Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Resolution 2399 (2021)[1]

The climate crisis and the rule of law

Parliamentary Assembly

1. Thirty years of reports by the Intergovernmental Panel on Climate Change (IPCC) have helped to establish a broad scientific consensus on the severity of the climate crisis, acknowledging that irreversible changes have occurred under human influence. We face a local, national, regional and global challenge, which requires everyone to play their part.

2. The Council of Europe and the Parliamentary Assembly had occasion, very early on, to take action to combat this threat to human rights and humankind in its entirety. The Assembly refers to Principle 1 of the Stockholm Declaration (1972), which states: "[M]an has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being, and he bears a solemn responsibility to protect and improve the environment, for present and future generations." The Assembly also recalls that although the European Convention on Human Rights (ETS No. 5) does not contain an explicit right to a healthy environment, the European Court of Human Rights has established, through its case law, that in certain circumstances States Parties have positive obligations to adopt reasonable and adequate measures to protect the rights of individuals if their well-being might be affected by environmental damage.

3. The Assembly intends, pursuant to the commitments made by Council of Europe member States in the context of the United Nations Framework Convention on Climate Change (1992) and the Paris Agreement (2015), to help to develop climate resilience. It underlines that any measures aimed at equipping our societies to cope with the impact and the threats of global warming must adhere to the principles of the rule of law.

4. The Assembly recalls its reflection on the notion of the rule of law, in particular in Resolution 1594 (2007) "The principle of the Rule of Law" and in Resolution 2187 (2017) "Venice Commission's Rule of Law Checklist". It reiterates that its core elements are legality, including a transparent, accountable and democratic process for enacting law, legal certainty, the prohibition of arbitrariness, access to justice before independent and impartial courts, including judicial review of administrative acts, respect for human rights, non-discrimination and equality before the law, which are to be respected at all times.

5. The Assembly urges the Council of Europe member States, while ensuring everyone's dignity and well-being, to:

5.1. promote the rule of law and employ a transparent, accountable and democratic legislative process for implementing the aim of "net zero emissions", based on clear and credible plans to meet commitments to keep the global temperature increase in line with the preferred objective of the Paris Agreement, amounting to an increase in average temperatures of 1.5°C;

5.2. continue to take a holistic approach combining economic, social and political development and environmental protection, in a spirit of equality and solidarity of purpose, as it had already invited them to do in its Resolution 1292 (2002) "World Summit on Sustainable Development: ten years after Rio". It

1. *Assembly debate* on 29 September 2021 (27th sitting) (see Doc. 15353, report of the Committee on Social Affairs, Health and Sustainable Development, rapporteur: Ms Edite Estrela; and Doc. 15354, opinion of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Norbert Kleinwaechter). *Text adopted by the Assembly* on 29 September 2021 (27th sitting).
See also Recommendation 2214 (2021).

invites them therefore to make widespread use of assessments of the environmental impact of public policies at local, national and regional levels, incorporating economic, social and political criteria and supporting the undertakings made under the Paris Agreement;

5.3. launch, in response to the Covid-19 pandemic and as quickly as possible, ambitious recovery programmes respecting the limit of 1.5°C set by the Paris Agreement;

5.4. schedule, as soon as possible, parliamentary debates on the nationally determined contributions, so as to share information, in full transparency, on the national ambitions arising from the preferred objective set by the Paris Agreement;

5.5. exercise the utmost caution and restraint when adopting measures that might necessitate derogation from the European Convention on Human Rights and, before doing so, explore every possibility for responding to the emergency situation using normal measures (see Resolution 2209 (2018) “State of emergency: proportionality issues concerning derogations under Article 15 of the European Convention on Human Rights”).

6. The Assembly calls on Turkey to join the international consensus by ratifying the Paris Agreement.

7. The Assembly emphasises the importance of the involvement of parliaments. Renewing the groundbreaking commitment to combating the climate crisis which it made through Resolution 1292 (2002), it calls for the establishment of a parliamentary network operating under its auspices. Its task will be to inspire and follow the action taken by national authorities to honour the strong commitments they have made vis-à-vis the climate crisis while fostering the mutual enrichment of ideas and setting up regular opportunities for parliamentarians in Europe and on other continents to pool their experience.