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SYSTEMIC INTEGRATION IN THE ENVIRONMENTAL JURISPRUDENCE OF REGIONAL HUMAN RIGHTS COURTS

A COMPARATIVE PERSPECTIVE

(Theses of the PhD dissertation)

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I. The Subject and Aim of the Dissertation

The aim of this dissertation is to examine and compare the evolution of the environmental jurisprudence in the case law of regional human rights courts from the perspective of systemic integration as a method of treaty interpretation. The intersection of human rights and the environment is an expanding field of research, with a growing case law at various – domestic, regional, and international – levels, and a multitude of scholarly contributions addressing its legal, ethical, and practical dimensions.

In addition, the environmental case law of regional human rights courts has been the subject of scientific works from several perspectives; yet, it has not been analysed comprehensively from the perspective of systemic integration. However, treaty interpretation, particularly systemic integration, is crucial in the evolution of the environmental jurisprudence of human rights courts, primarily because it allows courts to take into consideration the relevant rules of public international law to establish certain standards that cannot explicitly be deduced from the text of international human rights treaties. The thesis, therefore, seeks to fill this gap in legal scholarship by examining the possibilities and the limits of the interpretation of human rights in light of other sources of law, particularly international environmental legal norms.

The evolving jurisprudential landscape gives rise to several central research questions in the topic, namely:

1. To what extent has systemic integration influenced the interpretation and expansion of substantive and procedural human rights obligations in environmental cases?

2. What are the discernible patterns or divergences in the approach of different courts towards systemic integration in environmental cases?

3. What are the potential implications of the courts' use of systemic integration for the future of environmental human rights protection at the regional and international levels?

The author believes that the examination of the courts' approaches to the relevant rules of international environmental law may also have broader implications for the evolution of public international law as well, especially for the doctrine of the sources of public international law.

Namely, Article 38 of the Statue of the International Court of Justice provides an authoritative, yet non-exhaustive categorisation of the sources of public international law (international conventions, international custom, general principles of law and the subsidiary means for interpretation) but does not refer to soft law documents that are frequently referenced by human

rights courts in their environmental jurisprudence. Therefore, the thesis also aims to address the question of whether international environmental standards developed by human rights courts could be defined as soft law or whether we can experience the formulation of customary law regarding rights-based environmental protection.

The relevance of the topic is manifold. The environmental jurisprudence of human rights courts is one of the most dynamically evolving fields, which is shown by the relatively high number of pending cases and recently adopted judgments that can already be considered as milestones in human rights litigation. The development of case law sheds light on the critical role courts can play in establishing standards in frameworks that were originally not designed to address environmental crises. This point also raises the need to clarify the limits of the research, as the analysis focuses on the jurisprudence of regional human rights courts, without extending to other international or domestic judicial bodies addressing environmental matters. The limitation primarily stems from the authoritative weight of human rights courts, as they interpret binding human rights treaties and provide binding judgments, thus establishing obligations for States. In addition, the focus on human rights courts helps to maintain the conceptual and doctrinal coherence of the dissertation. Environmental issues are addressed by a wide variety of international tribunals, yet their mandates, applicable law, and interpretative rules may differ to such an extent that a comparative analysis across these fora would undermine the objective of doctrinal consistency.

II. The Methodology of the Research and the Structure of the Dissertation

As noted above, the primary aim of the dissertation is to examine how regional human rights courts have developed their environmental jurisprudence through the interpretative method of systemic integration. The dissertation adopts a predominantly doctrinal legal research methodology, combined with elements of comparative legal analysis of the three courts' jurisprudence. In doing so, the research critically engages with the case law of these courts, relevant treaty provisions, and scholarly commentary. Given the high number of cases relevant to the present research, the author inevitably limited the scope of the analysed cases to those that explicitly, or, on certain occasions, implicitly apply, reference, or engage with the method of systemic integration. Thus, the analysed cases were selected upon the following criteria: (i) their relevance to the development of the environmental jurisprudence of the court; (ii) the extent to which the judgment engages with the interpretative technique of systemic integration, primarily in an explicit way; and (iii) the impact of the case for cross-regional analysis, and the development of future case law.

Although the thesis examines the case law of human rights courts, the work of the commissions in two human rights systems – the Inter-American and the African human rights systems – cannot be neglected, as they significantly complement the jurisprudence of the courts. Therefore, the analysis will briefly reflect on the adjudicatory function of the commissions and their environmental case law. In addition, the analysis cannot strictly be limited to environmental cases, as it is embedded in the courts' broader jurisprudence to demonstrate how the courts have embraced systemic integration and built on the sources of other fields of public international law, such as international humanitarian law or international criminal law.

The thesis is divided into four major parts: Part I serves as an introduction to the dissertation and sets out the methodology, motivation, and relevance of the research within the domestic and international legal scholarship. Part II presents the current status of the interrelationship of human rights and the environment in public international law, introducing the theoretical and normative foundations (II.1.), and identifying topical challenges that the protection of the environment raises for the doctrine of international human rights law (II.2.).

Part III, the central part of the thesis, examines systemic integration in the environmental jurisprudence of human rights courts. Part III.1. provides a general overview of the doctrine of systemic integration in public international law and international human rights law as a self-contained regime. This part contains a detailed analysis of the relevant case law from the

jurisprudence of the European Court of Human Rights (III.2.), the Inter-American Court of Human Rights (III.3.), and the African Court of Human and Peoples' Rights (III.4.). Part IV draws together the key findings of the dissertation, also reflecting on potential future research directions concerning the interrelationship of human rights and the environment.

III. Summary of the Scientific Results and their Possible Practical Application

The dissertation examines the environmental jurisprudence of regional human rights courts from the perspective of systemic integration as a treaty interpretation method to evaluate the role of other sources of public international law, particularly of international environmental law, in the evolution of the international human rights jurisprudence.

The analysis is embedded in the broader context of the interrelation of human rights and the environment, a phenomenon that has preoccupied academics and practitioners for several decades. The interconnection between human rights and the environment has been recognised since the early stages of the development of modern international environmental law, yet it began to be articulated within human rights law only in recent decades. The growing tendency of recognising an environmental right in international environmental law culminated in 2022, with the recognition of the right to a clean, healthy and sustainable environment by the United Nations General Assembly (UNGA). However, the normative status of this document is not yet clarified; as a soft law instrument, it is certainly not justiciable. However, the recent advisory opinion of the IACtHR and particularly the ICJ may demonstrate that it forms part of customary norms.

Furthermore, the formulation of a customary norm of the protection of the environment through human rights law is not limited to the questions evolving around the recognition of the right to a healthy environment, as environmental concerns have been progressively integrated into the interpretation and application of other human rights provisions in regional human rights jurisdictions. As it is argued throughout the dissertation, systemic integration, that is, the integration of the norms of the system expressing the interrelation of human rights and the environment, has played and continues to play a significant role in developing standards of the environmental jurisprudence of human rights courts.

In the dissertation, the environmental case law of human rights courts is analysed along the axis of substantive and procedural standards, as this analytical distinction facilitates the identification of patterns in the evolving scope of environmental human rights protection. The primary and most discernible feature in the examined regional human rights systems concerns the explicit recognition of environmental rights. Namely, the European human rights system is the only one among the three examined jurisprudences that does not explicitly provide for the right to a healthy environment or any other reference to the environment. Although there have been continuous endeavours to adopt an additional protocol to the European Convention on

Human Rights recognising the right, the European Court of Human Rights ruled on numerous occasions that, in the absence of an explicit provision, Judges cannot pronounce the violation of environmental rights. On the other hand, the right to a healthy or satisfactory environment is expressly recognised in the Inter-American and African jurisprudence, although in different normative contexts. The proactive approach of the Inter-American Court of Human Rights played a significant role in establishing the justiciability of economic, social and cultural rights, including the right to a healthy environment, that are established in a protocol to the American Convention on Human Rights. In the African human rights system, although the justiciability of the right was not subject to discussion, as it is enshrined in the text of the African Charter on Human and Peoples' Rights, so far, the Court has not made full use of the potential of the recognition of the right.

To date, there have been three cases at the international level in which a violation of the right to a healthy environment was established, namely *Lhaka Honhat v. Argentina* and *La Oroya v. Peru* from the Inter-American Court's jurisprudence, and *SERAC v. Nigeria* from the practice of the African Commission on Human and Peoples' Rights. Notably, *La Oroya*, adopted after the UNGA Resolution on the right to a clean, healthy and sustainable environment, acknowledged the *jus cogens* nature of certain elements of this right. The Court's conclusion certainly constitutes a groundbreaking development in international human rights law with implications for public international law as well. It could be argued that the pronouncement of the *jus cogens* nature of a norm, as supported by *Advisory Opinion OC-32/25*, while it strengthens the position of States' human rights obligations regarding the protection of the environment, at least in the Inter-American system, may extend beyond the scope of the Inter-American court, and would require support from other international courts, primarily the International Court of Justice in its future jurisprudence.

Although no other judgment has gone so far as to explicitly pronounce the *jus cogens* nature of environmental norms, certain standards of international environmental law have been integrated into the jurisprudence of human rights courts. Regarding the substantive aspect, the European Court primarily refers to soft and hard law documents adopted within the framework of the Council of Europe, and occasionally, the European Union. Finding the "European consensus" is necessary to establish certain standards, which is why it can be observed that the Court attaches primary importance to the geographical scope of the materials considered, and places less emphasis on the binding nature of such sources, as can be seen in the example of Council of Europe treaties that have been cited in the judgments even if they have not entered into force.

Furthermore, other relevant sources may occasionally be referred to in the judgments in the context of substantive standards. These examples include scarce references to the Stockholm Declaration and other international human rights treaties, such as the ICCPR and its interpretation by the UN Human Rights Committee. Recent judgments, particularly *Verein KlimaSeniorinnen* and *Cannavacciuolo*, reflect an emerging pattern to consider a broader scope of international legal materials, including the international normative framework and the jurisprudence of other forums, particularly UN human rights treaty bodies and other regional human rights courts.

In comparison, the so-called "international *corpus juris*" has been at the centre of attention of the Inter-American court. Since the earliest cases involving environmental considerations, primarily under the right to property, the Court has engaged with a broad scope of international legal sources, either of soft or hard legal nature, including the jurisprudence of other human rights bodies. In contrast with the European court, its Inter-American counterpart may rely on the *iura novit curia* principle, which allows the Court to examine possible violations of the norms that have not been alleged by the parties, or that are not explicitly recognised in the Inter-American system, such as the right to water. The two courts' approaches to such interpretative methods represent the most significant difference in the two jurisprudences from the perspective of the dissertation. While the European jurisprudence centres around common values – the "European consensus" –, which, at the moment, does not entail an explicit and justiciable right to a healthy environment enforceable at the international level, the Inter-American system presupposes that the "court knows the law", and thus may progressively develop it through judicial interpretation. The culmination of this interpretative approach is certainly the recognition of the *jus cogens* nature of States' obligation to protect the environment in the *La Oroya* judgment and *Advisory Opinion OC-32/25*.

Considering the substantive aspect of the protection of the environment in human rights law, the African human rights system is equipped with a robust normative framework that explicitly recognises the right to a healthy environment in the Charter and one of its protocols in the context of the rights of women, and provides and international environmental treaty that expressly refers to the human rights enshrined in the Charter. Although the African environmental human rights jurisprudence encompasses relatively few cases, certain patterns can also be discerned in respect of the substantive standards of environmental protection. First, African human rights bodies draw significant inspiration from the universal human rights framework and the Inter-American and European jurisprudences. Interestingly, scarce

references can be found to international environmental legal sources; one of the few exceptions could be the reference to the Stockholm Declaration. Furthermore, it is remarkable that the first and, so far, only interpretation of the right to a satisfactory environment was provided in 2001 in *SERAC v. Nigeria*, more than two decades before the international recognition of the right in the UNGA Resolution, which demonstrates that the African human rights jurisprudence, at least in the context of the right to a healthy environment, preceded its counterparts in developing substantive – and as elaborated below, procedural – environmental standards.

Additionally, although African human rights bodies do not emphasise the application of the *iura novit curia* principle, it is implicitly embraced in the practice, as shown in the mentioned case, where the Commission – similar to the Inter-American practice –, addressed the right to housing and shelter that is not explicitly enshrined in the Charter, and developed its understanding based on the interpretation of universal human rights norms, particularly the International Covenant on Economic, Social and Cultural Rights.

In conclusion, the analysis of systemic integration in the substantive standards of the environmental jurisprudence of human rights courts reveals the following patterns. In the absence of a substantive environmental right recognised in international human rights treaties, human rights courts may not build on binding sources. However, reference to Principle 1 of the Stockholm Declaration, as the foundation of the recognition of the relationship between human rights and the environment in international law, can be found in each jurisprudence. Furthermore, although the UNGA Resolution recognising the right to a clean, healthy and sustainable environment was adopted relatively recently, it has been considered in judgments adopted since then in the European and Inter-American human rights systems, which underpins the growing importance of systemic integration in the environmental human rights jurisprudence. Certain patterns of the expansion of substantive standards can also be identified through the recent developments in the case law of these two courts, marked by the judgments of *La Oroya* and *Cannavacciuolo*, adopted by the Inter-American court in 2023 and the European court in 2025, respectively.

The development of procedural standards in the environmental jurisprudence of human rights courts shows different tendencies. In contrast with the substantive aspect of the right, which has not been explicitly recognised at the universal level until 2022, procedural environmental rights were established in 1992 in Principle 10 of the Rio Declaration, which was the point of reference for the adoption of two regional conventions, the Aarhus Convention in Europe and the Escazú Agreement in the Latin-American region. In the European human rights jurisprudence, the

Aarhus Convention is the most referenced international environmental legal source, as it is a binding European treaty that reflects universally accepted norms and also represents the "European consensus", even if not all Member States of the Council of Europe ratified it. The standards of the Aarhus Convention and their reflection in the European jurisprudence were a source of inspiration for the Inter-American jurisprudence and the creation of the Escazú Agreement, which entered into force in 2021. Thus, the Agreement can be expected to strengthen procedural environmental rights in the Inter-American system, particularly protecting human rights defenders in environmental matters, one of the region's most pressing challenges.

The African human rights jurisprudence, although it offers a solid normative framework for environmental protection, does not provide for a similar instrument on procedural environmental rights. Nonetheless, the African Commission established certain procedural obligations of States implicitly based on these international standards. The adoption of a binding treaty can be expected to significantly contribute to the promotion of environmental democracy.

The growing tendency to embrace systemic integration can be observed in the developing climate change case law of the courts. To date, all three courts have been asked to express their position on States' substantive and procedural human rights obligations in the context of climate change. The first ruling was adopted in April 2024 by the European Court of Human Rights in *Verein KlimaSeniorinnen*, which drew significant inspiration from the complex international legal framework of international climate law and its human rights implications, and developed its standards for the climate change jurisprudence. The Inter-American court recently developed its advisory opinion on States' human rights obligations in climate change, while the African court received a request for an advisory opinion on the subject matter at the time of the preparation of the present dissertation, in early May 2025.

Therefore, the dissertation may provide a snapshot of a dynamic and evolving jurisprudence, with a strong focus on mapping discernible tendencies. As demonstrated in the dissertation, treaty interpretation serves as a crucial factor in the development of the environmental standards in regional courts' human rights jurisprudence. The evolution of international environmental legal norms can no longer be viewed in isolation from human rights law; rather, it increasingly reflects processes of systemic integration, whereby environmental considerations are incorporated into the interpretation and application of existing human rights provisions. This integrative approach not only strengthens the normative content of human rights guarantees but

also addresses the fragmentation of international law in responding to complex, cross-cutting challenges such as environmental protection.

IV. Publications of the Author in the Topic of the Dissertation

Raisz, A. and Krajnyák, E. (2022) ‘Protection of the Environment in the European Human Rights Framework: A Central European Perspective’, in: Szilágyi, J. E. (ed.) *Constitutional Protection of the Environment and Future Generations: Legislation and Practice in Certain Central European Countries*. Miskolc–Budapest, Central European Academic Publishing, pp. 73–125.

Krajnyák, E. (2022) ‘Hungary: A Progressive Approach to the Protection of the Environment and Future Generations in a Traditional Constitution’, in: Szilágyi, J. E. (ed.) *Constitutional Protection of the Environment and Future Generations: Legislation and Practice in Certain Central European Countries*. Miskolc–Budapest, Central European Academic Publishing, pp. 203–248.

Krajnyák, E. and Jokanovic, I. (2022) ‘Constitutional Amendment for the Protection of the Environment in Italy in the light of Current National and International Legislative Tendencies’, *Studia Iurisprudentiae Doctorandorum Miskolciensium*, 24(2), pp. 75–94.

Krajnyák, E. (2023) ‘The Role and Activity of the Deputy Commissioner for Fundamental Rights Ombudsman for Future Generations in Shaping Environmental Protection in Hungary’, *Journal of Agricultural and Environmental Law*, 18(34), pp. 7–30.

Krajnyák, E. (2023) ‘Current Challenges of Climate Change Litigation in Europe with special regard to Human Rights Concerns’, in: Bándi, Gy. and Pogácsás, A. (eds.) *Law in Times of Crisis – Jog válság idején: Selected doctoral studies – Válogatott doktorandusz tanulmányok.* Budapest: Pázmány Press, pp. 141–150.

Krajnyák, E. (2023) ‘A magyar és a norvég alkotmány környezetvédelmi rendelkezéseinek összehasonlítása a két ország alkotmánybírósági gyakorlatának tükrében’, Gellén, K. (ed.) *Gazdasági tendenciák és jogi kihívások a 21. században, 4*. Szeged: Iurisperitus Kiadó, pp. 77–87.

Krajnyák, E. (2023) ‘Protection of the Environment in National Constitutional Law in Light of the Jurisdiction of the ECtHR – A Hungarian Perspective’, *Central European Academy Law Review*, 1(1), pp. 151–177.

Krajnyák, E. (2024) ‘Possibilities of Climate Litigation Against Carbon Majors with Regard to Human Rights Concerns’, *Carbon and Climate Law Review*, 17(3), pp. 149–160.

Krajnyák, E. (2024) ‘The Development of the UN CRC’s Approach to Children and Climate Change: Any Impact on the Future of Youth-led Climate Litigation?’, *Católica Law Review*, 8(1), pp. 61–82.

Krajnyák, E. (2024) ‘The Voice of Future Generations: Institutional Representation, Lessons Learned and the Way Forward’, *European Journal of Legal Studies*, 16(1), pp. 9–30.

Krajnyák, E. (2024) ‘Schutz vor Klimawandel als Grundrechtsstandard? Eine vergleichende Analyse des deutschen und des EU-Standards für Klimaschutzklagen im Lichte der jüngsten Rechtsprechung des EGMR’, *Klima und Recht*, vol. 266, pp. 30–38.

Krajnyák, E. (2025) ‘Up in Smoke? Victim Status in Environmental Litigation before the ECtHR’, *EJIL: Talk!* [Online]. Available at: https://www.ejiltalk.org/up-in-smoke-victim-status-in-environmental-litigation-before-the-ecthr/ (Accessed: 16 May 2025).

Krajnyák, E. (2025) ‘A Human Rights Approach to New Technologies for Climate Protection in Light of Intergenerational Equity’, *Yearbook of International Disaster Law*, 6(1), 51–70.