



**DIRECTORATE-GENERAL FOR EXTERNAL POLICIES**  
**POLICY DEPARTMENT**

# **HUMAN RIGHTS AND CLIMATE CHANGE: EU POLICY OPTIONS**

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DIRECTORATE-GENERAL FOR EXTERNAL POLICIES OF THE UNION

**DIRECTORATE B**

POLICY DEPARTMENT

STUDY

## **HUMAN RIGHTS AND CLIMATE CHANGE: EU POLICY OPTIONS**

### **Abstract**

Our study provides a survey of the state of the relationships currently established between human rights and climate change. It examines the external diplomacy of the European Union in the fields of human rights and climate change. The relationship between these two fields is addressed from two different perspectives: the integration of the climate change topic within EU human rights diplomacy; and the inclusion of human rights concerns within EU climate change diplomacy. We analyse its effectiveness, efficiency and the interrelationships with the EU's external development policy by showing, where appropriate, their coordination, coherence and mutual support. In this respect, special emphasis is put on migration issues. Our study then turns the analysis towards internal EU climate change policies, which are explored from the perspective of human rights. We assess the compatibility of European Union mitigation policies with human rights and the gradual integration of the EU adaptation framework within other key European Union policies. Finally, this work concludes with a clarification of how the environmental human right to public information and participation in decision-making, which is transversal by nature, appears and may evolve in both EU internal and external climate policy.

This study was requested by the European Parliament's Subcommittee on Human Rights.

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## LIST OF ACRONYMS

ACHPR	African Commission Human & Peoples' Rights
ACP	African, Caribbean and Pacific Group of States
AOSIS	Alliance of Small Island States
AWG-LCA	Ad hoc Working Group on Long-term Cooperative Action under the Convention
CBDR	Common But Differentiated Responsibilities
CCS	Carbon Capture and Storage
CDDH	Steering Committee for Human Rights
CDM	Clean Development Mechanism
CoE	Council of Europe
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CEDE	Conseil Européen du Droit de l'Environnement
CESCR	Committee on Economic, Social and Cultural Rights
CFREU	Charter of Fundamental Rights of the European Union
CFSP	Common Foreign and Security Policy
CIEL	Center for International Environmental Law
CO2	Carbon Dioxide
COP	Conference of the Parties
COP16	16th Conference of the Parties to the UN Framework Convention on Climate Change
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
CRS	Creditor Reporting System
CSDN	Civil Society Dialogue Network
DAC	Development Assistance Committee
DEVCO	Development and Cooperation
DG CLIMA	Directorate-General Climate Action
DG DEVCO	Directorate-General EuropeAid Development & Cooperation
DG ECHO	Directorate-General Humanitarian Aid
DG ENER	Directorate-General Energy
DG ENV	Directorate-General Environment
DG HOME	Directorate-General Home Affairs
DG	Directorate-General
DPI-NGO	Department of Public Information Non-Governmental Organization
EC	European Commission
ECHR	European Convention on Human Rights and Fundamental Freedoms
ECJ	European Court of Justice
ECOSOC	Economic and Social Council
ECSR	European Committee of Social Rights
ECtHR	European Court on Human Rights
EEA	European Environment Agency
EEAS	European External Action Service
EESC	European Economic and Social Committee
EIDHR	European Instrument for Democracy and Human Rights
ENVSEC	Environment and Security Initiative
EP	European Parliament
ESC	European Social Charter
ESS	European Security Strategy
EU	European Union

EU ETS	European Union Emissions Trading Scheme
FRA	Fundamental Rights Agency
GA	Global Approach
GAERC	General Affairs and External Relations Council
GAMM	Global Approach to Migration and Mobility
GCCA	Global Climate Change Alliance
GDP	Gross Domestic Product
GEF-NGO	Global Environment Facility for Non Governmental Organization
GHG	Greenhouse Gas
GNI	Gross National Income
GSP	Generalised System of Preferences
GT-DEV-ENV	Working Group on Environment of the Committee of Experts for the Development of HR
HCR	Human Rights Committee
HLWG	High Level Working Group
HR	Human Rights
HR & CC	Human Rights and Climate Change
HRBA	Human Rights Based Approach
HRC	Human Rights Council
HRIA	Human Rights Impact Assessment
IACHR	Inter-American Commission on Human Rights
IASC	Inter-Agency Standing Committee
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICHRP	International Council on Human Rights Policy
ICJ	International Court of Justice
ICLQ	International and Comparative Law Quarterly
ICT	Information and Communication Technology
IDP	Internally displaced persons
IFIPCC	International Forum of Indigenous Peoples and Climate Change
IOM	International Organization for Migration
IPCC	Intergovernmental Panel on Climate Change
IUCN	International Union for Conservation of Nature
JHA	Justice and Home Affairs
JI	Joint Implementation
MDG	Millennium Development Goals
MRV	Monitoring, Reporting, and Verifying
MS	Member States
NATO	North Atlantic Treaty Organization
NCP	National Contact Points
NGLS	The United Nations Non-Governmental Liaison Service
NGO	Non-governmental organization
OAS	Organization of American States
OCHA	Office for the Coordination of Humanitarian Affairs
ODA	Official Development Assistance
OECD	Organisation for Economic Co-operation and Development
OHCHR	Office of the United Nations High Commissioner for Human Rights

OMC	Open Method of Coordination
OSCE	Organization for Security and Co-operation in Europe
PACE	Parliamentary Assembly of the Council of Europe
PDD	Project Design Document
RBA	Rights-Based Approaches
REDD	Reducing emissions from deforestation and forest degradation
RELEX	DG for External Relations
TEC	Treaty on European Community
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union
UDHR	Universal Declaration of Human Rights
UK	United Kingdom
UN	United Nations
UN-AGF	United Nations Advisory Group on Climate Change Financing
UNDP	United Nations Development Program
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
UNEP	United Nations Environment Program
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNFCCC	United Nations Framework Convention on Climate Change
UNFPA	United Nations Population Fund
UNGA	United Nations General Assembly
UNHCR	United Nations High Commissioner for Refugees
UNHRC	United Nations Human Rights Council
UNICEF	United Nations Children's Fund
UN-OHCHR	United Nations Office of the High Commissioner for Human Rights
UNPFII	United Nations Permanent Forum on Indigenous Issues
UNSC	United Nations Security Council
US EPA	United States Environmental Protection Agency
WHO	World Health Organization
WWF	World Wide Fund for Nature

- The EU should be clear on the fact that JI/CDM credits from projects that violate or risk violating human rights may not be used within the EU ETS. Relevant criteria should be set up and imposed on investors located in MS territories. Bilateral agreement with host countries may be appropriate in this respect.
- climate change policy should be formulated in a way that ensures a direct effect in favour of effective access to justice for individuals. For example: “Mitigation policies should respect the right to access energy, the right to mobility...”
- The EU and MS should take due account of the necessity for legal certainty and the right to property when modifying EU climate change mitigation policies.

## 11. EUROPEAN UNION ADAPTATION POLICIES AND HUMAN RIGHTS

### – Defining adaptation policies

Adaptation policies are meant to “anticipat[e...] the adverse effects of climate change and tak[e] appropriate action to prevent or minimise the damage they can cause” (European Commission, 2008). As climate impact is likely to cause human impact, the risk that human rights are affected is real. For instance, in the Venice Lagoon, sea level rise is likely to increase the frequency of high-water events, thus causing harm to the urban environment, but also to economic assets and the comfort of citizens (Von Doussa, J.).

While mitigation of climate change effects has become more comprehensive through the realisation of multiple studies and the adoption of coherent policies on the international, regional and national levels, adaptation to climate change remains a huge challenge. To start with, neither the UNFCCC nor the IPCC Working Group I, which assesses the physical scientific aspects of the climate system and climate change, provide a clear definition of adaptation (Garnaud, B.)<sup>103</sup>. One of the underlying reasons for this is “the fundamental difference between definitions of climate change provided by the UNFCCC and the IPCC”<sup>104</sup>. Another reason is the adaptive capacity’s dependence on each specific context (geographical, economic, political and socio-cultural) of a country or region. Even within a MS, it turns out to be difficult to adopt a uniform, national preventative adaptation strategy. Among the various forms of adaptation, we may distinguish between anticipatory and reactive adaptation, private and public adaptation, and autonomous and planned adaptation (IPCC, 2007). Indeed, in the past, adaptation measures were very often adopted as a response to punctual crises. As examples we may quote the 2001 floods and Gudrun storm in Sweden, as well as major floods in the UK, Germany, Hungary, the Netherlands and Norway, but also the 2003 European heat wave, which hit France in a particularly severe manner. As opposed to mitigation policies, adaptation policies are more recent (Rayner, T. and Jordan, A.) and they aim to alleviate the impacts of climate change (and not to avoid them, Hunter, D.B.), and are adopted more on the local and regional scale than on the global and national levels (Termeer, C. et al.). Some MS such as the UK, Finland, Sweden and Italy may be considered as the front-runners in matters of adaptation (Keskitalo, E.C.H.).

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<sup>103</sup> [http://www.iepf.org/media/docs/publications/338\\_LEF85web.pdf](http://www.iepf.org/media/docs/publications/338_LEF85web.pdf) ; [www.ipcc.ch/ipccreports/tar/wg1/518.htm](http://www.ipcc.ch/ipccreports/tar/wg1/518.htm).

<sup>104</sup> Dutch Climate changes Spatial Planning Programme, <http://climatechangesspatialplanning.climateresearchnetherlands.nl/programme/key-terms-climate-change>. According to Article 1 (2) UNFCCC, “climate change means a change of climate which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods”. According to the IPCC, “Climate change refers to a statistically significant variation in either the mean state of the climate or in its variability, persisting for an extended period (typically decades or longer). Climate change may be due to natural internal processes or external forcings, or to persistent anthropogenic changes in the composition of the atmosphere or in land use” ([www.ipcc.ch/ipccreports/tar/wg1/518.htm](http://www.ipcc.ch/ipccreports/tar/wg1/518.htm)).

However, as the Commission pointed out in its Green and White Papers on Adaptation, even though much of the practical climate change adaptation measures will have to be taken at local, regional and national levels, there is also a need to develop a strong European strategy on adaptation. In conformity with the principle of subsidiarity, the European Commission intends to set up an Impact and Adaptation Steering Group (IASG) composed of representatives from the EU MS involved in the formulation of national and regional adaptation programmes (European Commission, 2009) in order to “*help develop the EU strategy and consider the appropriate level at which action should be implemented*” (Rayner, T. and Jordan, A.).

#### – **Integrating human rights into European Union adaptation policies**

EU action for climate change adaptation is required by Article 4 of the UNFCCC, which stipulates that every effort must be made to adopt national or regional adaptation strategies. The aim of mainstreaming a human rights approach into EU adaptation to climate change lies in enhancing resilience (European Commission, 2009), that is “*the possibility for a system to be able to absorb disturbances while still retaining its basic functions*” (Walker and Salt, 2006). Optimizing the resilience of health and social policies, of agriculture and forests, biodiversity, ecosystems and water, coastal and marine areas, production systems and physical infrastructure, is not merely required by a selected number of values or ethical considerations, but follows from the CFREU, which applies to all EU institutions, bodies, offices and agencies, as well as to MS, but only when they are implementing EU law.

According to Article 2 TEU, “[t]he Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail”. It is the EU’s aim to promote these values, together with peace and the well-being of its peoples (Article 3(1)), be it within the EU or “[i]n its relations with the wider world” (Article 3(5)). The Union’s commitment for the respect of human rights is furthermore reflected in the CFREU - which enjoys the same legal value as the Treaties since the entry into force of the Lisbon Treaty in December 2009 - in the case law of the ECJ, as well as in the ongoing negotiations over the Union’s accession to the European Convention for the Protection of Human Rights.

The object of this contribution is to first address the challenges to the integration of human rights into adaptation policies on the EU level, and second to come up with proposals for enhanced integration of human rights into existing and future EU adaptation policies.

### **11.1 Challenges to the integration of human rights into adaptation policies**

Two types of obstacles are currently encountered when mainstreaming a human rights approach into EU adaptation policies, which are linked to both structural and substantial barriers to integration.

#### **11.1.1 Structural barriers to integration**

The main structural barriers to integration are the lack of competences and resources.

#### – **Lack of competences**

Several policy fields in which the human rights impact of adaptation measures is tangible remain a national competence, such as urban planning, the choice of energy mix or the taxation of energy products. Indeed, even though it seems to be widely recognized that “*spatial planners can play a significant role in adaptation – think of the siting of certain infrastructures on river and coastal flood plains for example – such a logic has not yet convinced national governments that a significant EU dimension is warranted*”. Faced with these tensions, the EC may “*decide to push for joint action more quickly in areas*

where EU competence is already well established (such as agriculture, water and biodiversity protection) than where it is contested (e.g. land-use planning matters)” (Stripple, J. et al.). Here may lie one of the reasons why the EU has not managed to adopt an effective, uniform, coherent and overarching approach to adaptation. Another reason may be found in the fact that so far, only soft law instruments explicitly address the challenge of adaptation (2005 Communication, 2007 Green Paper, 2009 White Paper). One is tempted to ask, however, whether the potential negative impact on neighbouring countries of the failure to act in one country (such as experienced with flooding in the Netherlands induced by flooding in Germany) does not legitimize the EU to take coercive legislative action (as shown by the floods directive<sup>105</sup>).

On the national levels, it follows from studies comparing adaptation policies between several MS that the division of tasks varies according to different governance patterns and traditions. For instance, in Sweden, the State assumes responsibility for adopting larger-scale measures, whereas municipalities are entrusted with the mainstreaming of adaptation measures into existing policies. Finland has developed a cross-sectoral national adaptation strategy through inter-ministerial cooperation, which is expected to be implemented by existing administrative bodies, *“but thus far without dedicated funding”*. In Italy, the lack of a formal national adaptation policy has led sub-national levels (regional, local) to integrate adaptation requirements into existing frameworks. The risk of such fragmented action on the national level is that regions or smaller municipalities may lack the necessary resources for implementing adaptation policies. In the Italian case, for example, even though regions enjoy a considerable decision-making power, autonomous action for adaptation on the regional level is necessarily limited in the absence of a national adaptation strategy due to strong national control over financial matters (Keskitalo, E.C.H.).

E.C.H. Keskitalo furthermore notes that sometimes it is less the lack of competences which creates an obstacle to integration of adaptation into existing frameworks than rather an *“unclear distribution of competencies and inter-institutional competition at the national level”*. This author thus sees an opportunity for EU and international level policy-making to have an impact especially in MS where national adaptation strategies have not been adopted or are not being implemented efficiently (*“EU policy development may impact laggards more than leaders who actively attempt to upload their existing policies and therefore experience less of an impact from changes at the EU level”*). Austria and Italy are examples of MS where the Green and White Papers on adaptation were decisive for the adoption and strengthening of national adaptation policy initiatives. So far, the EU has influenced adaptation at the national level mostly through the adoption of directives in the fields of land and water use (such as the Water Framework Directive and the Floods Directive), as well as through funding and supporting of *“adaptation-relevant development”*. More resources of different kinds seem, however, to be needed.

#### – **Lack of resources**

Indeed, the second type of structural barriers to the integration of human rights into adaptation policies are those induced by the lack of human, financial and information resources. The Stern Review identified financial constraints as one of the main barriers to adaptation. R. Cook observes that *“[w]hile the objectives of the EU external adaptation policy are ambitious and commendable, a significant weakness is the lack of commitment on financial assistance and complicated procedures to access the funds”* (Cook, R.). Stakeholders have criticized EU funding sources for putting the emphasis on the development of innovative methodologies rather than the establishment of basic data, which is felt to be a prior necessity (Keskitalo, E.C.H.). As a matter of fact, lack of information about climate change impact on the regional or local levels and about the scale of the costs of climate change, including on the EU level,

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<sup>105</sup> Directive 2007/60/EC.

turns out to be an obstacle to the effective integration of human rights into adaptation policies (Economic and Social Committee, 2009). Finally, there might be a lack of trained human resources for dealing with the mainstreaming of human rights into EU adaptation policies.

EU responses to the lack of human and financial resources may consist in training and funding measures (see Chapter 5). Prior funding should be dedicated to the creation of incentives for multiplying research efforts on the mainstreaming of human rights concerns into adaptation policies. As a matter of fact, existing research on adaptation in general seems to be insufficient as compared to research on mitigation. Another, though, closely linked barrier to the integration of human rights into adaptation policies is the lack of information resources. However, the launch of the long-awaited Clearing House Mechanism by the Commission on 23 March 2012 (<http://climate-adapt.eea.europa.eu/>) is supposed to remedy this obstacle to the mainstreaming of human rights into adaptation policies. In fact, the aim of this web-based, publicly accessible European Climate Adaptation Platform is to support policymakers at EU, national, regional and local levels in the development of adaptation measures and policies through the sharing of best practices. The Platform, which is hosted and managed by the EEA in Copenhagen, helps users to access, disseminate and integrate information on expected climate change in Europe, the vulnerability of regions, countries and sectors now and in the future, as well as information on national, regional and transnational adaptation activities and strategies, case studies of adaptation and potential future adaptation options, online tools that support adaptation planning, and adaptation-related research projects, guideline documents, reports information sources, links, news and events.

#### 11.1.2 Substantial barriers to integration

As to substantial barriers to integration, the main obstacles turn out to be induced by prioritising conflicting interests and conflicting timescales.

##### – **Prioritising conflicting interests**

The integration of climate objectives into other policy sectors is a stated political aim of the European Council (European Council Conclusions, March 2007). The EC has been integrating adaptation to climate change into its development policy since 2003, then suggested including it in additional sectors, such as aviation, maritime transport and forestry (European Commission, 2005), before setting out a framework for mainstreaming adaptation into all EU policies, including energy, water management, agriculture, biodiversity and health (European Commission, 2009). However, mainstreaming adaptation into other policies bears the risk of making interests collide as is shown by a local-level example, where retaining water in city squares might conflict with safety standards, as children could drown in reservoirs (Termeer, C. et al.). At present, there is no formally binding legal requirement to integrate systematically adaptation needs into other EU policies. Political statements and soft law instruments have only the force to encourage EU institutions and MS to take into consideration adaptation needs while defining and implementing other policies.

The mainstreaming of human rights into EU adaptation policies responds to the requirements set out in articles 2 and 3 TEU and Article 7 TFEU, according to which the EU shall ensure consistency between all its policies and activities and take all of its objectives into account. Consequently, the respect for human rights being a legal requirement, subject to the scrutiny of the ECJ, any restriction in the exercise of these rights attributable to the EU institutions is likely to be brought to the Court. In practice, this suggests that the human rights impact (both, beneficial or negative) of various policy options on populations which are likely to be most affected by climate change due to their particular vulnerability, such as the elderly, persons with disabilities, as well as low-income households (European Commission, 2009) and coastal communities (Farber, D.A.) must be taken into due account in the definition and

implementation phases of EU policies. Indeed, a human rights approach requires to take into account in addition to the geographical and intergenerational dimension of climate change, age, ethnicity, class, religion and gender, as “[e]mpirical research has shown that entitlements to elements of adaptive capacity are socially differentiated” along these criteria (IPPC, 2007).

However, whereas a substantial, legally binding requirement for taking into account human rights concerns in the definition of new EU adaptation policies may be deduced from articles 2 and 3 of the TEU read in combination with Article 7 TFEU, a mandatory procedural requirement does not at present exist that prescribes the concrete steps that need to be followed by EU institutions and agencies in order to enhance the mainstreaming of human rights concerns into existing and future EU policies. Here lies some room for action of the EP, following the example of its efforts in pushing for environmental integration into key sectoral policies. Indeed, the environmental integration principle could serve as a model for pushing for the formulation of an explicit procedural requirement on the EU level according to which human rights concerns must be taken into account when EU policies are being defined and implemented. For the time being, the only document which provides for guidance in the assessment of impacts which EU legislative proposals may have on human rights and which explains how human rights aspects should be taken into account is a 2011 Commission Working Paper<sup>106</sup>, which does not have any binding legal effects. Up until now, integration of human rights into adaptation policies such as the Venice lagoon example has been the result of strong political commitment, such as it happens to be stimulated very often in the aftermath of a crisis. However, an effective mainstreaming of human rights concerns into adaptation policies requires a systematic evaluation of the human rights impact - both, beneficial or negative - of various policy options. The 2011 Commission Working Paper could be a basis for discussions on the elaboration of a hard law instrument requiring a human rights impact assessment for any EU adaptation actions and policies - existing and future.

#### – **Prioritising conflicting timescales**

As a matter of fact, industry operates in a totally different way compared to public authorities, as it is used to shorter timescales, is being subject to competition law and has only little need for coordination between divergent sectors (Keskitalo, E.C.H.). Another difficulty encountered by policymakers is that long-term planning in strategy policy documents often means 20 to 30 years, whereas long-term impacts of climate change are counted in a time span of 100 years or more (Biesbroek, R. et al.). A balance needs thus to be struck between economic and non-economic values, but also between long-term objectives and issues that often have a more pressing nature, more certain impacts, more visible short-term results than adaptation measures to long-term climate change. Last but not least, scientific uncertainty adds to the difficulties in prioritising conflicting timescales.

### **11.2 Proposals for enhanced integration of human rights into adaptation policies**

Adaptive capacity is “reflected in a unit’s management of current and past stresses, its ability to anticipate and plan for future change, and its resilience to perturbations” (Smit, B. and Wandel, J., 2006). As it is commonly admitted that adaptive capacity can be better achieved by the MS, either at central level or regional and local levels, the so far limited action for adaptation on the EU level partly results from the application of the principle of subsidiarity. Nevertheless, Community action bears some added value whenever trans-border conflicts need to be resolved or prevented. For this, a comprehensive understanding of the barriers to integration of human rights into adaptation policies is a *conditio sine qua non*. Lessons can be drawn from national experiences, where the mainstreaming of a human rights approach into adaptation policies could be enhanced through political commitment for increased

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<sup>106</sup> Commission Staff Working Paper, SEC(2011) 567 final.

stakeholder involvement, and where promoting research on the re-allocation of responsibilities is a widely suggested solution.

### 11.2.1 Strengthening political commitment for increased stakeholder involvement

It has been observed in national contexts that political commitment in favour of knowledge transfer and participation of the public has a beneficial impact on stakeholder involvement. Indeed, the city administrations in Toronto, Rotterdam and London may be quoted as examples that show that a strong leadership of mayors, environment agencies and dedicated officers leads to a high political capacity to promote change. More precisely, given the ongoing transition from traditional forms of government (bureaucratic, centralized, top-down policy design and implementation) to new forms of governance (less hierarchical and more inclusive, decentralized and flexible decision-making), active involvement of the private sector is expected to raise governance capacity (Mees, H.-L.P. and Driessen, P.J.). Indeed, the new “multi-actor, multi-sector, and multi-level governance world” seems to respond to the requirements of adaptation to climate change (Termeer, C. et al.) in the sense that decision-making is not only steered by public, but also by private interests, across multiple sectors and geographic scales.

But how to increase the involvement of climate change stakeholders? The UK provides a telling example of a multi-level adaptation network characterized by an extensive focus on stakeholder engagement and vertical and horizontal coordination, where private actors are working hand in hand with State agents representing local, regional and national authorities (Keskitalo, E.C.H.). More generally, it has been observed that the existence of a national adaptation strategy plays a significant role in terms of agenda setting and promoting awareness. *A contrario*, as is shown by examples of municipalities in Sweden, Italy and Greece, the absence of a national adaptation framework hampers the development of local adaptation activities.

#### – Promoting knowledge transfer

The EC, in its 2009 White Paper on Adaptation, stressed that one of the major obstacles to the development of successful climate change adaptation responses is the lack of knowledge. Disposing of reliable data on the likely impact of climate change, the associated socio-economic aspects and the costs and benefits of various adaptation options is indeed essential for strengthening the mainstreaming of a human rights approach into adaptation policies. In a more recent document, the Commission provides operational guidance on how to take account of Fundamental Rights in its Impact Assessments (European Commission, 2011). But integrating human rights considerations into adaptation policies must not be limited to EU institutions and agencies. Providing health-related information and education is essential for the protection of the right to life (Blazogiannaki, M.). Awareness should thus also be raised amongst consumers by promoting adequate information. For instance, the third EU energy liberalization package promotes energy efficiency measures and awareness among consumers by enhancing consumer rights (Dupont, C. and Primova, R.). Admittedly, this is a typical example where the frontiers between mitigation and adaptation measures are being blurred, as energy efficiency measures aim at both, mitigating climate change and adapting to its effects. One possible explanation for this is that adaptation has very often been perceived as an extension of the mitigation policies. As environment ministries were generally leading in the field of mitigation (except in Norway, where the lead ministry was the Ministry of Agriculture and Forestry), either they and/or existing administrative bodies were entrusted with dealing additionally with adaptation issues, or specific bodies were created, such as the *Grenelle de l'Environnement* in France, the inter-ministerial adaptation group in Norway, or the National Climate Council in Spain. But specific secretariats or bodies were also developed on the regional and local levels, such as the German Competence Centre on Climate Impacts and Adaptation or the Dutch Climate Changes Spatial Planning programme (Keskitalo, E.C.H.).

As to the ways for communicating knowledge to the public, existing national action plans for adapting to climate change may be of value for the learning process and promotion of best practices. For example, mobile-phone message alerts, newspaper advertisements, sirens, and maps with safe exit routes have proven to be working in Venice (Munaretto, S. and Klostermann, J.E.M.).

Furthermore, training of vulnerable populations on climate change issues such as farmers should be promoted (AEA Energy & Environment and Universidad de Politécnic de Madrid). As developed in another paragraph of this report, climate change impact on migratory flows *“should also be considered in the broader EU reflection on security, development and migration policies”* (European Commission, 2008).

Last but not least, complete information should be provided about existing possibilities for taking action. As an example, awareness should be raised about the widening of access to justice in environmental matters through the Lisbon Treaty. Additionally and as is shown in the section of this report which deals with access to information, from 1 April 2012 the citizens’ initiative will enable one million EU citizens, coming from at least 7 out of 27 MS, to invite the EC to propose legislation on matters in which the EU has competence to regulate (Regulation 211/2011).

– **Encouraging wider and stronger participation**

Participation and input from members of society who are presently or potentially affected by climate change effects is determining in the development of efficient adaptation policies. Indeed, the EESC stressed in its 2009 Opinion on the White Paper on Adaptation, the necessity *“for the wider public to address adaptation issues that may affect them such as: - where to live, work and take holidays in the light of changing climate patterns; how the management of long-life trees and forests should cope with continuously changing climate conditions; [...] how the distribution of health risks may change and what precautions to take; how our food and diets may have to be altered”*.

With regard to the promotion of wider and stronger participation, it is first of all important to emphasize the stimulating role in agenda-setting played by international forums such as the IPCC or the UNFCCC or national leadership figures. At the same time, the fact that agenda-setting at lower levels has influenced the development of national adaptation strategies shows to what extent adaptation is a multi-level issue. Examples are provided by the strong influence of regional entities such as the counties surrounding Lake Vänern in Sweden, the county of Hampshire in the UK, some Länder in Germany, among which the Land of North Rhine-Westphalia has developed *“a regional adaptation strategy with the aim of raising public awareness, developing research, knowledge and adaptation measures, increasing overall adaptive capacity, and providing assistance to various sectors”* (Keskitalo, E.C.H.).

Secondly, it is essential that the largest number of climate advocates – and thus not only DG ENVIRONMENT, DG CLIMA and the Human Rights committee of the European Parliament - but also other EU institutions and agencies, as well as national, regional and local governments, regulatory agencies, industry, consumers and civil society actors such as NGOs and also media be aware of the extent to which they may each individually contribute to the adoption and implementation of EU adaptation policies that respect and comply with human rights. National experiences show that, in the absence of any (strong) adaptation policies, private actors such as NGOs may come in and occupy a prominent role in the development of independent adaptation strategies (as shown by the Australian, Greek and Italian cases), but also sub-national public actors such as municipalities (as in Sweden) and local authorities (as in the UK) (Keskitalo, E.C.H.).

Thirdly, a unified and stable government seems to be an optimal ground for strong political commitment. Indeed, as was shown by the Italian, Greek, Hungarian and Canadian cases, political fragmentation and instability have proven to be an obstacle to wider and stronger participation, whereas local government associations in the UK, Sweden, Finland and Spain have proven to be

proactive by developing adaptation policy or guidelines. More generally, networking has turned out to be beneficial for fostering understanding of impacts and potential adaptation plans (Keskitalo, E.C.H.).

### 11.2.2 Promoting research on the re-allocation of responsibilities

As mentioned before, adaptation strategies come hand in hand with shifts in governance, which in turn, require a new allocation of responsibilities. It is likely that wider and stronger public participation will lead to a shift towards stakeholders taking more responsibility (Termeer, C. et al.). However, a human rights approach to adaptation policies requires that the most marginalised and disadvantaged populations, such as low-income households, are protected from being burdened with price increases for essential services (such as electricity and water). This can be achieved if such groups are able to benefit from financial and/or other government assistance (Blazogiannaki, M.). According to Hunter, “[i]n the case of natural disasters, for example, the right to housing suggests that people have the right to temporary housing and shelter while their permanent homes are being repaired” (Hunter, D.B.). In this sense also, Gemenne argues that adaptation funds should be allocated according to criteria relating to vulnerability and adaptive capacity rather than to responsibility (Gemenne, F.). In other words, human rights should be taken into account whenever priorities are set regarding the allocation of funds, which are often limited, for adaptation.

On a practical level, the re-allocation of responsibilities may involve legally obliging landowners to conduct “greening” initiatives, inviting insurance companies to create incentives for adapting businesses and buildings and establishing public-private partnerships.

#### – **Legally obliging landowners to carry out greening**

The enforcement of greening policies has been put into practice by several municipalities. However, for these greening policies to be effective, they should apply not only to new urban planning projects, but also to the existing built environment (which is about eighty per cent of the urban environment), which current policy decisions seem to have neglected. Also, clarification is needed regarding the methods according to which private actors as the main owners of buildings could be involved (Mees, H.-L.P. and Driessen, P.J.). More generally, uncertainties must be removed as regards the division of tasks and responsibilities. For instance, while the city of Rotterdam opted for the ‘Green Roofs’ project, based on its ability to reduce heat stress and CO<sub>2</sub> emissions, the division of tasks and responsibilities regarding the construction of and payment for these roofs is still unclear (Biesbroek, R. et al.).

Other greening policy options may consist in the prohibition of tree cutting, or the conversion of paved areas in front gardens into permeable material. In London, the Urban Greening Programme provides for “a green-roof policy, a tree-planting programme, and the establishment of an urban-wide green grid. Green roofs are required on all major developments”. Provinces in the Netherlands have means to create new green space through expropriation of land and public-private partnerships. Quotas help ensure that a certain percentage of newly developed or re-developed areas are allocated for surface water retention, either through the creation of a canal with green borders or wadis. In Toronto, there is a law that requires a doubling of the number of trees by 2050, and since 2010 green roofs have become mandatory for all new larger developments. Expropriation measures are foreseen by the law in order to create new green spaces (Mees, H.-L.P. and Driessen, P.J.).

#### – **Inviting insurance companies to create incentives for adapting businesses and buildings**

Efforts relating to the re-allocation of responsibilities must also be made by insurance companies, by inviting them to “develop new products for reducing risks and vulnerability before disasters strike” (European Commission, 2008). It could be suggested that insurance companies request for homes to be made resistant to extreme weather conditions, thus protecting the right to life (Blazogiannaki, M.) and

creating incentives for farmers to adapt their business and buildings in order to reduce their premiums (AEA Energy & Environment and Universidad de Politécnic de Madrid).

– **Establishing public-private partnerships**

An effective protection of the right to water requires that alternative water access be ensured when climate change limits the supply of water (Blazogiannaki, M.). Private enterprises could carry out such tasks. However, as they may overcharge or refuse to cover some regions, public policy measures may be required to overcome market failures. Another example may lie in the sharing of the most extreme risks between commercial insurers and public authorities. The EC suggested, as early as 2005 in its Communication of that year, for governments *“to step in, either by requiring the provision of adequate coverage or providing solidarity funding”*. Public-private partnerships can also *“help to accelerate investment in infrastructure, which is likely to be the most expensive aspect of adaptation (OECD 2008)”* (Stripple, J. et al.)

In addition to these proposals, it has been suggested that system synchronization may be achieved through *“the appointment of liaison officers or climate-adaptation ambassadors [the introduction of] integrated licences or procedures that synchronize different decision-making processes”* (Termeer et al.). On the EU level, system synchronization could be reached through the creation of a climate change Commission in charge of centralizing the responsibility for adaptation across sectors and MS (Ellison, D.), following the model of the independent climate committee established in the UK (European Economic and Social Committee, 2009).

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