



Joint letter to representatives of States parties to the Aarhus Convention regarding concerns related to civic space in the context of the UN Climate Agreements

To the national focal point to the Aarhus Convention and the national focal point to the UN Climate Agreements of each State party to the Aarhus Convention

On behalf of Amnesty International, the Center for International Environmental Law (CIEL), Climate Action Network-Europe (CAN-E), Earthjustice, the European Environmental Bureau (EEB), Human Rights Watch (HRW) and Association Justice & Environment, we write to you to raise two main concerns in relation to civil and political rights, including public participation, in the context of the UN climate change negotiations:

1. restrictions on the rights to freedom of expression and peaceful assembly that have been experienced at UNFCCC COPs in the past, and which were particularly acute under the repressive policies of Egypt during COP27. We fear that threats to these rights will be even more severe at COP28 in the United Arab Emirates due to its record of severe repression and complete closure of civic space.
2. the risks associated with the operationalisation of carbon trading mechanisms under Article 6 of the Paris Agreement.

We are greatly concerned by the possible threats to these rights existing in the current international climate change negotiations and we call upon your government to take active steps to uphold the obligation that it contracted under the Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, as well as similar ones under other international legal instruments.

Article 3.7 of the Aarhus Convention establishes a legal obligation for all Parties to “promote the application of the principles of this Convention in international environmental decision-making processes and within the framework of international organizations in matters relating to the environment.” Article 3.8 further provides an obligation for Parties to “ensure that persons exercising their rights in conformity with the provisions of this Convention shall not be penalized, persecuted or harassed in any way for their involvement.”

The protection and promotion of public participation in international climate negotiations is an imperative condition to ensure that climate action will not violate human rights and, to the contrary, promote and protect them as called for in the Preamble of the Paris Agreement. Furthermore, as observed by the Intergovernmental Panel on Climate Change (IPCC) in its latest [summary report for policy-makers](#), “adaptation and mitigation actions, that prioritize (...) rights-based approaches, and inclusivity, lead to more sustainable outcomes, reduce trade-offs, support transformative change and advance climate resilient development” (finding C.5.2).

1. Fear of restrictions on the rights to freedom of expression and peaceful assembly related to COP28 (possibly repeating situations encountered at previous COPs) - in

particular in the context of repressive policies by the host country. Civil society and Indigenous Peoples' representatives attending COPs have faced repeated and severe limitations over the past years to their ability to take part adequately to the conferences, as well as to their freedom of peaceful assembly. These restrictions were particularly acute [ahead of and during COP27](#), held in November 2022 in Sharm el Sheikh, Egypt, as restrictions by the host country undermined the ability of civil society to plan for its full and effective participation in the conference. [Reported acts of harassment and intimidation by Egyptian officials](#) during COP27 infringed the rights of Egyptian and non-Egyptian human rights and environmental defenders at the conference, including the rights to freedom of peaceful assembly, expression, and effective participation. There were also [credible reports](#) that a [known human rights activist](#), Giorgio Caracciolo, was denied access to the country despite holding a valid visa and approved registration for events related to the UN conference. Few States took public positions calling on the Egyptian government to respect the rights of civil society representatives in the context of the conference. As a consequence, many civil society organizations and delegates were not in a position to fully enjoy their right to public participation at the international forum. In this context, we call upon Aarhus Parties to affirm their continued vigilance after COPs with regards to the treatment of civil society delegates who participated in the conference so as to prevent any form of reprisal against them by public authorities.

These [concerns are exacerbated by the upcoming Presidency of COP28](#) by the United Arab Emirates (UAE) given the extreme repressive policies of this State against all forms of dissent, including the advanced mass surveillance systems and harsh repression of free speech and assembly. The country was an early adopter of sophisticated surveillance technologies, employing mass facial recognition surveillance in public places and deploying targeted spyware against human rights activists and civil society. The UAE was an early [client](#) of the notorious NSO Israeli spyware company and targeted internationally renowned Emirati human rights defender Ahmed Mansoor with NSO's infamous Pegasus spyware. Recently, an [international news outlet](#) reported that participants of an international climate-related conference held in the country earlier this year were warned that any form of criticism of the UAE government, of corporations or of individuals; or of protest in the context of the event would risk being punished under Emirati law. In fact, the [UAE's long record](#) of enforced disappearance, arbitrary arrest, incommunicado detention, torture and raft of laws explicitly criminalizing freedom of assembly, expression and association is deeply worrying, and creates a chilling effect on civil society months ahead of the conference, leading organizations to self-censor or to decline to participate. While it is the primary obligation of the UNFCCC Secretariat and of the host country to provide clear and safe conditions of participation, including open means of remediation if difficulties arise, all States participating in the process and validating the selection of COP presidencies share the responsibility to ensure that human rights obligations are upheld in the context of these conferences.

2. Risks associated with the operationalisation of carbon trading mechanisms under Article 6 of the Paris Agreement

As has been previously reported in the context of the Aarhus Convention and by other UN human rights mechanisms, the Clean Development Mechanism established under the Kyoto

Protocol supported the implementation of multiple projects that were linked with the violations of the procedural and other human rights of local communities and Indigenous Peoples, including [failure to conduct adequate consultations with impacted communities](#) and to secure the [Free Prior and Informed Consent](#) of Indigenous Peoples, [forced relocations](#), and [killings of environmental human rights defenders](#).

In this context, we are alarmed to see that the operationalisation of carbon trading mechanisms under the Paris Agreement might repeat similar mistakes by failing to incorporate essential safeguards and principles. The [Recommendation](#) to incorporate activities involving removals in the Article 6.4 mechanism adopted last November by the Supervisory Body, which was one of the first recommendations it presented as part of its efforts to operationalize the mechanism, would not have adequately protected local communities and Indigenous Peoples from violations of their human rights. While we welcome the refusal to adopt these recommendations at COP27 by the Parties to the Paris Agreement, we remain concerned that the [decision related to this matter](#) is not explicit enough to sufficiently guide the work of the Supervisory Body. This lack of sufficient guidance increases the risk that the Supervisory Body continues to adopt and present recommendations that would not adequately safeguard human rights in the context of activities accredited by the Sustainable Development Mechanism. Parties to the Aarhus Convention must reaffirm that no carbon trading mechanism can be operationalized under the Paris Agreement at the expense of human rights and climate ambition and that [adequate safeguards and modalities](#) as well as an independent grievance mechanism are an absolute prerequisite for any such mechanism to begin activity.

In light of these threats, we call upon your government to take active steps to effectively promote and protect human rights in these climate negotiations.

The Parties to the Aarhus Convention have reaffirmed repeatedly in the past the importance of promoting the Aarhus principles in the context of the UN climate negotiations and civil society has repeatedly stressed the need for governments to take active steps to ensure that the rights protected under the Aarhus Convention are not undermined in the context of arrangements for the hosting of COPs as well as by the operationalisation of carbon trading mechanisms.

We therefore call upon your government to uphold this obligation, including by taking the following steps:

- affirming publicly at the June intersessional meeting its expectation that public participation and civic space be fully protected without discrimination from interference in the context of COPs and to explicitly call upon the current and upcoming COP presidencies and UNFCCC to guarantee a safe and enabling environment for human rights defenders and civil society organisations (for instance in the context of the SBI Contact Group on Arrangements for Intergovernmental Meetings and at the stocktaking meeting and public briefings that the upcoming COP Presidency will convene);
- seizing opportunities for input, whether in writing through submissions or orally during relevant negotiations, to reiterate that the effective protection of the rights of access to information, public participation and access to remedy is a prerequisite for any

operationalization of carbon trading mechanisms under Article 6.4 of the Paris Agreement;

- (if relevant) ensuring that any outcome that your representative might approve at the UNFCCC as a member of the Supervisory Body on Article 6.4 fully aligns with the protection of the rights protected under the Aarhus Convention, and the instruments of international human rights law; and
- reporting to the Aarhus Secretariat the actions and initiatives taken by your government to uphold this obligation in the context of the UN climate talks (for instance by submitting relevant information through the Aarhus Convention Secretariat's "Survey for Thematic session on the promotion of the principles of the Aarhus Convention in international forums" or through oral interventions during the thematic session at the WGP-27).

We stress that States breach their legal obligations under the Aarhus Convention when they fail to take proactive steps to promote the principles of the Aarhus Convention in the context of the UN climate change process and to avert threats to the enjoyment of the rights of human rights defenders and civil society organizations.

We thank you for taking these elements into consideration and we look forward to using the opportunity to further discuss these matters with representatives of your government, whether by phone over the coming weeks or in person next month in Bonn (intersessional meetings of the UNFCCC) or in Geneva (Working Group of the Parties to the Aarhus Convention).

We remain at your disposal for any further information.

With kind regards,

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