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DECLARATION OF BIZKAIA ON THE RIGHT TO THE ENVIRONMENT

In this information document the text of the Declaration of Bizkaia on the Right to the Environment, adopted by the International Seminar held in Bilbao, Spain, from 10 to 13 February 1999 under the auspices of UNESCO and the United Nations High Commissioner for Human Rights is submitted to the General Conference for information and reflection.

1. The International Seminar on the Right to the Environment which took place at the Palacio de Euskalduna Congress Hall in Bilbao from 10 to 13 February 1999 was organized by the Provincial Council of Bizkaia, the Basque Institute of Public Administration and UNESCO Etxea, the UNESCO Centre in the Basque Country, in cooperation with the Pedro Arrupe Human Rights Institute of the University of Deusto, under the auspices of UNESCO and the United Nations High Commissioner for Human Rights. The meeting was attended by experts from Europe, Africa and Latin America as well as by representatives of the United Nations, UNESCO, and intergovernmental and non-governmental organizations. The main objective of the seminar was the adoption of a Declaration on the Right to the Environment. Participants worked on the basis of a draft prepared by the organizers in consultation with the Office of the High Commissioner for Human Rights and UNESCO. After intensive debate, a final improved text was adopted on 12 February and presented to the public during the closing session.

2. The Declaration of Bizkaia on the Right to the Environment, in its preambular part, recalls that Principle I of the 1972 United Nations Declaration on the Human Environment proclaimed that man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being. Referring to the relevant international instruments which underline that human beings are at the centre of concerns for sustainable development and that they are entitled to a healthy and productive life in harmony with nature, it recalls that the resolution 45/94 of the General Assembly (adopted on 14 December 1990) declares that all persons have the right to live in an environment which is adequate to ensure their health and welfare. Noting further that the right to the environment is proclaimed by an increasing number of national constitutions, the Declaration emphasizes the need for recognition of a human right to the environment in legal

instruments of universal scope. It requests the international community, in particular the United Nations and other universal and regional organizations, to examine the Declaration of Bizkaia on the Right to the Environment and adopt suitable measures for the recognition of this right. Article 1 of the Declaration proclaims the right of everyone, individually or in association with others, to enjoy a healthy and ecologically balanced environment. Article 2 formulates the duty of everyone to protect the environment and to foster environmental protection at both national and international levels.

From the point of view of UNESCO, it is worth noting that the Declaration indirectly refers, in Article 3 - Right to the environment and future generations - to the UNESCO Declaration on the Responsibilities of the Present Generations Towards Future Generations. In Article 2, it also speaks about the necessity for environmental education and public awareness-raising. Other articles speak about administration transparency, the right to effective recourse, the right to reparation, shared responsibility and the implementation of the right to the environment. The Declaration may be seen as a serious contribution to the ongoing debate concerning the recognition and the progressive development of the human right to enjoy a healthy and ecologically balanced environment.

3. The participants also adopted the follow-up resolution which foresees a number of initiatives and measures to be taken at the national, European and international levels aimed at the broad dissemination of the Declaration of Bizkaia on the Right to the Environment and the recognition of the right to the environment as a human right. The follow-up resolution provides, *inter alia*, that the Declaration be submitted for appropriate action to the Director-General of UNESCO and the United Nations High Commissioner for Human Rights. On 29 April 1999, the Director-General received the organizers of the seminar, representatives of the Provincial Council of Bizkaia and UNESCO Etxea - the UNESCO Centre in the Basque Country - who presented to him the Declaration of Bizkaia on the Right to the Environment and asked him to submit it to the UNESCO governing bodies for eventual action.

4. In line with this request and taking into account the fact that numerous UNESCO programmes are dedicated to the protection of the environment and the promotion of the sciences and education for this purpose, the Director-General submits the Declaration of Bizkaia on the Right to the Environment to the 30th session of the UNESCO General Conference for information and reflection. The General Conference may decide on an eventual follow-up to this Declaration.

DECLARATION OF BIZKAIA ON THE RIGHT TO THE ENVIRONMENT

The International Seminar on the Right to the Environment, held in Bilbao from 10 to 13 February 1999 under the auspices of UNESCO and the United Nations High Commissioner for Human Rights,

Recalling that Principle I of the 1972 United Nations Declaration on the Human Environment proclaimed that man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being, and that he bears a solemn responsibility to protect and improve the environment for present and future generations,

Recalling that subsequently the 1992 Rio de Janeiro Declaration on the Environment and Development indicated that human beings are at the centre of concerns for sustainable development, and that they are entitled to a healthy and productive life in harmony with nature,

Recalling that regional instruments such as the African Charter on Human and People's Rights of 1981, the San Salvador Protocol on Economic, Social and Cultural Rights of 1988 and the Convention of the United Nations Economic Commission for Europe on Access to Information, Public Participation and Access to Justice in Environmental Matters, adopted by the fourth Ministerial Conference "Environment for Europe" held in Denmark from 23 to 25 June 1998, have also developed the principle thus proclaimed,

Noting the Convention on Biological Diversity of 1992, the United Nations Framework Convention on Climate Change of 1992, the United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, particularly in Africa of 1994, and Convention 169 of the International Labour Organization concerning Indigenous and Tribal Peoples in Independent Countries of 1989,

Noting that resolution 45/94, adopted on 14 December 1990 by the General Assembly of the United Nations, declares that all persons have the right to live in an environment which is adequate to ensure their health and welfare,

Noting that the Institute of International Law declared in its session in Strasbourg in 1997 that "all human beings have the right to live in a healthy environment",

Noting that an increasing number of national constitutions proclaim the right to the environment,

Emphasizing that the right to the environment is inherent to the dignity of all persons and is necessarily linked to the guaranteeing of other human rights, including in particular the right to development,

Emphasizing the universality, indivisibility and interdependence of all human rights,

Acknowledging that the right to the environment may be exercised, individually or in association with other persons, before public authorities and must be protected by the joint action of all those involved in the life of society: individuals, communities, public authorities and private bodies,

Noting that the right to the environment cannot be exercised unless sufficient quality information is available,

Emphasizing the need for a human right to the environment to be recognized in legal instruments of universal scope,

Requests the international community, in particular the United Nations and other universal and regional organizations, to examine the Declaration of Bizkaia on the Right to the Environment and adopt suitable measures for the recognition of this right.

Article 1 - Right to the environment

1. Everyone has the right, individually or in association with others, to enjoy a healthy and ecologically balanced environment.
2. The right to the environment may be exercised before public bodies and private entities, whatever their legal status under national and international law.
3. The right to the environment must be exercised in a way which is compatible with other human rights, including the right to development.
4. Everyone has the right to the environment without any discrimination based on race, colour, sex, language, religion, political opinion or of any other nature.

Article 2 - Duty to protect the environment

1. Everyone, individually or in association with others, has a duty to protect the environment and to foster environmental protection at both national and international levels.
2. Public authorities and international organizations are responsible for protecting and, if applicable, restoring the environment by all means within the scope of their competence. This responsibility should be carried out specifically through the following actions:
 - (a) the protection, conservation, restoration, if necessary, and prevention of the deterioration of the biosphere, geosphere, hydrosphere and atmosphere;
 - (b) the rational and sustainable use of natural resources;
 - (c) the promotion of patterns of production and consumption which are conducive to sustainable development;
 - (d) the integration of environment protection requirements into public policies and private activities, reflecting the non-discriminatory principle.
3. All States, particularly neighbouring States, should cooperate in the defence of the environment and in the fight against pollution, whatever its source.
4. States should endeavour to ensure that no unfavourable and irreversible modifications are introduced in the environment, which may damage the health of persons, or general well-being.

Article 3 - Right to the environment and future generations

1. Future generations have the right to inherit a healthy and ecologically balanced environment.
2. States have an obligation to monitor the quality and diversity of the environment and, specifically, to assess in advance long-term environmental consequences of the implementation of major projects.

Article 4 - Administrative transparency and the right to the environment

1. The decision-making processes of public authorities and international organizations in matters concerned with the environment should be governed by the principle of transparency. This principle requires the recognition of the rights of participation and access to information and the right to be informed.
2. Everyone has the right, individually or in association with others, directly or through representatives, to participate in the formulation of public policies and any other decisions concerning the environment.
3. Everyone has the right of access to information on the environment with no obligation to prove a particular interest. This right may be constrained only for justified, legally established reasons.
4. The right to be informed should be guaranteed also by the publication and distribution of regular reports on the state of the environment.

Article 5 - Right to effective recourse

Any person or group of persons whose right to a healthy and ecologically balanced environment has been violated or who possess information on such violations should have effective recourse to national and international authorities.

Article 6 - Right to reparation

Any person or group of persons who have suffered a violation of their right to a healthy and ecologically balanced environment and who have suffered environmental damage should have the right to demand and obtain appropriate redress, without prejudice to the restoration of the environment.

Article 7 - Environmental education and public awareness-raising

1. Education and awareness-raising at all levels and through all means should prepare persons to play a useful role in protecting the environment.
2. States and international organizations should adopt the educational measures needed to ensure respect for and protection of the right of persons to a healthy and ecologically balanced environment.
3. The measures referred to in the foregoing point should include teaching and educational programmes in cooperation with non-governmental organizations.

Article 8 - Shared responsibility

In accordance with the principles of international solidarity and common but differentiated responsibility for the protection of the environment, developed countries should strengthen cooperation with developing countries.

Article 9 - Implementation of the right to the environment

1. States and international organizations should adopt all measures required to guarantee the right to a healthy and ecologically balanced environment recognized in this Declaration.
2. Public authorities should develop and keep up-to-date environmental information within their competence and establish systems for collection and classification of such information. Furthermore, that information should cover existing or planned activities which may affect the environment.
3. Similarly, States and international organizations should, through international cooperation and solidarity, eradicate poverty, since it is closely linked to the right to the environment, and should adopt such measures as may be necessary and adequate to achieve this goal.
4. In the implementation of the measures needed to guarantee the effective exercise of the right to the environment, special attention should be paid to vulnerable persons and groups.

Drawn up in Bilbao, 12 February 1999