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CENTER FOR JUSTICE AND INTERNATIONAL LAW
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Center for Justice and International Law (CEJIL)

Amicus Curiae Submission
In the
AFRICAN COURT OF HUMAN AND PEOPLES' RIGHTS

Request for an Advisory Opinion No. 001 of 2025

In the Matter of the Request by the Pan African Lawyers Union ('PALU') for an Advisory Opinion on the Obligations of States with Respect to the Climate Change Crisis

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PRELIMINARY NOTE TO THE AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS

This *amicus curiae* is accompanied by two specialized Annexes, which provide a comprehensive analytical framework regarding the Inter-American standards referenced throughout this submission:

Annex I: *The Right to Defend Human Rights and Environmental Human Rights Defenders: Thematic Guide to Analyze Advisory Opinion 32/25.*

Annex II: *Access to Climate Information and Human Rights Obligations: Thematic Guide to Analyze Advisory Opinion 32/25.*

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I. Executive Summary

This amicus curiae respectfully submits that the African Court stands before a pivotal opportunity to consolidate two synergistic pillars of State obligations within the climate crisis. First, access to climate-related information should be understood as an enabling procedural guarantee, essential for the operationalization of prevention, participation, accountability, and the right to an effective remedy. Second, environmental human rights defenders warrant recognition as subjects of special protection, in light of their indispensable role in advancing transparency and climate justice.

Grounded in the African normative framework and informed by comparative Inter-American standards, these submissions propose an operational framework. Regarding access to climate information, the State's duty encompasses active transparency, including the generation, systematization, and proactive disclosure of data on emissions, differentiated risks, and response measures. Regarding defenders, the special duty of protection requires a comprehensive approach, including enhanced due diligence in investigations, effective safeguards against abusive criminalization and SLAPPs, the regulation of third-party risks, and the production and systematization of information on patterns of violence against defenders.

Ultimately, this submission invites the Court to affirm that transparency and protection are not peripheral concerns, but structural prerequisites for a rights-based climate response. Access to climate information and the protection of defenders operate as mutually reinforcing safeguards, ensuring that adaptation, mitigation, and accountability are evidence-based and genuinely accessible in practice.

II. Introduction

The Center for Justice and International Law (CEJIL) is a regional, non-profit human rights organization founded in 1991 by leading advocates in the Americas and dedicated to advancing human rights through the effective use of international law. CEJIL holds consultative status before the Organization of American States and the United Nations, and observer status before the African Commission on Human and Peoples' Rights.

The organization possesses extensive expertise in international human rights law, particularly in strategic litigation, advocacy, and technical assistance before regional and international bodies, having represented more than 10,000 victims and beneficiaries in over 300 cases and protection measures before the Inter-American human rights system. Working alongside more than 400 allied organizations.

CEJIL has also played a significant role in the development of regional human rights standards at the intersection of human rights and the climate emergency. In the process leading to Advisory Opinion 32/25 of the Inter-American Court of Human Rights, it provided technical assistance to the requesting States, helped expand participatory spaces for consultation and dialogue with a broad range of stakeholders, and contributed substantive legal analysis through multiple amicus curiae briefs and oral interventions. This experience reflects CEJIL's distinctive expertise in translating Inter-American human rights law into operational standards on climate-related information, participation, prevention, and the protection of environmental human rights defenders, and it informs the comparative contribution offered in this submission.

The institution respectfully recognizes the important standards already developed within the African system, as well as the contributions of other civil society actors. Building on that foundation, this amicus curiae offers a comparative contribution grounded primarily in the Inter-American human rights system, with a view to assisting the Court in clarifying certain aspects of climate-related information and the protection of environmental human rights defenders.

This amicus curiae addresses the questions set out in paragraphs 94(b) to 94(f) of the request, examining them through a cross-cutting lens informed by paragraphs 94(a) and 94(g), in order to provide a comprehensive analysis of States' human rights obligations in the context of climate change. This analysis is grounded in and builds upon the standards already developed by the African

System, linking these precedents to the imperative of ensuring effective climate protection for present, past, and future generations, as well as to the duty of international cooperation to address the global nature of the climate crisis.
These submissions respectfully identify areas in which further clarification from the Court may be especially useful. In particular, they address the operational content of States' obligations concerning climate-related information, including its production, quality, and accessibility, as well as the minimum content of States' positive obligations to protect environmental human rights defenders in the context of the climate emergency.

III. Submissions

A. Climate information as an essential procedural guarantee for the effective implementation of human rights obligations

This section is submitted to assist the Court in answering questions 94(c)[1], 94(d)[2], 94(e)[3] and 94(f)[4] of the requests, while also reinforcing its approach to 94(a)[5]. Its core proposition is that, in the context of the climate crisis, access to climate information must be understood as an essential procedural guarantee for the effective implementation, supervision, and enforceability of States' human rights obligations and that, under Inter-American human rights standards, it has also been articulated as an autonomous right[6].

The comparative standards developed in the Inter-American Human Rights system—and especially in Advisory Opinion 32/25—are particularly useful because they conceptualize access to climate information as both a right in itself

[1] Pan African Lawyers Union (PALU). *Request for Advisory Opinion on the Obligations of States with Respect to the Climate Change Crisis*. African Court on Human and Peoples' Rights, Arusha, 2025. Para. 94(c) *"What, if any, are applicable human rights obligations of States to facilitate a just, transparent, equitable and accountable transition in the context of climate change in Africa?"*
[2] *Ibid*. Para. 94(d) *"What, if any, are the applicable obligations of African States in the implementation of adaptation, resilience and mitigation measures in response to climate change?"*
[3] *Ibid*. Para. 94(e) *"What, if any, are applicable human rights obligations of States to compensate for loss, damage and reparations?"*
[4] *Ibid*. Para. 94(f)*"What responsibilities, if any, do African States have in relation to third parties, including international monopolies, multinational corporations and non-state actors operating on the continent, to ensure that international and regional treaties and laws on climate change are respected, protected, promoted and implemented?"*
[5] *Ibid*. Para. 94(a) *"What, if any, are the States' specific human and peoples' rights obligations to protect and safeguard the rights of individuals and peoples of the past (ancestral rights), present and future generations affected by the adverse and negative impacts of climate change, considering the relevant provisions of the African Charter?"*
[6] *Ibid.*

and a condition for prevention, participation, accountability, access to justice and reparation.

Accordingly, this submission proceeds through a four-step framework. First, it starts from the normative foundations already present in the African system, where environmental information, participation, consultation, and impact assessment are recognized as central dimensions of environmental protection. Second, it identifies areas in which those guarantees may be further articulated in climate-specific terms, particularly regarding the production, quality, accessibility, and disclosure of climate-related information. Third, it draws upon comparative standards to formulate principles that may assist the African human rights system while remaining consonant with its own legal architecture. Fourth, it proposes a structured standard capable of clarifying, in practical terms, what States must do if transition measures are to be transparent and accountable and adaptation and mitigation are to be evidence-based[7].

1. *Existing normative foundations on access to information in the African human rights system*
    a. Treaty framework and normative foundations.

At the outset, it is important to situate access to information within the normative structure of the African human rights system.

The primary normative point of departure lies in Article 9(1) of the African Charter on Human and Peoples' Rights, which expressly protects the right to receive information. Read together with Articles 21, 22, and 24 of the Charter, that provision provides an important textual basis for understanding information as a structural condition for public participation, accountability, environmental protection, and the realization of peoples' rights over natural resources, development, and a satisfactory environment favourable to development[8].

This treaty foundation is complemented by other African Union instruments that reinforce transparency and access to State-held information in matters of public governance, including the African Union Convention on Preventing and Combating Corruption, the African Charter on Values and Principles of Public Service and Administration, and the African Charter on Democracy, Elections and Governance. While these instruments do not necessarily perform the same

[7] *Ibid.*
[8] *African Charter on Human and Peoples' Rights*. Adopted June 27, 1981. Art. 9, 21, 22 and 24.

interpretive function as the Charter itself, they form part of the broader African normative landscape and reflect a regional commitment to transparency, accountability, and participatory governance[9].

b. Jurisprudence of the African Court on Human and Peoples' Rights

On this specific issue, the jurisprudence of the African Court on Human and Peoples' Rights remains relatively limited, but it contains important starting points. In *XYZ v. Benin*[10], the Court moved beyond a narrow reading of Article 9 and affirmed that every citizen in a democratic society has the right to access information held by the State, linking that right to the principle of transparent government and to the possibility of informed public debate on government affairs. That case is especially relevant because it confirms that Article 9(1) is not exhausted by media freedom alone, but also protects access to public information that bears directly on the political and legal life of the community[11].

In *Lohé Issa Konaté v. Burkina Faso*[12], while not directly addressing access to information, the Court articulated the governing standard for restrictions under Article 9, holding that any limitation must be prescribed by law, pursue a legitimate aim under Article 27(2) of the Charter, and be necessary and proportionate in a democratic society[13]. This interpretive framework is of direct relevance to access to information, as it defines the conditions under which States may lawfully restrict both the dissemination and receipt of information.

Taken together, these decisions provide important jurisprudential building blocks. They demonstrate that Article 9 is not confined to a narrow media-freedom interpretation and that access to State-held information forms part of democratic governance, subject to strict standards of necessity and proportionality. At the same time, the Court has not yet had the opportunity to articulate, in more explicit and systematic terms, a comprehensive approach to access to information in contexts such as environmental protection and climate change, including

[9] *African Charter on Democracy, Elections and Governance*. Adopted January 30, 2007.
[10] AfCHPR. *XYZ v. Republic of Benin*. Application No. 010/2020. Judgment of November 27, 2020. Paras. 111-121.
[11] *Ibid.*
[12] AfCHPR. *Lohé Issa Konaté v. Burkina Faso*. Application No. 004/2013. Judgment of December 5, 2014. Para. 132–134, 155, 156, 165 and 166.
[13] *Ibid.*

questions related to proactive disclosure and the production of relevant information for the prevention of harm.

c. Standards developed by the African Commission on Human and Peoples' Rights

The African Commission on Human and Peoples' Rights has played a central role in articulating the normative content of the right to access information within the African human rights system.

Through its communications, the Commission has interpreted Article 9 in a manner that underscores not only expressive freedoms, but also the public dimension of the right to receive information. In *Jawara v. The Gambia*, the Commission emphasized that measures restricting journalists and media actors affect not only those individuals, but also deprive the public of its right to receive information and ideas, thereby undermining democratic accountability[14]. Likewise, in *Article 19 v. Eritrea*, the Commission rejected the use of domestic law as a justification for restrictions incompatible with the Charter and reaffirmed that Article 9 protects both the right to impart and to receive information, limiting the scope of "claw-back clauses" traditionally associated with the Charter[15].

The Commission's contribution is particularly significant in the environmental field. In Social and Economic Rights Action Center (SERAC) and Center for Economic and Social Rights v. Nigeria, the Commission linked access to information with environmental protection, health, and participation. It held that affected communities must have access to information regarding environmental and health risks, that environmental and social impact assessments must be made public, and that communities must be enabled to participate meaningfully in decisions affecting their environment[16]. This reasoning was further reinforced in Centre for Minority Rights Development (Endorois) v. Kenya, where the Commission clarified that effective participation requires the State not only to consult, but also to ensure that affected communities are adequately informed about the nature and consequences of proposed measures[17].

[14] ACHPR, *Jawara v. The Gambia*, Communications No. 147/95 and 149/96. Paras. 64–67.
[15] ACHPR, *Article 19 v. Eritrea*, Communication No. 275/03. Paras. 92–95.
[16] ACHPR, *Social and Economic Rights Action Center (SERAC) and Center for Economic and Social Rights v. Nigeria*, Communication No. 155/96. Paras. 53, 54, 57–58.
[17] ACHPR, *Centre for Minority Rights Development (Endorois) v. Kenya*, Communication No. 276/03. Paras. 281–282, 289.

These developments are important not only because they reinforce the public dimension of information, but also because they show that access to relevant information may operate as a necessary element in the protection of other rights, including communal property, territorial rights, health, and participation.

This normative development is further consolidated through the soft-law framework elaborated by the African Commission. The *Declaration of Principles on Freedom of Expression and Access to Information in Africa (2019)* provides the most comprehensive articulation of the right to access information within the regional system, recognizing it as a right applicable to all persons and imposing on States not only duties of disclosure upon request, but also obligations of proactive publication, information management, and accessibility[18]. It further establishes that limitations must satisfy legality, legitimate aim, necessity and proportionality, and incorporates harm-based tests and public interest overrides. Complementing this framework, the *Model Law on Access to Information for Africa (2013)* translates these principles into a detailed legislative architecture and explicitly includes environmental information—such as environmental impact assessments and scientific reports—within the scope of proactive disclosure[19].

Taken together, the African human rights system already contains meaningful normative foundations on access to information. The Charter recognizes the right to receive information[20]; the African Court has affirmed access to State-held information as an element of democratic governance and developed a rigorous test for permissible restrictions[21]; the African Commission has articulated the public dimension of the right and its close connection with environmental protection and participation[22]; and the Commission's soft law has elaborated advanced standards on proactive disclosure, information management, and environmental transparency[23].

These developments provide an important basis from which the Court may further articulate the implications of access to information in the specific context of

[18] ACHPR, *Declaration of Principles on Freedom of Expression and Access to Information in Africa*. November 10, 2019, Principles 4, 19, 28–31.
[19] ACHPR, *Model Law on Access to Information for Africa. February,* 2013. Sections 7, 8, 12, 13.
[20] *African Charter on Human and Peoples' Rights*. Adopted June 27, 1981. Art. 9(1)
[21] AfCHPR. *Lohé Issa Konaté v. Burkina Faso*. Application No. 004/2013. Judgment of December 5, 2014. Paras. 143 - 165.
[22] ACHPR, Resolution on Developing General Comment on the Protection and Promotion of the Right to Environment in Africa - ACHPR/Res.633 (LXXXIII) 2025. Banjul, The Gambia. June 03, 2025.
[23] *Ibid.* Principles 31-41

climate change. In particular, the Court may find it useful to clarify more explicitly the operational dimensions of climate-related information, including its production, systematization, accessibility, and proactive disclosure.

The point, therefore, is not the absence of normative foundations, but the opportunity to articulate, on the basis of those existing foundations, a more specific and operational framework concerning the production, quality, accessibility, and evidentiary function of climate-related information.

2. Climate information as a right and as an enabling guarantee

Within the Inter-American human rights system, the Inter-American Court has interpreted Article 13 of the American Convention on Human Rights as encompassing not only the freedom to impart information, but also the right of all persons to seek and receive information held by the State[24]. This includes, in particular, information of public interest, without the need to demonstrate a direct or personal interest, and subject only to strict and narrowly construed restrictions[25].

The Court has further clarified that this right entails both obligations to provide information upon request and broader positive duties related to the availability and dissemination of information necessary for the effective exercise of human rights[26].

Access to climate information constitutes a dual legal construct. Under the Inter-American human rights framework, it operates as an autonomous right while simultaneously serving as an enabling procedural guarantee. In this latter capacity, it underpins the protection of substantive rights threatened by the climate crisis—such as life, personal integrity, health, property, and the right to a healthy environment. Consequently, climate information is both an independent entitlement and a prerequisite for the effective protection of all human rights in the context of the climate emergency[27].

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[24] I/A Court H.R. *Case of Claude-Reyes et al. v. Chile*. Merits, Reparations and Costs. Judgment of September 19, 2006. Series C No. 151. Paras. 76-77.
[25] *Ibid*.
[26] I/A Court H.R. *Case of Gomes Lund et al. ("Guerrilha do Araguaia") v. Brazil*. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 24, 2010. Series C No. 219. Paras. 197-201.
[27] I/A Court H.R. *Climate Emergency and Human Rights*. Advisory Opinion OC-32/25 of May 29, 2025. Series A No. 32. Paras. 488, 500, 503, 504 and 520; CEJIL, *et al*. “Informe en calidad de amici curiae. Sobre el derecho al acceso a la información y las obligaciones sobre producción

This dual character does not displace the classical passive dimension of the right. Even in the climate context, persons and communities retain the right to request and obtain information held by the State without having to demonstrate a specific personal or legal interest, subject only to narrowly construed restrictions. The climate-specific development of the right therefore builds upon, rather than replaces, the ordinary guarantees of access to public information[28].

The recognition of these specialized duties is particularly relevant to the present Advisory Opinion because the questions submitted to the Court are not confined to whether information should be available. They require clarification of the human rights obligations attached to a just and transparent transition, to adaptation and mitigation, to reparation, and to State duties toward non-State actors. Those questions cannot be adequately answered unless climate information is understood as a structural condition for the exercise and enforceability of rights. A State cannot meaningfully protect rights against climate harms if it does not know, measure, produce, organize and disclose the information necessary to understand the causes of harm, the scale of risk, the effects on rights, and the adequacy of response measures[29].

Accordingly, the Court may usefully clarify that climate information is not simply part of general environmental administration. It is an integral component of the human rights obligations that arise under the Charter in the face of foreseeable and severe climate-related harms. This clarification is directly relevant to question 94(d), as adaptation, resilience, and mitigation cannot be operationalized in a rights-consistent manner without reliable and accessible data. Furthermore, it underpins the analysis of question 94(e), as access to justice and reparation in climate matters presuppose the existence of intelligible and verifiable information essential for establishing harm, risk, attribution, and State responsibility.

activa de información y transparencia en el contexto de la emergencia climática". December 18, 2023. Pg. 9.

[28] CEJIL, *et al*. "Informe en calidad de amici curiae. Sobre el derecho al acceso a la información y las obligaciones sobre producción activa de información y transparencia en el contexto de la emergencia climática". *Op. Cit*. Pgs. 5, 9 and 10.

[29] I/A Court H.R., *Climate Emergency*, *Op. Cit.* Para. 500; UN – General Assembly. *Report of the Special Rapporteur on the promotion and protection of human rights in the context of climate change, Elisa Morgera - Access to information on climate change and human rights*. UN Doc. A/79/176. July 18, 2024. Para. 1-5, 9 and 10; CEJIL, *et al*. "Informe en calidad de amici curiae. Sobre el derecho al acceso a la información y las obligaciones sobre producción activa de información y transparencia en el contexto de la emergencia climática". *Op. Cit.* Pgs. 11, 22-25 and 27.

3. *The obligation of active transparency: to produce, publish and proactively disclose climate information*

The legal standard for access to information must transcend a restrictive, reactive focus on answering individual requests. This right encompasses both passive and active dimensions. Under the passive dimension, persons and communities are entitled to request and receive climate-relevant information held by the State, especially where it concerns matters of public interest, environmental risk, or the protection of rights, without having to justify the request or demonstrate a direct, personal, or community-specific interest. This dimension also presupposes the existence of procedures established by law through which such requests can be effectively submitted, processed, and answered[30].

Consistent with Inter-American standards, including the Escazú Agreement and Advisory Opinion 32/25, the active dimension of this right requires States to generate, collect, organize, and proactively disseminate relevant information without awaiting a prior request. To be meaningful in practice, such information must be timely, complete, reliable, pertinent, adequate, and accessible in formats that are intelligible and usable for the persons and communities concerned, particularly those most affected by the climate crisis[31].

This comparative development may assist the Court in articulating, with greater specificity, dimensions that are not yet fully systematized in climate-specific terms within the African system. In the climate context, a purely reactive model is insufficient not only because climate harms may be cumulative, transboundary, or slow-onset, but also because prevention, planning, participation, accountability, and effective remedies all depend on the prior production, organization, and dissemination of relevant information[32].

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[30] CEJIL, *et al*. "Informe en calidad de amici curiae. Sobre el derecho al acceso a la información y las obligaciones sobre producción activa de información y transparencia en el contexto de la emergencia climática". *Op. Cit.* Pgs. 5 and 13.

[31] *Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean* (Escazú Agreement). Adopted March 4, 2018. Art. 6.1; I/A Court H.R., *Climate Emergency*, *Op. Cit.* Paras. 489, 503 and 504; CEJIL, *et al*. "Informe en calidad de amici curiae. Sobre el derecho al acceso a la información y las obligaciones sobre producción activa de información y transparencia en el contexto de la emergencia climática". *Op. Cit.* Pgs. 14 to 15.

[32] I/A Court H.R., *Climate Emergency*, *Op. Cit.* Para. 505; CEJIL, *et. al*. *Amicus Curiae Brief: On the right to access to climate information and the obligations on active production of information and transparency in the context of the climate emergency*. December 18, 2023. Pgs. 5, 6, 7 and 8.

The UN Special Rapporteur on climate change and human rights reinforces this understanding in highly operational terms. It establishes that States must collect and proactively transmit data on the causes and consequences of climate change, provide simple, affordable, effective, understandable and timely access to such data, and immediately disclose relevant information where public health or the environment face imminent danger. It also underlines that institutional shortcomings, ineffective public policy or unjustified restrictions on information impair both access to justice and the possibility of effective human rights protection[33].

For the purposes of this Advisory Opinion, the Court could therefore clarify that, in the face of climate risks, States have a positive obligation not merely to disclose information, but to produce, systematize, preserve, and proactively disseminate climate-related information through adequately resourced, accessible, and culturally appropriate institutional and public information systems. Where necessary, such systems should operate through multilingual, audiovisual, digital, and other appropriate formats capable of reaching communities exposed to immediate or structural risk. They should also be capable of integrating scientifically grounded information with the knowledge and lived experience of affected communities where relevant.

These systems must be capable of supporting: transparent and accountable transition processes; evidence-based mitigation and adaptation policies; identification and monitoring of impacts on human rights; public participation and oversight; and access to justice and reparation. They must also enable the regulation of non-State actors by ensuring the availability of information regarding emissions, activities, risks and impacts attributable to such actors[34]. This would respond directly to questions 94(c), 94(d) and 94(e), and would also structure State duties under 94(f).

[33] UN – General Assembly. *Report of the Special Rapporteur on the promotion and protection of human rights in the context of climate change, Elisa Morgera - Access to information on climate change and human rights*. UN Doc. A/79/176. July 18, 2024. Para. 3-7.

[34] I/A Court H.R. *Case of the Residents of La Oroya v. Peru*. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 27, 2023. Series C No. 511. Para. 146; I/A Court H.R. *Case of the U'wa Indigenous People and its members v. Colombia*. Merits, Reparations and Costs. Judgment of July 4, 2024. Series C No. 530. Para. 174; CEJIL, *et al*. "Informe en calidad de amici curiae. Sobre el derecho al acceso a la información y las obligaciones sobre producción activa de información y transparencia en el contexto de la emergencia climática". *Op. Cit.* Pgs. 17-18, 25-31, 32, 33 and 34.

4. Minimum categories of climate information that States must generate, publish and disclose

Moving beyond the conceptual recognition of climate information, this Court has the opportunity to delineate the substantive content of State obligations in this field.

Comparative human rights standards, including those reflected in the Inter-American Court's Advisory Opinion OC-32/25 and in the analysis of the UN Special Rapporteur on climate change and human rights, support the identification of a minimum-content framework composed of six interrelated categories of climate-related information that States are required to produce, systematize and proactively disclose. These categories clarify the scope of the duty of active transparency and provide operational guidance for the protection of human rights in the context of climate change.

a. Information on emissions and highly emitting activities, including those of State and non-State actors

A first category concerns the causes of climate change. The UN Special Rapporteur on Climate Change, Elisa Morgera, identifies as essential the collection and disclosure of data on greenhouse gas emission levels, highly emitting public and private activities, methane and other short-lived climate pollutants, continuing or new fossil fuel production and demand, and forward-looking emissions scenarios. The report also calls for the transparent dissemination of information on weather and climate trends and on extreme weather events[35].

The operationalization of this active transparency duty entails a comprehensive and rigorous approach to data management[36]. This includes the maintenance of comprehensive registries for greenhouse gas emissions and transfers, alongside precise reporting on anthropogenic emissions by sources and removals by

[35] UN – General Assembly, *Access to Information (Morgera)*, *Op. Cit.* Para. 9, 10 and 74(a).

[36] I/A Court H.R. *Case of the Residents of La Oroya v. Peru*. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 27, 2023. Series C No. 511. Para. 146; I/A Court H.R. *Case of the U'wa Indigenous People and its members v. Colombia*. Merits, Reparations and Costs. Judgment of July 4, 2024. Series C No. 530. Para. 174.

sinks[37]. Furthermore, the standard requires heightened accuracy and comparability in methane monitoring and full disclosure regarding the impact of fossil fuel subsidies on national emission profiles[38]. In addition, where relevant information is generated beyond the State, States should secure, receive, and share access to such information when necessary for prevention, public decision-making, and accountability[39].

b. Information on risks, impacts, vulnerability and human rights effects

Beyond emissions data, the standard encompasses the impacts of the climate crisis and the differentiated risks borne by persons, communities, and ecosystems. Grounded in the framework of Advisory Opinion 32, this dimension requires a rights-based analysis of climate causality, specifically regarding the threats posed to life, health, human mobility, and territorial integrity[40]. A critical component of this duty is the production of disaggregated data, which serves as a prerequisite for identifying patterns of intersectional vulnerability. Such level of detail is indispensable for ensuring that both authorities and affected groups can accurately anticipate and mitigate specific risk profiles[41].

The scope of this information standard must encompass the multidimensional impacts of the climate crisis on human rights[42]. This entails the systematic generation of data concerning both short- and long-term climate trajectories, integrated with the findings of comprehensive vulnerability assessments. To be

[37] I/A Court H.R., *Climate Emergency*, *Op. Cit.* Paras. 185-189 and 505; CEJIL, *et al*. "Informe en calidad de amici curiae. Sobre el derecho al acceso a la información y las obligaciones sobre producción activa de información y transparencia en el contexto de la emergencia climática". *Op. Cit.* Pg. 19.

[38] I/A Court H.R., *Climate Emergency*, *Op. Cit.* Paras. 50, 321, 337-339 and 510 ; UN – General Assembly, *Access to Information (Morgera)*, *Op. Cit.* Para 10 and 17; CEJIL, et al. *Report in the capacity of amici curiae. On the conventional obligations of protection and prevention for environmental and territorial defenders, as well as women, Indigenous peoples, and Afro-descendant communities within the framework of the climate emergency*, December 18, 2023. Pages 6, 7, and 8.

[39] *Ibid*.

[40] I/A Court H.R., *Climate Emergency*, *Op. Cit.* Para. 488, 489, 504, 505 and 520; CEJIL, *et al*. "Informe en calidad de amici curiae. Sobre el derecho al acceso a la información y las obligaciones sobre producción activa de información y transparencia en el contexto de la emergencia climática". *Op. Cit.* Pgs. 20 and 25.

[41] I/A Court H.R., *Climate Emergency*, *Op. Cit.* Paras. *384, 385, 515 and 626; Escazú Agreement*, *Op. Cit.* Art. 6.6; CEJIL, *et al*. "Informe en calidad de amici curiae. Sobre el derecho al acceso a la información y las obligaciones sobre producción activa de información y transparencia en el contexto de la emergencia climática". *Op. Cit.* Pg. 19.

[42] UN – General Assembly, *Access to Information (Morgera)*, *Op. Cit.* Para. 12

rights-consistent, the framework must document shifting patterns of human mobility and displacement, as well as the degradation of climate-sensitive livelihoods, such as agriculture and fishing[43]. Furthermore, the standard requires the collection of data on socioeconomic and health-related dimensions—including mental and reproductive health—and the qualitative lived experiences of affected populations[44]. Crucially, this information architecture is predicated upon intersectional disaggregation, ensuring that the specific risks faced by marginalized and heightened-vulnerability groups are rendered visible and actionable[45].

This category is especially relevant to question 94(d), because adaptation and resilience obligations cannot be operationalized without risk and vulnerability data. It also supports question 94(a), since the protection of present and future generations depends on transparent identification of foreseeable impacts and of the conditions under which those impacts translate into rights violations. Moreover, it indirectly informs 94(b), because differentiated risk information is what allows States to identify populations in situations of heightened exposure and adopt measures tailored to their needs.

c. Information on climate response measures, plans, impact assessments, budgets and results

The standard further encompasses the transparency of institutional responses and their direct implications for human rights. This dimension requires the proactive disclosure of comprehensive mitigation and adaptation frameworks, alongside their respective Environmental and Social Impact Assessments (ESIAs)[46]. A pivotal component of this duty is fiscal transparency, which entails

[43] *Ibid*. Para. 14, 15 and 16
[44] *Ibid*. Para. 13 and 18
[45] *Ibid*. Para. 17
[46] I/A Court H.R. *Case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina*. Merits, Reparations and Costs. Judgment of February 6, 2020. Series C No. 400. Para. 208; I/A Court H.R. *Environment and Human Rights. Advisory Opinion OC-23/17*.. November 15, 2017. Series A No. 23. Paras. 156-170; CEJIL, *et al*. "Informe en calidad de amici curiae. Sobre el derecho al acceso a la información y las obligaciones sobre producción activa de información y transparencia en el contexto de la emergencia climática". *Op. Cit*. Pg. 27.

the public availability of budgets allocated to climate action[47] and the identification of fossil fuel subsidies that may counteract such efforts[48].

Furthermore, the obligation extends to the identification and public disclosure of geographically differentiated climate risks and environmental vulnerabilities, including areas exposed to coastal degradation, ecosystem deterioration or contamination, as well as environmentally protected or sensitive zones[49]. This also entails the development of monitoring systems and early warning mechanisms capable of identifying and communicating risks in a timely manner, which are essential for safeguarding life and personal integrity in situations of environmental emergency[50].

This category should also encompass, where relevant, basic contractual information concerning projects, concessions, or measures with significant climate or environmental implications, including applicable mitigation commitments, consultation obligations, monitoring duties, and compliance arrangements, subject only to narrowly justified exceptions[51].

In addition, States should produce and disseminate information capable of supporting both immediate and structural alert systems. This includes information necessary to identify emerging threats, communicate imminent risks, and guide longer-term institutional responses in areas or communities facing persistent climate-related vulnerability[52].

To ensure the integrity of climate governance, the standard of transparency must encompass the technical, financial and prospective dimensions of State action.

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[47] I/A Court H.R., *Climate Emergency*, *Op. Cit.* Para. 515; CEJIL, *et al*. "Informe en calidad de amici curiae. Sobre el derecho al acceso a la información y las obligaciones sobre producción activa de información y transparencia en el contexto de la emergencia climática". *Op. Cit*. Pg. 16 and 26.

[48] UN – General Assembly. *Report of the Special Rapporteur on the promotion and protection of human rights in the context of climate change, Elisa Morgera - Access to information on climate change and human rights*. UN Doc. A/79/176. July 18, 2024; CEJIL, *et al*. "Informe en calidad de amici curiae. Sobre el derecho al acceso a la información y las obligaciones sobre producción activa de información y transparencia en el contexto de la emergencia climática". *Op. Cit*. Pg. 29.

[49] I/A Court H.R., *Climate Emergency*, *Op. Cit.* Para. 508.

[50] UN – General Assembly, *Access to Information (Morgera)*, *Op. Cit.* Paras. 11 and 20; CEJIL, *et al*. "Informe en calidad de amici curiae. Sobre el derecho al acceso a la información y las obligaciones sobre producción activa de información y transparencia en el contexto de la emergencia climática". *Op. Cit*. Pg. 28.

[51] *Escazú Agreement*, *Op. Cit.*, Art. 6; UN – General Assembly, *Access to Information (Morgera)*, *Op. Cit.* Paras. 12-15.

[52] I/A Court H.R., *Climate Emergency*, *Op. Cit.* Paras. 293-296.

This requires the disclosure of mitigation commitments, including Nationally Determined Contributions (NDCs), together with the underlying emissions trajectories and projections that support them[53]. It also entails the systematic use and disclosure of environmental and strategic impact assessments in the design and implementation of climate-related policies and measures[54].

Furthermore, effective accountability depends on the availability of detailed and accessible information on climate finance, including public budgetary allocations, climate-related expenditures, carbon market mechanisms and the fiscal implications of fossil fuel subsidies[55]. Finally, the standard extends to transparency regarding the development and deployment of climate technologies, particularly where such technologies may generate environmental or human rights risks[56].

Ultimately, these assessments must transcend a narrow focus to evaluate the cumulative and interconnected impacts of such measures, ensuring that human rights and cultural dimensions are structurally integrated into the environmental planning process.

This category is essential to question 94(c), as a transition cannot be deemed "just, transparent, equitable and accountable" absent public access to the specific measures adopted, their underlying rationale, budgetary priorities, and foreseeable human rights impacts. Similarly, it is essential to question 94(d), as adaptation and mitigation obligations demand the continuous monitoring of both planning and outcomes. It further informs question 94(e), since reparations and guarantees of non-repetition depend upon documented evidence regarding the adequacy and potential failures of climate responses. Finally, it bears directly upon question 94(f), as State obligations regarding third parties include ensuring that projects with significant climate implications are subject to rigorous impact assessments and public scrutiny.

[53] UN – General Assembly, *Access to Information (Morgera)*, *Op. Cit.* Paras. 12-18; CEJIL, *et al*. "Informe en calidad de amici curiae. Sobre el derecho al acceso a la información y las obligaciones sobre producción activa de información y transparencia en el contexto de la emergencia climática". *Op. Cit.* Pg. 24.
[54] UN – General Assembly, *Access to Information (Morgera)*, *Op. Cit.* Para. 20.
[55] *Escazú Agreement*, *Op. Cit.*, Art. 6.3(c) and (d); UN – General Assembly, *Access to Information (Morgera)*, *Op. Cit.* Para. 74(e).
[56] UN – General Assembly, *Access to Information (Morgera)*, *Op. Cit.* Para. 15-22 and para. 74(c)-(f).

d. Information on procedural-rights mechanisms

A distinct minimum category concerns information on the mechanisms through which persons and communities may exercise procedural rights in the climate context.

States should therefore be required to proactively disseminate clear, accessible and timely information on judicial remedies, administrative complaint procedures, consultation procedures, public-participation mechanisms, and other avenues through which affected persons may seek protection, challenge decisions, or obtain review of climate-related measures[57].
This category should also include targeted dissemination for Indigenous Peoples[58], children and adolescents[59], older persons, and communities especially affected by climate change or by measures adopted in response to the energy transition[60].

e. Information reflecting the experience and knowledge of affected communities

Climate information, in the context of the climate crisis, cannot be reduced to purely technical or expert-driven data[61]. It must be grounded in the best available science[62], while also integrating the knowledge, experiences and epistemologies of Indigenous Peoples and local communities[63]. This integrated approach is essential to ensure that climate-related information is both scientifically robust and socially and territorially relevant, particularly in contexts of differentiated vulnerability and exposure to risk[64].

[57] I/A Court H.R., *Climate Emergency*, *Op. Cit.* Para. 507; CEJIL, *et al*. "Informe en calidad de amici curiae. Sobre el derecho al acceso a la información y las obligaciones sobre producción activa de información y transparencia en el contexto de la emergencia climática". *Op. Cit*. Pgs. 35 and 39.
[58] I/A Court H.R., *Climate Emergency*, *Op. Cit.* Paras. 522 and 607.
[59] *Ibid*. Paras. 457 and 597.
[60] *Ibid*. Para. 425.
[61] *Ibid.* Para. 610.
[62] *Ibid* Para. 503; CEJIL, *et al*. "Informe en calidad de amici curiae. Sobre el derecho al acceso a la información y las obligaciones sobre producción activa de información y transparencia en el contexto de la emergencia climática". *Op. Cit*. Pgs. 6 and 7.
[63] I/A Court H.R., *Climate Emergency*, *Op. Cit.* Para. 480; CEJIL, *et al*. "Informe en calidad de amici curiae. Sobre el derecho al acceso a la información y las obligaciones sobre producción activa de información y transparencia en el contexto de la emergencia climática". *Op. Cit.* Pg. 36.
[64] I/A Court H.R., *Climate Emergency*, *Op. Cit.* Para. 476.

International standards reinforce this approach, emphasizing that climate-related data must be provided in formats that enable meaningful participation and informed consent for Indigenous Peoples, rural communities, and groups facing systemic discrimination. Ensuring that information is accessible and culturally appropriate is a legal prerequisite for effective local adaptation and the exercise of territorial rights. Moreover, documenting lived experiences provides a vital evidentiary basis to understand the specific human rights impacts that technical models alone may fail to capture[65].

An inclusive approach ensures that climate information standards are not merely formal, but substantively accessible to those they are intended to protect. This dimension recognizes that the production and circulation of climate data often rely on the vital work of community monitors, Indigenous leaders, and environmental human rights defenders. Consequently, the Court should emphasize that climate governance must be intercultural and participatory, respecting the diverse knowledge systems of affected communities as a fundamental component of the regional human rights framework[66].

f. Information on attacks against environmental human rights defenders and State response

A further minimum category concerns the production, systematization and disclosure of information regarding attacks and other violations committed against environmental human rights defenders, community monitors, journalists, and other actors who play a critical role in the production and circulation of climate-relevant information[67].

At a minimum, this category should include data on killings, threats, displacement, criminalization, impunity, protection failures, and other patterns of violence, as well as information on protective measures, investigations,

[65] UN – General Assembly, *Access to Information (Morgera)*, *Op. Cit.* Paras. 7, 12-18, 74(b), 75(c) and 76(d).
[66] I/A Court H.R., *Climate Emergency*, *Op. Cit.* Paras 476, 480 and 503; UN – General Assembly, *Access to Information (Morgera)*, *Op. Cit.* Paras. 7, 12-18, 75(c), and 76(d);CEJIL, *et al*. "Informe en calidad de amici curiae. Sobre el derecho al acceso a la información y las obligaciones sobre producción activa de información y transparencia en el contexto de la emergencia climática". *Op. Cit.* Pgs. 6-8.
[67] I/A Court H.R., *Climate Emergency*, *Op. Cit.* Paras. 522 and 607; CEJIL, *et al*. "Informe en calidad de amici curiae. Sobre el derecho al acceso a la información y las obligaciones sobre producción activa de información y transparencia en el contexto de la emergencia climática". *Op. Cit.* Pgs. 34-36.

prosecutions, and other institutional responses adopted by the State[68]. In the climate context, this is not collateral to access to information. Defenders, local activists, community monitors and journalists are often key channels through which timely, territorially grounded, and socially intelligible information reaches affected populations, especially where State presence is weak, delayed, or absent[69].

5. *Quality of information: best available science and access to justice*

A further gap in the African framework concerns not simply the availability of information, but its quality. As established in Advisory Opinion 32, climate information must be grounded in the best available science while actively integrating Indigenous and local knowledge systems[70]. This dual requirement ensures that the right of access to information is intrinsically linked to the right to science, recognizing that a diversity of evidence is a prerequisite for democratic and effective climate governance[71].

In the context of the climate crisis, "information" must be understood as knowledge grounded in robust and internationally recognized scientific frameworks, including the evolving consensus reflected in sources such as the Intergovernmental Panel on Climate Change (IPCC)[72], while also integrating the knowledge, experiences and epistemologies of Indigenous Peoples and local communities[73]. This standard is not limited to abstract scientific validity. It also encompasses the technological means through which such information is produced and verified, including satellite-based monitoring, remote sensing and

[68] *Escazú Agreement*, *Op. Cit.*, Art. 9; I/A Court H.R., *Climate Emergency*, *Op. Cit.* Paras. 561-587; CEJIL, *et al*. "Informe en calidad de amici curiae. Sobre el derecho al acceso a la información y las obligaciones sobre producción activa de información y transparencia en el contexto de la emergencia climática". *Op. Cit.* Pgs. 34-36.

[69] UN – General Assembly, *Access to Information (Morgera)*, *Op. Cit.* Paras. 7, 12-18, 75(c) and 76(d).

[70] I/A Court H.R., *Climate Emergency*, *Op. Cit.* Para. 33, 215, 476, 480, 487 and 503.

[71] *Ibid.* Paras. 480 and 487; UN – General Assembly, *Access to Information (Morgera)*, *Op. Cit.* Paras. 12-18; CEJIL, *et al*. "Informe en calidad de amici curiae. Sobre el derecho al acceso a la información y las obligaciones sobre producción activa de información y transparencia en el contexto de la emergencia climática". *Op. Cit.* Pg. 44.

[72] I/A Court H.R., *Climate Emergency*, *Op. Cit.* Paras. 33 and 503; UN – General Assembly, *Access to Information (Morgera)*, *Op. Cit.* Paras. 4 and 5.

[73] I/A Court H.R., *Climate Emergency*, *Op. Cit.* Paras. 480; CEJIL, *et al*. "Informe en calidad de amici curiae. Sobre el derecho al acceso a la información y las obligaciones sobre producción activa de información y transparencia en el contexto de la emergencia climática". *Op. Cit.* Pg. 27.

other digital tools that enable the measurement, tracking and attribution of emissions and climate impacts[74].

The right of access to information is inseparable from its evidentiary integrity. To be effective, climate-related data must be empirically grounded and verifiable, serving as a critical safeguard against the risks of misinformation and disinformation[75]. This obligation transcends mere disclosure; it requires States to protect the integrity of the knowledge systems that underpin public policy and judicial oversight, ensuring that state action is based on robust and reliable findings[76].

Crucially, the quality of climate information has direct implications for access to justice[77]. Reliable, methodologically transparent and verifiable data—whether derived from scientific modelling, field-based monitoring or satellite technologies—constitute essential forms of evidence for establishing risk, harm, causation and responsibility in climate-related claims[78]. Climate information must not only be disclosed; it must also be generated and preserved in forms that enable evidentiary use in administrative and judicial proceedings.

This dimension has practical consequences. A standard that merely requires disclosure would be inadequate if the information disclosed is outdated, incomplete, methodologically opaque or detached from the knowledge systems of the communities most affected. The Court may therefore clarify that States must ensure that climate information is scientifically grounded, regularly updated, methodologically transparent, capable of comparison and verification, and enriched, where relevant, by local, traditional and Indigenous systems of knowledge. Such clarification would reinforce questions 94(c) and 94(d), since transparent transition and effective adaptation both require information that is not only available, but trustworthy. It would also support 94(e), since access to

[74] I/A Court H.R., *Climate Emergency*, *Op. Cit.* Paras. 552 and 555; CEJIL *et al.*, *Amicus Curiae OC-32*, *Op. Cit.* Pg. 8.
[75] I/A Court H.R., *Climate Emergency*, *Op. Cit.* Para. 215; UN – General Assembly, *Access to Information (Morgera)*, *Op. Cit.* Paras. 4, 67 and 70.
[76] UN – General Assembly, *Access to Information (Morgera)*, *Op. Cit.* Para. 15-22 and paras. 3-5; CEJIL, *et al*. "Informe en calidad de amici curiae. Sobre el derecho al acceso a la información y las obligaciones sobre producción activa de información y transparencia en el contexto de la emergencia climática". *Op. Cit.* Pg. 22 and 23.
[77] I/A Court H.R., *Climate Emergency*, *Op. Cit.* Paras. 540 and 541.
[78] *Ibid.*; CEJIL, *et al*. "Informe en calidad de amici curiae. Sobre el derecho al acceso a la información y las obligaciones sobre producción activa de información y transparencia en el contexto de la emergencia climática". *Op. Cit.* Pgs. 16, 44

remedies in climate matters depends on the existence of credible and usable evidence.

6. *Effective accessibility, non-discrimination and the duty to counter climate disinformation*

The duty to generate climate information remains hollow unless such data is effectively accessible. In the climate context, accessibility requires more than formal publication. Information must be pertinent, timely, adequate, intelligible, and practically usable by the persons and communities concerned[79]. It must also be disseminated through appropriate channels and in culturally and linguistically accessible formats, particularly for communities facing immediate or structural vulnerability[80].

To ensure the right of access to information is not merely illusory, its exercise must be affordable, effective, and culturally appropriate, needing targeted measures for those most affected by the climate crisis[81]. This duty is linked to the right to education and the prevention of intersectional discrimination, as information serves as a prerequisite for the exercise of other rights. Moreover, safeguarding the integrity of the information space against climate disinformation is a structural component of this obligation. This requires more than the disclosure of reliable data; it demands the protection of civic spaces for debate and the safeguarding of the work performed by environmental human rights defenders, journalists, and Indigenous knowledge holders[82].

The Court should therefore establish that accessibility requires, at a minimum, dissemination through adequate and multiple channels; intelligible and usable

[79] CEJIL, *et al*. "Informe en calidad de amici curiae. Sobre el derecho al acceso a la información y las obligaciones sobre producción activa de información y transparencia en el contexto de la emergencia climática". *Op. Cit*. Pgs. 5 and 19

[80] I/A Court H.R. *Advisory Opinion OC-32/25*. Para. 504.; "Previously, the Court had held that, "regarding the characteristics of this obligation, the Bali Guidelines and various international and regional instruments establish that access to environmental information must be affordable, effective, and timely." I/A Court H.R. *Case of the Residents of La Oroya v. Peru*. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 27, 2023. Series C No. 511. Para. 145; CEJIL, *et al*. "Informe en calidad de amici curiae. Sobre el derecho al acceso a la información y las obligaciones sobre producción activa de información y transparencia en el contexto de la emergencia climática". *Op. Cit*. Pgs. 5 and 19

[81] UN – General Assembly, *Access to Information (Morgera)*, *Op. Cit.* Para. 5-7, 24-26 and 75(b)-(e).

[82] *Ibid.* Para. 50; CEJIL, *et al*. "Informe en calidad de amici curiae. Sobre el derecho al acceso a la información y las obligaciones sobre producción activa de información y transparencia en el contexto de la emergencia climática". *Op. Cit*. Pgs. 33 and 34.

language and formats; disaggregated and context-sensitive information for persons and groups in situations of heightened vulnerability; special provision in situations of imminent harm or environmental emergency; and measures ensuring that technically complex information, including digitally or satellite-derived data where relevant, is translated into forms that can be meaningfully understood and used by affected populations[83]. This would be especially responsive to questions 94(c) and 94(d), because transparent transition and effective adaptation demand not merely the existence of data, but actual public intelligibility and reach. It also indirectly supports 94(b), insofar as accessibility is a necessary condition for the protection of those most at risk.

7. Restrictions and exceptions

Finally, the Court has an opportunity to clarify that, in climate matters, restrictions on access to information must be subject to a strict and narrow test. This principle dictates that any restriction on the disclosure of data regarding climate causes, impacts, or state responses must be treated as an extraordinary exception and subjected to a strict and narrow test of necessity and proportionality[84].

This is especially important because climate-related opacity often operates not only through explicit denial, but also through delay, fragmentation, inaccessible formats, incomplete publication, private capture of environmental data, or broad invocations of confidentiality and public order[85]. The Court's guidance would therefore be particularly valuable if it were to clarify that, where information concerns emissions, climate risks, environmental emergencies, impact assessments, public budgets, fossil fuel subsidies, climate finance, carbon markets or other matters with direct human rights significance, the presumption

[83] UN – General Assembly, *Access to Information (Morgera)*, *Op. Cit.* Paras. 5-7 and 75; CEJIL, *et al*. "Informe en calidad de amici curiae. Sobre el derecho al acceso a la información y las obligaciones sobre producción activa de información y transparencia en el contexto de la emergencia climática". *Op. Cit.* Pgs. 16-18, 19, 20, 41-45.
[84] I/A Court H.R. *Case of Gomes Lund et al. ("Guerrilha do Araguaia") v. Brazil*. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 24, 2010. Series C No. 219. Para. 229; I/A Court H.R. *Case of the Residents of La Oroya v. Peru*. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 27, 2023. Series C No. 511. Para. 147, and I/A Court H.R. *Advisory Opinion OC-32/25*. Para. 490; CEJIL, *et al*. "Informe en calidad de amici curiae. Sobre el derecho al acceso a la información y las obligaciones sobre producción activa de información y transparencia en el contexto de la emergencia climática". *Op. Cit.* Pg. 43
[85] UN – General Assembly, *Access to Information (Morgera)*, *Op. Cit.* Para. 5 and 24-26.

must strongly favor disclosure, and any restriction must be justified under a test of legality, legitimate aim, strict necessity and proportionality[86].

A strict approach to exceptions would support all of the questions to which this section contributes. It would reinforce 94(c) by preventing opaque transition processes; 94(d) by ensuring that adaptation and mitigation remain open to scrutiny; 94(e) by preserving evidentiary access for claims and reparations; and 94(f) by preventing secrecy from undermining the regulation of private actors. Above all, it would ensure that climate information performs the role that a human rights-based framework requires of it: not merely to inform, but to make prevention, accountability and justice possible.

Ultimately, the African human rights system provides the necessary normative foundations to recognize access to climate information as both a protected and an enabling right. The Court is now called upon to define the specific substantive content of these obligations: the positive duty to generate information, the minimum categories for mandatory disclosure, the standards for qualitative rigor and accessibility, and the narrow parameters for any restrictions.

B. Content and scope of state obligations to protect human rights defenders in the context of the climate crisis

This section is submitted to assist the Court in answering question 94(b)[87] of the request, while also strengthening its analysis under questions 94(e)[88] and 94(f)[89]. Its core proposition is that, in the context of the climate crisis, environmental

[86] I/A Court H.R., *Climate Emergency*, *Op. Cit.* Paras. 487 and 503; CEJIL, *et al*. "Informe en calidad de amici curiae. Sobre el derecho al acceso a la información y las obligaciones sobre producción activa de información y transparencia en el contexto de la emergencia climática". *Op. Cit.* Pg. 8

[87] Pan African Lawyers Union (PALU). *Request for Advisory Opinion on the Obligations of States with Respect to the Climate Change Crisis*. African Court on Human and Peoples' Rights, Arusha, 2025. Para. 94(b) "*Given the unique and significant implications of the responsibilities and duties to vulnerable individuals and populations, whether State parties to the African Charter on Human and Peoples' Rights (the Charter) have positive obligations to protect vulnerable populations including environmental human rights defenders, indigenous communities, women, children, youth, future generations, the current generation, past generations, the elderly and people with disabilities from the impact of climate change in line with the relevant treaties?"*

[88] *Ibid*. Para. 94(e) "*What, if any, are applicable human rights obligations of States to compensate for loss, damage and reparations?"*

[89] *Ibid*. Para. 94(f) *"What responsibilities, if any, do African States have in relation to third parties, including international monopolies, multinational corporations and non-state actors operating on the continent, to ensure that international and regional treaties and laws on climate change are respected, protected, promoted and implemented?"*

human rights defenders are not merely beneficiaries of protection, but essential actors for the effective functioning of procedural environmental rights, including access to information, participation, accountability, access to justice, and the realization of remedies[90]. Their protection is therefore not only a procedural safeguard, but also a structural foundation for a rights-based climate response, since procedural guarantees cannot operate effectively where those who make them meaningful are threatened, silenced, or attacked[91].

Comparative standards, particularly those developed in the Inter-American human rights system, may assist the Court in this regard, as they provide a more precise understanding of the content and scope of States' obligations toward environmental defenders. In particular, recent developments have clarified that States are under a special duty of protection which, among other duties, includes ensuring a safe, enabling, and protective environment for the defense of human rights, preventing foreseeable risks, addressing structural causes of violence[92], and regulating third-party conduct[93], including business-related activities that may endanger defenders[94]. These elements are especially pertinent in the climate context, where individuals and communities advocating for environmental protection and a just transition increasingly face criminalization, repression, and violence[95].

Thus, this section proceeds through a structured approach. First, it considers the normative foundations already present in the African system, where environmental human rights defenders are increasingly recognized as a group facing heightened risks. Second, it identifies aspects of those standards that may benefit from further articulation in the specific context of the climate crisis. Third, it draws upon comparative standards, particularly those developed in the Inter-American system, insofar as they may be of use to complement or reiterate standards that are pertinent for the African system. Fourth, it formulates an

[90] I/A Court H.R. *Case of Escaleras Mejía et al. v. Honduras*. Judgment of September 26, 2018. Series C No. 361. Paras. 56, 60 and 61; I/A Court H.R. Matter of persons imprisoned in the "Dr. Sebastião Martins Silveira" Penitentiary in Araraquara, São Paulo regarding Brazil. Provisional Measures. Order of the Inter-American Court of Human Rights of September 30, 2006
[91] I/A Court H.R. Case of Escaleras Mejía et al. v. Honduras. *Op. Cit.* Paras. 60 and 61; I/A Court H.R. *Case of Human Rights Defender et al. v. Guatemala.* Preliminary Objections, Merits, Reparations and Costs. Judgment of August 28, 2014. Series C No. 283. Para. 142; Escazú Agreement, Op. Cit. Art. 9
[92] I/A Court H.R., *Climate Emergency*, *Op. Cit.* Paras. 566, 567, 575-579; The Esperanza Protocol. *Op. Cit*. Pg. 30.
[93] I/A Court H.R., *Climate Emergency*, *Op. Cit.* Paras. 566, 567 and 581.
[94] I/A Court H.R., *Climate Emergency*, *Op. Cit.* Paras. 566, 567 and 581.
[95] I/A Court H.R., *Climate Emergency*, *Op. Cit.* Paras. 569, 570 and 571.

operational framework capable of clarifying, in practical terms, what States may be required to do to ensure that environmental defenders can act free from threats, reprisals, and structural barriers in the context of the climate crisis.

1. *Existing normative foundations in the African system regarding environmental human rights defenders*

The African Commission has already taken important steps toward recognizing environmental human rights defenders as a category warranting particular attention within the African human rights system. In Resolution ACHPR/Res.633(LXXXIII)2025, the Commission expressly recalled its commitment to the protection of human rights defenders, including environmental human rights defenders, through the Cotonou Declaration and related African standards[96].

In parallel, in Resolution ACHPR/Res.613(LXXXI)2024 on the situation of human rights defenders working on environmental issues in Uganda, the Commission documented a pattern of attacks against environmental defenders, including judicial harassment, arbitrary arrests, unlawful detentions, ill-treatment, reprisals, and the use of vague criminal charges to intimidate and criminalize legitimate protest, particularly in connection with the East African Crude Oil Pipeline (EACOP)[97]. These developments confirm that the African system already recognizes both the distinct role of environmental defenders and the heightened risks they face in environmental and climate-related conflicts.

At the same time, the African framework may benefit from further clarification regarding the minimum content of States' positive obligations toward environmental defenders in the climate context. While the current normative base establishes a foundation of recognition, it has not yet been fully systematized into an operational standard. Such a standard may usefully address, among other duties, the following climate-specific obligations: (i) to ensure a safe and enabling environment[98]; (ii) to prevent and mitigate foreseeable risks[99]; (iii) to protect defenders through adequate institutional mechanisms[100]; (iv) to investigate and

[96] ACHPR, Resolution on Developing General Comment on the Protection and Promotion of the Right to environment in Africa - ACHPR/Res.633 (LXXXIII) 2025. Banjul, The Gambia. June 03, 2025.
[97] ACHPR, Resolution on the Situation of Human Rights Defenders working on the Environmental Issues in Uganda. ACHPR/Res.613 (LXXXI) 2024. Banjul, The Gambia. November 14, 2024.
[98] I/A Court H.R., *Climate Emergency*, *Op. Cit.* Paras. 566 and 567.
[99] *Ibid*. 567 and 575.
[100] Ibid. 566 and 567.

sanction attacks with enhanced diligence[101]; and (v) to regulate third-party conduct, including business-related risks, that may endanger environmental and climate rights defenders[102].

With that in mind, this section addresses question 94(b) and strengthens the analysis under questions 94(e) and 94(f) by providing the Court with workable standards that emphasize the existence of an enhanced duty of protection owed to human rights defenders, especially in contexts of structural risk such as the climate crisis; the importance of ensuring a safe and enabling environment for their work as a precondition for effective access to justice and reparations; and the obligation of States to act with due diligence not only to respond to violations but also to prevent them, including by regulating the activities of third parties and addressing the conditions that give rise to threats and attacks against defenders.

2. *Environmental defenders as subjects of special protection in the climate context*

Building on the African normative foundation outlined above, comparative standards are useful in clarifying why environmental human rights defenders must be treated as a category warranting heightened protection in the context of the climate crisis. The Inter-American Court has long recognized that the work of human rights defenders is fundamental to democracy and the rule of law[103]. In Advisory Opinion 32/25, it further clarified that environmental defenders perform an essential role in the context of the climate emergency and, for that reason, States owe them a special duty of protection[104]. The same Opinion also highlights that defenders are key actors in enabling transparency, accountability, public participation, and informed decision-making in response to the climate crisis[105].

This special protection does not materialize instantaneously; rather, it is the outcome of a steady, cumulative normative development.
First, Inter-American jurisprudence has recognized the right to defend human rights as an autonomous right and has held that, because human rights defenders play a role that is fundamental to democracy and the rule of law, States owe them

[101] Ibid. 567
[102] *Ibid.* 566, 567 and 581.
[103] I/A Court H.R., *Case of Valle Jaramillo et al. v. Colombia.* Merits, Reparations and Costs. Judgment of November 27, 2008. Series C No. 192. Para. 87
[104] I/A Court H.R., *Climate Emergency*, *Op. Cit*. Paras. 566 and 568
[105] *Ibid*. Para. 565.

a special duty of protection[106]. Second, environmental defenders fall within that broader category, but their work has long been understood as involving particular exposure because it frequently challenges interests linked to land, territory, natural resources, and environmental protection[107]. Third, Advisory Opinion 32/25 does not create a wholly new regime, but specifies and intensifies that pre-existing protective framework in the climate context: it stresses the essential role of environmental defenders in addressing the climate emergency, links their work to transparency, accountability, participation, and informed public debate, and recognizes that they face heightened—and often intersectional—risks of violations in that setting[108]. The result is not a separate category detached from the general protection owed to human rights defenders, but a context-specific reinforcement of that special duty of protection considering the democratic function of their work and the aggravated risks they confront in climate-related conflicts.

This heightened protection is justified not only by the specific risks environmental defenders face, but also by the essential role they play in the protection of rights, in democratic life, and, in the context of the climate emergency, in sustaining transparency, accountability, participation, and informed decision-making[109]. As the Inter-American Court explained, environmental defenders run a heightened risk of rights violations because of their activities in the context of the climate emergency[110], and some groups among them are particularly exposed to aggravated forms of violence for intersectional reasons, including Indigenous Peoples, Afro-descendant communities, rural communities, and women[111]. This

[106] I/A Court H.R. Case of Members of the Association of Collective of Lawyers "José Alvear Restrepo" v. Colombia. Interpretation of the Judgment of Preliminary Objections, Merits, Reparations and Costs, and Rectification of Errors. Judgment of October 16, 2024. Paras. 977, 979-981; I/A Court H.R., *Case of Escaleras Mejía et al. v. Honduras*, *Op. Cit.*, Para. 56.

[107] I/A Court H.R. Advisory Opinion OC-23/17 of November 15, 2017, requested by the Republic of Colombia. Environment and Human Rights. Series A No. 23. Paras. 47-55; 100-104; I/A Court H.R., *Climate Emergency*, *Op. Cit*. Paras. 565 and 566, 568-572.

[108] I/A Court H.R., Climate Emergency, Op. Cit. Paras. 565-567; 568-572.

[109] Ibid. Para. 565, 566 and 568.; I/A Court H.R. *Case of Kawas Fernández v. Honduras*. Merits, Reparations, and Costs. Judgment of April 3, 2009. Series C No. 196. Paras. 147-148; I/A Court H.R. *Case of Valle Jaramillo et al. v. Colombia*. *Op. Cit. Para. 87*

[110] I/A Court H.R., *Climate Emergency*, *Op. Cit*. Para. 568.

[111] CEJIL, *et al*. "Informe en calidad de amici curiae. Sobre las obligaciones convencionales de protección y prevención a las personas defensoras del ambiente y del territorio, así como las mujeres, los pueblos indígenas y las comunidades afrodescendientes en el marco de la emergencia climática", *Op. Cit*. pg. 10; I/A Court H.R., *Case of the Human Rights Defender et al. v. Guatemala.* Preliminary Objections, Merits, Reparations, and Costs. Judgment of August 28, 2014. Series C No. 283. Para. 157; I/A Court H.R., *Case of Digna Ochoa and family members v. Mexico*. Preliminary objections, merits, reparations and costs. Judgment of November 25, 2021.

adds another dimension to the need for special protection environmental defenders should receive from the State and even third parties as well[112]. UN Special Rapporteur, Mary Lawlor, has emphasized that persons demanding climate action and a just transition are exercising the right to defend human rights, yet they increasingly face obstruction, repression, and criminalization aimed at preserving powerful private interests[113].

Once environmental defenders are recognized as a category facing heightened and often intersectional risk in the climate context, States are under a special duty of protection to secure a safe, enabling, and rights-protective environment in which they can act freely and safely[114]. As clarified in Advisory Opinion 32/25, this special duty of protection requires not only abstention from interference, but also the adoption of appropriate legal provisions, public policy instruments, and institutional practices capable of ensuring the free and safe exercise of the right to defend human rights[115]. This understanding is especially important where defenders confront powerful economic and political interests linked to extractive activities, land use, infrastructure, deforestation, or other drivers of environmental harm and climate injustice.

3. Minimum content of the special obligation to protect

a. Preventing risks

Prevention constitutes the *ex ante* dimension of the special duty of protection owed to human rights defenders[116]. As the Inter-American Court has clarified, the special duty of protection requires States not only to refrain from imposing unlawful restrictions on the work of defenders, but also to devise and implement

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Series C No. 447. Para. 125; I/A Court H.R., *Case of the Tagaeri and Taromenane Indigenous Peoples v. Ecuador.* Preliminary Objection, Merits, Remedies, and Costs. Judgment of September 4, 2024. Series C No. 537. Para. 362.

[112] I/A Court H.R., *Climate Emergency*, *Op. Cit*. Para. 571.; I/A Court H.R.*Case Human Rights Defender et al. v. Guatemala*. *Op. Cit.* Para. 125

[113] UN – General Assembly. *Report of the Special Rapporteur on the promotion and protection of human rights in the context of climate change, Elisa Morgera - Access to information on climate change and human rights*. UN Doc. A/79/176. July 18, 2024. Para. 5-9.

[114] I/A Court H.R., *Climate Emergency*, *Op. Cit*. Para. 566.; I/A Court H.R. *Case of Nogueira de Carvalho et al. v. Brazil,* Preliminary Objections and Merits.Judgment of November 28, 2006. Series C No. 161. Para. 77; I/A Court H.R.*Case of Members of the "José Alvear Restrepo" Lawyers' Collective v. Colombia*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of October 18, 2023. Series C No. 506. Para. 471

[115] I/A Court H.R., *Climate Emergency*, *Op. Cit*.. Para. 567.

[116] *Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean* (Escazú Agreement). Adopted March 4, 2018. Art. 9.

appropriate public policy instruments, domestic legal provisions, and institutional practices to ensure that they are able to carry out their activities freely and safely[117]. Given the climate emergency, this preventive dimension is particularly important, since environmental defenders face a heightened risk of rights violations because of their role in exposing, monitoring, and contesting activities and policies linked to environmental harm and climate injustice[118].

At a minimum, prevention requires States to compile and keep up-to-date disaggregated data on attacks and other harmful acts committed against environmental defenders[119]; to design and implement policies and strategies addressing the structural causes of violence and intimidation; and to adopt adequate measures to promote recognition and protection of the right to defend environmental human rights across all spheres of the State and among the general public[120]. These policies and strategies must involve the participation of environmental defenders and take into account the differentiated impacts of violence based on intersectional and structural factors of discrimination[121].

Preventive action must also include broader efforts to ensure recognition and support for the right to defend environmental human rights. As reflected in comparative standards, this entails promoting public awareness, strengthening institutional capacity, and fostering a social and institutional environment in which the work of environmental defenders is not stigmatized, obstructed, or delegitimized[122]. Such measures are essential to reduce the likelihood of future violations and to counter the structural conditions that enable attacks against defenders.

Accordingly, the Court may clarify that the preventive content of the special duty of protection requires African States to act before violence occurs by identifying foreseeable risks, addressing their structural drivers, and adopting coherent legal and policy frameworks that reduce exposure to harm. This bears directly on question 94(b), as it specifies the measures required to protect persons and groups facing heightened risk in the context of the climate crisis, and it reinforces the Court's approach to question 94(e), insofar as effective prevention is a

[117] I/A Court H.R., *Climate Emergency*, *Op. Cit*. Para. 567.
[118] *Ibid.;* I/A Court H.R. *Case Nogueira de Carvalho et al. v. Brazil, Op. cit.*, Para. 77; I/A Court H.R. *Case of the Human Rights Defender et al. v. Guatemala*, *Op. cit.*, Para. 157
[119] I/A Court H.R., *Climate Emergency*, *Op. Cit*.. Para. 575.
[120] *Ibid*.
[121] *Ibid*. Paras. 575 and 576.
[122] *Ibid*. Para. 579.

necessary condition for meaningful access to justice and the avoidance of irreparable harm.

b. Protect

Once a risk to environmental human rights defenders is known, ought reasonably to be known, or can be inferred from identified patterns of threats or violence, States must move from general prevention to concrete and timely protection. The Inter-American Court has clarified that the special duty of protection requires States to adopt the necessary measures to establish or, where appropriate, reinforce national protection programs with an intersectional approach[123]. Such programs must be designed and implemented with the effective participation of relevant social actors and must include specific strategies to safeguard the life, safety, and reputation of environmental defenders, especially those facing heightened or differentiated risk, including women defenders, journalists, members of rural communities, Afro-descendant persons, and Indigenous Peoples[124].

Effective protection cannot remain purely formal. National protection programs must include specific institutional mechanisms to receive requests for protection in situations of harassment or criminalization, conduct risk assessments, adopt appropriate protection measures, and monitor their implementation effectively[125]. They must also include specific protocols for persons and groups facing additional vulnerability, and States must guarantee the participation of beneficiaries in the assessment of risk and in the implementation of protection measures[126]. Those involved in security arrangements should be appointed in consultation with, and with the consent of, the beneficiaries[127]. The protection mechanism must further enjoy adequate coordination, independence, autonomy, and the budgetary and logistical resources necessary to ensure that protective measures remain in force for as long as the risk subsists[128].

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[123] *Ibid*. Para. 576

[124] *Ibid*. Paras. 576, 577 and 578; CEJIL, *et al*. "Informe en calidad de amici curiae. Sobre las obligaciones convencionales de protección y prevención a las personas defensoras del ambiente y del territorio, así como las mujeres, los pueblos indígenas y las comunidades afrodescendientes en el marco de la emergencia climática", *Op. Cit*. Pg. 31; IACHR, "Políticas integrales de protección de personas defensoras", OEA/Ser.L/V/II, December 29, 2017. Para. 310

[125] I/A Court H.R., *Climate Emergency*, *Op. Cit*. Para. 577.; IACHR, "Políticas integrales de protección de personas defensoras", *Op. Cit*. Para. 310

[126] I/A Court H.R., *Climate Emergency*, *Op. Cit*. Para. 577.

[127] *Ibid*. Para. 578.

[128] *Ibid*.; IACHR, "Criminalización de la labor de las defensoras y los defensores de

Protection measures may include, among others, physical protection and relocation; however, they should not be understood as limited to individualized security responses[129]. Given the nature of environmental defense, effective protection will often require a combination of individual and collective measures. Such measures may include, among others, physical protection and relocation; they must be proportionate to the risk, accessible, culturally sensitive, tailored to the specific conditions of the person or community at risk, and agreed upon together with those concerned[130]. The protective framework should extend to family members or close circles affected by the same risk, remaining active for as long as necessary and subject to periodic review[131]. Crucially, such efforts must be directed not only at mitigating vulnerability but at dismantling the factors that generate or intensify risk[132]. In some cases, this may entail investigating threats or patterns of intimidation at an early stage[133]; in others, it may require addressing underlying drivers of violence, including unresolved territorial conflicts or other structural conditions that expose defenders and their communities to recurring harm[134].

Consequently, the Court may clarify that the protective content of the special duty of protection requires States not merely to create formal programs, but to provide immediate, adequate, accessible, and differentiated measures capable of protecting environmental defenders in practice once threats or risks become known[135]. This bears directly on question 94(b), since it specifies the concrete protection owed to persons and groups facing heightened vulnerability in the context of the climate crisis. It also strengthens the Court's analysis under question 94(e), insofar as, without effective protection, access to justice and

derechos humanos", OEA/Ser.L/V/II., December 31, 2015. Para. 288; IACHR, "Políticas integrales de protección de personas defensoras", Op. Cit. Para. 344

[129] The Esperanza Protocol. *Op. Cit*. Pg. 30.
[130] *Ibid*; Protocol for an Effective Response to Threats Against Human Rights Defenders and Human Rights (The Esperanza Protocol).Pg. 27.
[131] I/A Court H.R., *Climate Emergency*, *Op. Cit*. Paras. 576-578; The Esperanza Protocol. *Op. Cit*. Pg. 75.
[132]I/A Court H.R., *Climate Emergency*, *Op. Cit.* Paras. 571 and 575; The Esperanza Protocol. *Op. Cit*. Pg. 30; I/A Court H.R. Case of Human Rights Defender et al. v. Guatemala. *Op. Cit*. Para. 142 and 143
[133] I/A Court H.R. Case of Vélez Restrepo and family v. Colombia. Preliminary Objection, Merits, Reparations and Costs. Judgment of September 3, 2012. Series C No. 248. Para. 201
[134] I/A Court H.R. *Case of Acosta et al. v. Nicaragua.* Preliminary Objections, Merits, Reparations and Costs. Judgment of March 25, 2017. Series C No. 334. Para. 222 and 223.
[135] I/A Court H.R., *Climate Emergency*, *Op. Cit*. Para. 576; *Escazú Agreement*, *Op. Cit.*, Art. 9.

meaningful remedies may become illusory or arrive too late to prevent irreparable harm.

c. The Duty to Investigate and Sanction Violations

Combating impunity is an essential component of the special duty of protection owed to environmental human rights defenders. As clarified in Advisory Opinion 32/25, that duty requires States to investigate and, as appropriate, punish attacks, threats, or intimidation suffered by defenders in connection with their work, and eventually to redress the harm caused[136]. In this context, the Inter-American Court has expressly held that such obligation gives rise to a duty of enhanced due diligence in the investigation and elucidation of acts harming environmental defenders[137]. Once State authorities are informed of a threat, attack, harassment, or any other act that may be criminal in nature, they must conduct *ex officio* a serious, timely, independent, and transparent investigation aimed at identifying those responsible, prosecuting them, and ensuring accountability[138].

Impunity stems from lack of protection against threats, failure to investigate violations arising from those threats, and failure to prosecute those responsible; in turn, it fosters the chronic recurrence of human rights violations and leaves victims and their families defenseless[139]. Comparative standards further confirm that the impact of impunity in cases involving defenders is not merely individual, but also collective, since it weakens the conditions under which others may safely exercise the right to defend human rights[140].

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[136] I/A Court H.R., *Climate Emergency*, *Op. Cit*. Para. 566; I/A Court H.R. *Case Nogueira de Carvalho et al. v. Brazil. Op. Cit.* Para. 77; I/A Court H.R. *Case of the Members of the "José Alvear Restrepo" Lawyers' Collective v. Colombia. Op Cit.* Para. 471

[137] I/A Court H.R., *Climate Emergency*, *Op. Cit*. Para. 582; I/A Court H.R. *Case of Members of the Corporation: "José Alvear Restrepo" Lawyers' Collective v. Colombia. Op Cit.* Para. 742-743; I/A Court H.R. *Case Nogueira de Carvalho et al. v. Brazil*. *Op Cit.* Para 77

[138] I/A Court H.R., *Climate Emergency*, *Op. Cit*. Paras. 582 and 583; *Escazú Agreement*, *Op. Cit.*, Art. 9.

[139] I/A Court H.R., *Case of the Ituango Massacres v. Colombia*, Judgment of July 1, 2006, Series C No. 148. Para. 299; I/A Court H.R., *Case of Huilca Tecse v. Peru*, Merits, Reparations and Costs, Judgment of March 3, 2005, Series C No. 12. Para. 82; I/A Court H.R., *Case of the Gómez Paquiyauri Brothers v. Peru*, Merits, Reparations and Costs, Judgment of July 8, 2004, Series C No. 110. Para. 148.

[140] I/A Court H.R., *Climate Emergency*, *Op. Cit*. Para. 586; I/A Court H.R., *Case of Nogueira de Carvalho et al. v. Brazil*, *Op. Cit*. Para. 76; *Case of Valle Jaramillo et al. v. Colombia*, *Op. Cit.* Para. 96; *Case of Escaleras Mejía et al. v. Honduras*, *Op. Cit*. Paras. 69-70 and 102; *Case of Sales Pimenta v. Brazil*, Preliminary Objections, Merits, Reparations and Costs, Judgment of June 30, 2022, Series C No. 454. Paras. 89, 116 and 170; *Case of Members of the "José Alvear Restrepo" Lawyers' Collective (CAJAR) v. Colombia*, *Op. Cit*. Para. 478 and 979; I/A Court H.R.,

In practice, enhanced due diligence entails more than merely opening a formal investigation. It must be exhaustive, impartial, timely, initiated *ex officio*, and conducted with practical effectiveness and promptness[141]. Authorities must seriously explore all plausible hypotheses, including whether the attack was motivated by the victim's work as an environmental defender[142]. They must pursue all relevant lines of inquiry to identify both material and intellectual perpetrators, including State officials, private actors, corporations, or armed and criminal groups where applicable[143]. This is particularly critical in the climate context, where violence often emerges within complex settings involving economic interests, territorial conflicts, and multiple layers of responsibility.

States bear a positive obligation to investigate and sanction any officials whose acts or omissions result in irregularities during the investigative process[144]. This requires rigorous judicial oversight to ensure that all perpetrators are held accountable, alongside a duty to publicly denounce and prosecute threats originating from both State and non-State actors[145]. To effectively reverse structural patterns of impunity, States must strengthen their institutional infrastructure by implementing specialized investigative protocols and establishing prosecutorial units dedicated to crimes against environmental human rights defenders[146].

In light of these considerations, the African Court may clarify that the investigative and punitive content of the special duty of protection requires African States not only to react to attacks against environmental defenders, but to do so with enhanced due diligence, contextual understanding, and institutional capacity

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Advisory Opinion OC-32/25. Para. 580; I/A Court H.R., *Case of Acosta et al. v. Nicaragua*, *Op. Cit*. Paras. 223-224; *Case of Digna Ochoa and family v. Mexico*, *Op. Cit.* Paras. 178-179;

[141] I/A Court H.R. *Case of Digna Ochoa and family v. Mexico*. *Op*. Cit. Para. 100.

[142] I/A Court H.R. *Case of Bedoya Lima et al. v. Colombia*. Merits, Reparations and Costs. Judgment of August 26, 2021. Series C No. 431. Para. 132.

[143] I/A Court H.R. *Case of Sales Pimenta v. Brazil*. *Op. Cit*. Para. 86; The Esperanza Protocol. *Op. Cit*. Pg. 47.

[144] I/A Court H.R. *Case of González et al. ("Cotton Field") v. Mexico*. Preliminary Objection, Merits, Reparations and Costs. Judgment of November 16, 2009. Series C No. 205. Para. 460.

[145] UN – Human Rights Council. *Resolution 31/32: Protecting human rights defenders, whether individuals, groups or organs of society, addressing economic, social and cultural rights*. UN Doc. A/HRC/RES/31/32. April 20, 2016. Para. 6.; I/A Court H.R., *Climate Emergency*, *Op. Cit*. Para. 581; I/A Court H.R. *Case of Velásquez Rodríguez v. Honduras*. Merits. Judgement of July 19, 1988. Series C No. 4. Para 177.; I/A Court H.R., *Case of Dos Santos Nascimento and Ferreira Gomes v. Brazil*. Preliminary objections, merits, reparations and costs. Judgment of October 7, 2024. Series C No. 539. Para. 115

[146] I/A Court H.R., *Climate Emergency*, *Op. Cit*. Para. 586.

sufficient to dismantle impunity. This bears directly on question 94(b), since it specifies part of the heightened protection owed to persons and groups facing particular vulnerability in the climate context. It also strengthens the Court's analysis under question 94(e), insofar as effective remedies and meaningful redress are impossible where threats, attacks, and reprisals are not properly investigated and sanctioned.

d. Reparation and non-repetition

When environmental human rights defenders suffer violations in connection with their work, States bear a positive obligation to ensure comprehensive reparation. Under established international standards, such measures must aim for the full restitution of the harm caused[147]. Where such restitution is not feasible, States must implement measures to rectify the consequences of the breach and provide adequate compensation for the damages suffered[148]. In this sense, reparation constitutes a multidimensional duty that transcends mere monetary indemnity, requiring the effective restoration of rights and the remediation of the violation's impacts in a meaningful and transformative manner.

Reparations must also be differentiated. They should take into account the specific and intersectional impacts suffered by victims, and, in the case of Indigenous or tribal peoples and communities, must reflect the collective nature of the harm, their own perspectives and expectations regarding reparation, and the distinct and heightened way in which their rights are affected in environmental and climate-related conflicts[149]. This is especially important in the climate context, where attacks against defenders from indigenous or tribunal communities frequently affects beyond the individual scope, having an impact on their territories, ways of living, community structures, and collective processes of environmental defense[150].

[147] I/A Court H.R. *Case of Fleury et al. v. Haiti*. Merits and Reparations. Judgment of November 23, 2011. Series C No. 236. Para. 115; I/A Court H.R. *Case of Barbani Duarte et al. v. Uruguay*. Merits, Reparations and Costs. Judgment of October 13, 2011. Series C No. 234. Para. 239.
[148] I/A Court H.R. *Case of Godínez Cruz v. Honduras*. Interpretation of the Judgment on Reparations and Costs. Judgment of August 17, 1990. Series C No. 10. Para. 27; I/A Court H.R. *Case of Maritza Urrutia v. Guatemala*. Merits, Reparations and Costs. Judgment of November 27, 2003. Series C No. 103. Para. 209.
[149] I/A Court H.R. *Case Pueblos Kaliña y Lokono V. Suriname*. Merits, Reparations and Costs. Judgment of November 25, 2015. Serie C No. 309, párr. 281; The Esperanza Protocol, Op Cit. Pg. 51.
[150] CEJIL, *et al*. "Informe en calidad de amici curiae. Sobre las obligaciones convencionales de protección y prevención a las personas defensoras del ambiente y del territorio, así como las

Guarantees of non-repetition require more than a formal acknowledgment of wrongdoing. As mentioned beforehand, the Inter-American Court of Human Rights has provided guidance in regards to the obligations of the States, for they must have policies and strategies in place to respond to the structural causes of violence and intimidation against environmental defenders and to prevent future incidents; these policies and strategies should involve environmental defenders and consider how violence affects them differently due to intersecting and structural forms of discrimination[151]. Properly understood, these guarantees are not external to reparation; they are part of the remedial response required to ensure that the same patterns of violence, intimidation, and exclusion do not persist[152].

Inter-American case law provides concrete illustrations of the types of measures that may be required to give effect to guarantees of non-repetition in cases involving environmental human rights defenders. For instance, in Kawas Fernández v. Honduras, the Court ordered the State to implement a national awareness-raising campaign aimed at public officials, security forces, and the general population, specifically focused on the importance of the work carried out by environmental defenders and their contribution to the protection of human rights[153]. Such measures seek not only to prevent future violations, but also to transform the social and institutional conditions that enable stigmatization, violence, and impunity. Similar approaches can be found across the Court's jurisprudence, including the adoption of training programs, the strengthening of investigative capacities, and the creation of institutional mechanisms designed to ensure a safe and enabling environment for those who defend human rights.

Consequently, the Court should establish that the reparative dimension of the special duty of protection mandates African States to provide integral and differentiated reparations for harms suffered by environmental defenders. Such measures must be coupled with guarantees of non-repetition designed to dismantle the structural conditions that facilitate such violations. This standard is directly responsive to question 94(e), as it confirms that climate-related human

mujeres, los pueblos indígenas y las comunidades afrodescendientes en el marco de la emergencia climática", *Op. Cit*. Pg. 12

[151] I/A Court H.R., *Climate Emergency*, *Op. Cit*. Para. 575.; I/A Court H.R. *Case of the Las Dos Erres Massacre v. Guatemala*. Preliminary objection, merits, reparations and costs. Judgment of November 24, 2009. Series C No. 211. Para. 226

[152] I/A Court H.R., *Climate Emergency*, *Op. Cit*. Para. 575.

[153] I/A Court H.R. Case of Kawas Fernández v. Honduras. Merits, Reparations and Costs. Judgment of April 3, 2009. Series C No. 196. Para. 214.

rights obligations encompass the duties of remedy, compensation, and structural redress. Furthermore, it reinforces the scope of question 94(b) by establishing that effective protection is unattainable without comprehensive reparation and the prevention of recurrence.

4. Criminalization, stigmatization, and SLAPP

In the context of the climate crisis, attacks against environmental human rights defenders do not occur only through physical violence. As the Inter-American Court explained, environmental defenders face a heightened risk of rights violations because of their activities in the context of the climate emergency[154]. That risk is manifested not only in threats, surveillance, arbitrary detention, reprisals, and the use of force against peaceful protests, but also in an overall climate of criminalization in which the law is used for restrictive purposes and as a form of judicial harassment[155]. The Court further noted that this context may have a frightening effect on defenders and directly violate their freedom of expression, assembly, and, more broadly, their right to defend human rights[156].

The Inter-American Court clarified that violations of the rights of environmental defenders may stem from the criminalization of their activities through the undue use of the law, arbitrary detention, judicial harassment, and convictions involving disproportionate sanctions[157].

To combat this phenomenon, States must identify laws that are selectively and repeatedly applied against defenders, as well as laws whose ambiguity gives them an intimidating or dissuasive effect; review their conventionality; adopt legislative or administrative measures to derogate or amend them when necessary; establish procedures that allow actions aimed merely at intimidating or silencing defenders to be dismissed promptly; and undertake special education and training efforts for police and judicial authorities so as to prevent and avoid

[154] *Ibid.* Paras. 568 and 569; *Report of the Special Rapporteur on the promotion and protection of human rights in the context of climate change, Ian Fry, "Promotion and protection of human rights in the context of climate change",* A/77/226, of July 26, 2022. Para. 84.
[155] I/A Court H.R., *Climate Emergency*, *Op. Cit.* Paras. 569 and 570**;** I/A Court H.R., *Case of Members of the "José Alvear Restrepo" Lawyers' Collective v. Colombia. Op. Cit.* Paras*. 971 to 983*
[156] I/A Court H.R., *Climate Emergency*, *Op. Cit.* Para. 568-570
[157] *Ibid*. 587; Report of the Special Rapporteur on the situation of human rights defenders, Michel Forst, "Situation of human rights defenders," A/71/281, August 3, 2016. Paras. 39 and 40.

judicial harassment and decisions that violate the right to defend human rights[158]. The Court also made clear that these obligations do not preclude legitimate investigations conducted in accordance with due process where there are genuine grounds to believe an offence may have been committed.

International human rights standards specify the forms of criminalization that States must strictly avoid. States must refrain from resorting to vague or overbroad charges—such as terrorism[159], treason[160], or conspiracy[161]—against environmental defenders[162], particularly when such allegations are based on the receipt of foreign funding[163]. Furthermore, criminal and administrative frameworks must not be misused to silence those who report environmental violations, criticize public or private actors for territorial harms, or expose corruption in extractive megaprojects[164]. To prevent such judicial harassment, it is essential to dismantle restrictive bail practices and disproportionate pecuniary sanctions, while ensuring that police, prosecutors, and judicial officers receive targeted training to prevent the instrumentalization of the justice system against those defending the environment[165].

These standards are especially relevant in relation to Strategic Lawsuits Against Public Participation (SLAPP). In the climate context, defenders are often targeted through administrative or judicial actions that are formally framed as lawful

[158] I/A Court H.R., *Climate Emergency*, *Op. Cit*. 566 and 587; IACHR. *Criminalization of the Work of Human Rights Defenders,* OEA/Ser.L/V/II, of December 31, 2015. Paras. 284 to 291; IACHR, "Integral Protection Policies for Human Rights Defenders," OEA/Ser.L/V/II, of December 29, 2017. Paras. 344 and 345; IACHR, REDESCA, "Northern Central America: Situation of Environmental Defenders", OEA/Ser.L/V/II of December 16, 2022. Paras. 299 to 305.

[159] I/A Court H.R. *Case of Norín Catrimán et al. (Leaders, Members and Activist of the Indigenous Mapuche People) v. Chile*. Merits, Reparations and Costs. Judgment of May 29, 2014. Series C No. 279. Para. 94; UN – Human Rights Council. *Resolution 22/6: Protecting human rights defenders*. UN Doc. A/HRC/RES/22/6. April 12, 2013.

[160] IACHR. *Criminalization of the Work of Human Rights Defenders*. *Op. Cit.* Para. 134.

[161] *Ibid*. Paras. 80, 82, 133 and 134.

[162] *Ibid*. Paras. 46 and 120.

[163]CEJIL, *et al*. "Informe en calidad de amici curiae. Sobre las obligaciones convencionales de protección y prevención a las personas defensoras del ambiente y del territorio, así como las mujeres, los pueblos indígenas y las comunidades afrodescendientes en el marco de la emergencia climática", *Op. Cit*. Pg. 50

[164] *Ibid*. Pg. 46.

[165] I/A Court H.R., *Climate Emergency*, *Op. Cit*. Para. 587; CEJIL. *The Right to Defend Human Rights and Environmental Human Rights Defenders: Thematic Guide to Analyze Advisory Opinion 32*. *International Law in the Face of the Climate Emergency* Series. January 2026. Pg. 30.

proceedings but are in fact designed to intimidate, silence, or exhaust them[166]. Here again, the Inter-American standard is clear: States must establish procedures enabling such actions to be identified and dismissed promptly rather than allowing them to generate restrictions on the rights of defenders[167]. At a minimum, States should provide for early dismissal mechanisms, sanctions against those who file abusive proceedings, and compensation for persons who have been unjustifiably targeted[168].

The African Court is therefore called upon to determine that the special duty of protection requires States to dismantle the structural drivers of criminalization, stigmatization, and SLAPPs. This interpretation is central to the scope of question 94(b), as it identifies the essential safeguards for those facing heightened risk in the climate context. Ultimately, the prevention of judicial harassment is a cornerstone of access to justice, ensuring that the legal system functions as a guarantee of rights rather than a mechanism for reprisal.

5. Third-party and corporate obligations

In the context of the climate crisis, environmental human rights defenders may face serious risks not only from State agents but also from private actors whose economic or business interests are affected by their work[169]. Human rights defenders who expose environmentally harmful corporate conduct or resist projects that affect their territories, livelihoods, or ecosystems may become particularly vulnerable to threats and attacks from economic and business groups[170]. The relevance of this issue is especially clear in climate-related conflicts, where environmental defense frequently intersects with extractive

[166] European Commission. *Proposal for a Directive of the European Parliament and of the Council on protecting persons who engage in public participation from manifestly unfounded or abusive court proceedings ("Strategic lawsuits against public participation")*. COM(2022) 177 final. 2022/0117 (COD). Brussels, April 27, 2022. Pg. 16; CEJIL, *The Right to Defend Human Rights*, *Op. Cit.* Pg. 49.

[167] I/A Court H.R., *Climate Emergency*, *Op. Cit*. Para. 587.

[168] European Commission, *Proposal for a Directive on Strategic Lawsuits against Public Participation*, *Op. Cit.* Pg. 16; CEJIL, *The Right to Defend Human Rights*, *Op. Cit.* Pg. 49.

[169] CEJIL et al., *Amicus Curiae brief on the climate emergency*, *Op. Cit.* Pg. 50 and 51; Business & Human Rights Resource Centre. *Guardians at Risk: Facing Corporate Abuse in Latin America and the Caribbean*. September 2023. Pg. 4.

[170] CEJIL et al., *Amicus Curiae brief on the climate emergency*, *Op. Cit.*, P. 50 and 51; Business & Human Rights Resource Centre. *Guardians at Risk: Facing Corporate Abuse in Latin America and the Caribbean*. September 2023. Pg. 8.

activities, infrastructure projects, land-use change, and other operations backed by powerful private interests[171].

The Court should therefore frame this issue primarily in terms of State obligations regarding third-party risks. The Inter-American Court held that States are obliged, subject to a standard of enhanced diligence, to investigate, prosecute, and punish crimes committed against environmental defenders, and expressly clarified that this obligation extends to acts committed by private parties, since failure to investigate them diligently effectively aids those actors[172]. The special duty of protection requires States not only to refrain from violating defenders' rights, but also to adopt legal provisions, public policy instruments, and institutional practices capable of protecting them against harms generated by third parties[173].

In this regard, companies should recognize the specific risks faced by environmental defenders, refrain from causing harm, prevent and mitigate risks linked to their operations, and adopt clear and accessible policies regarding violence against defenders arising from corporate activity[174]. Therefore, businesses should carry out human rights due diligence to identify, prevent, mitigate and account for climate-related harms, and States should ensure that affected rights-holders have access to effective remedies[175]. These standards do not shift the focus away from the State; rather, they help specify the kind of regulatory and oversight framework States must establish in order to prevent private actors from undermining environmental defenders' work[176].

Accordingly, the Court may clarify that, under question 94(f), African States have an obligation to regulate, supervise, investigate, and sanction third-party conduct that threatens or harms environmental defenders in the context of the climate crisis. At a minimum, this requires legal and policy frameworks capable of imposing corporate due diligence, transparency, accountability, and access to remedy where private activities create or intensify risks for defenders. This bears

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[171] *Ibid*.

[172] I/A Court H.R., *Climate Emergency*, *Op. Cit*. Para. 581; I/A Court H.R. *Case of Velásquez Rodríguez v. Honduras*. Merits, *Op. Cit*. Para. 177; I/A Court H.R. *Case of Dos Santos Nascimento and Ferreira Gomes v. Brazil. Op. Cit*. Para. 115.

[173] I/A Court H.R., *Climate Emergency*, *Op. Cit*. Paras. 566 and 567.

[174] UN – Human Rights Council. *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework*. UN Doc. HR/PUB/11/04. 2011. II.

[175] IACHR and REDESCA. *Business and Human Rights: Inter-American Standards*. OAS/Ser.L/V/II. IACHR/REDESCA/INF.1/19. November 1, 2019. Para. 48.

[176] *Ibid*.

most directly on question 94(f), but it also reinforces question 94(b), since effective protection of environmental defenders is incomplete if States do not address risks arising from powerful non-State actors.

6. Implementation measures: information systems on violence against human rights defenders.

States' special duty of protection in the context of the climate crisis includes an obligation to generate and maintain reliable information on violence against human rights defenders, including environmental human rights defenders. As clarified in Advisory Opinion OC-32/25, States must compile and keep up-to-date disaggregated data on verified cases of killings, kidnappings, forced disappearances, arbitrary detentions, torture, and other harmful acts committed against such defenders, taking into account relevant socio-economic factors, including gender, age, sex, and ethnicity[177]. This requirement is not merely evidentiary: it is a concrete institutional measure through which the State identifies risks, detects patterns of abuse, and grounds its protective response in verifiable information[178].

This obligation has been recognized in the Court's broader jurisprudence concerning human rights defenders and other at-risk groups, such as journalists, and applies with particular force in the case of environmental defenders in the context of the climate crisis. Properly designed information systems should therefore do more than record isolated incidents. They should enable authorities to identify recurring forms of violence, territorial and sectoral patterns, groups facing differentiated risk, failures in protection, and trends of impunity[179]. To ensure the effectiveness of the duty to investigate, States must develop the institutional capacity to conduct contextualized analysis and identify patterns of systematic violence, thereby overcoming the fragmentation of isolated investigative efforts[180].

The Court is therefore invited to affirm that the duty to collect, systematize, and analyze data on violence against environmental defenders constitutes a substantive component of the special duty of protection. Establishing such systems is essential to transform protection from a merely declaratory

[177] I/A Court H.R., *Climate Emergency*, *Op. Cit*. Para. 575 and 586
[178] *Ibid.*
[179] The Esperanza Protocol, Op Cit. Pg. 30; CEJIL et al., *Amicus Curiae brief on the climate emergency*, *Op. Cit.* Pg. 32.
[180] *Ibid*.

commitment into an operational State practice, ensuring that prevention is evidence-based and institutional responses are transparent[181]. This standard is directly responsive to question 94(b), as it identifies a concrete implementation measure for safeguarding those at risk. Furthermore, it reinforces the right to access to justice, as reliable information is a prerequisite for investigating attacks and preventing their recurrence.

IV. Conclusion and requests

The present submissions seek to assist the Court in addressing the questions raised in paragraphs 94(b) through 94(f) of the request, read in light of the broader framework established in paragraphs 94(a) and 94(g). Central to this effort is the examination of climate change through two interrelated dimensions: the role of climate-related information as an enabling guarantee and the scope of States' obligations to protect environmental human rights defenders. The ultimate objective of these arguments is to provide a constructive and respectful contribution to the Court's task of clarifying State duties under the African Charter amidst the climate emergency.

Regarding access to climate-related information, this submission has emphasized that such information constitutes an essential procedural guarantee for the effective protection of human rights. It has argued that, beyond reactive disclosure, States are required to generate, systematize, and proactively disseminate climate-relevant information that is timely, accessible, adequate, and grounded in the best available science, while also incorporating the knowledge and experiences of affected communities. These elements are indispensable to ensure that prevention, participation, accountability, and access to justice in climate matters are not merely formal guarantees, but effective and operational rights.

Complementing the duty of transparency, the protection of environmental human rights defenders stands as the structural foundation for any rights-based response to the climate crisis. As demonstrated, this reinforced duty is anchored in the vital intersection between the defenders' essential democratic role and the heightened, often intersectional risks they face. Fulfilling such a mandate requires a holistic framework—spanning prevention, physical protection, and enhanced due diligence—while effectively dismantling the structural drivers of violence and the proliferation of SLAPPs. Ultimately, the efficacy of these institutional

[181] I/A Court H.R., *Climate Emergency*, *Op. Cit*. Para. 575.

responses is inseparable from the creation of specialized information systems designed to identify and dismantle patterns of systematic harm.

In light of the above, the Center for Justice and International Law (CEJIL) respectfully submits that the clarification of these standards would contribute to strengthening the African human rights system's response to the climate crisis, in a manner that remains fully grounded in its own normative framework while benefiting from constructive dialogue with other regional systems. Such cross-fertilization of jurisprudence may support the development of coherent and effective human rights protections in the face of a global and shared challenge.

CEJIL therefore respectfully reiterates its request to be admitted as amicus curiae in these proceedings and stands ready to assist the Court in any further manner it may deem appropriate.