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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by the International Council of Environmental Law, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[21 July 2010]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

Observations on the right to sanitation as a human right**

Following an examination of State practice in a number of European Union countries in respect of access to sanitation, the European Council on Environmental Law (ECEL) concluded that "access to sanitation is a human right". In a Resolution adopted in May 2010 (annexed hereto), ECEL specifies the content of the right to sanitation in European countries, states that implementation of the right to sanitation is necessary to make effective many other human rights that have already been recognized and invites Governments to take action to recognize the right to sanitation as a human right.

1. Scope of the right to sanitation

The right to sanitation mainly concerns access of households to wastewater disposal facilities and services and to sanitary installations.

2. The right to sanitation as a human right

ECEL considers that the right of everyone to an adequate standard of living and the right to health recognized in articles 11 and 12 of the International Covenant on Economic, Social and Cultural Rights mean that everyone should have access to sanitation to protect human health and the environment.

The right to sanitation is explicitly mentioned in three regional treaties on human rights, in the Convention on the Elimination of All Forms of Discrimination against Women (1979) and in the Protocol on Water and Health (London, 1999).

ECEL proposes to Governments that they explicitly recognize the right of everyone to sanitation as a specific legally enforceable right and not as a mere aspiration or political goal.

3. Content of the right to sanitation

The recognition of a human right to sanitation entails rights and obligations for every person and for public authorities. In Europe, the latter are already bound by strict legal obligations relating to the collection, treatment and control of wastewater. Public sanitation services may still need to be developed and these should be adequately priced. Charges should be levied for sanitation services. The most important individual rights in the area of the right to sanitation are the right to benefit from protective measures against contamination from wastewater and the right of access to suitable sanitation services and sanitary installations (toilets).

The attached Charter on the right to sanitation outlines a number of rights and duties that emerge from the observation of State practice (see Henri Smets: "L'accès à l'assainissement, un droit fondamental pour tous", Editions Johanet, Paris, 2010 for a comparative analysis in 16 States). Some of the items of the Charter can be considered to be "good practices relating to access to sanitation" and could be used in other contexts. This Charter would need to be adapted to meet the specific needs of other regions. It is submitted in support of the work of the Independent Expert on the issue of human rights obligations related to access to safe drinking water and sanitation, Ms. Catarina de Albuquerque.

** The European Council on Environmental Law, an NGO without consultative status, also shares the views expressed in this statement.

Annex

ECEL Resolution on the right to sanitation

Milan, 24th May 2010

The European Council on Environmental Law (ECEL),

Recalling that all European States have ratified the International Covenant on Economic, Social and Cultural Rights (1966) in which Parties recognize “the right to an adequate standard of living” and “the right of everyone to the enjoyment of the highest attainable standard of physical and mental health” (articles 11 and 12);

Recalling the Protocol on Water and Health (1999) according to which “Parties shall, in particular, take all appropriate measures for the purpose of ensuring [...] adequate sanitation of a standard which sufficiently protects human health and the environment”(article 4.2.(b));

Considering that realisation of “the right of every person of present and future generations to live in an environment adequate to his or her health and well-being” (Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, 1998, article 1) requires that sanitation be recognised as a right;

Recalling the Convention on the Elimination of All Forms of Discrimination against Women (1979, article 14.2 (h)) according to which sanitation is part of adequate living conditions, and the Convention on the Rights of Persons with Disabilities (2006, article 28.2);

Noting that “The European Union recognises that the human rights obligations regarding access to safe drinking water and to sanitation are closely related to individual human rights - as the rights to housing, food and health.” (Declaration of the European Council of 22nd March 2010);

Convinced that rights-based approaches will help the protection of human health and the environment;

Adopts the European Charter on the right to sanitation;

Recommends that European States implement this Charter in their policies and legislation and support the international recognition of the right to sanitation as a human right.

European Charter on the right to sanitation

The right to sanitation

1. Sanitation is the collection, transport, treatment, disposal or reuse of domestic wastewater (black and grey waters), other wastewater and human excreta.
2. Access to sanitation is a human right, the implementation of which is necessary to make effective many other human rights, in particular the right to health and to housing. This right requires that every person without discrimination has access to suitable sanitation services and sanitary installations free of charge or at an affordable price.
3. Each State shall define in its legislation the content of the right to access to sanitation having regard, where appropriate, to its geographic, economic, social or cultural characteristics.
4. Everyone without discrimination is entitled to the benefit of protective measures against contamination from waste. Conversely everyone must respect their obligations to protect human health and the environment and to respect dignity.

5. There shall be a right to connect wastewater to public sewage facilities on payment of an appropriate contribution towards the costs of sanitation. No one shall be denied access to collective sanitation services or sanitary installations except for reasons of overriding public policy.

6. Toilet facilities shall be available in each residence and workplace. Public toilet facilities shall be made available at appropriate locations and in proportion to the needs of different categories of users, such as disabled persons. Such facilities shall meet sanitary requirements and shall be designed and operated so as to avoid pollution, ensure respect for dignity and be socially and culturally acceptable.

7. Everyone has the right of access to information about sanitation in order to participate effectively in the planning and decision-making procedures on sanitation.

Role of public authorities

8. All those who generate wastewaters shall cooperate to ensure the management of such wastewater so as to protect human health and the environment having regard to land use planning requirements. Management of wastewater shall be coordinated with the drainage of rain and groundwater and with actions to promote water reuse.

9. Public authorities shall adopt legal and institutional frameworks to promote proper sanitation, develop related strategies and action plans including quantitative targets and time tables for their implementation, prescribe minimum requirements for the collection and treatment of wastewater, enforce sanitation standards and ensure the operation, maintenance and renewal of sanitation systems. They shall collect statistical data to monitor progress in sanitation.

10. Public authorities, having assessed the effects on the environment, shall provide or secure the construction of sewage systems and wastewater treatment installations wherever housing density is sufficient. Public authorities shall decide after consultation of the public the extent of the sewered areas and the plans for their enlargement.

11. Public authorities shall draw up investment plans for public sanitation systems, specify cost sharing, develop, as appropriate, direct and cross subsidies systems and provide for the establishment of a system for wastewater charges.

12. Everyone not connected to public sewage services shall ensure the sanitation of their waste in private sanitation installations. Public authorities shall ensure that such installations do not harm public health and the environment.

13. Public authorities shall ensure on a priority basis that everyone without access to adequate sanitation is provided access to basic sanitary installations. They shall ensure that vulnerable populations and, in particular, communities living in degraded urban areas, have access to adequate sanitary installations free of charge or at an affordable price.

14. Public authorities shall effectively enforce the sanitation legislation so as to avoid harm to public health and the environment.

15. Public authorities shall ensure that the cost of sanitation measures is not an excessive burden for persons with reduced financial means.

16. Public authorities shall disseminate information on public hygiene relevant to sanitation in educational systems and in the media.
