

ENVIRONMENTAL JUSTICE AND THE PROTECTION OF HUMAN DIGNITY: LEGAL CHALLENGES AND OPPORTUNITIES UNDER THE NEW COUNCIL OF EUROPE CONVENTION

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Abstract: *The Council of Europe's Convention on the Protection of the Environment through Criminal Law represents an innovative instrument within the international legislative framework, with the potential to enhance the protection of the ecosystem and the respect for human dignity. This article aims to examine, through the analysis of recent cases of environmental degradation, the main shortcomings that the Convention seeks to address and the legal mechanisms established to do so. It demonstrates that the provisions contained in the Convention can serve as catalysts for broader global enforcement, ultimately benefiting populations and safeguarding their dignity.*

Key words: Environmental Justice, Human Dignity, Council of Europe, Criminal Law, Legislative Enforcement

1. A New Convention as a Response to the Environmental Crisis

On 14 May 2025, the Council of Europe's Committee of Ministers adopted the Convention on the Protection of the Environment through Criminal Law (hereinafter called 'the May 2025 Convention'). This represents a significant step forward in safeguarding human dignity and falls within the broader framework of what is recognized as the protection of human rights.

In recent years, this perspective has been reinforced at the international level: first, by the United Nations Human Rights Council through Resolution 48/13 in 2021 (UN Human Rights Council, 2021), and subsequently by the United Nations General Assembly through Resolution 76/300 in 2022 (UN General Assembly, 2022), both of which formally recognized the human right to a clean, healthy, and sustainable environment.

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First and foremost, it is worth noting that the preamble of the May 2025 Convention itself explicitly states that the member States and governments of the Council of Europe “*declared their commitment to strengthening their work at the Council of Europe on the human rights aspects of the environment, to identifying the challenges raised by the triple planetary crisis of pollution, climate change and loss of biodiversity for human rights, and to contributing to the development of common responses thereto*” (Council of Europe Convention, 2025, p. 1). It is precisely on this triple planetary crisis that the present article intends to focus, in order to demonstrate - also through reference to previous cases of environmental degradation - the essential role of such a Convention in addressing the interconnected crises of pollution, climate change, and biodiversity loss. This need arises not only for the protection of the environment itself, but also for the preservation of human dignity.

Indeed, it is widely acknowledged across multiple fields, including legal scholarship and jurisprudence, that an attack on the environment simultaneously constitutes an attack on human dignity, irrespective of the country in which it occurs (Carrillo-Santarelli and Seatzu, 2025, p. 6; Palarczyk, 2023, p. 193; Spijkers, 2022).

From a legal standpoint, the objective of the May 2025 Convention is to overcome the limitations of Convention No. 172 of 1998 on the Protection of the Environment through Criminal Law, which never entered into force, having been ratified only by Estonia and requiring a minimum of three ratifications (Council of Europe Convention, 1998).

Pursuant to Article 53 of the May 2025 Convention, it will enter into force once ten states - including at least eight members of the Council of Europe - have ratified it (Council of Europe Convention, 2025, p. 16). If achieved, it would become the first legally binding international instrument capable of addressing the recent and emerging challenges posed by the escalating degradation of the ecosystem.

As stated in its Explanatory Report, the Convention was conceived in response to the recognition that “*environmental crime can have devastating impacts on environmental quality, biodiversity and natural resources but also on human health*” (Council of Europe Convention, Explanatory Report, 2025, p. 2). This clearly illustrates the connection with human dignity, considering that “*single human rights are practical implications of human dignity*”, where dignity is understood as the intrinsic value that makes every human being worthy of treatment that allows him or her to realize their human potential and live in peace with themselves (Kuçuradi, 2019, p. 11).

2. Environmental Degradation and the Violation of Human Dignity in Italy Prior to the May 2025 Convention: An Overview of the Key Challenges

In order to understand the actual usefulness of the May 2025 Convention and its potential impact on the protection of the environment and, consequently, on the safeguarding of human dignity, it is necessary to analyze several cases of environmental damage that occurred prior to the adoption of the Convention. In this way, it becomes possible to recall the critical events of the past and assess whether the May 2025 Convention could effectively provide remedies for such situations. The selected period of analysis focuses on two incidents that took place in Italy.

2.1. The 'Miteni' Case

The first and most recent one is the so-called Miteni case, in which the company Miteni was convicted at first instance by the Court of Assizes of Vicenza, Italy, in May 2025 for several criminal offences, including environmental pollution and water poisoning (Miteni Judgment, 2025; Kaldor, 2025). The conviction resulted from the discharge of highly polluting substances known as PFAS, also referred to as 'forever chemicals' because of their persistence in the environment and the serious harm they cause to human health, including the development of diseases and disorders such as cancer and diabetes (Vasiliou, Bilott, 2025), but also psychological issues (Menegatto, Lezzi, Musolino, Zamperini, 2022), which can infringe upon the dignity of human beings. This case is particularly relevant as it illustrates a clear violation of human dignity affecting a wide number of individuals living in the surrounding areas.

Firstly, although environmental legislation existed - and evolved over time - it was systematically disregarded in favor of economic interests. As a result, the damage extended not only to individuals but to an entire community - across the Italian provinces of Vicenza, Padua, and Verona - and even to one of the largest aquifers in Europe (Biggeri et al., 2024).

This reveals one of the main deficiencies that the Council of Europe's Convention aims to remedy: ensuring that human dignity is fully protected through effective environmental criminal law not only in Italy but also in other parts of the world where PFAS discharges - or pollution from other substances - may occur. It is not sufficient that national legislation merely exists in this field. What must be ensured, first and foremost, is the adequacy of such legislation - with all the challenges that the concept of 'adequacy' entails - and, secondly, the existence of genuine mechanisms of enforcement. Knowing the serious consequences of PFAS discharges on both the environment and human health, and nevertheless choosing to ignore them for years, can only be interpreted as a profound disregard for human dignity.

Secondly, the issue lies in the limited awareness within society regarding environmental issues - such as pollution - that inevitably affect individuals and their dignity, as well as in the insufficient effectiveness of existing norms. This ineffectiveness has long been debated in Italian legal scholarship, where one of the main concerns identified has been the lack of clarity in Article 452-bis of the Italian Criminal Code, which defines the offence of environmental pollution (Napoletano, Acampora, Masi, Verginelli, 2021, p. 6; Ruga Riva, 2016). From the perspective of deterrence, a legal provision that lacks precision hinders its practical enforcement, making it difficult to obtain convictions for crimes, particularly those that are complex to prove.

The ultimate consequence, however, falls upon individuals, whose protection becomes secondary, leading to the conclusion that human dignity itself is relegated to the background.

2.2. The 'ILVA' Case

The second event examined is the so-called ILVA case in Taranto, concerning a company primarily engaged in the production and processing of steel. Established in

1961, ILVA built a large industrial complex in Taranto, which became the largest steel production facility in Europe (Vagliasindi and Gerstetter, 2015, p. 7).

For the purpose of assessing the violation of human dignity it is important to note that the company pursued a profit-driven and cost-saving approach, despite being aware of the serious risks associated with its production methods. This approach, however, stands in contrast with Article 41 of the Italian Constitution, which establishes that private economic enterprise cannot be conducted in a manner that conflicts with social utility or causes harm to health, the environment, safety, freedom, or human dignity (Italian Constitution, 1948). It is precisely this aspect - the harm to the environment and human dignity - that the May 2025 Convention aims to prevent today.

The company's methods generated emissions of various atmospheric pollutants, which not only caused significant environmental degradation in the surrounding area but also resulted in severe public health consequences. The local population experienced higher rates of respiratory diseases and cancer compared to national averages (Pirastu, Iavarone, Pasetto, Zona, Comba, 2011, p. 137; Bisceglia et al., 2005). The outcome was a clear violation of human dignity and of the fundamental human right to health.

This leads to a key question that the present analysis seeks to address: How might the provisions contained in the May 2025 Convention shape more effective prevention and accountability mechanisms in the future in the whole world? The following reflections aim to analyze this issue.

3. Can the May 2025 Convention Resolve the Issues Identified in the Miteni and ILVA Cases and Ensure Greater Respect for Human Dignity?

At this point, the May 2025 Convention enters into play as a potentially transformative instrument for addressing the structural weaknesses briefly exposed by the Miteni and ILVA cases in the protection of both the environment and human rights, while also serving as a warning for future cases across the world.

3.1. Global applicability, thematic scope, and Environmental restoration

From a legislative standpoint, the Convention introduces a series of obligations that could substantially enhance the enforcement of environmental criminal law if properly implemented at the national level, not only in those States that currently lack a comprehensive legal framework in this field, but also in those where existing legislation proves to be inadequate or ineffective.

For instance, consider air quality. In both Europe and other parts of the world, there are many areas with high pollution levels and very low air quality indices, which correlate with increased disease incidence and a reduced quality of life (Worldwide Air Quality Report 2024, 2025). The May 2025 Convention, as confirmed by Article 53, is open to all countries worldwide.

Global implementation - or even widespread adoption - could yield broad and exponential benefits, since environmental issues do not follow national borders.

Compliance with environmental rules in one state would not only benefit that state but also the neighboring countries. This is particularly relevant in cases of severe environmental concern, such as air pollution in India, Bangladesh or Pakistan (Worldwide Air Quality Report 2024, 2025), or the living conditions of the Rohingya minority at the Myanmar-Bangladesh border in Cox's Bazar, where human dignity is manifestly compromised (Howlader, Nesa, Islam, 2025, p. 10).

In the May 2025 Convention, Articles 12 to 30 establish a catalogue of criminal offences covering among others unlawful pollution, fluorinated greenhouse gases, illegal management of waste, the operation of dangerous installations, and the unlawful trading in protected wild fauna or flora. Some of these provisions directly encompass the type of conduct that occurred in both Miteni (the discharge of PFAS into soil and groundwater) and ILVA (the emission of harmful substances from industrial facilities).

The drafters of the Convention introduced an important tool from the perspective of environmental protection, demonstrating due attention to human rights and, consequently, to the dignity of every living being. Indeed, the Convention extends criminal liability to situations where conduct is likely to cause serious harm to individuals or substantial damage to the environment, thereby allowing for earlier and more preventive intervention. This approach aligns with the precautionary principle and reflects the broader rationale that environmental criminal law should primarily serve as a preventive function, anticipating harmful events before they occur and thereby avoiding damage that often proves extensive and irreversible (such as wildfires, environmental pollution, climate change, or deforestation).

Furthermore, the Convention establishes enforcement mechanisms, requiring under Article 34 the introduction of corporate liability. This provision seems appropriate and consistent with the genuine goal of environmental protection, given that major environmental disasters, such as the ILVA and Miteni cases in Italy, resulted from industrial activities for which adequate safeguards may still be lacking in other countries.

Article 35 is also significant, mandating the adoption of "*effective, proportionate and dissuasive sanctions, taking into account the seriousness of the offence*". The May 2025 Convention further clarifies in Article 35(4) that States Parties should "*include among the sanctions and measures applicable to natural and legal persons the reinstatement of the environment*". While this may appear obvious in countries like Italy, where environmental remediation is already provided for, it is not the case in many other states. Given that environmental harm transcends territorial boundaries, the emphasis on remediation aligns closely with the broader goal of protecting human dignity.

3.2. Towards an improved awareness of Environmental risks

To ensure effective implementation, it is essential to have a thorough understanding of the critical issues involved in environmental protection. For this reason, the second theme concerns the widespread lack of awareness among the population regarding the risks that arise not only for those living near areas affected by high levels of air emissions or waste discharge into soil or water, but also from the risks to human health that accompany any activities connected with or dependent upon the environment.

The May 2025 Convention might serve as an instrument to compensate for this lack of awareness in two principal ways.

The first, of a sociological nature - and perhaps the most significant in terms of its positive implications for human dignity - is the dialogue in the field that naturally follows the adoption of such a Convention. This discourse tends to spread to various sectors of society (e.g. policymakers, medical professionals, university students, and even school students). It is not a matter of merely amending a single article of domestic legislation.

In some States, which currently lack adequate regulation in this field, such as Uruguay which is in the process of creating new articles to be included in its criminal code, it would entail a genuine implementation or rethinking of environmental law (Vicente, 2025; Uruguayan Parliament, 2025; Iglesias Rossini, 2024). In this case, adhering to and implementing the May 2025 Convention would allow for greater respect for both the environment and human dignity in Uruguay, especially considering the evident absence - within the Uruguayan draft bill - of several provisions included in the Council of Europe Convention, as well as the incomplete formulation of those that are currently provided for in the draft legislation (Uruguayan Parliament, 2025).

The same applies to those States that already possess environmental legislation, yet one that proves insufficient in practice. Such a process of reconsideration would inevitably generate public debate, reaching a significant portion of the population and enabling citizens to understand, if not fully, at least more clearly, the real consequences of environmental degradation.

The significance of this cannot be overstated: one need only consider the damage that might have been avoided in the Miteni or ILVA cases if the majority of the population had been aware, from the outset, of the actual effects of those emissions or discharges.

Bringing this reflection into a contemporary context - both in 2025 and for the future - the same applies to the training of artificial intelligence (AI). Most of the population, if not nearly all, is unaware of the environmental and health risks associated with AI training. Although this is not the place for an in-depth discussion of the matter, it is sufficient to note that several studies have linked AI training processes to increased air pollution and to higher rates of illness among vulnerable populations living near data centers, those industrial facilities essential for AI model training (Morrison et al., 2025; Han, Wu, Li, Wierman, Ren, 2024).

If the public, policymakers, and legislators were aware of these risks, they could, within their respective spheres of influence, contribute to the implementation of the measures envisaged by Article 18 of the May 2025 Convention, which provides that "*Parties shall take the necessary legislative measures to establish as a criminal offence under their domestic law, when committed unlawfully and intentionally, the production, placing on the market, import, export, use or release of fluorinated greenhouse gases, or the placing on the market or import of products and equipment containing or relying on such gases*" given the high levels of gas emissions produced by data centers and the relatively limited attention currently devoted to this issue, even in countries with extensive environmental protection legislation, such as Italy.

The second aspect, closely connected to the first, is legal in nature and arises once awareness has been achieved. When society becomes conscious of the need for protection - whether against new phenomena (such as AI training) or against recurring

harms (such as PFAS discharges into water and soil) - there can no longer be any justification for enterprises that continue to exceed legal emission limits.

The remaining challenge lies with the legislator, who must set limits that truly reduce risks to human health and protect the environment through implementing legislation that is as clear and simple as possible. When laws lack clarity, judges struggle to apply them, and citizens cannot tell when emissions become unlawful.

Notably, as further confirmation of the usefulness of the May 2025 Convention, Article 11, entitled 'Awareness raising', directly aligns with the reasoning developed thus far. It provides that "*Parties shall take the necessary measures to promote or organise information and awareness-raising campaigns relating to preventing and combating environmental crime, where appropriate, in co-operation with civil society and non-governmental organisations*" and they should also "*take the necessary measures to ensure the wide dissemination among the general public of information on measures available to prevent offences established in accordance with this Convention*". It follows that greater public awareness of environmental issues can lead to a more effective respect for human dignity.

3.3. Defining Environmental Damage: How the May 2025 Convention Can Contribute?

Within the broader context of persistent non-compliance and violations of environmental protection provisions, a third and additional technical challenge arises, one that the Council of Europe's May 2025 Convention seeks to address. Specifically, this concerns the lack of clarity in certain environmental protection norms, which inevitably leads to interpretative and applicative difficulties that both legal scholarship and jurisprudence have long attempted to remedy.

Taking Article 452-bis of the Italian Criminal Code as an example, one encounters expressions such as 'significant and measurable' impairment or deterioration of water or air, or of 'extensive or significant' portions of soil or subsoil.

It is important to recall here the precautionary principle, which is based on a risk-management approach according to which, when it is possible that a given policy or action may cause harm to citizens or to the environment (and, consequently, to human dignity), and scientific consensus on the matter is lacking, such a policy or action should not be pursued (Schröder, 2014).

At first glance, Article 452-bis of the Italian Criminal Code appears to embody precisely this rationale: preventing environmental risks from escalating into situations that compromise human dignity through damage to health and the environment. However, the real problem arises in the practical application (or rather, the non-application) of Article 452-bis, due to the inherent difficulty in determining the thresholds implied by terms such as 'significant and measurable' and 'extensive and significant'.

The primary consequence is the failure to apply the offence of environmental pollution, thereby allowing the continuation of harmful practices such as high-risk emissions and discharges that endanger human health and the ecosystem. These practices, in turn, lead to living conditions characterized by serious diseases or, in the best cases, minor health issues.

It is precisely at this point that the May 2025 Convention becomes relevant. Chapter IV of the Convention, concerning Substantive Criminal Law, opens with a section devoted to 'Pollution, Products and Substances'. Article 12, arguably one of the provisions that should be at the core of national legislative policies on environmental protection, addresses 'Offences related to unlawful pollution'. It provides that "*Parties shall take the necessary legislative measures to establish as a criminal offence under their domestic law, when committed unlawfully and intentionally, the discharge, emission or introduction of a quantity of materials or substances, energy or ionising radiation into air, soil or water, which causes or is likely to cause death or serious injury to any person or substantial damage to the quality of air, the quality of soil or the quality of water, or to animals or plants*".

The most relevant part of this provision, in terms of protecting human dignity, lies in the inclusion of conduct that is likely to cause death or serious injury, not only when such outcomes actually occur. This preventive dimension marks a substantial advancement in recognizing the intrinsic link between environmental integrity and the protection of human life and dignity in any country in the world.

On the one hand, it is true that the Convention establishes a general framework that States must then concretely define. On the other hand, it is equally true that the States implementing it must avoid repeating the same mistakes made by Italy. At the national level, it is of little use to create a provision that merely refers to specific threshold value tables, since such thresholds should ideally be reduced over time and changing the law is tough, especially when it comes to private interests. Moreover, situations may arise in which the regulation is no longer adequate to current production standards.

From this perspective, one of the most promising approaches - also in terms of ensuring respect for human dignity - is to develop legislation grounded in a strong preventive logic. This would help limit damage to the ecosystem and prevent interpretative issues that may arise when dealing with vague or unclear legal provisions.

The May 2025 Convention explicitly embraces this principle by providing, within its text, for sanctions even in cases where the criminal offence has not yet occurred but there is a possibility that it may occur.

4. Conclusions

The framework provided by the Convention is therefore one that, if effectively implemented by States, could ensure stronger global protection of the ecosystem and, consequently, of human dignity. Certain questions remain, particularly concerning the genuine willingness of States to adhere to the Convention. However, the Convention also provides the necessary instruments to achieve this goal: a global scope, comprehensive regulatory coverage, and provisions aimed at restoration and remediation - fully consistent with the objective of reaffirming human dignity in the lives of individuals who have chosen to live in a given environment. Moreover, the Council of Europe has demonstrated an awareness of the importance of increasing public understanding of environmental issues.

At the same time, doubts inevitably persist, especially regarding the creation of legal

norms that can ensure effective protection, given that legislators differ widely in their contexts and legal traditions.

Nevertheless, the May 2025 Convention represents an essential starting point. Further mechanisms to facilitate broader ratification must be developed in the coming months to ensure the protection of the ecosystem and, ultimately, the safeguarding of human dignity.

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