must comply with their international obligations related to freedom of expression, peaceful assembly and association in their response to environmental protest and civil disobedience and immediately cease the use of measures designed for counterterrorism and organized crime against environmental defenders.** States should ensure that peaceful protest and civil disobedience have the same safeguards as other forms of assembly, and that any restrictions imposed are kept to the minimum, are strictly controlled and are in compliance with international human rights standards. This includes preventing and repealing measures and practices that may have a chilling effect on environmental activism and protests, such as indiscriminate or abusive identity checks, and the arrest, detention and prosecution of peaceful protesters and journalists. States must also ban law enforcement techniques that involve inflicting pain on protesters, strictly control the use of force in protests, promptly investigate and punish any excessive use of force by law enforcement, and ensure that any charges brought against protesters are strictly proportionate to the protester's own actions. States should also put in place training for the police and other law enforcement authorities on the facilitation and supervision of peaceful assemblies and learn from other States' good practices.

And finally, with respect to the courts:

5

**States must ensure that the courts' approach to disruptive protest, including any sentences imposed, does not contribute to the restriction of the civic space.** States should ensure that any bail conditions imposed on environmental protesters, including those who have participated in peaceful civil disobedience, are kept to a minimum, are humane and do not interfere with their fundamental freedoms. Courts should refrain from the use of preventive and pre-trial detention for environmental protesters, including those who have engaged in peaceful civil disobedience. States should prevent the use of laws on counterterrorism and organized crime, including such laws' surveillance measures, against environmental defenders and movements. Courts should not impose limitations on environmental protesters' right to a defense, including to explain their motivation for engaging in protest, and should take into account these motivations in their decisions. Courts should ensure that their decisions on protest cases, including any sanctions imposed, are consistent and protect the exercise of freedoms of expression, peaceful assembly and association. They should also learn from other jurisdictions' good practices in handling environmental protest cases.

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