Parliamentary Assembly
Assemblée parlementaire
https://pace.coe.int

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Doc. 15349
23 August 2021

Combating inequalities in the right to a safe, healthy and clean environment

Report[1]
Committee on Equality and Non-Discrimination
Rapporteur: Ms Edite ESTRELA, Portugal, Socialists, Democrats and Greens Group

Summary

According to the World Health Organisation (WHO), 23% (12.6 million) of the world's deaths in 2012 were attributable to unhealthy environments, a figure which has surely increased over the last decade. The causes of this mortality affect us all: air and water pollution, poor sanitary and hygiene conditions, chemical and biological agents, noise pollution, ultraviolet and ionising radiation, occupational hazards, farming methods (pesticides, reuse of waste water), built environments (housing and roads) and climate change. It is clear, however, that populations in the least developed regions suffer far more from inadequate protection against these risks than those in developed countries, and that certain groups, among them children and minority communities, are left particularly exposed.

This report identifies critical areas of inequality in access to a safe, healthy and clean environment and makes recommendations on their mitigation. It underlines the duty of developed countries to help the poorest, whose carbon footprint is vastly inferior, to deal with the climate changes which affect them the most. The report also focuses on the specific challenges facing young people, Roma, indigenous peoples and women in relation to the environment, and sets out a number of provisions which should be included in any new legislation.

1. Reference to committee: Bureau decision, Reference 4531 of 15 September 2020.

Contents **Page**

A. Draft resolution 3
B. Explanatory memorandum by Ms Edite Estrela, rapporteur 6
1. Introduction 6
1.1. A significant Parliamentary Assembly contribution 6
1.2. Role of the Committee on Equality and Non-Discrimination 6
2. What are environmental rights? 7
3. Inequalities in access to environmental rights: numerous and widespread 7
3.1. Health and the environment 7
3.2. Reducing inequalities relating to climate change is the duty of all developed countries 8
3.3. Unequal individual access to environmental rights 8
3.4. Climate change, minorities and indigenous people 8
3.5. Gender-differentiated impacts of climate change 10
3.6. Inequalities in access to information and participation 11
3.7. Youth action for climate justice 11
4. Conclusions and recommendations 12

A. Draft resolution[2]

1. The United Nations states in its Environment Programme that “human rights cannot be enjoyed without a safe, clean and healthy environment; and sustainable environmental governance cannot exist without the establishment of and respect for human rights”. This relationship between human rights and the environment is increasingly recognised, and the right to a healthy environment is currently set out in over 100 constitutions worldwide. Despite this, the United Nations High Commissioner for Human Rights has estimated that at least three people a week are killed protecting our environmental rights, while many more are harassed, intimidated, criminalised and forced from their lands.

2. The Parliamentary Assembly recalls the United Nations 17 Sustainable Development Goals with a declared ambition to “end poverty, protect the planet and improve the lives and prospects of everyone”, and its Decade of Action 2020-2030. It also refers to the relevance of Articles 2 and 8 of the European Convention on Human Rights (ETS No. 5) which set out the right to life and the right to respect for private and family life, and to the obligations undertaken by member States of the Council of Europe by acceding to the 1992 United Nations Framework Convention on Climate Change and by ratifying the 2015 Paris Agreement adopted at the 21st Conference of the Parties (COP 21).

3. The Assembly draws attention to the 1998 United Nations Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) which addresses procedural law related to the environment and aims to support “environmental democracy”.

4. The Assembly also recalls the Preamble of the Paris Agreement “Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights, the right to health, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity”.

5. The Assembly has addressed some of the issues relating to climate change and its consequences in its recent texts, including Resolution 2210 (2018) “Climate change and implementation of the Paris Agreement” and Resolution 2307 (2019) “A legal status for ‘climate refugees’”. It is convinced that stronger international norms, legislation and sanctions must be implemented in order to guarantee the right to a safe, healthy and clean environment for all. In this context, the Assembly welcomes the final declaration adopted in February 2020 at the High-Level Conference on environmental protection and human rights held under the aegis of the Georgian Presidency of the Committee of Ministers, which called for pan-European legal standards to be upgraded in the light of the urgent environmental challenges posed by climate change today.

6. Just as access to the substantive right to a safe, clean and healthy environment is unequally shared between regions, countries and individuals, so is access to the procedural rights deriving from them, which include the right to information, participation in policy and decision making and training. The Assembly urges all member States to work to ensure that environmental rights are not only a reality for all, but are developed in cooperation between all represented groups, in particular those most affected by climate change and adaptation policies.

7. According to the World Bank, between 2008 and 2013, global inequality fell for the first time since the industrial revolution, but the climate crisis is now reversing this positive trend. The effects of climate change impact poor countries disproportionately, via both a rise in economic damages due to extreme weather and a disproportionate cost of reducing emissions. The Covid crisis has also reopened the rifts between rich and poor countries.

8. Individuals affected by inequalities in access to environmental rights are caught up in a “vicious circle” of multiple discrimination. People already affected by racism are harder hit by climate change, for instance, and the same goes for the poorest groups, as adaptation to climate depends largely on wealth. Disadvantaged groups are more exposed to the adverse effects of climate change, which in turn increases their vulnerability to damage caused by natural hazards and lowers their capacity to cope and recover.

9. Socially disadvantaged people and minorities also suffer from stigmatisation which associates them with their living conditions, which are most often forced upon them. Roma are relegated to sites located on the margins of urban settlements, where they are obliged to share the space with polluting industries, landfills, waste dumps and other contaminated and contaminating installations. Their health and safety are threatened, and in addition they become associated with the negative images of their surroundings by the rest of the

2. Draft resolution adopted unanimously by the committee on 23 June 2021.

population. Member States must distance reception areas for Roma and Travellers from polluted areas, work with them to disassociate their way of life from stigmatising and discriminating stereotypes and provide them with adequate facilities to allow them to live safe and healthy lives.

10. With regard to gendered differences, 70% of women living in the countries hardest hit by climate change work in agriculture. And 70% of the poorest people in the world are women. Climate change affects children, the oldest individuals, sick people and those in financial hardship. On average, more women than men are elderly and/or suffer from poverty. And it is predominantly women who look after children and the sick. Climate change therefore places a disproportionate burden on women worldwide.

11. The under-representation of women in decision-making bodies must also be remedied: according to the European Institute for Gender Equality, as well as the European Parliament, women are still under-represented in the European Union's decision-making bodies on climate change and at national level. In 2011, women held only 18.2% of senior positions in EU-27 national ministries responsible for the environment, transport and energy. It is therefore essential to integrate gender mainstreaming into the management of environmental policies.

12. With respect to inequalities in access to the right to a safe, healthy and clean environment resulting from economic differences between and within countries, the Assembly calls for:

12.1. the implementation and strengthening of the mechanism for financial assistance from "rich" to "poor" countries provided for in the 1992 United Nations Convention on Biological Diversity, including additional obligations on developed countries under the 1992 Framework Convention on climate change – in particular, the obligation to provide financial assistance to developing countries and to transfer technology;

12.2. strengthening and streamlining of the clean development mechanism of the 1997 Kyoto Protocol with a view to reducing greenhouse gas emissions;

12.3. strengthening and implementing the commitment by developed countries to help developing countries inherent in the 2015 Paris agreements – in particular by implementing Article 9 of the Paris Agreement, which provides for financial support in mitigation of and adaptation to climate change, multi-source mobilisation of climate finance and regular quantitative and qualitative reporting on this action;

12.4. respect and reinforcement of the principle of common but differentiated responsibilities;

12.5. stronger regulations on housing development within countries, taking on the lessons from the Covid-19 pandemic which showed that for the benefit of the whole population, everyone must have adequate living space and healthy living conditions, and that access to green spaces is essential.

13. With respect to indigenous peoples, the Assembly:

13.1. insists on the necessity for new legislation to tap into the knowledge and experience developed over centuries by communities whose traditions have preserved the strongest links with and respect for the living world and are less anthropocentric than others, in order for future policies to place higher priority on the environment and take into account this world view;

13.2. calls on countries where indigenous peoples are living to ensure they are consulted and take part in decisions related to their lands and ways of living, and in particular that measures taken in the name of protection of the environment (wind farms, green constructions, for instance) do not affect their lives and livelihoods;

13.3. encourage and provide the means for representatives of indigenous peoples to meet and exchange across national borders and internationally, in order to share experiences and reinforce their position.

14. With respect to women's access to and contribution to the enjoyment of environmental rights, the Assembly calls for:

14.1. more gender-responsive climate finance to be allocated, in particular at grass-roots and rural levels, in order for women to be enabled in their work and their competences increased;

14.2. equal access to property and tenure rights for women in all member States, in order for them to be in a secure position from which they can build on their knowledge and experience, in particular through community co-operation;

14.3. empowerment of women and girls to lead a just transition to a green economy;

14.4. more quantitative and qualitative date collection on the gender-environment nexus, a more enabling environment for women and girls through education and training.

15. Concerning young people, the Assembly stresses the absolute necessity to associate youth organisations and other young people in the design of any new legally binding framework for environmental rights, as a condition for success. Young people are acutely aware of the state in which previous generations are leaving the planet, are on the whole more respectful of the need to end wasteful and damaging practices, and have shown their power to apply pressure on governments and decision-makers. In this context, the Assembly supports proposals under discussion to include youth representatives more systematically in its work.

16. The Assembly emphasises that any new and specific legally binding instrument must address all of the sources of inequalities set out above, with the aim of minimising inequalities in the right to a safe, healthy and clean environment. In the spirit of the Convention on combating violence against women and domestic violence (CETS No. 210), a new text should include a “four Ps” mechanism providing for prevention, protection, prosecution and policies, and add to this a fifth “P”, which is parliamentary commitment.

17. Climate justice does not only require equal access to rights but also to the means to uphold and defend these rights before the courts. To this end equally, member States must allow non-governmental organisations such as Notre Affaire à Tous in France and Oxfam on an international level to continue without their work of awareness-raising and advocacy so that mentalities change at the same time as climate injustices are denounced.

B. Explanatory memorandum by Ms Edite Estrela, rapporteur

1. Introduction

1.1. A significant Parliamentary Assembly contribution

1. After holding thematic debates on the crisis caused by the Covid-19 pandemic and on artificial intelligence, the Parliamentary Assembly decided to address another burning issue, the environment and climate change, in the same manner and thus make a contribution to the Council of Europe's work in this field. Having already underscored the link between the environment and human rights, the rule of law and democracy, with this decision, the Assembly will ensure that it provides a valuable and co-ordinated contribution to the Council of Europe's work in this regard.

2. The final declaration adopted at the High-Level Conference on environmental protection and human rights held under the aegis of the Georgian Presidency of the Committee of Ministers, which was attended by the President of the Assembly who has taken a particular interest in this topic, called for pan-European legal standards to be upgraded in the light of the urgent environmental challenges posed by climate change today. Not only does the Assembly's action support the Council of Europe's work on the environment, human rights and rule of law, but it also contributes to the advancement of the UN Agenda 2030 and its Sustainable Development Goals, of which environmental issues are an integral part.

1.2. Role of the Committee on Equality and Non-Discrimination

3. The Committee on Equality and Non-Discrimination was instructed by the Bureau of the Parliamentary Assembly to prepare a report on addressing inequalities in access to environmental rights, focusing on access to a healthy environment without discrimination. The Bureau specified that the report should take the following into consideration:

– UN Sustainable Development Goals 3 and 10 aiming to "ensure healthy lives and promote well-being for all at all ages" and to "reduce inequality within and among countries";

– the fact that countries with the means to ensure a safe, healthy and clean environment must work to protect both their own citizens and those most at risk in less privileged countries and thereby work towards "climate justice", in the interests of equal access to these rights for all, and to avoid a domino effect in environmental deterioration;

– issues concerning injustice for indigenous peoples and minorities in Council of Europe member States whose lifestyles – and often territories – are at risk due to climate change and environmental damage;

– women's heightened vulnerability to climate change and other environmental issues, particularly in developing countries, where their livelihoods are often linked to farming and rural activities, and the need to mainstream a gender perspective into environmental and development co-operation policies.

4. At its meeting on 15 October 2020, the committee appointed me rapporteur. My work on another Assembly report on the issue of "Climate change and the rule of law" on behalf of the Committee on Social Affairs, Health and Sustainable Development has enabled me to have a broader overview of the subject, and I have ensured that the two reports are complementary. In this report, I examine the initiatives already being implemented to tackle environmental inequalities at international, as well as national, regional and local levels.

5. At a hearing on 2 February 2021, Committee members stressed that inequality was both a cause and consequence of the growing phenomenon of forced displacement due to climate change, as well as the issues relating to the reception and treatment given to "climate refugees". These important areas of unequal access to the right to a safe, healthy and clean environment do not feature in this report, as they are addressed in the report prepared in parallel by the Committee on Migration, Refugees and Displaced Persons.[3]

3. See the motion for a resolution on "Climate and migration" (Doc. 15113) and the report adopted by the Committee on Migration, Refugees and Displaced Persons on 20 April 2021 (Doc. 15348).

2. What are environmental rights?

6. Before examining the main sources of inequality in access to environmental rights, it is important to understand their scope. The Assembly addressed this question in several recent texts, including Resolution 2210 (2018) "Climate change and implementation of the Paris Agreement" and Resolution 2307 (2019) "A legal status for 'climate refugees'".

7. According to the United Nations Environment Programme, "human rights cannot be enjoyed without a safe, clean and healthy environment; and sustainable environmental governance cannot exist without the establishment of and respect for human rights".[4] The Final Declaration of the abovementioned Council of Europe conference employed similar wording. For this reason and to ensure a coherent, inclusive definition, I proposed changing the title of this report to clarify that we are dealing here with the right to "a safe, healthy and clean environment", which was accepted by the committee on 2 February 2021.

8. The close relationship between rights and the environment is increasingly recognised, as the right to a healthy environment is currently enshrined in over 100 constitutions. Despite this, the High Commissioner for Human Rights has estimated that at least three people a week are killed protecting our environmental rights, while many more are harassed, intimidated, criminalised and forced from their lands.[5]

9. Environmental rights are composed of substantive rights and procedural rights. Substantive rights are those in which the environment has a direct effect on the existence of or access to fundamental rights such as the rights to life, freedom of association and freedom from discrimination; rights to health, food and an adequate standard of living; cultural rights such as rights to access religious or traditional sites, and collective rights affected by environmental degradation, such as the rights of indigenous peoples.[6] Procedural rights involve steps to be taken in enforcing legal rights, and include rights such as access to information, public participation and access to justice.

10. In my report, I have looked at measures implemented to eliminate discrimination and to compensate for inequalities in access to these two types of rights, in particular, drawing on the 16 Framework Principles on Human Rights and the Environment established by the United Nations Special Rapporteur,[7] which summarise the main human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment.[8]

11. Input for the report was also provided during a hearing held on 2 February, where the committee had the opportunity to exchange views with Ms Jannie Staffansson, a Sami reindeer herder in Sweden and representative of her people, and with Pegah Moulana, Chairperson of the Programming Committee on Youth of the Council of Europe's Advisory Council on Youth (CCJ), and British Youth Council representative to the Advisory Council, which has worked extensively on identifying and denouncing climate injustice.

3. Inequalities in access to environmental rights: numerous and widespread

3.1. Health and the environment

12. According to a report by the World Health Organisation (WHO) published in March 2016, 23% (12.6 million) of the world's deaths in 2012 were attributable to unhealthy environments.[9] The causes of this mortality affect us all: air and water pollution, poor sanitary and hygiene conditions, chemical and biological agents, noise pollution, ultraviolet and ionising radiation, occupational hazards, farming methods (pesticides, reuse of waste water), built environments (housing and roads) and climate change. It is clear, however, that the poorest regions and populations suffer far more from inadequate protection against these risks than the richest, and that certain groups, among them children and minority communities, are left particularly exposed.

---

4. UN Environment Programme, "Advancing environmental rights, What is the Environment Rights Initiative".
5. See, *inter alia*, the report by the Dutch NGO, IUCN NL, F. Wijdekop, "Environmental defenders and their recognition under international and regional law - an introduction":
6. See, in this connection, the Annual thematic reports of the Special Rapporteur on human rights and the environment.
7. Framework Principals on Human Rights and the Environment, UN, 2018.
8. A/HRC/37/59, Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, UN Human Rights Council, 24 January 2018.
9. S. Roy, "12,6 millions de morts par an à cause de l'environnement", *Le Figaro Santé*, 15 March 2016, (in French only).

3.2. Reducing inequalities relating to climate change is the duty of all developed countries

13. The issue of "climate justice" and the disproportionate impact of climate change on the poorest population groups has been part of the environmental debate from the outset. These inequalities are obvious when countries are compared with one another, but the issue of "within-country" inequality and discrimination, an aspect which has been the subject of little research to date, also deserves attention.[10]

14. Since the 1990s, action to combat climate change has been guided by the desire to achieve climate justice.[11] This requires the proper distribution of tasks and responsibilities between "rich" and developing countries. The 1997 Kyoto Protocol to the UN Framework Convention on Climate Change established the principle of "common but differentiated responsibilities".[12]

15. The aim of climate justice is to achieve a world without "inequalities in access to a healthy [safe and clean] environment and its resources".[13] Such inequalities can be divided into four categories: inequalities in exposure to and access to the environment, inequalities in the impact of climate change, those caused by climate policies and those relating to access to information and decision-making.

16. The 10% of richest states are responsible for 50% of CO2 emissions every year, whereas the 50% of poorest states account for only 10%. Given this fact, the Intergovernmental Panel on Climate Change (IPCC) has referred to the environmental duties of the most heavily polluting countries or social groups.[14] Moreover, people who live in "poor" countries have more limited access to water, health care and decent housing; climate change exacerbates existing inequalities and thereby compounds the violation of a series of fundamental rights.

3.3. Unequal individual access to environmental rights

17. Climate change also increases inequalities between individuals, in all countries.[15] When discussing the role which "rich" countries must play in reducing inequalities, it is necessary to consider the issue of inequalities between individuals and not only inequalities between States as all too often happens today.[16] It must be reiterated that existing inequalities (based on individual characteristics, economic and political inequality, etc.) are linked and compounded by climate change.

18. Individuals affected by such inequalities are thus caught up in a "vicious cycle" of multiple discrimination, with, for instance, people already affected by racism being harder hit by climate change.[17] The same applies to the poorest groups, as adaptation to climate depends largely on wealth.[18]

3.4. Climate change, minorities and indigenous people

19. On 29 March 2021, the Sub-Committee on the Rights of Minorities of the Committee on Equality and Non-Discrimination and the No Hate Parliamentary Alliance (of the Assembly) organised a webinar in the framework of the Council of Europe's World Forum for Democracy on "Environmental rights and climate change in Europe: Hearing the voices of minorities and indigenous people", as a contribution to the March

---

10. S. Nazrul Islam and J. Winkel, Working Paper 152, "Climate Change and Social Inequality", Department of Economic and Social Affairs, UN, 17 October 2017.
11. "Climate justice involves a new approach to developing and formulating public policies. It preserves the right to a healthy environment for all, including the most disadvantaged, the most exposed and the most vulnerable". *La justice climatique: enjeux et perspectives pour la France*, Jean Jouzel and Agnès Michelot, opinion of the Economic, Social and Environmental Council, September 2016.
12. Article 10 of the Protocol, available here.This concept follows on from the development of the principle of "ecological debt" in Rio in 1992.
13. Cyria Emelianoff, *La problématique des inégalités écologiques. Un nouveau paysage conceptuel*, Écologie et Politique, 2007, vol.1, no. 5, pp. 19-31.
14. IPCC, 2013: "Climate Change 2013 – The Physical Science Basis", Working Group I contribution to the fifth assessment report of the Intergovernmental Panel on Climate Change. Cambridge University Press, Cambridge, United Kingdom, and New York, NY, USA, 1535 pp.
15. IPCC, Special Report 1.5, Chapter 5. Roy J., and o., 2018, "Sustainable Development, Poverty Eradication and Reducing Inequalities". An IPCC Special Report on the impacts of global warming of 1.5°C above preindustrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty [Masson-Delmotte V., and o.]. In Press.
16. S. Nazrul Islam and J. Winkel, "Climate Change and Social Inequality", DESA Working Paper no. 152, 2017.
17. IPCC (2014). Climate Change 2014: Impacts, Adaptation and Vulnerability. New York: Cambridge University Press.
18. Georgesson, Lucien, Mark Maslin, Martyn Poessinouw and Steve Howard (2016), "Adaptation responses to climate change differ between global megacities", Nature Climate Change, p. 1-6.

theme campaign, “Inequalities, democracy and climate change”. The webinar, chaired by Mr František Kopřiva, Chairperson of the Sub-Committee, was a great opportunity to examine in further depth and first-hand the particular challenges of climate change faced by certain groups in society.[19] I was able to ask participants what they thought parliaments could do to help meet these challenges. Their responses included the need to reduce political marginalisation of minorities, combat stereotypes related to perpetrators of climate damage and address root causes by learning from some traditional ways of life how to move from a fully “anthropocentric” to a more “ecocentric” relationship between human beings and their environment. These valuable elements will appear in the recommendations emerging from this report.

20. Climate change is putting the way of life, and in some cases the very existence, of indigenous peoples under threat, both worldwide and in Council of Europe member states such as Denmark (Inuit), Finland, Norway and Sweden (Sami) and the Russian Federation (Sami and other groups). The discrimination in these cases is clearly both substantive and procedural – minority and “small country” groups are often the first to be affected by these changes because of their dependence upon, and close relationship with, their lands, and they have difficulty making their voices heard in national and international environmental decision-making.[20]

21. The identities of ethnic minorities and indigenous peoples are closely bound up with traditional knowledge. As the planet’s environment changes, or minority groups are obliged to move away from their historic territories as a result of natural disasters or slow-onset climate deterioration, the cultural specificities of these communities tend to disappear through a disconnect between the natural surroundings and the cultural concepts from which they emerged. Lifestyle adaptation leads to a loss in cultural diversity, and gradually even to the extinction of minority cultures, including languages, and unique perceptions by these peoples of the world we live in. The youth representatives I exchanged views with were acutely aware of how this trend affects the specific identities and heritage of young people, leading to uniformisation of minority communities and to a lack of cultural, biological and linguistic diversity. In this respect, the correlation between biodiversity and cultural diversity deserves further research and attention.

22. An unintended outcome of measures intended to mitigate climate change was described by the Sami representative at the 29 March webinar: the increasing installation of wind turbines and other “green constructions” in the Sápmi region, without due consultation of Sami inhabitants, had resulted in the reduction of lands for the indigenous population and the destruction of biodiversity. This demonstrates an unfair distribution of the burden in the fight against climate change, disclosing patterns of inequality and injustice where indigenous people keep on having no say in the management of land.

23. Another problematic issue for indigenous peoples involves the above-mentioned concept of ecocentrism, which could also lead to “fortress conservation”, in which access to nature is forbidden in the name of protection. In some cases, this can result in indigenous people being pushed off their own lands and deprived of resources.

3.4.1. The particular case of Roma: intersectionality and “environmental racism”

24. Climate change increases the discriminatory situation endured by Roma communities on several different levels. Firstly, Roma settlements are often relegated to areas on the margins of residential areas where they occupy untended wasteland – used otherwise for various types of dumps or landfill sites next to polluted main roads – where they are frequently excluded from basic environmental services such as the supply of clean drinking water, adequate sanitation and waste management. Roma are thus disproportionately affected by environmental burdens, such as pollution and environmental degradation, contamination of sites or dirty industries. In order to sufficiently address climate justice, the concept of environmental racism and its links with discrimination and exclusion need to be further researched and documented.[21]

25. The marginalisation also translates into “victim blaming”, where Roma are so closely associated with the degraded surroundings in which they are forced to live that they are seen as continuing and perpetuating its deterioration. The media, among others, tend to depict Roma as a key part of the problem, instead of the main victims of the combination of pollution and poverty that forces them to live by landfills, for instance. In

19. Speakers were Susanna Israelsson from the Arctic and Environmental Unit of the Sami Council, Florin Botonogu, President of the Policy Centre for Roma and Minorities, ERGO Network, from Romania, Carl Söderbergh, Director of Policy and Communications with the NGO Minority Rights Group International and Natalia Kobylarz, Environmental law specialist and lawyer at the Registry of the European Court of Human Rights.

20. See, for example, UNESCO’s work on Small Island Developing States, “Taking Stock, Looking Forward”.

21. See Heidegger, P. and Wiese, K. (2020), “Pushed to the wastelands: Environmental racism against Roma communities in Central and Eastern Europe”, European Environmental Bureau, Brussels.

addition, some practices linked solely to their extreme conditions of poverty (for instance, burning waste for heating purposes) lead to further stigmatisation of Roma as contributors to pollution and environmental damage.

26. Regardless of the circumstances, information made available and accessible to indigenous people and minorities would enable them to give their informed consent and allow their meaningful participation in decisions concerning their own immediate environment, with the obvious knock-on effects, now widely identified, on the environment as a whole. In recommendations proposed by the different persons I have heard on this subject, the need to strengthen indigenous peoples' institutions, to create "competency centres" and to promote community-driven data collection methods was underlined.

3.5. Gender-differentiated impacts of climate change

27. In many countries, especially developing countries and economically less advantaged regions, women are more affected by extreme weather conditions and other climate change impacts because of their greater dependence on agriculture and crops for their livelihoods, among other things. 70% of women living in the countries hardest hit by climate change work in agriculture. And 70% of the poorest people in the world are women.[22] There must therefore be gender mainstreaming in the management of environmental policies and in any legal frameworks for development co-operation.

28. The under-representation of women in decision-making bodies is also apparent: according to the European Institute for Gender Equality, as well as the European Parliament, women are still under-represented in the European Union's decision-making bodies on climate change and at national level.[23] In 2011, women held only 18.2% of senior positions in national [EU-27] ministries responsible for the environment, transport or energy. Although some progress has been made since then, true gender balance is still far from being achieved.

29. Large numbers of women are therefore in precarious situations and have great difficulty dealing with climate change. As a result, women are 14 times likelier than men to die from natural disasters.[24] There is also a heightened risk of violence towards women occurring during population movements related to climate change.[25] Pregnant women are particularly vulnerable; heatwaves increase the likelihood of giving birth prematurely. Living in a polluted area or a high-risk area increases the risk of their children being in poor health and unequal pay sometimes prevents women from accessing health care.[26]

30. In addition, women are over-represented in jobs in the care sector, 90% of which are held by women.[27] Women are therefore increasingly active and called upon in connection with climate change, which places an additional burden on their shoulders. Climate change affects children, the oldest individuals, sick people and those in financial hardship. On average, more women than men are elderly and/or suffer from poverty. And it is women who look after children and the sick.[28] Climate change therefore places a disproportionate burden on women worldwide.

31. Economic inequalities between women and men are reflected in inadequate protection of some women, in particular single women and elderly women, against the effects of climate change.[29] For instance, during the 2003 heatwave in Portugal, twice as many women as men died.[30]

---

22. Notre Affaire A Tous, "Changement climatiques et inégalités de genre", Inégalités climatiques, Clothilde Baudouin, 23 March 2021.
23. See, for example, the "Report on women, gender equality and climate justice", Rapporteur: Linnéa Engström, Committee on Women's Rights and Gender Equality, European Parliament,18 December 2017.
24. United Nations Office for Disaster Risk Reduction, "To build the resilience of nations and communities to disasters, we need equal and active participation of men and women in disaster risk reduction", Report, 2011.
25. "Rapport sur les inégalités climatiques", Notre Affaire A Tous, 2020; "Climat: les femmes et les filles sont parmi les plus impactées par le changement climatique. Il est temps d'agir!" Report, Evicted by Climate Change, CARE, July 2020.
26. Report on Climate Change, Gender and Health, WHO, 2016.
27. "Surmortalité, mariage forcé, déscolarisation… les femmes sont les premières victimes du réchauffement climatique", Marina Fabre, Novethic, 2021.
28. "Gender, Climate Change and Health", WHO, 2011.
29. Review of the Implementation in the EU of area K of the Beijing Platform for Action: Women and the Environment. Gender Equality and Climate Change, European Institute for Gender Equality.
30. Nogueira, P. J. et al., 2005, "Mortality in Portugal associated with the heatwave of August 2003: early estimation of effect, using a rapid method", Euro Surveillance: European Communicable Disease Bulletin, 10(7), pp. 150–153.

32. This disproportionate impact of climate change on women compared with men jars with the fact that, on average, women consume less energy than men and are more sensitive to environmental protection. In Greece, for instance, men consume approximately 39% more energy than women. In Sweden, the figure is 22%. In particular, women use less electricity than men in general.[31] Women use public transport more than men and use less energy for transport than men.[32] Women produce lower levels of greenhouse gases than men[33] and usually act more responsibly in relation to climate change.

33. Against this background, the key problem is the lack of participation, information and training for women. This has been recognised for many years; at the World Conference on Women in Beijing in 1995, a declaration stated that "women have an essential role to play in the development of sustainable and ecologically sound consumption and production patterns and approaches to natural resource management." The first strategic objective in point K of the declaration provides that it is necessary to "involve women actively in environmental decision-making at all levels".

34. This is the cornerstone for achieving gender equality. It is only once this objective has been met that it will be possible fully to achieve Sustainable Development Goal 13. In order to achieve equal participation, it is vital to ensure equality in terms of training and information, which allows better access to the structures involved in combating climate change.[34] The involvement of women is a prerequisite for the fight against climate change,[35] yet their participation in decision-making concerning the environment still lags far behind that of men.[36] Although their involvement has increased since the 1990s, they are still under-represented, both in the area of political decision making and in industry, especially in the energy sector. Across all sectors, whether in the political or industrial sphere, women's participation is generally below 30%.[37] Equal participation by women must now be ensured at all levels (national, European, international) and that requires equal access to information and training.

3.6. Inequalities in access to information and participation

35. The 1998 United Nations Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters[38] (the Aarhus Convention, signed by the European Community in 1998 and approved on behalf of the Union in March 2018) addresses procedural law related to the environment and aims to support "environmental democracy". According to this convention, "to be able to assert this right and observe this duty, citizens must have access to information, be entitled to participate in decision-making and have access to justice in environmental matters", with the parties "acknowledging in this regard that citizens may need assistance in order to exercise their rights". This text will serve as a basis for my recommendations on the duty to inform citizens and provide for their participation.

36. The contribution of the Council of Europe's Advisory Council on Youth (CCJ) have helped me to expand on broader issues of participation in the debate and, in particular, in the strategies devised as a consequence to accompany and mitigate the effects of what has become a real climate crisis. The elements below are largely inspired by comments received from representatives of the CCJ.

3.7. Youth action for climate justice

37. Young people's interest and engagement in climate change matters have initiated a global youth movement, as the world's young people have refused to be passive victims of the climate crisis. Young groups and individuals have demanded, publicly and vocally, immediate action and climate justice on the part

---

31. TNS Emnid, 2010, "Männer sind die wahren Warmduscher", E WIE EINFACH-Studie zu Geschlechterrollen beim Stromverbrauch, TNS Emnid, Cologne, Germany.
32. Oldrup, H. and Romer Christensen, H., 2007, TRANSGEN, Gender mainstreaming European transport research and policies building the knowledge base and mapping good practices, Co-ordination for Gender Studies, University of Copenhagen, Denmark.
33. Alber, G. and Roehr, U., 2006, "Climate protection – What's gender got to do with it?", Women & Environments International Magazine, 70, p. 17.
34. Beijing Platform for Action, Fourth World Conference on Women, UN Women, 15 September 1995.
35. Review of the Implementation in the EU of area K of the Beijing Platform for Action, op. cit.
36. Hemmati, M. and Roehr, U., 2007, "Gender and Climate Change: Existing Research, Knowledge Gaps, and Priorities for the Future"; Schalatek, L., 2011, "Zwischen Geschlechterblindheit und Gender Justice, Gender und Klimawandel in der inter- und transnationalen Politik"; A. Brunnengräber (ed.), "Zivilisierung des Klimaregimes – NGOs und soziale Bewegungen in der nationalen, europäischen und internationalen Klimapolitik", Heinrich Böll Stiftung, Berlin, Germany.
37. Review of the Implementation in the EU of area K of the Beijing Platform for Action, op. cit.
38. United Nations Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, Aarhus, Denmark, 25 June 1998. United Nations, *Treaty Series*, vol. 2161, p. 447.

of decision-makers everywhere. The negative effects of climate change, brought about by decades of over-exploitation of natural resources, will have the most lasting consequences on the generations born during this particular period, where the effects of the "Anthropocene" are only now beginning to be understood, and therefore measures for the preservation (or ideally renewal) of the environment are still isolated and inadequate in relation to the urgent need for action.

38. According to the CCJ's comments, it is imperative to involve young people when tackling the climate crisis and adopting sustainable measures to reverse it in order to decrease the barriers affecting their autonomy, personal and professional development and their full participation in society. Young people have never known a world without global warming and are now experiencing the dire consequences of climate change first-hand. It is therefore imperative, not only to involve young people when shaping environmental strategies, but also to minimise the burden left to their generation to adapt and foster changes in mentalities, attitudes and behaviour. It is therefore fundamental to adopt an intergenerational approach and ensure that young people are allowed to take their fair part in adaptation strategies and in leading change.

39. In order to combat, or at least adapt to, climate change, youth participation should be increased and ethnic minority and indigenous young people included in climate-related efforts, as well as being provided with opportunities to share their expertise and act on their concerns.

4. Conclusions and recommendations

40. As already stated, the sources of discrimination and inequalities in access to the right to a safe, healthy and clean environment are many and widespread, with victims often exposed to accumulated layers of combined injustices linked to poverty, social exclusion or marginalisation, lack of structures and forums for seeking climate justice, lack of recognition of the scope and impact of climate change and the absence of provision of environmental rights and other factors. The aim of this report has been to show how these manifestations of inequality are interlinked with environmental conditions, and that just as gender inequality leads to gender-based violence, unequal access to environmental rights leads to a vicious cycle of oppression and need.

41. The Assembly is advocating a new and legally binding instrument to protect the right to a safe, healthy and clean environment. So far, the form of this text has not been agreed upon – should it be a new protocol to the European Convention on Human Rights (ETS No. 5)? A revised existing convention or a new, stand-alone treaty? A framework agreement or charter? At all events, there is consensus around the need to translate environmental rights into a corpus that can be adhered to and implemented by Council of Europe member states.

42. With this in mind, the series of recommendations which I am proposing here must be included in whatever type of instrument is finally chosen, and should be adaptable to different formats and degrees of obligations on signatories. For instance, the duty of solidarity between nations and between diverse communities in climate and environment action should be expressed at the outset in any new text aiming to guarantee the right to a safe, healthy and clean environment. Special attention should be given to both the need to measure, mitigate and prevent countries from engaging in industrial and agricultural activities which have a negative impact within and beyond national borders.

43. Another requirement is for specific provisions to be made to guarantee universal and equal access to the right to a safe, healthy and clean environment for all groups in society, identifying those most vulnerable to the negative effects of climate change and subject to discrimination: women, young people, minorities, indigenous people and the socially underprivileged. There is also a need to ensure that living conditions guarantee a clean and healthy environment for all, in particular by regulating spatial planning and housing programmes to provide sufficient space both inside and outside of built areas, with accessible green areas. The specific situation of Roma should also be taken into account and measures to dispel discrimination and "climate racism" set out in legislation.

44. All policies and strategies must be gender-specific, taking into account, in particular the position of women as first victims of the deterioration of the environment, both in rural and in urban areas, as guardians of cultural diversity threatened by the loss of biodiversity which goes hand in hand with cultural impoverishment, and as such, as major informed contributors to seeking solutions to the climate crisis. In the same way as for indigenous peoples, women's long-standing experience and often close proximity with environmental challenges – in agriculture in rural areas, in providing and caring for families in difficult situations – should be used to identify issues and good practices for the future.

45. With a view to the establishment of a new instrument to protect the right to a safe, healthy and clean environment, two important factors need to be taken into account in order to foster equality of access to this right. One is that other legislative experience, including from outside Europe, should be studied, for instance that relating to indigenous peoples and their traditions and territories. An interesting case is that of Colombia, which attributed legal personality to the Colombian Amazon region when addressing a claim against the national authorities by 25 young people from cities in the Amazon who would allegedly be worst affected by climate change through deforestation. They argued that their right to "enjoy a healthy environment", as well as rights to life and health had been violated.

46. It is not the purpose of this report to set out the legal foundation for this type of legislation, or even to promote a particular model. However, to address the causes of climate change and strive to minimise inequalities in the application of environmental rights, more reflection is needed on the relationship between the environment and humankind itself. Preservation of the constitutive elements of our global environment must be given much higher priority than at present, with more universally applicable sanctions for damage and degradation. And with this change must come clearer understanding that protecting the environmental rights of all communities is beneficial, and even a precondition, for enjoyment of these rights by all, now and in the near future.

47. Cultural diversity must be recognised as a means of ensuring the biodiversity which is at the heart of environmental stability. Therefore, preserving minority cultures is a key, not only to ensuring that those who live by these cultures are allowed to exercise their right to do so, but also to preserving the environment as we know it, as it is essential for human life to flourish. Future legal frameworks should accordingly contain provisions on the need to protect and foster diverse and minority cultures.

48. Inequalities in participation and decision making must be addressed in order for all the under-represented groups described above to have a voice in decisions and policies concerning their environment and the related rights. The right to a healthy environment can only be enjoyed by the largest possible number of the world's inhabitants and climate damage mitigation can only be effective if knowledge about our planet, and responsibility for managing its resources, are shared by the whole of society.

49. Climate change will keep on increasing inequalities if nothing is done to stop it. Efforts to combat inequalities, poverty and climate change must therefore be combined so that everyone can enjoy the right to a safe, healthy and clean environment. We must begin by continuing to implement and step up certain good practices relating to environmental protection and to sustainable development policies:

– implement and strengthen the mechanism for financial assistance from "rich" to "poor" countries provided for in the 1992 Convention on Biological Diversity, including additional obligations on "rich" countries under the 1992 Framework Convention – in particular, the obligation to provide financial assistance to developing countries and to transfer technology;

– strengthen and streamline the clean development mechanism of the 1997 Kyoto Protocol with a view to reducing greenhouse gas emissions;

– strengthen and implement the commitment by "rich" countries to help "poor" countries inherent in the 2015 Paris agreements – in particular, implement Article 9 of the Paris Agreement at all levels;

– respect and reinforce the principle of common but differentiated responsibilities.

50. A series of measures must also be taken so that developed countries make effective efforts to combat inequalities while protecting the environment and ensuring "green" development in developing countries. It is necessary to include redistributive effects and the concept of equity in policies to combat climate change, adaptation policies and those promoting the right to a safe, healthy and clean environment. In particular, the costs of mitigating the effects of climate change must be spread by sharing out environmental benefits and sharing action plans and funding.

51. Mitigation policies must be streamlined to take account of inequalities and reduce them in the long term, by implementing the principle of "common but differentiated responsibility", identifying precise indicators for measuring the implementation of the principle and achieving carbon neutrality at universal level while respecting the specific characteristics of all countries. The need to remove inequalities must be mainstreamed into any greenhouse gas reduction and climate adaptation measures. This will require proper management of the taxes used to fund efforts to combat climate change,[39] streamlining of the "polluter pays" principle and promotion of projects that protect and involve the most vulnerable groups.

---

39. Berry Audrey, 2019, "The Distributional Effects of a Carbon Tax and Its Impact on Fuel Poverty: A Microsimulation Study in the French Context", No. 124, January 2019, pp. 81-94.

52. Lastly, as with all measures needed to reduce inequalities in access to environmental rights, it is necessary to promote financial and technological assistance, co-operation between states and information, participation and training for the most vulnerable. The essential work of national and international non-governmental organisations in this area must also be recognised, and their awareness-raising and advocacy encouraged.