



#EnvironmentRightNow: national parliaments and the right to a healthy and sustainable environment

Background document for theme 2 - revised

1. The current decade will be decisive. With the climate crisis not just Europe, but the whole world is facing a systemic danger testing its institutions and questioning its capacity to develop “**climate resilience**”. Above and beyond first- and second-generation human rights, the recognition of new-generation rights is now at stake. Environmental upheaval poses a direct threat to people’s health and well-being and the stability of society as a whole, as well as to democratic security. It poses a threat to the trust of citizens in the authorities, especially the young. The Council of Europe, its Parliamentary Assembly, and national parliaments all have a role to play to meet this unique and urgent challenge.

2. Five years after the Paris Climate Agreement, with COP 26 in Glasgow on the horizon, Europe must demonstrate its firm commitment to climate governance at all levels. It should commit to the United Nations’ goal of ‘net zero emissions’. Member States’ Nationally Determined Contributions (NDCs) – defined by national governments and enshrined into legislation by national parliaments – need to be ambitious in the light of anthropogenic climate disruption. Responses to the climate crisis must be accompanied by social rights protection, especially for the most vulnerable, in line with the UN Sustainable Development Goals (UNSDGs).

3. In its efforts to help tackle environmental degradation, the Council of Europe has provided a number of tools through the **case-law of the European Court of Human Rights, as well as the European Social Charter and the conventions for the conservation of landscapes and biodiversity**. While such efforts have yielded the occasional success, the Council has not yet been able, any more than other organisations, to ensure the effective implementation of substantive and procedural rights enshrined in environmental law.

4. The Parliamentary Assembly has repeatedly called on the Council of Europe to safeguard the right to a healthy environment, including through an Additional Protocol to the European Convention on Human Rights, most recently in a unanimous vote on 29 September 2021. This is becoming increasingly urgent and member States need to adopt common tools to ensure the right to a safe, clean, healthy and sustainable environment.

Need for new legally binding Council of Europe instruments enshrining the right to a safe, clean, healthy and sustainable environment

5. The President of the Parliamentary Assembly, Rik Daems, has been calling for a paradigm shift to ensure that a healthy environment is not only a matter of policy but also a human right. Explicitly recognising the right to a safe, clean, healthy and sustainable environment in Europe, as in other regions of the world, would pave the way for resolute action at both European and national levels. The need for enhanced action by the Council of Europe is therefore clear.

6. The Parliamentary Assembly of the Council of Europe has expressed its support for drafting an **Additional Protocol to the European Convention on Human Rights** for many years. This new instrument should be legally binding and enforceable, drawing on the model text unanimously proposed by the Assembly end of September 2021. At the same time, the Assembly also recommended that the Committee of Ministers draw up an **Additional Protocol to the European Social Charter** enshrining the right to a safe, clean, healthy and sustainable environment.

7. In 2020, the Georgian Presidency of the Committee of Ministers reopened the debate on this matter at intergovernmental level. Threats to climate and biodiversity then remained high on the agenda during the subsequent Presidencies. Responding to such a global and pressing challenge requires a comprehensive “5 Ps” approach focusing on prevention, protection, prosecution, coordinated policies and parliamentary role, which is necessary to support efforts to combat the climate crisis and environmental degradation. The Assembly has thus also recommended the preparation of a feasibility study for a **“5P” convention on environmental threats and technological hazards threatening human health, dignity and life.**

8. Issues of **criminal and civil liability** in the context of climate change also need to be addressed. The Assembly thus recommended that the Committee of Ministers draft, without delay, a new legal instrument to replace the Convention on the Protection of the Environment through Criminal Law, and examine how the Convention on Civil Liability for Damage Resulting from Activities Dangerous to the Environment can be promoted, updated or replaced.

Role of Parliaments and Parliamentarians as legislators and guardians of democracy, human rights and rule of law

9. The Assembly intends to set up a **parliamentary network** to ensure the necessary political support and parliamentary input by representative democracy. This network, to be established in January 2022, will serve as an essential link to national parliaments, and inspire and follow the action taken by the national authorities to honour the strong commitments they have made vis-à-vis the climate crisis while fostering the mutual enrichment of ideas and setting up regular opportunities for parliamentarians in Europe and on other continents to pool their experience.

10. National parliaments have a key role to play in responding to the climate emergency. Using their powers, they **must put forward ambitious integrated policies, ensure that national legal frameworks are improved and conduct environmental impact assessments of public policies.** The tools for achieving the Paris agreement and the UNSDGs are in their hands. The transformations required are inextricably linked to human rights, democracy and the rule of law, all three of them the core values of the Council of Europe and its member States and necessary for ensuring right to a safe, clean, healthy and sustainable environment themselves.

11. Translating the right to a healthy environment into tangible and measurable national policies and action requires the involvement of parliaments, the 5th P. The role of the Parliamentarians in **identifying national priorities and to provide guidance** in their implementation is important to ensure that the action reflects and addresses the specific national needs and circumstances, and that enough resources are allocated for this purpose when **approving budgets.**

12. National parliaments must also contribute to **promoting ambitious and strengthened dialogue** between the various parties involved at local, national, regional and international level, including private stakeholders and especially companies. They must foster innovation and transformation, but also use legislation to encourage proactive, and creative measures to promote the right to a safe, clean, healthy and sustainable environment. The new paradigm of a green, healthy and sustainable society could be built around energy transition, a circular economy, the importance of nature and preserving biodiversity, while adapting the economic model and financial system to ensure that businesses live up to their responsibilities, and the ecological transition leaves no one behind.

13. This calls for a **holistic approach guided by the principle of social justice** – the cornerstone of a European model respecting human rights. National parliaments should support the **reform of the revised European Social Charter** and its **effective national implementation.** This entails passing legislation to combat inequality and discrimination while reinforcing human rights protection for the most vulnerable groups, including ethnic minorities and indigenous peoples. Particular attention should be paid to gender mainstreaming because climate change affects men and women differently and women are under-represented in decision-making bodies.

14. Inequality lies behind and is also the consequence of forced displacement owing to climate change and the problems associated with receiving and dealing with “**climate refugees**”. National parliaments must fully take on board climate and environmental issues that affect migration, co-operation and development policies and emergency humanitarian programmes following disasters in migrants’ countries of origin.

15. The right to a healthy and sustainable environment also means considering the **protection provided to whistle-blowers** and those who raise awareness about environmental degradation – including civil society organisations, journalists and other stakeholders. National parliaments should therefore implement instruments offering a high degree of protection in this respect and must play an important **oversight role by monitoring effective implementation**.

16. Lastly, climate action provides an opportunity to respond to the crisis of representative democracy and to **support emerging models of public participation and deliberation that complement and enrich parliamentary democracy**. Ensuring young people and children actively engage and participate in this process is crucial to reclaiming public space, continuing to build trust and revitalising our institutions.

➤ **Questions for discussion:**

- *What steps is your parliament taking to translate the strong political will for a healthy and sustainable environment into tangible and sustainable action?*
- *Do you have national legislation linking environment and human rights?*
- *What role does your parliament play in ensuring successful co-ordination between different territorial levels (i.e. local, national, regional and international levels)?*
- *How is your parliament contributing to the debate on instruments needed to enable member States to fulfil their commitments, build climate resilience, address scientists’ legitimate concerns and support change, as well as to promoting practical and effective application of such instruments where they already exist?*
- *How is your parliament ensuring appropriate protection is afforded to those who raise awareness about environmental degradation?*
- *Has your parliament used debates on environmental issues as “testing grounds” for encouraging public involvement – especially that of young people and even children – in the law-making process?*

Appendix: Main reference documents

Parliamentary Assembly of the Council of Europe:

[#EnvironmentRightNow: a PACE initiative](#)

[Resolution 2272 \(2019\)](#) on “Implementation of the Sustainable Development Goals: synergy needed on the part of all stakeholders, from parliaments to local authorities”

[Recommendation 1885 \(2009\)](#) on “The young generation sacrificed: social, economic and political implications of the financial crisis”

[Resolution 2329 \(2020\)](#) on “Lessons for the future from an effective and rights-based response to the Covid-19 pandemic”

Upcoming report on “Inaction on climate change – a violation of children’s rights” by the Committee on Social Affairs, Health and Sustainable Development (Rapporteur: Ms Jennifer De Temmerman, France, ALDE)

Council of Europe:

[9th World Forum for Democracy on “Can democracy save the environment?”](#)

United Nations:

United Nations General Assembly Resolution 70/1 adopted on 25 September 2015

[United Nations Sustainable Development Goals](#)