



**STATEMENT**

**UNIVERSAL PERIODIC REVIEW PRE-SESSION ON GERMANY  
DELIVERED BY CLIENTEARTH ANWÄLTE DER ERDE E.V.**

Geneva, 31 August 2023

[SLIDE 1 ON]

## I. Presentation of the Organisation

I am delivering this statement on behalf of ClientEarth – Anwälte der Erde e.V., a non-profit, nonpartisan organisation which uses the law to hold governments and businesses accountable for climate change, pollution and the loss of nature.

## II. National Consultations for the Drafting of the National Report

ClientEarth has not been invited to and has not participated in any national consultations.

## III. Overview of the Statement

This submission will provide an update on the recommendations received by Germany. It will also address Germany's ongoing human rights obligations as they relate to climate change and the environment, as well as corporate conduct and supply chains.

## IV. Statement

[SLIDE 2 ON]

### 1. Climate Change and the Environment

Germany supported a previous recommendation about the need to reduce greenhouse gas emissions.<sup>1</sup> However, calculations last year showed that the reduction targets under the current national framework – the Federal Climate Protection Act – would lead to Germany exceeding its CO<sub>2</sub> budget required to stay within the 1.5°C warming limit in the next 1 to 5 years.<sup>2</sup>

Further, according to its own assessment, Germany will miss its 2030 emissions reduction target – an already insufficient target as I just mentioned – by at least 20%.<sup>3</sup> It is not clear how the government aims to address this gap.

Constitutional law<sup>4</sup>, SDG 13 as well as, for example, the rights to life, health and private and family life<sup>5</sup> oblige Germany to protect human rights from climate harms. Extreme weather events exacerbated by climate change threaten the rights to life and health. Climate change impacts the health and development of children disproportionately – at

---

<sup>1</sup> Germany received 2 recommendations (Viet Nam & Senegal) it supported.

<sup>2</sup> German Advisory Council on the Environment June 2022, report available in German at: [https://www.umweltrat.de/SharedDocs/Downloads/DE/04\\_Stellungnahmen/2020\\_2024/2022\\_06\\_fragen\\_und\\_antworten\\_zum\\_co2\\_budget.pdf?\\_\\_blob=publicationFile&v=30](https://www.umweltrat.de/SharedDocs/Downloads/DE/04_Stellungnahmen/2020_2024/2022_06_fragen_und_antworten_zum_co2_budget.pdf?__blob=publicationFile&v=30), pg. 15.

<sup>3</sup> Statement on the draft of the Climate Protection Program 2023 (22.08.2023), available in German at: [https://expertenrat-klima.de/content/uploads/2023/08/ERK2023\\_Stellungnahme-zum-Entwurf-des-Klimaschutzprogramms-2023.pdf](https://expertenrat-klima.de/content/uploads/2023/08/ERK2023_Stellungnahme-zum-Entwurf-des-Klimaschutzprogramms-2023.pdf).

<sup>4</sup> Article 20a, German Basic Law.

<sup>5</sup> See for example: Art. 3 UDHR; Art. 6 ICCPR; Arts. 6, 24, 27, 28, 29 and 31 CRC; Arts. 11-12 ICESCR; Arts. 12 & 14 CEDAW; Art. 5 ICERD.

the same time their future rights and freedoms are impacted by the increase in heat, environmental pollution and diseases.

This June, the federal government proposed changes to the national framework. Amongst others, they suggest a move from sectoral to overall emission targets, thereby allowing different governmental sectors greater leeway to avoid responsibility and to sidestep their reduction obligations.

**[SLIDE 3 ON]**

**We recommend that Germany take effective measures and strengthen climate legislation to comply with constitutional as well as international human rights law to reduce greenhouse gas emissions in line with the 1.5°C warming limit.**

**[SLIDE 4 ON]**

## **2. Business and Human Rights**

In January, the German Supply Chain Act entered into force.<sup>6</sup> It implements numerous recommendations Germany received on business and human rights.<sup>7</sup>

While it represents a step in the right direction, the Act remains insufficient to enshrine the basic requirements of the UN Guiding Principles, such as providing effective access to remedy.

There is no route to financial compensation for victims, as the Act currently precludes the civil liability of companies. Instead, companies are required to set up or participate in complaints procedures.

Trade unions or NGOs can bring proceedings on behalf of alleged victims. The relevant authority then has the power to investigate, order remedial action or impose sanctions. Remedial actions are however directed at ending the violation, rather than compensating for losses.

Moreover, the relevant authority is severely understaffed and lacks resources. Less than 100 staffers are responsible for overseeing the activities of around 5.000 companies. That is why it uses a risk based approach to oversight. Meaning not every company is audited, but selected for audit based on its risk profile.

Further, while the Act aims to mitigate a list of environmental and human rights violations it does not explicitly address the impacts of climate change and deforestation on human rights.<sup>8</sup>

---

<sup>6</sup> German Act on Corporate Due Diligence Obligations in Supply Chains, available in English at: [https://www.bmas.de/SharedDocs/Downloads/DE/Internationales/act-corporate-due-diligence-obligations-supply-chains.pdf?\\_\\_blob=publicationFile&v=4](https://www.bmas.de/SharedDocs/Downloads/DE/Internationales/act-corporate-due-diligence-obligations-supply-chains.pdf?__blob=publicationFile&v=4).

<sup>7</sup> Germany received 6 recommendations (Myanmar, South Africa, Georgia, Kenya, United Kingdom of Great Britain and Northern Ireland, Sudan) it supported; and received 3 recommendations (Switzerland, Brazil, State of Palestine) it noted.

<sup>8</sup> In relation to climate and the environment, the Act only recognises the following as human rights risk: harmful soil change, water pollution, air pollution, harmful noise emission, excessive water consumption all of which may impair the natural bases for the preservation and production of food; access to safe and clean drinking water; access to sanitary facilities; and harms to human health.

This could be strengthened by including the right to a healthy environment on the Act's list of protected legal positions and rights. The Act currently recognises the rights as guaranteed under the ICCPR and ICESCR. The full realisation of these civil, political and economic rights however depend on a healthy environment.<sup>9</sup> Germany voted in favour of the recognition of such a right to a healthy environment in both the Human Rights Council and the General Assembly.

**[SLIDE 5 ON]**

**We recommend that Germany ensure holistic enforcement of legislation, which includes ensuring that the competent authority has sufficient resources to implement and monitor the law and victims have effective access to remedies. We also recommend that Germany actively engage in the development of further frameworks, including ambitious and comprehensive due diligence legislation at the European and international level.**

**[SLIDE 6 ON]**

### **3. Human Rights and the Agricultural Sector**

The German agricultural sector is associated with substantial greenhouse gas emissions. In 2021, 13.4% of Germany's total emissions were produced by the meat and dairy sector. These emissions would range between 26-33% if calculations considered food systems holistically, including aspects such as animal feed imports.

The sector is also associated with the use of harmful agrochemicals, including pesticides. In 2021, Germany still had 39 pesticides in use that according to EU regulations should be replaced as they contain active ingredients particularly harmful to health or environment.<sup>10</sup> Pesticide application impacts ecosystems and biodiversity, contributing, for instance, to a significant drop in insect populations.

Further, there is only a limited amount of information publicly available on the use of pesticides which significantly hinders the effectiveness of applicable EU legislation and risks infringing the right of access to information. The overuse of pesticides beyond legal limits has been proven through the monitoring of small water bodies.<sup>11</sup> This persistent overuse represents, a violation of the rights to life, health, private and family life – by polluting the air, the water and the environment.

**[SLIDE 7 ON]**

---

<sup>9</sup> A/73/188, para. 37

<sup>10</sup> Pesticide atlas, available at: [https://eu.boell.org/sites/default/files/2023-04/pesticideatlas2022\\_ii\\_web\\_20230331.pdf](https://eu.boell.org/sites/default/files/2023-04/pesticideatlas2022_ii_web_20230331.pdf), pg. 17.

<sup>11</sup> Research has shown that the legal limits of pesticide concentrations in Germany's small water bodies were exceeded in "81 percent of all monitoring stations". This is one way in which to prove the use and adverse impacts of pesticides where information might otherwise not be accessible or exist: Pesticide atlas, pg. 28; See also Report on „Pollution of small water bodies in the agricultural landscape through pesticide residues”, available in German at: [https://www.umweltbundesamt.de/sites/default/files/medien/11850/publikationen/63\\_2023\\_texte\\_belastung\\_von\\_kleinen\\_gewaessern\\_in\\_der\\_agrarlandschaft\\_mit\\_pflanzenschutzmittel-rueckstaenden.pdf](https://www.umweltbundesamt.de/sites/default/files/medien/11850/publikationen/63_2023_texte_belastung_von_kleinen_gewaessern_in_der_agrarlandschaft_mit_pflanzenschutzmittel-rueckstaenden.pdf).

**We recommend that Germany undertake more efforts to reduce the impact of its agricultural activities, including from pesticides, on the environment, biodiversity and human health. This includes ensuring that the entirety of the agricultural sector is considered in national measures addressing climate change and biodiversity loss; that existing policy and legislation is properly implemented, strengthened and enforced; and by ensuring that progressive and human rights-compliant legislation at the regional and international level is developed and implemented.**

**[SLIDE 8 ON]**