

Mandates of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment and the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes

REFERENCE:
AL OTH 249/2021

20 October 2021

Dear Ms Gavorníková and Mr Karkovirta,

We have the honour to address you in our capacities as Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment and Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes, pursuant to Human Rights Council resolutions 46/7 and 45/17.

We are independent human rights experts appointed and mandated by the United Nations Human Rights Council to report and advise on human rights issues from a thematic or country-specific perspective. We are part of the special procedures system of the United Nations, which has 56 thematic and country mandates on a broad range of human rights issues. We are sending this letter under the communications procedure of the Special Procedures of the United Nations Human Rights Council to seek clarification on information we have received. Special Procedures mechanisms can intervene directly with Governments and other stakeholders (including companies) on allegations of abuses of human rights that come within their mandates by means of letters, which include urgent appeals, allegation letters, and other communications. The intervention may relate to a human rights violation that has already occurred, is ongoing, or has a high risk of occurring. The process involves sending a letter to the concerned actors identifying facts of the allegation, applicable international human rights norms and standards, the concerns and questions of the mandate-holder(s), and a request for follow-up action. Communications may deal with individual cases, general patterns and trends of human rights violations, cases affecting a particular group or community, or the content of draft or existing legislation, policy or practice considered not to be fully compatible with international human rights standards.

We wish to welcome efforts to expand the scope of commitments on the 2016 Coal-Fired Electricity Generation Sector Understanding by the Participants to the OECD's Arrangement on Officially Supported Export Credits.

In this connection, we wish to underscore that the mining and combustion of thermal coal has devastating impacts on the effective enjoyment of the rights to life, health and a healthy environment. OECD Members should immediately terminate all support to thermal coal mining and coal-fired electricity generation.

In light of recent reports from the Intergovernmental Panel on Climate Change, the International Energy Agency, and UNICEF, the evidence regarding the outsized contribution of coal mining and combustion to causing and aggravating the

global climate emergency is clear.

Because of its immense generation of greenhouse gases, continued reliance on coal would make achieving the commitments made in the Paris Agreement—to limit global warming to 1.5°C to 2°C—impossible to achieve.¹ Recent scientific studies confirm that coal must be phased out as quickly as possible.²

Coal-fired electricity is not only the largest source of global greenhouse gas emissions. Coal mining also contributes about 35% of the total methane emissions from all fossil fuel related sources.³ Coal mining also has serious adverse impacts on the enjoyment of human rights of fence line communities that live near coal mines.

In addition, stationary coal burning for power accounts for 21% of the 2220 tonnes of anthropogenic sources of mercury emissions to the atmosphere annually, according to the UN Environment Programme’s 2018 Global Mercury Assessment. Combustion of coal for power generation is also a major source of toxic ash, which pollutes water and exposes people to hazardous substances. Coal-fired electricity is a major contributor to air pollution that kills millions of people annually.

The International Energy Agency reported in 2021 that to achieve net zero emissions of greenhouse gases by 2050, **all countries need to immediately stop construction of any new coal power plants**, phase them out completely by 2030 in advanced economies and close all of them by 2040 globally.⁴

The most recent global climate assessment (AR6) of the Intergovernmental Panel on Climate Change, released earlier this year, concluded that the evidence human activities have caused global warming is unequivocal and that the climate crisis is already contributing to more frequent and severe extreme weather events, floods, and wildfires as well as slow onset disasters such as drought and sea level rise.⁵ UN Secretary General Antonio Guterres described the IPCC AR6 report as “code red for humanity”.

UNICEF reported that almost one billion children are living in regions facing extreme adverse effects related to climate change.⁶ UN High Commissioner for Human Rights, Michelle Bachelet, has said that “The world has never seen a human

¹ Climate Analytics. 2016. “Implications of the Paris Agreement for Coal Use in the Power Sector. See https://climateanalytics.org/media/climateanalytics-coalreport_nov2016_1.pdf

² “By 2050, we find that nearly 60 per cent of oil and fossil methane gas, and 90 per cent of coal must remain unextracted to keep within a 1.5 °C carbon budget.” Welsby, D., Price, J., Pye, S. *et al.* Unextractable fossil fuels in a 1.5 °C world. *Nature* **597**, 230–234 (2021). <https://doi.org/10.1038/s41586-021-03821-8>.

³ IPCC AR6, pg. 5-35.

⁴ International Energy Agency, 2021. *Net Zero by 2050: A Roadmap for the Global Energy Sector*, <https://www.iea.org/reports/net-zero-by-2050>

⁵ IPCC, 2021: Summary for Policymakers. In: *Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change* [Masson-Delmotte, V., P. Zhai, A. Pirani, S. L. Connors, C. Pean, S. Berger, N. Caud, Y. Chen, L. Goldfarb, M. I. Gomis, M. Huang, K. Leitzell, E. Lonnoy, J.B.R. Matthews, T. K. Maycock, T. Waterfield, O. Yelekci, R. Yu and B. Zhou (eds.)]. Cambridge University Press. In Press.

⁶ UNICEF, 2021. *The Climate Crisis is a Child Rights Crisis*, <https://www.unicef.org/reports/climate-crisis-child-rights-crisis>

rights threat of this scope.”

Earlier this year, the G7 made a strong commitment to accelerate the transition away from coal, including a clear pledge to end international coal finance by the end of 2021.⁷ In addition, more than forty States have already joined the Powering Past Coal Alliance, committing themselves to 1) stop building new coal-fired power plants, 2) phase out existing coal-fired power plants, and 3) terminate all forms of financial support for coal.⁸ These three commitments need to be heeded by the OECD in order for humanity to successfully address the intertwined global environmental crises of climate change, biodiversity loss and the toxification of our planet.

We respectfully recommend that Participants to the OECD Coal-Fired Electricity Generation Sector Understanding commit to:

(a) Immediately stop building new coal-fired power plants;

(b) Immediately terminate all subsidies for all actions related to coal-fired power plants (comprising all components, equipment, materials and services, including the training of personnel, directly required for the construction, commissioning and operation of such power plants) and mining of thermal coal (exploration, extraction and production of thermal coal and its associated infrastructure, including transport), without exceptions or exemptions;

(c) Immediately terminate all export financing (including credits and tied aid) and guarantees for any and all actions related to coal-fired power plants (comprising all components, equipment, materials and services, including the training of personnel, directly required for the construction, commissioning and operation of such power plants) and mining of thermal coal (exploration, extraction and production of thermal coal and its associated infrastructure, including transport), without exceptions or exemptions; and

(d) Require existing coal-fired power plants to be closed by 2030 in high-income nations and by 2040 in middle-income nations.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful to receive additional information and an explanation of the OCED’s revised policies regarding coal financing, including reasons for any deviations from the above-noted recommendations.

⁷ G7. 2021. *G7 Carbis Bay Summit Communique: Our Shared Agenda for Global Action to Build Back Better*, Cornwall, UK, June 2021. <https://www.g7uk.org/wp-content/uploads/2021/06/Carbis-Bay-G7-Summit-Communique-PDF-430KB-25-pages-3-1.pdf>

⁸ See <https://www.poweringpastcoal.org>

We would appreciate receiving a response within 60 days. Passed this delay, this communication and any response received from the OECD will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

Please accept, Ms Gavorníková and Mr Karkovirta, the assurances of our highest consideration.

Marcos A. Orellana

Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes

David R. Boyd

Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw your attention to the applicable international human rights norms and standards, as well as authoritative guidance on their interpretation. These include:

- The Universal Declaration of Human Rights;
- The International Covenant on Economic, Social and Cultural Rights;
- The International Covenant on Civil and Political Rights;

We wish to recall Article 3 of the Universal Declaration of Human Rights (UDHR) and Article 6(1) of the International Covenant on Civil and Political Rights (ICCPR) which guarantee the right of every individual to life, liberty and security. The UDHR proclaims that every organ of society shall strive to promote respect for human rights and fundamental freedoms and to secure their universal and effective recognition and observance. We would also like to call your attention to General Comment No. 6 of the Human Rights Committee (HRC) on the right to life. According to the HRC, the expression “inherent right to life” should not be interpreted in a restrictive manner. The protection of the right to life therefore requires States to adopt positive measures to implement this right, including measures to reduce infant mortality and increase life expectancy.

Article 25 of the Universal Declaration of Human Rights recognizes the right of everyone “to a standard of living adequate for the health and well-being of himself and of his family, including food.”

I would also like to draw your attention to Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which enshrines the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. The right to health is also guaranteed as a part of the UDHR, Article 25, which is read in terms of the individual’s potential, the social and environmental conditions affecting the health of the individual, and in terms of health services. General Comment No. 14 describes the normative content of ICESCR Article 12 and the legal obligations undertaken by the States parties to respect, protect and fulfil the right to physical and mental health. In paragraph 11 of General Comment No. 14, the Committee on Economic, Social and Cultural Rights (CESCR) interprets the right to health as “an inclusive right extending not only to timely and appropriate health care but also to the underlying determinants of health, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, healthy occupational and environmental conditions, and access to health-related education and information”.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.