



**Resolution 2477 (2023)<sup>1</sup>**

Provisional version

## Environmental impact of armed conflicts

Parliamentary Assembly

1. Armed conflicts, wars and military aggression destroy human lives and leave deep scars on human living space. Environmental damages resulting from armed conflicts can be multifaceted, severe, long-lasting and mostly irreversible. They not only harm natural habitats and ecosystems but can also affect human health well beyond the conflict area and long after the conflict is over. The human rights to life and to a healthy environment are thus undermined.

2. The existing international legal framework provides for direct and indirect protection of the environment in times of armed conflict to a certain extent, based on international humanitarian law instruments such as the United Nations Convention on the Prohibition of Military or Any Other Hostile Use of Environment Modification Techniques (ENMOD convention), and the Additional Protocol to the Geneva Conventions relating to the Protection of Victims of International Armed Conflicts (Protocol I). In addition, international law doctrine came to accept the interplay between international humanitarian law and international human rights law in the 1996 advisory opinion of the International Court of Justice on the “Legality of the Threat or Use of Nuclear Weapons”. The Parliamentary Assembly notes that the co-application of human rights and humanitarian law during times of armed conflict has also been confirmed by the United Nations Human Rights Committee (via general comments) and the European Court of Human Rights (via case law).

3. The Assembly therefore considers that international human rights and humanitarian law imposes substantive and procedural obligations on States involved in armed conflicts. With the increased worldwide acceptance that the right to a healthy environment constitutes a human right, there are grounds to affirm that States may have extraterritorial obligations arising in and from armed conflicts.

4. The Assembly recalls that the norms of customary international law provide indirect protection of the environment during armed conflicts. To this end, it welcomes the Red Cross Guidelines for Military Manuals Instructions (“ICRC Guidelines”) as updated in 2020 which contribute, practically and effectively, to raising awareness about the need for the protection of the natural environment against the impact of armed conflicts. However, the environment is thus protected only in an incidental manner, subordinated to wartime requirements, and conditioned on humanitarian imperatives.

5. The Assembly commends the work of the International Law Commission (ILC) of the United Nations on the draft principles on the protection of the environment in relation to armed conflicts. It welcomes the endorsement of these principles by the United Nations General Assembly on 7 December 2022 and encourages their widest possible dissemination across all European States and their global partners.

6. The Assembly notes that the Council of Europe has developed several legal instruments to protect the environment: the Convention on Civil Liability for Damage resulting from Activities Dangerous to the Environment (ETS No. 150), the Convention on the Protection of Environment through Criminal Law (ETS No. 172), the Convention on the Conservation of European Wildlife and Natural Habitats (ETS No. 104, “Bern Convention”) and the Landscape Convention (ETS No.176). However, these conventions either do not

---

1. *Assembly debate* on 25 January 2023 (5th sitting) (see [Doc. 15674](#), report of the Committee on Social Affairs, Health and Sustainable Development, rapporteur: Mr John Howell). *Text adopted by the Assembly* on 25 January 2023 (5th sitting).

See also [Recommendation 2246 \(2023\)](#).



explicitly cover or explicitly exclude damage caused by an act of war or military hostilities. The currently ongoing revision of the criminal law convention (ETS No. 172), which is also open to non-member States, offers the possibility of establishing a new “ecocide” criminal offence at Council of Europe level. The Assembly also notes that the Committee of Ministers Recommendation CM/Rec(2022)20 on human rights and the protection of the environment, adopted on 27 September 2022, mentions “the environmental harm stemming from armed conflicts”, reaffirms that “all human rights are universal, indivisible, interdependent and interrelated” and urges steps to recognise the right to a healthy environment at the national level as a human right.

7. Severe destruction or deterioration of nature that could be qualified as ecocide may occur in times of peace or war. It is necessary to codify this notion in both national legislation, as appropriate, and international law. The Assembly therefore strongly supports efforts to amend the Rome Statute of the International Criminal Court, so as to add ecocide as a new crime. It reiterates its call, contained in [Resolution 2398 \(2021\)](#) “Addressing issues of criminal and civil liability in the context of climate change”, as regards the need for “recognising universal jurisdiction for ecocide and the most serious environmental crimes” and introducing “the crime of ecocide into ... national criminal legislation”.

8. The Assembly deplores the fact that despite an impressive international legal arsenal, important gaps subsist in protecting the environment in the context of armed conflicts and their aftermath. The existing legal instruments lack universality in terms of ratifications, precision of terms used (such as for qualifying “widespread, long-lasting, or severe effects”), a comprehensive coverage of offences and a sufficiently broad scope of application. Moreover, a permanent international mechanism to monitor legal infringements and address compensation claims for environmental damage is also missing.

9. The Assembly urges Council of Europe member States to take all necessary measures to outlaw and prosecute the use of prohibited weapons in the course of armed conflicts that, among other ills, bring disproportionate environmental impact and render human life in the affected area impossible.

10. Considering that the Council of Europe has served as a laboratory of new legal developments to defend the values of human rights and the rule of law in Europe and beyond, the Assembly believes that the Organisation should take the lead in elaborating new legal instruments to guide member States and beyond in preventing massive environmental damage and reducing the scale of such damage as far as possible during armed conflicts and their aftermath. It should pave the way towards the international recognition of the crime of ecocide. With this in mind, and referring to the above considerations, the Assembly calls on the member States of the Council of Europe, as well as observer States and States whose parliament enjoys observer or partnership for democracy status with the Assembly to:

10.1. build and consolidate a legal framework for the enhanced protection of the environment in armed conflicts at national, European and international levels by:

10.1.1. ratifying the ENMOD convention and Protocol I to the Geneva Conventions relating to the Protection of Victims of International Armed Conflicts, if they have not yet done so;

10.1.2. taking steps to support the creation of a permanent international mechanism to monitor legal infringements and address compensation claims for environmental damage resulting from armed conflicts;

10.1.3. supporting practical implementation of the principles on the protection of the environment in relation to armed conflicts adopted by the United Nations General Assembly and promoting their dissemination through relevant domestic institutions, diplomatic channels and international stakeholders;

10.1.4. promoting a more coherent and comprehensive reading of the existing legal rules for protecting the environment in armed conflicts;

10.1.5. updating their legal arsenal to criminalise and effectively prosecute ecocide and taking concrete steps to amend the Rome Statute of the International Criminal Court in order to add ecocide as a new crime;

10.1.6. supporting the establishment of standard methodologies for the collection of evidence for the environmental harm;

10.2. close gaps between different fields of law and the reality on the ground in order to adequately protect human living space, the environment, and human rights to life and to a healthy environment in the context of armed conflicts by:

10.2.1. strengthening State responsibility for environmental damage extending beyond their territorial limits, based on extraterritorial human rights obligations and the functional impact-model in situations where the impact is direct and reasonably foreseeable;

10.2.2. considering the drafting of a new regional legal instrument or treaty under the Council of Europe's auspices, with a view to clarifying and filling the gaps identified in the existing legal regime (notably regarding the damage threshold, enforcement, liability, and the due diligence principle);

10.2.3. conducting a study, under the auspices of the Council of Europe, on the possible interplay between existing international criminal law and environmental harm occurring during armed conflicts, in particular as regards the possibility to invoke existing war crimes;

10.2.4. actively participating in the revision process of the Council of Europe's convention No. 172 in order to ensure that the revised convention would apply also in the context of armed conflicts, wartime or occupation;

10.2.5. deploying sufficient means to ensure proper monitoring and implementation of commitments under the Council of Europe treaties, in particular the Bern Convention and the Landscape Convention;

10.2.6. ensuring that the relevant international legal framework is interpreted in a more open-ended manner, so as to offer more adequate protection of both the environment and human health;

10.2.7. mapping areas of particular environmental importance or sensitivity, based on existing protected areas (such as world natural heritage sites or natural reserves) and areas that might need to acquire a special protection status, in anticipation of any form of armed conflict, and foreseeing the demilitarisation of such areas in the case of a military conflict;

10.2.8. adapting national military manuals in the light of the updated ICRC Guidelines, the United Nations principles on the protection of the environment in relation to armed conflicts and the evolving international legal framework;

10.2.9. considering establishing domestic and/or regional solutions to provide relief to environmental refugees fleeing a military conflict, given the international legal vacuum on this matter;

10.2.10. promoting knowledge of and compliance with international legal standards protecting the environment among non-state actors involved in armed conflicts.