



---

**Annex VIII.****Recognition of the Right to a Healthy Environment in Constitutions, Legislation and Treaties: Western Europe and Others Region**

This Annex contains a chart summarizing the status of the right to a healthy environment in the constitutions, legislation, and regional treaties of States in the Western Europe and Others Regional Grouping (WEOG). Following the chart is an alphabetical listing of States and the specific constitutional and legislative references to the right to a healthy environment in each of those States.

Much of the research conducted for this project on behalf of the Special Rapporteur was organized by the Cyrus R. Vance Center for International Justice and carried out on a pro bono basis by a consortium of law firms led by Clifford Chance and White & Case.<sup>1</sup> The views expressed in this Annex, including the chart, are the Special Rapporteur's alone. Any errors and/or omissions are the sole responsibility of the Special Rapporteur on human rights obligations related to the enjoyment of a safe, clean, healthy and sustainable environment.

---

<sup>1</sup> The Special Rapporteur would like to extend his great appreciation to Susan Kath and Sam Bookman from the Cyrus R. Vance Center for International Justice, Janet Whittaker, Carla Lewis and David Boyd from Clifford Chance, and the hundreds of lawyers from Clifford Chance, White & Case and law firms around the world who generously contributed their time and expertise to this research project on a pro bono basis.

**Annex VIII on the Issue of the Recognition of the Right to a Healthy Environment in Constitutions, Legislation and Treaties: Western Europe and Others Region**

**Table of Contents**

**I. A chart summarizing the status of the right to a healthy environment in the constitutions, legislation, and regional treaties of States in Western Europe and Others Region..... 3**

A. Andorra .....	4
B. Australia .....	4
C. Austria.....	4
D. Belgium.....	4
E. Canada.....	5
F. Denmark.....	6
G. Finland .....	6
H. France.....	6
I. Germany.....	7
J. Greece .....	8
K. Iceland.....	8
L. Ireland .....	9
M. Israel .....	10
N. Italy .....	10
O. Liechtenstein.....	10
P. Luxembourg.....	11
Q. Malta .....	11
R. Monaco .....	11
S. Netherlands .....	11
T. New Zealand .....	12
U. Norway.....	12
V. Portugal.....	13
W. San Marino .....	18
X. Spain .....	18
Y. Sweden.....	23
Z. Switzerland .....	23
AA. Turkey .....	24
BB. United Kingdom of Great Britain and Northern Ireland .....	24
CC. United States of America.....	25

I. A chart summarizing the status of the right to a healthy environment in the constitutions, legislation, and regional treaties of States in Western Europe and Others Region

Country	National Constitution	International Treaty	National Legislation
<b>Andorra</b>	No	No	No
<b>Australia</b>	No	No	No
<b>Austria</b>	No	Yes <sup>§</sup>	No
<b>Belgium</b>	Yes	Yes	Yes
<b>Canada</b>	No	No	No
<b>Denmark</b>	No	Yes <sup>§</sup>	No
<b>Finland</b>	Yes	Yes <sup>§</sup>	Yes
<b>France</b>	Yes	Yes <sup>§</sup>	Yes
<b>Germany</b>	No	Yes <sup>§</sup>	No
<b>Greece</b>	Yes	Yes <sup>§</sup>	Yes
<b>Iceland</b>	No	Yes <sup>§</sup>	No
<b>Ireland</b>	Yes*	Yes <sup>§</sup>	No
<b>Israel</b>	No	No	No
<b>Italy</b>	Yes*	Yes <sup>§</sup>	No
<b>Liechtenstein</b>	No	No	No
<b>Luxembourg</b>	No	Yes <sup>§</sup>	No
<b>Malta</b>	No	Yes <sup>§</sup>	No
<b>Monaco</b>	No	No	Yes
<b>Netherlands</b>	No	Yes <sup>§</sup>	No
<b>New Zealand</b>	No	No	No
<b>Norway</b>	Yes	Yes <sup>§</sup>	Yes
<b>Portugal</b>	Yes	Yes <sup>§</sup>	Yes
<b>San Marino</b>	No	No	No
<b>Spain</b>	Yes	Yes <sup>§</sup>	Yes
<b>Sweden</b>	No	Yes <sup>§</sup>	No
<b>Switzerland</b>	No	Yes <sup>§</sup>	No
<b>Turkey</b>	Yes	No	No
<b>United Kingdom</b>	No	No <sup>§</sup>	No
<b>United States of America</b>	No	No	No

<sup>§</sup> Denotes party to the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (“Aarhus Convention”).

\* Denotes an implicit right. See country-specific notes for details.

## **A. Andorra**

### Constitutional provisions

N/A

### Treaty provisions

N/A

### Legislative provisions

N/A

## **B. Australia**

### Constitutional provisions

N/A

### Treaty provisions

N/A

### Legislative provisions

N/A

## **C. Austria**

### Constitutional provisions

N/A

### Treaty provisions

State party to the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters.

### Legislative provisions

N/A

## **D. Belgium**

### Constitutional provisions

#### **Article 23 of the Constitution of Belgium**

*Everyone has the right to lead a life of human dignity. To this end, the law, decree or rule referred to in Article 134 shall, considering the corresponding obligations, guarantee economic, social and cultural rights and determine the conditions for their exercise. These rights include in particular: (...)*

*4° the right to the protection of a healthy environment; (...).*

*Chacun a le droit de mener une vie conforme à la dignité humaine.*

*A cette fin, la loi, le décret ou la règle visée à l'article 134 garantissent, en tenant compte des obligations correspondantes, les droits économiques, sociaux et culturels, et déterminent les conditions de leur exercice.*

*Ces droits comprennent notamment: (...)*

*4° le droit à la protection d'un environnement sain; (...).*

*Ieder heeft het recht een menswaardig leven te leiden.*

*Daartoe waarborgen de wet, het decreet of de in artikel 134 bedoelde regel, rekening houdend met de overeenkomstige plichten, de economische, sociale en culturele rechten, waarvan ze de voorwaarden voor de uitoefening bepalen.*

*Die rechten omvatten inzonderheid:(...)*

*4° het recht op de bescherming van een gezond leefmilieu;(....)*

#### Treaty provisions

State party to the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters.

#### Legislative provisions

##### **Article 18 of the Law on the Access to Environmental Information (5 August 2006)**

*§ 1. Anyone who so requests shall have the right, in accordance with the conditions laid down in this Act, to view all environmental information available to an environmental authority on site, to receive explanations and to receive a copy of it.*

*§ 2. The applicant is not required to prove an interest.*

*§ 1. Eenieder die erom verzoekt, heeft het recht om volgens de voorwaarden bepaald in deze wet, alle milieu-informatie waarover een milieu-instantie beschikt ter plaatse in te zien, er uitleg over te krijgen en er een kopie van te ontvangen.*

*§ 2. De aanvrager moet geen belang aantonen.*

*§ 1er. Quiconque le requiert a le droit, selon les conditions prévues par la présente loi, de consulter sur place toute information environnementale dont dispose une instance environnementale, d'obtenir des explications à son sujet et d'en recevoir une copie.*

*§ 2. Le demandeur ne doit justifier d'aucun intérêt.*

##### **Law Concerning a right of action in environmental matters, 12 January 1993.**

*12 Janvier 1993. - Loi concernant un droit d' action en matière de protection de l'environnement.*

## **E. Canada**

#### Constitutional provisions

N/A

#### Treaty provisions

N/A

#### Legislative provisions

Two provinces (Ontario and Quebec) and the three northern territories (Northwest Territories, Nunavut and Yukon) recognize the right to a healthy environment in legislation. Collectively these jurisdictions represent more than half of the Canadian population.

## **F. Denmark**

### Constitutional provisions

N/A

### Treaty provisions

State party to the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters.

### Legislative provisions

N/A

## **G. Finland**

### Constitutional provisions

#### **Article 20 of the Constitution of Finland (731/1999)**

*Nature and its biodiversity, the environment and the national heritage are the responsibility of everyone.*

*The public authorities shall endeavor to guarantee for everyone the right to a healthy environment and for everyone the possibility to influence the decisions that concern their own living environment.*

*Vastuu luonnosta ja sen monimuotoisuudesta, ympäristöstä ja kulttuuriperinnöstä kuuluu kaikille.*

*Julkisen vallan on pyrittävä turvaamaan jokaiselle oikeus terveelliseen ympäristöön sekä mahdollisuus vaikuttaa elinympäristöään koskevaan päätöksentekoon.*

### Treaty provisions

State party to the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters.

### Legislative provisions

Environmental Protection Act, 27/6/2014/527

Section 1(2) guarantee a safe and sound, pleasant and economically sustainable and versatile environment, support sustainable development and counter climate change

## **H. France**

### Constitutional provisions

#### **Environmental Charter 2004**

The Environmental Charter has been recognized as having constitutional status. See French Const. Council Decision No. 2008-564 DC, para. 18.

*Art. 1 Everyone has the right to live in a balanced environment which shows due respect for health.*

*Art. 1 Chacun a le droit de vivre dans un environnement équilibré et respectueux de la santé.*

### Treaty provisions

State party to the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters.

### Legislative provisions

The French Environmental Code contains extensive provisions related to the right to a healthy environment. Chapter IV, Articles L124-1 to L124-8 and Article L125 detail the right of access to information. Articles L142, L611, L621 and L631 authorize environmental protection associations to institute lawsuits. Article L220-1 recognizes the right to breathe clean air.

### **Article L110-2 of the French Environmental Code (last amended by Loi No. 2016-1087 of August 8, 2016, art. 5)**

*The laws and regulations organize the individual's right to a healthy environment and contribute to ensuring a harmonious balance between urban zones and rural zones.*

*Each person has a duty to safeguard and contribute to the protection of the environment.*

*Public bodies and private bodies must, in all their activities, comply with same requirements.*

*Les lois et règlements organisent le droit de chacun à un environnement sain. Ils contribuent à assurer un équilibre harmonieux entre les zones urbaines et les zones rurales ainsi que la préservation et l'utilisation durable des continuités écologiques.*

*Il est du devoir de chacun de veiller à la sauvegarde et de contribuer à la protection de l'environnement, y compris nocturne.*

*Les personnes publiques et privées doivent, dans toutes leurs activités, se conformer aux mêmes exigences.*

### **Article L220-1**

The State and its public institutions, local authorities and their public institutions as well as private individuals, all contribute, each within its field of competence and within the limits of its responsibility, to a policy the objective of which is the implementation of the recognised right of all to breathe air which is not harmful to the health.

This action of general public interest consists in preventing, monitoring, reducing or removing atmospheric pollution, preserving air quality and, to these ends, saving and using energy in a rational manner.

## **I. Germany**

### Constitutional provisions

N/A

### Treaty provisions

State party to the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters.

### Legislative provisions

N/A

## **J. Greece**

### Constitutional provisions

#### **Article 24 of the Constitution of Greece (as amended 2001)**

*The protection of the natural and cultural environment constitutes a duty of the State and a right of every person. The State is bound to adopt special preventive or repressive measures for the preservation of the environment in the context of the principle of sustainable development. Matters pertaining to the protection of forests and forest expanses in general shall be regulated by law. The compilation of a forest registry constitutes an obligation of the State. Alteration of the use of forests and forest expanses is prohibited, except where agricultural development or other uses imposed for the public interest prevail for the benefit of the national economy.*

*Η προστασία του φυσικού και πολιτιστικού περιβάλλοντος αποτελεί υποχρέωση του Κράτους και δικαίωμα του καθενός. Για τη διαφύλαξή του το Κράτος έχει υποχρέωση να παίρνει ιδιαίτερα προληπτικά ή κατασταλτικά μέτρα στο πλαίσιο της αρχής της αειφορίας. Νόμος ορίζει τα σχετικά με την προστασία των δασών και των δασικών εκτάσεων. Η σύνταξη δασολογίου συνιστά υποχρέωση του Κράτους. Απαγορεύεται η μεταβολή του προορισμού των δασών και των δασικών εκτάσεων, εκτός αν προέχει για την Εθνική Οικονομία η αγροτική εκμετάλλευση ή άλλη τους χρήση, που την επιβάλλει το δημόσιο συμφέρον.*

### Treaty provisions

State party to the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters.

### Legislative provisions

Law No. 3422 ratifying the Convention on access to information, public participation in decision-making and access to justice in environmental matters.

Law No. 1650 on the protection for the environment (1986, as amended).

## **K. Iceland**

### Constitutional provisions

The current Constitution of Iceland does not include the right to a healthy environment. A draft Constitution (2011) which was approved in a public referendum (2012) but has not been adopted, includes the following provision:

#### Article 33: Iceland's Nature and Environment

Iceland's nature is the foundation of life in the country. Everyone is under obligation to respect it and protect it.

Everyone shall by law be ensured the right to a healthy environment, fresh water, clean air and unspoiled nature. This means maintenance of life and land and protection of sites of natural interest, unpopulated wilderness, vegetation and soil. Previous damage shall be repaired to the extent possible.

The use of natural resources shall be managed so as to minimise their depletion in the long term with respect for the rights of nature and future generations.



The right of the public to travel the country for lawful purposes with respect for nature and the environment shall be ensured by law.

Treaty provisions

State party to the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters.

Legislative provisions

N/A

## **L. Ireland**

Constitutional provisions

Although there is no explicit right to a healthy environment contained in the constitution of the Republic of Ireland, an unenumerated constitutional right to “an environment that is consistent with the human dignity and well-being of citizens at large” was recognized by the Irish High Court in November 2017. The right was implied from Articles 40.3.1 and 40.3.2 of the Constitution which respectively guarantee the “personal rights of the citizen” and the state vindication of “life, person, good name, and property rights of every citizen”. The scope of this right is not yet clear but may be developed in future cases. See *Friends of the Irish Environment CLG v Fingal County Council* [2017] IEHC 695.

### **Constitution of the Republic of Ireland 1937 (as amended 2015)**

Article 40.3.1

*The State guarantees in its laws to respect and, as far as practicable, by its laws to defend and vindicate the personal rights of the citizen.*

*1° ráthaíonn an stát gan cur isteach lena dhlíthe ar chearta pearsanta aon saoránaigh, agus ráthaíonn fós na cearta sin a chosaint is a shuíomh lena dhlíthe sa mhéid gur féidir é.*

Article 40.3.2

*The State shall, in particular, by its laws protect as best it may from unjust attack and, in the case of injustice done, vindicate the life, person, good name, and property rights of every citizen.*

*2° déanfaidh an stát, go sonrach, lena dhlíthe, beatha agus pearsa agus dea-chlú agus maoinechearta an uile shaoránaigh a chosaint ar ionsaí éagórach chomh fada lena chumas, agus iad a shuíomh i gcás éagóra.*

Treaty provisions

State party to the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters.

Legislative provisions

N/A

## **M. Israel**

### Constitutional provisions

N/A

### Treaty provisions

N/A

### Legislative provisions

N/A

## **N. Italy**

### Constitutional provisions

There is no specific provision under Italian legislation setting out a right to a healthy environment. However, certain principles can be discerned from the case-law of Constitutional Court (Corte Costituzionale) which show Article 32 of the Italian Constitution has been used as the legal basis in order to recognize a right to a healthy environment. See *Decision No. 5172/1989* (Corte di Cassazione Sezioni Unite); *Decision No. 210/1987* (Corte Costituzionale); *Decision No. 641/1987* (Corte Costituzionale); *Decision No. 22539/2002* (Corte di Cassazione); *Decision No. 225/2009* (Corte Costituzionale).

### **Article 32 of the Constitution of Italy**

*The Republic protects health as a fundamental right of the individual and interest of the community and guarantees free care for needy persons.*

*La Repubblica tutela la salute come fondamentale diritto dell'individuo e interesse della collettività, e garantisce cure gratuite agli indigenti.*

### Treaty provisions

State party to the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters.

### Legislative provisions

N/A

## **O. Liechtenstein**

### Constitutional provisions

N/A

### Treaty provisions

N/A

### Legislative provisions

N/A

## **P. Luxembourg**

### Constitutional provisions

N/A

### Treaty provisions

State party to the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters.

### Legislative provisions

N/A

## **Q. Malta**

### Constitutional provisions

N/A

### Treaty provisions

State party to the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters.

### Legislative provisions

N/A

## **R. Monaco**

### Constitutional provisions

N/A

### Treaty provisions

N/A

### Legislative provisions

**Article L. 120-1 of Law No 1.456 (Environmental Code) effective as of 12 December 2017**

*Article L.120-1.- This principle recognizes that everyone has the right to live in a healthy, balanced environment that respects health and biodiversity.*

*Article L.120-1.- Est reconnu par le présent Code le principe selon lequel chacun a le droit de vivre dans un environnement sain, équilibré et respectueux de la santé et de la biodiversité.*

## **S. Netherlands**

### Constitutional provisions

N/A. There is no explicit right to a healthy environment in the Constitution of the Netherlands. However, there is some older jurisprudence indicating that the right to a healthy environment is implicit in Article 21, which states “It shall be the concern of the authorities to keep the country habitable and to protect and improve the environment.” See, for example, Council of State, 31 January 1991, *Kort geding* (Interim measures) 1991-181; Council of State, 18 July 1991, *Administratieve beslissingen* (Administrative decisions) 1991-591; Council of State, 22 April

1991, *Administratieve beslissingen* (Administrative decisions) 1991-592; Council of State, 29 May 1992, *Milieu en Recht* (Environment and Law) 1992, p. 477; Supreme Court, 14 April 1989, *Milieu en Recht* (Environment and Law) 1989, p. 258.

Treaty provisions

State party to the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters.

Note that in Case 19/00135 of 20 December 2019 (the *Urgenda* case), the Supreme Court of the Netherlands found that articles 2 and 8 of the European Convention on Human Rights (to which the Netherlands is a party) gave rise to environmental rights.

Legislative provisions

N/A

## **T. New Zealand**

Constitutional provisions

N/A

Treaty provisions

N/A

Legislative provisions

N/A

## **U. Norway**

Constitutional provisions

### **Article 112 of the Constitution of Norway**

*Every person has the right to an environment that is conducive to health and to a natural environment whose productivity and diversity are maintained. Natural resources shall be managed on the basis of comprehensive long-term considerations which will safeguard this right for future generations as well.*

*In order to safeguard their right in accordance with the foregoing paragraph, citizens are entitled to information on the state of the natural environment and on the effects of any encroachment on nature that is planned or carried out.*

*The authorities of the state shall take measures for the implementation of these principles.*

*Alle har rett til eit helsesamt miljø og ein natur der produksjonsevna og mangfaldet blir haldne ved lag. Naturressursane skal disponerast ut frå ein langsiktig og allsidig synsmåte som tryggjer denne retten òg for kommande slekter.*

*Borgarane har rett til kunnskap om korleis det står til med naturmiljøet, og om verknadene av planlagde og iverksette inngrep i naturen, slik at dei kan tryggje den retten dei har etter førre leddet.*

*Dei statlege styresmaktene skal setje i verk tiltak som gjennomfører desse grunnsetningane.*

### Treaty provisions

State party to the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters.

### Legislative provisions

**Environmental Information Act, Act of 9 May 2003 No.31 Relating to the Right to Environmental Information and Public Participation in Decision-making Processes Relating to the Environment.**

Chapter 1 Introductory provisions

#### § 1. Purpose of the Act

The purpose of this Act is to ensure public access to environmental information and thus make it easier for individuals to contribute to the protection of the environment, to protect themselves against injury to health and environmental damage, and to influence public and private decision-makers in environmental matters. The Act is also intended to promote public participation in decision-making processes of significance relating to the environment.

**Nature Diversity Act, Act of 19 June 2009 No.100 Relating to the Management of Biological, Geological and Landscape Diversity**

Section 1 (purpose of the Act)

The purpose of this Act is to protect biological, geological and landscape diversity and ecological processes through conservation and sustainable use, and in such a way that the environment provides a basis for human activity, culture, health and well-being, now and in the future, including a basis for Sami culture.

**Pollution Control Act, Act of 13 March 1981 No.6 Concerning Protection Against Pollution and Concerning Waste**

Chapter 1. Introductory provisions

#### § 1. Purpose of the Act

The purpose of this Act is to protect the outdoor environment against pollution and to reduce existing pollution, to reduce the quantity of waste and to promote better waste management.

The Act shall ensure that the quality of the environment is satisfactory, so that pollution and waste do not result in damage to human health or adversely affect welfare or damage the productivity of the natural environment and its capacity for self-renewal.

## **V. Portugal**

### Constitutional provisions

#### **Article 66 of the Constitution of Portugal**

*1. Everyone has the right to a healthy and ecologically balanced living environment and the duty to defend it.*

*2. In order to ensure the right to the environment within an overall framework of a sustainable development, the state, acting via appropriate bodies and with the involvement and participation of the citizens, is charged with:*

*(a) Preventing and controlling pollution and its effects and harmful forms of erosion;*

- b) Conducting and promoting town and country planning with a view to a correct location of activities, balanced social and -economic development and the enhancement of the landscape;*
- c) Creating and promoting natural and recreational reserves and parks and classifying and protecting landscapes and places, in such a way as to guarantee the conservation of nature and the preservation of cultural values and assets that are of historical or artistic interest;*
- d) Promoting the rational use of natural resources, while safeguarding their ability to renew themselves and ecological stability, with respect for the principle of inter-generational solidarity;*
- (e) In cooperation with local authorities, promoting the environmental quality of rural settlements and urban life, particularly on the architectural level and as regards the protection of historic areas;*
- f) Promoting the integration of environmental objectives into the various policies with a sectoral scope;*
- g) Promoting environmental education and respect for environmental values and assets;*
- h) Ensuring that fiscal policy renders development compatible with the protection of the environment and quality of life.*

*1. Todos têm direito a um ambiente de vida humano, sadio e ecologicamente equilibrado e o dever de o defender.*

*2. Para assegurar o direito ao ambiente, no quadro de um desenvolvimento sustentável, incumbe ao Estado, por meio de organismos próprios e com o envolvimento e a participação dos cidadãos:*

- a) Prevenir e controlar a poluição e os seus efeitos e as formas prejudiciais de erosão;*
- b) Ordenar e promover o ordenamento do território, tendo em vista uma correta localização das atividades, um equilibrado desenvolvimento socioeconómico e a valorização da paisagem;*
- c) Criar e desenvolver reservas e parques naturais e de recreio, bem como classificar e proteger paisagens e sítios, de modo a garantir a conservação da natureza e a preservação de valores culturais de interesse histórico ou artístico;*
- d) Promover o aproveitamento racional dos recursos naturais, salvaguardando a sua capacidade de renovação e a estabilidade ecológica, com respeito pelo princípio da solidariedade entre gerações;*
- e) Promover, em colaboração com as autarquias locais, a qualidade ambiental das povoações e da vida urbana, designadamente no plano arquitetónico e da proteção das zonas históricas;*
- f) Promover a integração de objetivos ambientais nas várias políticas de âmbito sectorial;*
- g) Promover a educação ambiental e o respeito pelos valores do ambiente;*
- h) Assegurar que a política fiscal compatibilize desenvolvimento com proteção do ambiente e qualidade de vida.*

#### Treaty provisions

State party to the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters.

## Legislative provisions

### **Basic Law on the Environment (Lei No. 19/2014, Diário da República n.º 73/2014, Série I de 2014-04-14)**

#### Article 1

*This law defines the basis of environmental policy, in compliance with the provisions of articles 9 and 66 of the Constitution.*

*A presente lei define as bases da política de ambiente, em cumprimento do disposto nos artigos 9.º e 66.º da Constituição.*

#### Article 2

*1 - Environmental policy aims at the realization of environmental rights through the promotion of sustainable development, appropriate management of the environment, in particular ecosystems and natural resources, contributing to the developing a low carbon society and a 'green economy', rational and efficient in natural resources to ensure the well-being and progressive improvement of the quality of life of citizens.*

*2 - The State is responsible for carrying out the environmental policy, both through the direct action of its organs and agents in the different levels of local, regional, national, European and international decision-making, such as by mobilizing and coordination of all citizens and social forces, in a participatory process based on the full exercise of environmental citizenship.*

*1 - A política de ambiente visa a efetivação dos direitos ambientais através da promoção do desenvolvimento sustentável, suportada na gestão adequada do ambiente, em particular dos ecossistemas e dos recursos naturais, contribuindo para o desenvolvimento de uma sociedade de baixo carbono e uma «economia verde», racional e eficiente na utilização dos recursos naturais, que assegure o bem-estar e a melhoria progressiva da qualidade de vida dos cidadãos.*

*2 - Compete ao Estado a realização da política de ambiente, tanto através da ação direta dos seus órgãos e agentes nos diversos níveis de decisão local, regional, nacional, europeia e internacional, como através da mobilização e da coordenação de todos os cidadãos e forças sociais, num processo participado e assente no pleno exercício da cidadania ambiental.*

#### Article 5-8

##### *Article 5: Right to the environment*

*1 - Everyone has the right to the environment and the quality of life, in accordance with the terms of the Constitution and internationally.*

*2 - The right to the environment is the right to defense against any aggression against the constitutional and internationally protected rights of each citizen, as well as the power to demand from public and private entities the environmental duties to which they are bound by law and right.*

*1 - Todos têm direito ao ambiente e à qualidade de vida, nos termos constitucional e internacionalmente estabelecidos.*

*2 - O direito ao ambiente consiste no direito de defesa contra qualquer agressão à esfera constitucional e internacionalmente protegida de cada cidadão, bem como o poder de exigir de*

*entidades públicas e privadas o cumprimento dos deveres e das obrigações, em matéria ambiental, a que se encontram vinculadas nos termos da lei e do direito.*

*Article 6: Procedural environmental rights*

*1 - Everyone has the rights to intervene and to participate in administrative procedures relating to the environment, under legally established terms.*

*2 - In particular, those procedural rights include: (a) the right of citizens, non-governmental associations and other interested parties to participate, in the particular environment, in the adoption of decisions on authorization procedures or activities with significant environmental impacts as well as the preparation of environmental plans and programs; (b) The right of access to environmental information held by public entities, which have a duty to disclose and make available to the public through appropriate mechanisms, including the use of telematic or electronic technologies.*

*1 - Todos gozam dos direitos de intervenção e de participação nos procedimentos administrativos relativos ao ambiente, nos termos legalmente estabelecidos.*

*2 - Em especial, os referidos direitos procedimentais incluem, nomeadamente:*

*a) O direito de participação dos cidadãos, das associações não-governamentais e dos demais agentes interessados, em matéria de ambiente, na adoção das decisões relativas a procedimentos de autorização ou referentes a atividades que possam ter impactes ambientais significativos, bem como na preparação de planos e programas ambientais;*

*b) O direito de acesso à informação ambiental detida por entidades públicas, as quais têm o dever de a divulgar e disponibilizar ao público através de mecanismos adequados, incluindo a utilização de tecnologias telemáticas ou eletrónicas.*

*Article 7: Procedural environmental rights*

*1 - Everyone is entitled to the full and effective protection of their rights and interests legally protected in matters relating to environment.*

*2 - In particular, those procedural rights include: (a) The right of action for the defense of subjective rights and legally protected interests, as well as for the exercise of rights of public action and popular action; (b) The right to promote the prevention, cessation and remedying of violations of environmental assets and values as soon as possible; (c) The right to request the immediate cessation of activity causing threat or damage to the environment, as well as the previous situation and the payment of the respective compensation, under the terms of the law.*

*1 - A todos é reconhecido o direito à tutela plena e efetiva dos seus direitos e interesses legalmente protegidos em matéria de ambiente.*

*2 - Em especial, os referidos direitos processuais incluem, nomeadamente:*

*a) O direito de ação para defesa de direitos subjetivos e interesses legalmente protegidos, assim como para o exercício do direito de ação pública e de ação popular;*

*b) O direito a promover a prevenção, a cessação e a reparação de violações de bens e valores ambientais da forma mais célere possível;*



*c) O direito a pedir a cessação imediata da atividade causadora de ameaça ou dano ao ambiente, bem como a reposição da situação anterior e o pagamento da respetiva indemnização, nos termos da lei.*

*Article 8: Environmental duties*

*1 - The right to the environment is inextricably linked to the duty to protect it, to preserve it and to respect it so as to ensure long-term sustainable development, especially for future generations.*

*2 - Environmental citizenship is the duty to contribute to the creation of a healthy and ecologically sound environment. from the point of view of efficient use of resources and with a view to the progressive improvement of the quality of life protection and preservation.*

*1 - O direito ao ambiente está indissociavelmente ligado ao dever de o proteger, de o preservar e de o respeitar, de forma a assegurar o desenvolvimento sustentável a longo prazo, nomeadamente para as gerações futuras.*

*2 - A cidadania ambiental consiste no dever de contribuir para a criação de um ambiente sadio e ecologicamente equilibrado e, na ótica do uso eficiente dos recursos e tendo em vista a progressiva melhoria da qualidade vida, para a sua proteção e preservação.*

**Article 5 of the Environmental NGO Law 35/98 (Diário da República 164/1998, Series IA of 1998-07-18)**

*Access to information*

*1 - The NGOs enjoy, under the law, the right to consult and inform the Public Administration bodies about documents or administrative decisions affecting the environment, namely regarding:*

*(a) Environmental policy plans and projects, including forestry, agricultural or game development or development projects;*

*(b) Sectoral plans with environmental repercussions;*

*(c) Regional, municipal and special spatial planning plans and urban planning instruments;*

*(d) Plans and decisions covered by the provisions of Article 4 of Law No. 83/95 of 31 August;*

*(e) Creation of protected areas and classification of natural and cultural heritage;*

*(f) Environmental impact assessment processes;*

*(g) Conservation measures for species and habitats;*

*(h) Environmental audit processes, business certification and eco-labeling.*

*2-The consultation referred to in the previous paragraph is free, and is governed by the access to administrative documents, including their reproduction and issuing of certificates, by the general law.*

*3 - The NGOs have the legitimacy to request, under the law, the judicial summons from public authorities to allow the consultation of documents or processes and to issue the appropriate certificates.*

*Artigo 5.º*

*Acesso à informação*

*1 - As ONGA gozam, nos termos da lei, do direito de consulta e informação junto dos órgãos da Administração Pública sobre documentos ou decisões administrativas com incidência no ambiente, nomeadamente em matéria de:*

- a) Planos e projectos de política de ambiente, incluindo projectos de ordenamento ou fomento florestal, agrícola ou cinegético;*
- b) Planos sectoriais com repercussões no ambiente;*
- c) Planos regionais, municipais e especiais de ordenamento do território e instrumentos de planeamento urbanístico;*
- d) Planos e decisões abrangidos pelo disposto no artigo 4.º da Lei n.º 83/95, de 31 de Agosto;*
- e) Criação de áreas protegidas e classificação de património natural e cultural;*
- f) Processos de avaliação de impacte ambiental;*
- g) Medidas de conservação de espécies e habitats;*
- h) Processos de auditoria ambiental, certificação empresarial e atribuição de rotulagem ecológica.*

*2 - A consulta referida no número anterior é gratuita, regendo-se o acesso aos documentos administrativos, nomeadamente a sua reprodução e passagem de certidões, pelo disposto na lei geral.*

*3 - As ONGA têm legitimidade para pedir, nos termos da lei, a intimação judicial das autoridades públicas no sentido de facultarem a consulta de documentos ou processos e de passarem as devidas certidões.*

## **W. San Marino**

### Constitutional provisions

N/A

### Treaty provisions

N/A

### Legislative provisions

N/A

## **X. Spain**

### Constitutional provisions

#### **Article 45 of the Spanish Constitution**

*1. Everyone has the right to enjoy an environment suitable for personal development, as well as the duty to preserve it.*

*2. The public authorities shall safeguard rational use of all-natural resources with a view to protecting and improving the quality of life and preserving and restoring the environment, by relying on essential collective solidarity.*

3. *Criminal or, where applicable, administrative sanctions, as well as the obligation to make good the damage, shall be imposed, under the terms established by the law, against those who violate the provisions contained in the previous clause.*

1. *Todos tienen el derecho a disfrutar de un medio ambiente adecuado para el desarrollo de la persona, así como el deber de conservarlo.*

2. *Los poderes públicos velarán por la utilización racional de todos los recursos naturales, con el fin de proteger y mejorar la calidad de la vida y defender y restaurar el medio ambiente, apoyándose en la indispensable solidaridad colectiva.*

3. *Para quienes violen lo dispuesto en el apartado anterior, en los términos que la ley fije se establecerán sanciones penales o, en su caso, administrativas, así como la obligación de reparar el daño causado.*

#### Treaty provisions

State party to the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters.

#### Legislative provisions

#### **Environmental Responsibility Law (Ley No. 26/2007)**

#### Preamble

*Article 45 of the Constitution recognizes the right of citizens to enjoy an adequate environment as an indispensable condition for the development of the person, while establishing that those who fail to comply with the obligation to use natural resources rationally and to preserve nature they will be obliged to repair the damage caused independently of the administrative or criminal sanctions that also apply.*

*This mandate has been subject to development through different legal norms that, despite their extension and updating, have not been able to prevent the repeated production of accidents of diverse nature that have had very serious consequences for the natural environment. This highlights the need for environmental legislation that implements new liability systems that effectively prevent environmental damage and, in cases where they occur, ensure a quick and adequate repair.*

*This need is met by Directive 2004/35 / EC of the European Parliament and of the Council, of April 21, 2004, on environmental responsibility in relation to the prevention and repair of environmental damages, which this law transposes, incorporating into our legal system an administrative regime of environmental responsibility of an objective and unlimited nature based on the principles of prevention and that "polluter pays". It is, in effect, an administrative regime insofar as it institutes a whole set of administrative powers with whose exercise the Public Administration must guarantee compliance with the law and the application of the liability regime that it incorporates. It separates, then, from the classic civil responsibility in which the conflicts between the cause of the damage and the injured party are settled in court. [...]*

*El artículo 45 de la Constitución reconoce el derecho de los ciudadanos a disfrutar de un medio ambiente adecuado como condición indispensable para el desarrollo de la persona, al tiempo que establece que quienes incumplan la obligación de utilizar racionalmente los recursos naturales y la de conservar la naturaleza estarán obligados a reparar el daño causado con independencia de las sanciones administrativas o penales que también correspondan.*

*Este mandato ha sido objeto de desarrollo a través de diferentes normas jurídicas que, pese a su extensión y actualización, no han sido capaces de prevenir la producción reiterada de accidentes de diversa naturaleza que han tenido gravísimas consecuencias para el entorno natural. Ello pone de manifiesto la necesidad de contar con una legislación ambiental que instrumente nuevos sistemas de responsabilidad que prevengan eficazmente los daños medioambientales y, para los casos en los que estos lleguen a producirse, aseguren una rápida y adecuada reparación.*

*A esta necesidad responde la Directiva 2004/35/CE del Parlamento Europeo y del Consejo, de 21 de abril de 2004, sobre responsabilidad medioambiental en relación con la prevención y reparación de daños medioambientales, que esta ley traspone, incorporando a nuestro ordenamiento jurídico un régimen administrativo de responsabilidad ambiental de carácter objetivo e ilimitado basado en los principios de prevención y de que «quien contamina paga». Se trata, efectivamente, de un régimen administrativo en la medida en la que instituye todo un conjunto de potestades administrativas con cuyo ejercicio la Administración pública debe garantizar el cumplimiento de la ley y la aplicación del régimen de responsabilidad que incorpora. Se separa, pues, de la responsabilidad civil clásica en la que los conflictos entre el causante del daño y el perjudicado se dirimen en sede judicial. [...]*

**Law on Access to Information, Public Participation and Access to Justice in Environmental Matters incorporating EC Directive 2003/4/EC and 2003/35/EC (Law 27/2006, amendments up to January 26, 2008).**

#### Statement of Purpose

*Article 45 of the Constitution configures the environment as a legal asset of whose enjoyment is owned by all citizens and whose conservation is an obligation that is shared by public authorities and society as a whole. Everyone has the right to require public authorities to take the necessary measures to guarantee the adequate protection of the environment, to enjoy the right to live in a healthy environment. Correlatively, it imposes on everyone the obligation to preserve and respect that same environment. So that citizens, individually or collectively, can participate in this protection task in a real and effective way, it is necessary to have the appropriate instrumental means, charging today special participation in the process of public decision making. Participation, which in general enshrines article 9.2 of the Constitution, and for administrative purposes article 105, guarantees the democratic functioning of societies and introduces greater transparency in the management of public affairs. [...]*

*El artículo 45 de la Constitución configura el medio ambiente como un bien jurídico de cuyo disfrute son titulares todos los ciudadanos y cuya conservación es una obligación que comparten los poderes públicos y la sociedad en su conjunto. Todos tienen el derecho a exigir a los poderes públicos que adopten las medidas necesarias para garantizar la adecuada protección del medio ambiente, para disfrutar del derecho a vivir en un medio ambiente sano. Correlativamente, impone a todos la obligación de preservar y respetar ese mismo medio ambiente. Para que los ciudadanos, individual o colectivamente, puedan participar en esa tarea de protección de forma real y efectiva, resulta necesario disponer de los medios instrumentales adecuados, cobrando hoy especial significación la participación en el proceso de toma de decisiones públicas. Pues la participación, que con carácter general consagra el artículo 9.2 de la Constitución, y para el ámbito administrativo el artículo 105, garantiza el funcionamiento democrático de las sociedades e introduce mayor transparencia en la gestión de los asuntos públicos. [...]*

## Article 1

1. *The purpose of this Law is to regulate the following rights: a) To access the environmental information held by the public authorities or in that of other subjects who possess it in their name. b) To participate in decision-making procedures on matters that directly or indirectly affect the environment, and whose preparation or approval correspond to the Public Administrations; c) To urge the administrative and judicial review of the acts and omissions attributable to any of the public authorities that involve violations of the environmental regulations.*

2. *This law also guarantees the dissemination and making available to the public the environmental information, gradually and with the degree of breadth, systematics and technology as wide as possible.*

1. *Esta Ley tiene por objeto regular los siguientes derechos:*

a) *A acceder a la información ambiental que obre en poder de las autoridades públicas o en el de otros sujetos que la posean en su nombre.*

b) *A participar en los procedimientos para la toma de decisiones sobre asuntos que incidan directa o indirectamente en el medio ambiente, y cuya elaboración o aprobación corresponda a las Administraciones Públicas.*

c) *A instar la revisión administrativa y judicial de los actos y omisiones imputables a cualquiera de las autoridades públicas que supongan vulneraciones de la normativa medioambiental/*

2. *Esta ley garantiza igualmente la difusión y puesta a disposición del público de la información ambiental, de manera paulatina y con el grado de amplitud, de sistemática y de tecnología lo más amplia posible.*

## Article 3

*To realize the right to an adequate environment for the development of the person and the duty to keep it, all may exercise the following rights in their relations with public authorities, in accordance with the provisions of this Law and with article 7 of the Civil Code:*

1) *Regarding access to information: a) To access the environmental information held by the public authorities or in that of other subjects in his name, without being obliged to declare an interest, whatever their nationality, domicile or headquarters; b) To be informed of the rights granted by this law and to be advised for its correct exercise; c) To be assisted in their search for information; d) To receive the information they request within the maximum deadlines established in the article 10; e) To receive the requested environmental information in the form or format chosen, in the terms provided for in article 11; f) To know the reasons why the information is not provided, total or partially, and also those for which such information is not provided in the form or format requested; g) To know the list of rates and prices that, where appropriate, are required for the receipt of the requested information, as well as the circumstances in which they can demand or waive payment.*

2) *In relation to public participation: a) To participate effectively and really in the preparation, modification and review of those plans, programs and general provisions related to the environment included in the scope of this Law; b) To have sufficient access in advance to the relevant information related to those referred plans, programs and general provisions; c) To make allegations and observations when all options are still open and before the decision on the aforementioned plans, programs or general provisions as they are duly taken into account by the*

corresponding Public Administration; d) That the final result of the procedure in which they participated and informed of the reasons and considerations on which the decision is based, including information regarding the public participation process; e) To participate effectively and real, in accordance with the provisions of the legislation applicable, in the administrative procedures processed for the granting of authorizations regulated in the legislation on prevention and integrated control of pollution, for the concession of the administrative titles regulated in the legislation in a matter of genetically modified organisms, and for the issuance of declarations of environmental impact regulated in the legislation on environmental impact assessment, as well as in the planning processes foreseen in the water legislation and in the legislation on evaluation of the effects of plans and programs on the environment.

3) Regarding access to justice and administrative protection: a) To resort to acts and omissions attributable to public authorities that contravene the rights that this Law recognizes regarding information and public participation; b) To exercise the popular action to resort to the acts and omissions attributable to the public authorities that constitute violations of environmental legislation in the terms provided in this Law.

4) Any other that recognizes the Constitution or laws.

*Para hacer efectivos el derecho a un medio ambiente adecuado para el desarrollo de la persona y el deber de conservarlo, todos podrán ejercer los siguientes derechos en sus relaciones con las autoridades públicas, de acuerdo con lo previsto en esta Ley y con lo establecido en el artículo 7 del Código Civil:*

1) *En relación con el acceso a la información:*

a) *A acceder a la información ambiental que obre en poder de las autoridades públicas o en el de otros sujetos en su nombre, sin que para ello estén obligados a declarar un interés determinado, cualquiera que sea su nacionalidad, domicilio o sede.*

b) *A ser informados de los derechos que le otorga la presente ley y a ser asesorados para su correcto ejercicio.*

c) *A ser asistidos en su búsqueda de información.*

d) *A recibir la información que soliciten en los plazos máximos establecidos en el artículo 10.*

e) *A recibir la información ambiental solicitada en la forma o formato elegidos, en los términos previstos en el artículo 11.*

f) *A conocer los motivos por los cuales no se les facilita la información, total o parcialmente, y también aquellos por los cuales no se les facilita dicha información en la forma o formato solicitados.*

g) *A conocer el listado de las tasas y precios que, en su caso, sean exigibles para la recepción de la información solicitada, así como las circunstancias en las que se puede exigir o dispensar el pago.*

2) *En relación con la participación pública:*

a) *A participar de manera efectiva y real en la elaboración, modificación y revisión de aquellos planes, programas y disposiciones de carácter general relacionados con el medio ambiente incluidos en el ámbito de aplicación de esta Ley.*

*b) A acceder con antelación suficiente a la información relevante relativa a los referidos planes, programas y disposiciones de carácter general.*

*c) A formular alegaciones y observaciones cuando estén aún abiertas todas las opciones y antes de que se adopte la decisión sobre los mencionados planes, programas o disposiciones de carácter general y a que sean tenidas debidamente en cuenta por la Administración Pública correspondiente.*

*d) A que se haga público el resultado definitivo del procedimiento en el que ha participado y se informe de los motivos y consideraciones en los que se basa la decisión adoptada, incluyendo la información relativa al proceso de participación pública.*

*e) A participar de manera efectiva y real, de acuerdo con lo dispuesto en la legislación aplicable, en los procedimientos administrativos tramitados para el otorgamiento de las autorizaciones reguladas en la legislación sobre prevención y control integrado de la contaminación, para la concesión de los títulos administrativos regulados en la legislación en materia de organismos modificados genéticamente, y para la emisión de las declaraciones de impacto ambiental reguladas en la legislación sobre evaluación de impacto ambiental, así como en los procesos planificadores previstos en la legislación de aguas y en la legislación sobre evaluación de los efectos de los planes y programas en el medio ambiente.*

*3) En relación con el acceso a la justicia y a la tutela administrativa:*

*a) A recurrir los actos y omisiones imputables a las autoridades públicas que contravengan los derechos que esta Ley reconoce en materia de información y de participación pública.*

*b) A ejercer la acción popular para recurrir los actos y omisiones imputables a las autoridades públicas que constituyan vulneraciones de la legislación ambiental en los términos previstos en esta Ley.*

*4) Cualquier otro que reconozca la Constitución o las leyes.*

## **Y. Sweden**

### Constitutional provisions

N/A

### Treaty provisions

State party to the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters.

### Legislative provisions

N/A

## **Z. Switzerland**

### Constitutional provisions

N/A

Treaty provisions

State party to the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters.

Legislative provisions

N/A

**AA. Turkey**

Constitutional provisions

**Article 56 of the Constitution of Turkey**

*Everyone has the right to live in a healthy and balanced environment.*

*It is the duty of the State and citizens to improve the natural environment, to protect the environmental health and to prevent environmental pollution.*

*The State shall regulate central planning and functioning of the health services to ensure that everyone leads a healthy life physically and mentally and provide cooperation by saving and increasing productivity in human and material resources.*

*The State shall fulfil this task by utilizing and supervising the health and social assistance institutions, in both the public and private sectors.*

*In order to establish widespread health services, general health insurance may be introduced by law.*

*Herkes, sağlıklı ve dengeli bir çevrede yaşama hakkına sahiptir. Çevreyi geliştirmek, çevre sağlığını korumak ve çevre kirlenmesini önlemek*

*Devletin ve vatandaşların ödevidir. Devlet, herkesin hayatını, beden ve ruh sağlığı içinde sürdürmesini sağlamak; insan ve madde gücünde tasarruf ve verimi artırarak, işbirliğini gerçekleştirmek amacıyla sağlık kuruluşlarını tek elden planlayıp hizmet vermesini düzenler.*

*Devlet, bu görevini kamu ve özel kesimlerdeki sağlık ve sosyal kurumlarından yararlanarak, onları denetleyerek yerine getirir.*

*Sağlık hizmetlerinin yaygın bir şekilde yerine getirilmesi için kanunla genel sağlık sigortası kurulabilir.*

Treaty provisions

N/A

Legislative provisions

N/A

**BB. United Kingdom of Great Britain and Northern Ireland**

Constitutional provisions

N/A



#### Treaty provisions

The United Kingdom is a State party to the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters. However, the UK is unique in that they filed a reservation upon ratification claiming that the right to healthy environment mentioned in the text of the treaty is, in their view, merely an aspiration, and not a legal right:

“The United Kingdom understands the references in article 1 and the seventh preambular paragraph of this Convention to the 'right' of every person 'to live in an environment adequate to his or her health and well-being' to express an aspiration which motivated the negotiation of this Convention and which is shared fully by the United Kingdom. The legal rights which each Party undertakes to guarantee under article 1 are limited to the rights of access to information, public participation in decision-making and access to justice in environmental matters in accordance with the provisions of this Convention.”

#### Legislative provisions

N/A

### **CC. United States of America**

#### Constitutional provisions

N/A. Note, however, that the state and territorial constitutions of Hawaii, Illinois, Massachusetts, Montana, Northern Mariana Islands and Pennsylvania do provide for a right to a healthy environment.

#### Treaty provisions

N/A

#### Legislative provisions

N/A