



Steunpunt tot bestrijding van armoede,
bestaansonzekerheid en sociale uitsluiting

Service de lutte contre la pauvreté,
la précarité et l'exclusion sociale

Combat Poverty, Insecurity and Social
Exclusion Service



Federal Institute for
the protection and promotion
of Human Rights



Kinder
rechten
commissariaat
Geeft kinderen een stem



Position paper Just transition and human rights

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The Combat poverty, insecurity and social exclusion service is an inter-federal and independent public institution. Its mission is to evaluate the effectiveness of the exercise of fundamental rights in situations of poverty and insecurity, together with people in poverty and actors in the fight against poverty. Created by a Cooperation Agreement between the Federal State, the Communities and the Regions, the Combat poverty service was entrusted with a mandate to protect human rights. Poverty seriously impairs the dignity and equal and inalienable rights of all persons.

The Federal Institute for the Protection and Promotion of Human Rights (FIRM) is an independent institution that, in collaboration with other organisations, watches over the respect, knowledge and awareness of human rights in Belgium. The FIRM was established by the law of May 12, 2019. The FIRM was accredited by the Global Alliance of National Human Rights Institutions (GANHRI) in March 2023 as a national human rights institution (NHRI), with B status, in accordance with the Paris Principles. The FIRM currently has federal jurisdiction and a residuary mandate.

Unia is an inter-federal independent public institution that fights discrimination and promotes equality in Belgium. Unia was also designated as an independent monitoring mechanism for promoting, protecting and monitoring the United Nations Convention on the Rights of Persons with Disabilities in our country and is internationally recognized as a national human rights institution (B status NHRI). Unia defends the equal and inclusive participation of all people in all sectors of society and ensures that human rights are respected in Belgium. Within this framework, Unia helps people who feel discriminated against by providing them with legal support and fights against discrimination based on the protected characteristics for which it has jurisdiction.

Myria, the Federal Migration Centre, is an independent government institution, which watches over the fundamental rights of foreigners, with a particular focus on foreigners in detention. Myria promotes the fight against human trafficking and human smuggling, is an independent national rapporteur on human trafficking and acts in court in cases involving human trafficking and human smuggling. Myria informs governments about the nature and magnitude of migration flows. It champions public policies based on knowledge of facts and respect for human rights.

Established as an independent institution by the Flemish Parliament, the **Flemish Office of the Children's Rights Commissioner (KRC)** monitors children's rights in Flanders. It detects signals from children, young people, parents and professionals. It investigates complaints about violations of children's rights and, based on the International Convention on the Rights of the Child, provides advice to the Flemish Parliament and other policy makers.

The Délégué général aux droits de l'enfant (DGDE) is an independent public institution established in the French Community by the decree of 20 June 2002 and the order of 19 December 2002. Its general mission is to safeguard the rights and interests of children.

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Introduction

On 24 May 2022, Federal Minister of Climate, Environment, Sustainable Development and Green Deal of Belgium, Zakia Khattabi, launched the States General for Just Transition¹. The Combat poverty, insecurity and social exclusion service² was asked to support this process, including with a position paper on just transition and human rights. The biennial Report 'Sustainability and Poverty'³ is the starting point for its contributions. Indeed, this Report highlights the reinforcing link between the socioeconomic inequalities that people in poverty are confronted with on a daily basis and the ecological challenges⁴ we face today. It also argues that the pursuit of sustainability must go hand in hand with poverty reduction in order to overcome both the ecological and social inequalities in our society.

People in poverty are often the first and hardest hit by the consequences of climate and environmental changes and by the climate and environmental policies implemented. But other groups are also more vulnerable to these changes, such as children⁵, women⁶, persons with disabilities⁷... This is why the Combat poverty service has partnered with several human rights institutions and why this is a joint opinion of the inter-federal Combat poverty, insecurity and social exclusion service, the Federal Institute for the Protection and Promotion of Human Rights (FIRM), the inter-federal Centre for Equal

¹ Minister van Klimaat, Leefmilieu, Duurzame Ontwikkeling en Green Deal (2022). [Leave no one behind – voor een rechtvaardig transitiebeleid in België](#), Persbericht 24 mei 2022.

Belgische Kamer van volksvertegenwoordigers (2021). [Beleidsnota Klimaat, Leefmilieu, Duurzame ontwikkeling en Green Deal](#) (DOC 55 2294/023), 3 november 2021.

² The Combat poverty, insecurity and social exclusion service is an independent, inter-federal, public institution, created in 1999 through the [Cooperation Agreement between the Federal State, the Communities and the Regions on the consolidation of poverty policies](#). Its mission consists of evaluating the effectiveness of the exercise of rights in situations of poverty and insecurity. The Combat poverty service does this by, among other things, organising in-depth and structural dialogue processes with people experiencing poverty, their associations and networks, and various other stakeholders (field organisations, institutions, administrations, scientists...). The analyses and recommendations resulting from these dialogue processes form the basis for the biennial Reports of the Combat poverty service.

³ Combat poverty, insecurity and social exclusion service (2019). [Sustainability and poverty. Contribution to political debate and political action. Biennial Report 2018-2019](#), Brussels, Combat poverty, insecurity and social exclusion service.

⁴ By this we mean both climate change, environmental degradation and loss of biodiversity, often referred to as the 'triple planetary crisis'. In this text, we primarily use climate and/or environmental change. See: United Nations Framework Convention on Climate Change (UNFCCC) (2022). [What is the Triple Planetary Crisis](#), April 13, 2022.

⁵ Flemish Office of the Children's Rights Commissioner (2023). [Advies: de klimaatcrisis vanuit kinderrechtenperspectief](#), Brussels, KRC.

UNICEF (2021). [The Climate Crisis is a Child Rights Crisis: Introducing the Children's Climate Risk Index](#), New York, UNICEF.

Thiery, Wim et al. (2021). "[Intergenerational inequities in exposure to climate extremes. Young generations are severely threatened by climate change](#)", *Science*, 374 (n°6564), p. 158-160.

⁶ Federal Institute for the Protection and Promotion of Human Rights, the Combat poverty, insecurity and social exclusion service and Centrale Toezichtsraad voor het Gevangeniswezen (2022). [Parallel rapport voor het VN-comité voor de uitbanning van discriminatie van vrouwen](#), 83ste zitting, 8ste periodiek rapport van België + bijlage 1 + bijlage 2, October 14, 2022.

⁷ Unia (2021). [Parallel rapport voor het VN-Comité voor de rechten van personen met een handicap](#), Brussels, Unia.

Opportunities (Unia), the Federal Migration Centre (Myria), the Flemish Office of the Children's Rights Commissioner (KRC) and the *Délegué général aux droits de l'enfant* (DGDE).

Climate and environmental issues obviously have a distinctly international dimension - with great differences in responsibility, vulnerability and courses of action between regions and countries. This position paper is limited to the national level. It does not specifically address the issue of climate migration, although the increasing number of internally displaced people⁸ and refugees⁹ following climate and environmental disasters is a major challenge¹⁰.

In section 1, we recognize climate and environment as human rights issues. Not only climate and environmental changes themselves can perpetuate, reinforce or create inequalities. Measures to combat climate change and environmental degradation (mitigation) and to cope with these changes (adaptation) can also do so. This threatens the human rights of various groups. **To protect the human rights of all, climate and environmental measures must be taken. To prevent these measures from in turn perpetuating, reinforcing and creating inequalities, the climate transition must proceed in a socially just manner.** In section 2, we emphasize that human rights provide a framework for shaping the just transition. We recall the international human rights obligations of states, including on environment and climate, to respect, protect and fulfil the fundamental rights of all. In section 3, we discuss several guiding principles of a human rights-based approach to just transition policies.

1. Climate and environmental inequalities threaten the effectiveness of human rights

During the dialogue processes to prepare the biennial Report 'Sustainability and Poverty' of the Combat poverty service, several poverty, social, nature and environmental organisations denounced the unequal impact of climate and environmental changes and of climate and environmental policies on people living in poverty¹¹. Sections 1.1 and 1.2 are based mainly on these observations and analyses.

1.1 The uneven impact of climate and environmental change

Firstly, people in poverty are the first to be affected by climate and environmental changes and, moreover, are affected to a greater extent. This is all the more unfair because they are less responsible for global warming. After all, the lower one's income, the lower one's consumption and the smaller one's ecological footprint. In Belgium, the unequal impact of pollution is particularly striking. People at the bottom of the social ladder are more exposed to pollution, both indoors (e.g. poor air quality due to lack of ventilation options) and outdoors (e.g. proximity to industry or busy traffic axis, distance

⁸ Internally displaced people are people fleeing within their own national borders. Zie: [Klimaatverandering en ontheemding \(unhcr.org\)](#).

⁹ Refugees are people who flee the country of their nationality. Zie: [Klimaatverandering en ontheemding \(unhcr.org\)](#).

¹⁰ [Klimaat.be](#), The Belgian federal site for reliable information on climate change, [Klimaatmigratie](#). See also: European Parliamentary Research Service (EPRS) (2019). [The concept of 'climate refugee' Towards a possible definition](#).

¹¹ Combat poverty, insecurity and social exclusion service (2019). [Sustainability and poverty. Contribution to political debate and political action. Biennial Report 2018-2019](#), Brussels, Combat poverty, insecurity and social exclusion service.

to green spaces and nature). They are also especially vulnerable to pollution. Because of their precarious living conditions, they are often already in poorer health. Children and youth are physically more vulnerable because they are in full development. Moreover, they are going to face more impacts of climate change during their lives than adults today¹². Many people in poverty are also unable to get adequate care because they have difficulty going to the doctor or hospital, paying for care or medicines... Natural disasters, such as the summer 2021 floods, also illustrate how existing social inequalities are reinforced. The places worst affected, near the riverbanks, are the rather poorer neighbourhoods and campsites with permanent residences. Looking for an affordable place to live, people sought refuge there. In the aftermath of the floods, many of them were again faced with the severe shortage of affordable and quality housing¹³.

Furthermore, people in poverty are less able to protect themselves from the effects of climate and environmental change¹⁴. They have a harder time recovering after any disaster because of the vulnerable socioeconomic situation they find themselves in. For example, many do not have a job, while others have temporary, interim or low-paid jobs. In addition, people in poverty are also more likely to struggle with poor health and a precarious housing situation. Thus, several of their basic rights have never been effective.

Finally, people in poverty have fewer opportunities to make sustainable choices. While they lead economical lifestyles and use water and energy sparingly, they lack the financial resources and room for manoeuvre to feed, clothe, move, heat themselves sustainably... Organic and fair food is for example more expensive, poorly insulated (rented) homes are difficult to heat, public transport is not available and accessible to everyone everywhere, leaving some to rely on an old polluting car...

1.2 The uneven impact of climate and environmental policies

Not only climate and environmental changes can perpetuate, amplify or create inequalities. Policies to address the causes of climate change in order to reduce its magnitude (mitigation) or to protect people from and to help them cope with the consequences of climate change (adaptation) also have distributional effects. That is, the costs and benefits of these measures are often unevenly distributed among different population groups¹⁵.

First, many policies that encourage sustainable behaviour benefit more the more affluent citizens. For example, premiums for insulation, subsidies for solar panels, tax benefits for electric cars... only benefit citizens who have the financial means to make the investment and advance part of it. For

¹² Flemish Office of the Children's Rights Commissioner (2023). [Advies: de klimaatcrisis vanuit kinderrechtenperspectief](#), Brussels, KRC.

¹³ Combat poverty, insecurity and social exclusion service (2021). [Solidarity and poverty. Contribution to political debate and political action. Biennial Report 2020-2021](#), Brussels, Combat poverty, insecurity and social exclusion service.

¹⁴ "Vulnerability to environmental harm reflects the 'interface between exposure to the physical threats to human well-being and the capacity of people and communities to cope with those threats'." See: Knox, John H. (2018). [Framework Principles on Human Rights and the Environment](#), principle 14, United Nations Human Rights Special Procedures, p. 20. ([UN Doc. A/HRC/37/59](#)).

¹⁵ "Policies intended to combat climate change are not always socially neutral either. ... This means that vulnerable social groups can be affected by climate change in more than one way: the impact may be direct, as a result of the physical impacts, but also indirect, as a result of the policies implemented to combat climate change. Note that income is but one discriminating factor; aspects such as gender, nationality, ethnicity and educational level (which are often correlated to some degree) can also play a role". See: De Ridder, Koen et al. (2020). [Evaluation of the socio-economic impact of climate change in Belgium](#), VITO, KENTER, ECORES, p. 201.

people in poverty, these measures are not financially feasible or even applicable because, for example, they do not own their homes. These Matthew effects¹⁶ should be prevented and combated.

At the same time, measures that discourage polluting or energy-consuming behaviour hit vulnerable groups harder. One example is the introduction of low-emission zones (LEZ) in some cities. Although many people in poverty do not own a car, those who do own one usually do not meet the new emissions standards. Moreover, they do not have the means to buy a new, less polluting car. For persons with disabilities who drive a polluting, unauthorized vehicle, but are holders of a blue parking permit and enjoy increased relief, there are drive-through permits for the LEZ. Nevertheless, this measure is not sufficient to meet the needs of persons with disabilities, because public transportation is not very accessible to them¹⁷. A LEZ may also prevent informal caregivers and professional caregivers, who drive a polluting car, from getting to their patients. It is essential to provide an affordable, widely accessible (i.e., collective) and sustainable alternative to the unsustainable behaviour that is discouraged.

Moreover, **vulnerable groups** are usually not heard by policy makers. That is why the associations within which people living in poverty come together explicitly asked to talk about sustainability in the dialogue processes the Combat poverty service's organises. People living in poverty are **hardly involved in the various conversations, platforms and initiatives around the future of our planet**. It is assumed that they are not sensitive to ecological challenges and are only concerned with survival. But despite their difficult situation, they want to participate in thinking and talking about the future¹⁸. Precisely because their future is already under pressure today. *"By making decisions without consulting those who already face the most difficulties in accessing basic rights, a whole section of the population runs the risk of being penalized, even by the best intended measures"*¹⁹. Women²⁰, people with disabilities²¹ and children and youth²² - the only group not democratically represented in parliaments - are also asking to be more involved and heard by policies.

Scientific evidence supports these findings from associations within which people living in poverty come together and other field organisations. For example, the International Panel on Climate Change (IPCC) states that people who are socially, economically, politically, institutionally or otherwise excluded are particularly vulnerable to climate change and to some mitigation or adaptation

¹⁶ Matthew effects are regressive distributional effects. They apply to policies that are systematically used more by the more affluent population groups, while they are used less - or not at all - by people in poverty. See also Chapter III 'Solidarity and Fiscal matters' (pp. 55-73) in Combat poverty, insecurity and social exclusion service (2021). [Solidarity and poverty. Contribution to political debate and political action. Biennial Report 2020-2021](#), Brussels, Combat poverty, insecurity and social exclusion service.

¹⁷ The Brussels government therefore approved three new social measures to help all residents adopt other low-carbon travel habits. See: [Nieuwe sociale maatregelen voor koolstofarme mobiliteit in Brussel](#), Press release June 16, 2023.

¹⁸ See also: SAAMO (2022). [Klimaatstem van MIA](#).

King Baudouin Foundation (KBS) (2022). [Fair energy transition for all. What vulnerable people have to say](#).

¹⁹ Van Breen, Herman (2021). [Op weg naar klimaatapartheid of naar een rechtvaardige transitie?](#)

²⁰ Federal Institute for the Protection and Promotion of Human Rights, the Combat poverty, insecurity and social exclusion service and Centrale Toezichtsraad voor het Gevangeliswezen (2022). [Parallel rapport voor het VN-comité voor de uitbanning van discriminatie van vrouwen, 83ste zitting, 8ste periodiek rapport van België + bijlage 1 + bijlage 2](#), October 14, 2022.

²¹ Unia (2021). [Parallel rapport voor het VN-Comité voor de rechten van personen met een handicap](#), Brussels, Unia.

²² Flemish Office of the Children's Rights Commissioner (2023). [Advies: de klimaatcrisis vanuit kinderrechtenperspectief](#), Brussels, KRC.

measures²³. Research in Belgium also confirms the negative distributional effects of climate and environmental change and policies²⁴.

1.3 Climate and environment are human rights issues

The triple planetary crisis is a human rights issue²⁵. Environmental damage, biodiversity loss and global warming can have a huge impact on the effectiveness of various human rights, such as the right to life²⁶, housing²⁷, and health²⁸.

The first **recognition of the close relationship between human rights, climate and the environment** dates back to the 1972 Stockholm Conference on the Human Environment, organised by the United Nations (UN). "*Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being, and he bears a solemn responsibility to protect and improve the environment for present and future generations. In this respect, policies promoting or perpetuating apartheid, racial segregation, discrimination, colonial and other forms of oppression and foreign domination stand condemned and must be eliminated*"²⁹. The definition of sustainable development - "*it meets the needs of the present without compromising the ability of future generations to meet their own needs*"³⁰, formulated by the UN Brundtland Commission, builds on this and puts the issue on the social and political agenda³¹.

Since then, global and regional human rights institutions have endorsed relevant policy documents and *soft law*³² highlighting this interdependence. Human rights jurisprudence in recent decades has also commented on the link between the environment and human rights³³. The jurisprudence of the European Court of Human Rights (ECtHR) holds that damage to the environment and exposure to

²³ IPCC (2014). *Climate Change 2014: Impacts, Adaptation, and Vulnerability, 13 - Livelihoods and Poverty*.

Ismal S. Nazrul & John Winkel (2017). *Climate change and social inequality*.

²⁴ Vanhille, Josefine et al. (2019). "[Sociale ongelijkheid in het klimaatvraagstuk](#)" in Sacha Dierickx (red.), *Klimaat en sociale rechtvaardigheid*, Antwerp, Gompel & Svacina bvba, pp. 61-84.

Vanhille, Josefine (2023). *Climate change and social inequality : essays on the distributional dimension of environmental policy in the Belgian welfare state*, University of Antwerp.

²⁴ Lévy, Petra Zsuzsa et al. (2019). "[De sociale verdeling van broeikasgassen in België](#)", *CSB Bulletin*, Herman Deleeck Centre for Social Policy - University of Antwerp.

For an overview of reliable information on climate change see: [Klimaat.be](#).

²⁵ Office of the United Nations High Commissioner for Human Rights (OHCHR) (2021). [Frequently Asked Questions on Human Rights and Climate Change](#), Fact Sheet No. 38.

²⁶ Human Rights Committee (HRC) (2019). *General Comment No. 36 on Article 6 of the International Covenant on Civil and Political Rights, on the Right to Life*, September 2, 2019, para. 62. ([UN Doc. CCPR/C/GC/36](#)).

²⁷ Balakrishnan, Rajagopal (2022). *Towards a just transformation: climate crisis and the right to housing. Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context*, December 23, 2022 ([A/HRC/52/28](#)).

²⁸ Human Rights Council (HRC) (2016). *Report of the Office of the United Nations High Commissioner for Human Rights, Analytical study on the relationship between climate change and the human right of everyone to the enjoyment of the highest attainable standard of physical and mental health*, May 6, 2016. ([A/HRC/32/23](#)).

²⁹ United Nations (1973). [Report of the United Nations Conference on Human Development](#), Stockholm, June 5-16, p. 4.

³⁰ UN World Commission on Environment and Development (1987). *Our common future*, p. 16.

³¹ [Verenigde Naties | FIDO \(duurzameontwikkeling.be\)](#).

³² See, for example: Office of the United Nations High Commissioner for Human Rights (OHCHR) (2014). [A new climate change agreement must include human rights protections for all](#), October 17, 2014.

³³ ENNHRI (2020). [Climate change and human rights in the European context](#).

environmental risks can undermine the exercise of certain rights³⁴. In particular, the ECtHR relied on the right to respect for private and family life - Article 8 of the European Convention on Human Rights (ECHR). This right is affected when environmental pollution has such a serious impact that it diminishes or may diminish the quality of life or well-being of the persons concerned. When the environmental impact is also life-threatening to human beings, the right to life, Article 2 of the ECHR, also applies. This was the case in *Öneryıldız v. Turkey*, where the ECtHR not only ruled on an individual case, but also held that states bear a far-reaching responsibility to protect vulnerable people from environmental destruction³⁵. Soon the ECtHR will have to rule for the first time on three climate cases³⁶. Most national climate cases condemning states or companies were won on the basis of a violation of Articles 2 and 8 of the ECHR, such as the Dutch climate case *Urgenda*³⁷ and the Belgian climate case³⁸.

Today, the UN Agenda 2030³⁹ is the most comprehensive political instrument to address the challenges for a sustainable future. The Sustainable Development Goals⁴⁰ aim to "realise the human rights of all." Each of the (sub)goals refers to one or more fundamental rights enshrined in international or European texts⁴¹. The social dimension of sustainability is made explicit in several goals, with intragenerational solidarity (within generations, between different population groups) receiving attention alongside intergenerational solidarity (between generations)⁴². The preamble to the Paris Agreement⁴³ also considers environmental degradation and climate change as interlinked human rights crises.

It is also increasingly being made explicit that **the impacts of these crises and of the actions taken in response are weighing more heavily on vulnerable groups**⁴⁴. "Poverty, historical and structural

³⁴ European Court of Human Rights (2023). [Factsheet - Environment and the European Convention on Human Rights](#). For an analysis of that case law see: Laurens Lavrysen (2023). "De toegevoegde waarde van het recht op een schoon, gezond en duurzaam leefmilieu als mensenrecht", *Tijdschrift Voor Milieurecht*, No. 3, 240-253.

³⁵ European Court of Human Rights (2004). [Grand Chamber judgment in the case of Öneryıldız v. Turkey](#), November 30, 2004.

Dewulf, Noor (2023). *Intragenerational equity in the context of climate justice*. Unpublished MEMO.

³⁶ European Court of Human Rights (2023). [Fact sheet - Climate change](#).

³⁷ [Climate Case - \(urgenda.nl\)](#).

³⁸ [Climate Case, the lawsuit in which everyone wins | Climate Case \(affaire-climat.be\)](#).

³⁹ United Nations (2015). [Transforming our world: the 2030 Agenda for Sustainable Development, Resolution adopted by the General Assembly on September 25, 2015. \(A/RES/70/1\)](#).

⁴⁰ Abbreviation: SDGs.

⁴¹ See: The Danish Institute for Human Rights: [The Human Rights Guide to the Sustainable Development Goals](#), which identifies the corresponding human right for each goal.

⁴² [SDGs | sdgs](#): 1 No poverty, 2 zero hunger, 5 gender equality, 10 reduced inequalities, but other goals also explicitly state to achieve them for all, 4 quality education, 3 good health and well-being.

⁴³ [Paris Agreement](#), UN climate change agreement, Official Journal of the European Union, 19/10/2016. (L.282). "Acknowledging that climate change is a common concern of humankind, 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," p. 1.

"Strengthen the global response to the threat of climate change, in the context of sustainable development and efforts to eradicate poverty," p. 2.

⁴⁴ Boyd, David R. (2019). [Human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment](#), report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, United Nations General Assembly, 15 July 2019. (A/74/161).

Office of the United Nations High Commissioner for Human Rights (2012). [Guiding Principles on Extreme Poverty and Human Rights](#). (A/HRC/21/39).

*inequity and discrimination, as well as geography, affect people's exposure to the adverse effects of climate change. Intersecting discrimination further compounds the unfair burden of climate harms*⁴⁵.

After a long preliminary process, on 28 July 2022, the UN General Assembly adopted a resolution⁴⁶ recognizing the right to a clean, healthy and sustainable environment as a universal human right⁴⁷. The impacts of climate change, unsustainable management and use of natural resources, pollution of air, land and water, loss of biodiversity, etc. are explicitly considered threats to this right and all other human rights. In addition, the term 'sustainable' is important. Indeed, the social dimension of sustainable development requires that a healthy environment be pursued in a way that takes into account the necessary solidarity between and within generations, and in particular with groups already in a socially vulnerable position⁴⁸. They were deprived of this right even before there was a climate and environmental crisis. **Thus, a human right to a clean, healthy and sustainable environment is at the same time a call for climate and environmental justice. Only when the right is fulfilled for all can it truly be a 'universal' human right**⁴⁹.

2. Human rights as a framework for a just transition

2.1 What is a just transition?

The concern about the unequal impact of climate and environmental changes and policies is growing. Various terms are used today that reflect both the concern about social and environmental inequities and the intention to do away with them: climate or environmental justice, eco-social policy, socially just climate or environmental policy, just transition, social sustainability⁵⁰. The opposition between social policy and climate and environmental policy is false⁵¹. After all, what measures are taken and how they are taken are political decisions. And these may or may not be social.

⁴⁵ UN Secretary-General (2022). [The impacts of climate change on the human rights of people in vulnerable situations](#), United Nations General Assembly, 6 May 2022, p. 14. ([A/HRC/50/57](#)).

⁴⁶ UN (2022). [The human right to a clean, healthy and sustainable environment](#), Resolution adopted by the General Assembly on July 28, 2022, August 1, 2022. ([A/RES/76/300](#)).

⁴⁷ [Het recht op een schoon, gezond en duurzaam leefmilieu als mensenrecht | FIRM-IFDH \(federaalinstituutmensenrechten.be\)](#).

⁴⁸ Laurens Lavrysen (2023). "De toegevoegde waarde van het recht op een schoon, gezond en duurzaam leefmilieu als mensenrecht", *Tijdschrift Voor Milieurecht*, No. 3, 240-253.

⁴⁹ De Smedt, Peter (2023). "[Cursiefje: Het recht op een schoon en gezond leefmilieu erkend als universeel mensenrecht. Ook een kwestie van armoedebestrijding?](#)", *Tijdschrift Grondrechten en armoede*, 1/2023, p. 1-6.

⁵⁰ Reset.Vlaanderen (2023). [Sociale rechtvaardigheid in het Vlaams klimaatadaptatieplan](#), presentatie op 30/03/2023 in de Commissie Vlaams Energie-en Klimaatplan, Vlaams Parlement.

Juhola, Sirkku (2022). "[Connecting climate justice and adaptation planning: an adaptation justice index](#)," *Environmental Science & Policy*, 136, pp. 609-619.

Vanhille, Josefine et al. (2019). "[Sociale ongelijkheid in het klimaatvraagstuk](#)" in Sacha Dierickx (red.), *Klimaat en sociale rechtvaardigheid*, Antwerp, Gompel & Svacina bvba, pp. 61-84.

⁵¹ Van de Heyning, Catherine (2019). "Klimaat-en mensenrechtenbewegingen hebben elkaar nodig", [Tijdschrift voor Mensenrechten](#), 3, pp. 29-32.

Yet the analysis report of the survey⁵² conducted as part of the Forum for a Just Transition⁵³, shows, among others, that survey respondents place different emphases in their definition of just transition, more economic or more social. Based on its biennial Report 'Sustainability and Poverty', the Combat poverty service puts forward the principle *to leave no one behind*⁵⁴. This is the motto of the UN Agenda 2030 for Sustainable Development. 'Leaving no one behind' was one of the recommendations of the international movement ATD Fourth World in preparing this Agenda. "*This means that no effort should be spared to reach the most vulnerable. It also requires that the Sustainable Development Goals and their implementation be aligned with human rights standards*"⁵⁵.

It is therefore essential that everyone, including the most vulnerable, is involved in the transition. They must be able to contribute to it, benefit from it and get on with it. In addition to protecting workers from the impact of environmental changes on certain labour market sectors⁵⁶, it is therefore necessary to create new opportunities for vulnerable groups and to strengthen their fundamental rights. Therefore, the UN Special Rapporteur on extreme poverty and human rights calls for actions that simultaneously contribute to the transition to low-carbon and biodiverse societies, create employment opportunities for people in poverty as well as improve their access to goods and services essential for the enjoyment of human rights⁵⁷. "*Climate change is both an environmental and a social justice crisis that raises interconnected demands for climate action and social equality*"⁵⁸.

The idea that the climate transition must be socially just is being advanced at various policy levels. At the European level, the Green Deal states that the transition can only succeed if it is fair and inclusive. "*Citizens, depending on their social and geographic circumstances, will be affected in different ways. Not all Member States, regions and cities start the transition from the same point or have the same capacity to respond. These challenges require a strong policy response at all levels*"⁵⁹. The Green Deal is a package of measures that also includes the Climate Act - which legally establishes that Europe will be climate neutral by 2050 and meet long-term goals - and the *Just Transition Mechanism* to address social inequalities in finance⁶⁰. Within Belgian climate policy as well, divided between the regions and the federal state, social aspects of the transition are addressed in various plans and policy documents⁶¹. The recently established Belgian Climate Centre's "*central mission is to provide the science to enable a swift and socially just transition to a climate neutral and resilient Belgium*"⁶². And

⁵² Federaal Instituut voor Duurzame Ontwikkeling (2023). [Staten-Generaal van de Rechtvaardige Transitie, bijdrage van het georganiseerd maatschappelijk middenveld](#).

⁵³ [Het forum | Just Transition](#).

⁵⁴ In addition to the Combat poverty service, Unia and FIRM also answered the survey.

⁵⁵ (Own translation) ATD Quart Monde (2014). [Pour un développement durable qui ne laisse personne de côté : le défi de l'après 2015](#), p. 16.

ATD Fourth World (2015). [Taking seriously the commitment to "leave no one behind" in the SDGs and the fight against climate disruption](#).

⁵⁶ The International Labor Organisation states the following guiding principles: the right to decent work, decent wages and working conditions in all sectors. ILO (2015). [Guidelines for a just transition towards environmentally sustainable economies and societies for all](#), Geneva, ILO.

⁵⁷ De Schutter, Olivier (2020). [Extreme poverty and human rights](#), report of the Special Rapporteur on extreme poverty and human rights, United Nations General Assembly. (A/75/181).

⁵⁸ UN Secretary-General (2022). [The impacts of climate change on the human rights of people in vulnerable situations](#), United Nations General Assembly, 6 May 2022, p. 3. (A/HRC/50/57).

⁵⁹ European Commission (2019). [The European Green Deal](#), COM(2019) 640 final.

⁶⁰ [Europees klimaatbeleid](#).

⁶¹ [Nationaal beleid \(klimaat.be\)](#).

⁶² [KMI \(climatecentre.be\)](#).

the Coordination Centre for Complex Risk Assessments in the Context of Climate Change (CCRA-CC)⁶³ is being established so that Belgium can have an appropriate and up-to-date risk analysis - regarding climate change - based on an assessment of climate hazards, exposures and vulnerabilities at all times.

It is not always clear what exactly is meant by just transition, and it becomes an umbrella term that can cover many connotations. This position paper aims to provide policymakers with guidelines to give meaning to socially just transition from a human rights perspective.

2.2 A human rights-based approach to leave no one behind

A human rights-based approach⁶⁴ of climate and environmental policies is the only way to guarantee that no one is left behind and that those furthest behind are reached first⁶⁵. *"The application of a rights-based approach puts a human face on the triple environmental crisis, prioritizes the improvement of conditions for the poorest and most vulnerable, emphasizes the need for capacity building (of both rights holders and duty bearers), catalyses ambitious action, increases accountability and empowers people, especially from disadvantaged communities, to become involved in designing and implementing solutions"*⁶⁶. In its latest report, the IPCC also advocates a rights-based approach. That is, policies should take into account the needs and rights of the most vulnerable (income, gender, ethnicity, disability, age, place) so that their structural vulnerabilities and inequalities to climate change are addressed⁶⁷. When measures are good for them, they are good for everyone. They must therefore be child-sensitive⁶⁸, gender-responsive and -transformative⁶⁹, inclusive....

⁶³ FOD Volksgezondheid, Veiligheid van de Voedselketen en Leefmilieu DG Leefmilieu - Dienst Klimaatverandering (2022). [Naar een klimaatbestendige samenleving in 2050, federale adaptatiemaatregelen 2023-2026](#), p. 11 en 21.

⁶⁴ "A human rights-based approach is a conceptual framework for the process of human development that is normatively based on international human rights standards and operationally directed to promoting and protecting human rights. It seeks to analyze inequalities which lie at the heart of development problems and redress discriminatory practices and unjust distributions of power that impede development progress". ([What is a human rights-based approach? - HRBA Portal](#)).

⁶⁵ "As we embark on this great collective journey, we pledge that no one will be left behind. Recognizing that the dignity of the human person is fundamental, we wish to see the Goals and targets met for all nations and peoples and for all segments of society. And we will endeavor to reach the furthest behind first". United Nations (2015). [Transforming our world: the 2030 Agenda for Sustainable Development, Resolution adopted by the General Assembly on September 25, 2015](#), article 4 introduction. ([A/RES/70/1](#)).

⁶⁶ Boyd, David R. (2022). [Human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment](#), report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, United Nations General Assembly, August 10, 2022, p10. ([A/77/284](#)).

⁶⁷ IPCC (2022). [Climate Change 2022: Impacts, Adaptation and Vulnerability](#).

⁶⁸ Flemish Office of the Children's Rights Commissioner (2023). [Advies: de klimaatcrisis vanuit kinderrechtenperspectief](#), Brussels, KRC.

⁶⁹ For definitions, see [Gender- als prefix | RoSa vzw](#): A gender-responsive approach not only acknowledges and recognizes inequalities and discrimination. A conscious and active effort is made to counter and correct gender stereotypes, prejudice and discrimination. In a gender transformative approach, attention is additionally paid to transforming power dynamics and structures.

See also: Federal Institute for the Protection and Promotion of Human Rights, the Combat poverty, insecurity and social exclusion service and Centrale Toezichtsraad voor het Gevangeniswezen (2022). [Parallel rapport voor het VN-comité voor de uitbanning van discriminatie van vrouwen, 83ste zitting, 8ste periodiek rapport van België + bijlage 1 + bijlage 2](#), October 14, 2022.

It is not enough to compensate vulnerable groups for the unequal impact of climate change and of climate policy they face. It is fundamental to address the structural causes of socioeconomic and other inequalities and to effectively fulfil everyone's fundamental rights (education, employment, housing, health...) ⁷⁰. If not, "a climate apartheid scenario in which the wealthy pay to escape overheating, hunger and conflict, while the rest of the world is left to suffer" ⁷¹ is imminent.

2.3 International human rights obligations for a just transition

A human rights-based approach guarantees a just transition. The link between human rights and the fight against climate change is increasingly present in the international instruments signed by the Belgian State, such as the UN Agenda 2030 ⁷², the Paris Climate Agreement ⁷³, the Glasgow Climate Pact ⁷⁴, and the UN Resolution on the Right to a Clean, Healthy and Sustainable Environment ⁷⁵.

International and European human rights obligations, as enshrined in long-standing binding treaties and conventions, such as the ECHR, the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), and the International Convention on the Rights of the Child (CRC), are a necessary component in the development of just transition policies. Moreover, on 28 August 2023, the UN Committee on the Rights of the Child added a General Comment n°26 ⁷⁶ on children's rights and living environment with a special focus on climate change to the CRC. It provides official guidance on what UN member states should do to continue to respect children's rights in the context of the climate crisis. The UN Committee on the Rights of the Child calls on states to take urgent action to address climate change. It emphasizes the right of children to information, participation and access to justice to ensure that they are protected from and are offered solutions to the damage caused by environmental degradation and climate change.

The UN Resolution on the right to a clean, healthy and sustainable environment - which contains no legally binding obligations but has great symbolic and political value ⁷⁷ - may also encourage states to enshrine the right in national constitutions and regional treaties. At the Council of Europe level, the Committee of Ministers recommends that member states work on the right to a clean, healthy and sustainable environment ⁷⁸. Heads of State and Government commit in the Reykjavik Declaration to

⁷⁰ De Schutter, Olivier (2023). *Governing the just transition*, note to the High Committee on the Just Transition.

⁷¹ Alston, Philip (2019). *Climate change and poverty*, report of the Special Rapporteur on extreme poverty and human rights, United Nations General Assembly, 17 July 2019, p. 12. ([A/HRC/41/39](#)).

See also contribution by Herman Van Breen on behalf of ATD to the [colloquium 'Armoede en rechtvaardige transitie'](#), organised by the Combat poverty, insecurity and social exclusion service on June 22, 2023.

⁷² United Nations (2015). *Transforming our world: the 2030 Agenda for Sustainable Development, Resolution adopted by the General Assembly on September 25, 2015*. ([A/RES/70/1](#)).

⁷³ [Paris Agreement](#), UN climate change agreement, Official Journal of the European Union, 19/10/2016. (L.282/4).

⁷⁴ United Nations (2021). [Glasgow climate pact](#). ([FCCC/PA/CMA/2021/L.16](#)).

⁷⁵ UN (2022). [The human right to a clean, healthy and sustainable environment](#), Resolution adopted by the General Assembly on July 28, 2022, August 1, 2022. ([A/RES/76/300](#)).

⁷⁶ Committee on the rights of the child (2023). [General comment No. 26 \(2023\) on children's rights and the environment, with a special focus on climate change, CRC/C/GC/26](#), August 22, 2023.

⁷⁷ Laurens Lavrysen (2023). "De toegevoegde waarde van het recht op een schoon, gezond en duurzaam leefmilieu als mensenrecht", *Tijdschrift Voor Milieurecht*, No. 3, 240-253.

⁷⁸ Council of Europe (2022). [Committee of Ministers calls on member states to recognize the right to a clean, healthy and sustainable environment as a human right](#), September 27, 2022.

strengthen their work on the human rights aspects of climate and environment⁷⁹. Human rights organisations want to go one step further and give this right a legal basis through an additional protocol to the ECHR or the European Social Charter⁸⁰.

Belgium has had the right to the protection of a healthy environment in Article 23 of the Constitution⁸¹ since 1994. This article states that everyone has the right to lead a dignified life. This constitutional provision is programmatic in nature. That is, it aims to give direction to public policy and encourage the various legislatures in this country to protect this right through legislation. This right also gives rise to a standstill obligation. Consequently, the level of protection provided by existing legislation may not be significantly reduced unless it can be justified as a function of the public interest⁸². Moreover, Article 7bis of the Constitution states that in the exercise of their powers, the Federal State, the Communities and the Regions must pursue sustainable development in its social, economic and environmental aspects, taking into account solidarity between generations.

All of these instruments remind governments of their obligations to respect, protect and promote all human rights for all, without discrimination. Failure to take measures to prevent human rights damage from climate change, including foreseeable long-term damage, violates this obligation⁸³. Thus, as climate mitigation, governments must take measures to reduce human-caused greenhouse gas emissions. As climate adaptation, they must ensure that everyone has the necessary opportunities and resources to adapt to a changing climate and its impacts. **These mitigation and adaptation measures must be appropriate so that the rights of all are protected and realised, especially those of the most vulnerable**⁸⁴.

The political will and necessary measures to achieve a sustainable world confront governments with their obligations to fulfil human rights⁸⁵. They must therefore work to **establish a clear framework for a just transition, consistent with respect for, and the protection and promotion of, human rights**.

⁷⁹ Council of Europe (2023). [United around our values](#), Reykjavík Summit 16-17 May 2023 of Heads of State and Government of the Council of Europe.

⁸⁰ [New Council of Europe recommendation on human rights and protection of the environment - ENNHRI](#).

⁸¹ [Belgische Grondwet](#).

⁸² Laurens Lavrysen (2023). "De toegevoegde waarde van het recht op een schoon, gezond en duurzaam leefmilieu als mensenrecht", *Tijdschrift Voor Milieurecht*, No. 3, 240-253.

⁸³ United Nations Committee on Economic, Social and Cultural Rights (2018), *Climate change and the International Covenant on Economic, Social and Cultural Rights*, statement adopted by the Committee at its 64th session, Sept. 24 - Oct. 12, 2018, ¶5-6. ([E/C.12/2018/1](#)).

⁸⁴ Office of the United Nations High Commissioner for Human Rights (OHCHR) (2021). [Frequently Asked Questions on Human Rights and Climate Change](#), Fact Sheet No. 38, pp. 31-32.

See also, for example, [Australia violated Torres Strait Islanders' rights to enjoy culture and family life, UN Committee finds | OHCHR](#): "The Committee considers that the information made available to it indicates that the State party's failure to adopt timely adequate adaptation measures to protect the authors' collective ability to maintain their traditional way of life, to transmit to their children and future generations their culture and traditions and use of land and sea resources discloses a violation of the State party's positive obligation to protect the authors' right to enjoy their minority culture. Accordingly, the Committee considers that the facts before it amount to a violation of the authors' rights under article 27 of the Covenant."

⁸⁵ Didi, Romain (2023). [Using human rights as a weapon to hold governments and corporations accountable on climate change](#). Climate Action Network (CAN) Europe.

3. Human rights principles for a just transition policy

A human rights-based approach pushes forward several, closely related, principles⁸⁶. We elaborate on the following principles:

- Progressive realisation and non-regression
- Equality and non-discrimination
- Participation and empowerment
- Transparency and accountability

For each principle, we formulate some recommendations, based on this paper but also on insights and documents from the signatory institutions. The recommendations are complementary to each other and can sometimes be placed with multiple principles.

3.1 Progressive realisation and non-regression

States have the responsibility and obligation to respect, protect and fulfil human rights. Like economic, social and cultural rights, the right to a clean, healthy and sustainable environment is difficult to realise immediately. It can only be continuously improved over time and eventually realised (progressive realisation).

However, the principle of progressive realisation obliges States to take deliberate, concrete and targeted steps to achieve the full and effective enjoyment of the rights for all⁸⁷. To this end, they must **devise strategies, plans and policies; develop indicators and criteria to monitor the progress made and mobilise as many available financial, natural, human, technological, institutional and informational resources as possible**. Moreover, human rights also guide the allocation of these resources. For example, the right to development requires that resources be allocated so that they benefit the most vulnerable in society⁸⁸. This helps ensure that those furthest behind are reached first and that no one is left behind.

⁸⁶ Often referred to as the PANEL principles, they are interpreted or filled in differently depending on the challenge. See, among others:

ENNHRI, [Human Rights-Based Approach - ENNHRI](#).

Sida (2015). [A Human Rights Based Approach to Environment and climate change](#).

Boyd, David R. (2022). [Human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment](#), report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, United Nations General Assembly, August 10, 2022. ([A/77/284](#)).

Knox, John H. (2018). [Framework Principles on Human Rights and the Environment](#), United Nations Human Rights Special Procedures. ([UN Doc. A/HRC/37/59](#)).

ENNHRI (2019). [Applying-a-Human-Rights-Based-Approach-to-Poverty-Reduction-and-Measurement-A-Guide-for-NHRIs](#).

⁸⁷ The obligation to take steps to promote the right, observing non-discrimination and non-regression, is an obligation of immediate practicability. The effective realisation of the right is an obligation of results driven by gradual, progressive and continuous improvement.

Boyd, David R. (2022). [Human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment](#), report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, United Nations General Assembly, August 10, 2022. ([A/77/284](#)).

⁸⁸ Knox, John H. (2018). [Framework Principles on Human Rights and the Environment](#), principle 14, United Nations Human Rights Special Procedures, p. 20. ([UN Doc. A/HRC/37/59](#)).

Regressive measures are those that impair the existing level of protection provided by rights. They violate the principle of progressive realisation unless they are adequately justified. The principle of non-regression means that **states cannot reduce regulatory protections without a compelling reason**. The Constitutional Court and the Council of State held that the right to the protection of a clean, healthy and sustainable environment gives rise to the standstill obligation⁸⁹.

While the principle of progressive realisation points to the obligation to make progress, both ecologically and socially, the principle of non-regression constitutes a protection against measures that could represent regression. Both principles reinforce each other in the pursuit of a just transition.

Recommendations

- Develop concrete targeted strategies, plans and actions to achieve a just transition. To this end, implement the international agreements on climate and environment (the UN Agenda 2030 for Sustainable Development, the Paris Climate Agreement, the Glasgow Climate Pact, the UN Resolution on a Clean, Healthy and Sustainable Environment, etc.) that explicitly also prioritize the fight against poverty.
- Organise targeted cooperation among different policy areas and levels to take coordinated action that is both environmentally and socially just. Make maximum use of existing interdepartmental and intergovernmental cooperation platforms and agreements (e.g., interministerial conferences, national plans...).
- Make use of the opportunities offered by European instruments - such as the European Green Deal⁹⁰ with the European Climate Law⁹¹ and the Just Transition Mechanism⁹² - so that people in vulnerable social positions also benefit from mitigation and adaptation measures.
- Develop indicators and criteria to monitor and evaluate the progress and effectiveness of policies, both environmental and social. To this end, collect detailed, disaggregated and intersectional data.
- Conduct *ex-ante* (before the implementation of a measure) and *ex-post* (some time after the implementation of a measure) evaluations of mitigation and adaptation measures to measure their impact on different vulnerable groups. Provide necessary social justice measures and associated budgets to avoid or offset any negative impacts of these measures.
- Evaluate the effective exercise of rights by systematically monitoring and analysing the take-up and non-take-up of measures and services.
- Combat non-take-up through regulatory simplification, automatic attribution of rights, quality and accessible information, personal support and accessible appeal possibilities...

⁸⁹ Van de Heyning, C. (2021). "Een procedurele benadering van fundamentele rechten in leefmilieu- en klimaatzaken", *Tijdschrift Voor Milieurecht*, 86-88 (met verwijzing naar o.a. GwH, 14 september 2006, nr. 137/2006; en RvS, 27 januari 2009, 189.820).

See also a Constitutional Court ruling on the violation of the standstill principle in the context of second-level legal assistance: <https://www.armoedebestrijding.be/mensenrechten-en-armoede/samenvattingen/toegang-tot-de-rechtbank/grondwettelijk-hof-21-juni-2018-nr-6596-en-6598/>.

⁹⁰ European Commission (2019). *The European Green Deal*, COM(2019) 640 final.

⁹¹ [European Climate Law \(europa.eu\)](https://european-council.europa.eu/media/e300042c-3254-4787-995d-6390118645f3/asset/document/European_Climate_Law_europa.eu) + [Klimaatwet \(klimaat.be\)](https://www.klimaatwet.be/).

⁹² [Launching the Just Transition Mechanism - for a green transition based on solidarity and fairness \(europa.eu\)](https://european-council.europa.eu/media/e300042c-3254-4787-995d-6390118645f3/asset/document/Launching_the_Just_Transition_Mechanism_-_for_a_green_transition_based_on_solidarity_and_fairness_europa.eu).

- Deploy the maximum available budget for the benefit of the most vulnerable. Avoid measures of which the use of resources perpetuate, reinforce or create inequalities.
- Make use of the European Investment Bank⁹³ and the Social Climate Fund⁹⁴ to finance the structural social policies to be pursued along with climate policy.
- Use resources from the carbon price or from the Social Climate Fund to directly support the most vulnerable groups to protect against and adapt to climate change (e.g., in mobility and housing).

3.2 Equality and non-discrimination

The prohibition of discrimination and the principle of equality⁹⁵ are enshrined in, among others, arts. 10 and 11 of the Constitution, art. 14 of the ECHR and arts. 2 and 26 of the ICCPR, art. 21 of the Charter of Fundamental Rights of the European Union and several articles in the Treaty on the Functioning of the European Union. They were specified at the national and federated levels of our country in the anti-discrimination legislation⁹⁶.

This principle concerns both the prohibition of different treatment of people in similar situations and the prohibition of indirect discrimination⁹⁷. Direct discrimination occurs when, for example, equal access is not guaranteed to everyone to adaptation measures, to information about climate and the environment, or to participation opportunities, and when this difference in treatment cannot be objectively and reasonably justified. Indirect discrimination means for example that general climate and environmental measures may have disproportionate negative impacts on the livelihoods and rights of people in poverty and other vulnerable groups⁹⁸. **The prohibition of discrimination and the principle of equality obliges states to verify that climate and environmental measures do not disproportionately impact certain groups that are already vulnerable due to their social situation, gender, age, national or ethnic origin, or disability...** Moreover, these groups may find themselves at a crossroads of discrimination grounds (intersectional discrimination). This encourages their

⁹³ [European Investment Bank – EIB | European Union \(europa.eu\)](https://www.eib.org/en/about/european-investment-bank).

⁹⁴ [Fit for 55: a fund to support the most affected citizens and businesses - Consilium \(europa.eu\)](https://ec.europa.eu/eip/fit-for-55/).

⁹⁵ Van Heuven, D. (1990). "[Enkele beschouwingen over het gelijkheidsbeginsel](#)", *Rechtskundig weekblad*, pp. 585-596.

⁹⁶ See, among others:

[Wet van 10 mei 2007 ter bestrijding van bepaalde vormen van discriminatie](#), *Belgisch Staatsblad*, 30/05/2007.

[Ordonnantie van het Brussels Hoofdstedelijk Gewest van 5 oktober 2017 ter bestrijding van bepaalde vormen van discriminatie en ter bevordering van gelijke behandeling](#), *Belgisch Staatsblad*, 19/10/2007.

[Decreet van de Duitstalige Gemeenschap van 19 maart 2012 betreffende de bestrijding van sommige vormen van discriminatie](#), *Belgisch Staatsblad*, 05/06/12.

[Decreet van de Franse Gemeenschap van 12 december 2008 betreffende de bestrijding van sommige vormen van discriminatie](#), *Belgisch Staatsblad*, 13/01/2009.

[Decreet van de Vlaamse Gemeenschap van 10 juli 2008 houdende een kader voor het Vlaamse gelijkheids- en gelijkebehandelingsbeleid](#), *Belgisch Staatsblad*, 23/09/2008.

[Decreet van het Waals Gewest van 6 november 2008 ter bestrijding van bepaalde vormen van discriminatie, met inbegrip van discriminatie tussen vrouwen en mannen inzake economie, tewerkstelling en beroepsopleiding](#), *Belgisch Staatsblad*, 19/12/2008.

⁹⁷ European Union Agency for Fundamental Rights and Council of Europe (2018). [Handbook on European non-discrimination law. 2018 edition.](#)

⁹⁸ Knox, John H. (2018). [Framework Principles on Human Rights and the Environment](#), principle 3, United Nations Human Rights Special Procedures, p. 7. ([UN Doc. A/HRC/37/59](#)).

marginalisation and increases their vulnerability to the impacts of climate and environmental change⁹⁹. Moreover, situations of vulnerability may change and increase, especially in times of crisis¹⁰⁰.

More and more climate claims are being framed as violations of the principles of equality and non-discrimination. For example, in 2020, six young people brought a case before the ECtHR based, among other things, on age discrimination¹⁰¹. Similar reasoning underlies the more recent *Soubeste* case. Young people took Austria to the ECtHR to urge it to take immediate measures under Article 2 of the Paris Climate Agreement¹⁰². There is also case law on this issue at the Constitutional Court, following an appeal against the introduction of a low-emission zone in Brussels (LEZ). The plaintiff argued that these zones would disproportionately restrict persons of limited financial means in their ability to travel. Although the Court did not find a violation of art 10 and 11 of the Constitution, it was mindful of the socioeconomic impact of the LEZ on certain groups. Indeed, the Court decided that the government can take measures "aimed at alleviating the socioeconomic impact of the low-emission zone"¹⁰³.

People in poverty, who are overrepresented in groups at increased risk of climate damage, deserve special attention¹⁰⁴. Countering climate and environmental change must go hand in hand with fighting poverty and inequality. Interpreting the concept of equity as merely preventing disproportionate adverse effects on certain vulnerable groups is insufficient¹⁰⁵. **A transition policy cannot and should not be limited to merely compensating for the disparate impacts of climate change and climate actions that vulnerable groups suffer. It must aim to address the structural inequalities at the root of their increased vulnerability by realising their fundamental rights.**

The idea of progressive or proportional universalism provides a guideline for developing just policies and equitable measures and actions. Universal measures or actions are basically the same for everyone, but not always in practice. Some groups need more or adapted support to benefit of the measures or participate in the actions. Thus, the application of the universal measure best varies in scale and intensity as target groups are more vulnerable and have to overcome more obstacles (proportional)¹⁰⁶.

⁹⁹ IPCC (2014). [Climate Change 2014: Impacts, Adaptation, and Vulnerability, 13 - Livelihoods and Poverty](#), p. 796.

¹⁰⁰ Unia (2022). *Bijdrage aan de survey voor het FORUM in het kader van de Staten-Generaal voor Rechtvaardige Transitie*.

¹⁰¹ European Court of Human Rights (2020). [Duarte Agostinho and others vs. Portugal and Others](#).

¹⁰² [Soubeste and Others v. Austria and 11 Other States](#).

¹⁰³ Combat poverty, insecurity and social exclusion service (2019). Samenvatting van de uitspraak van het [Grondwettelijk Hof 28 februari 2019, nr. 37/2019](#).

¹⁰⁴ [Understanding Human Rights and Climate Change](#), Submission of the Office of the High Commissioner for Human Rights to the 21st Conference of the Parties to the United Nations Framework Convention on Climate Change.

¹⁰⁵ Ribot, Jesse (2010). [Vulnerability does not fall from the sky: toward multiscale, pro-poor climate policy](#).

¹⁰⁶ Progressive or proportional universalism is a principle within social, welfare and health policy to deal with inequalities in a socially just manner. See 'proportionate universalism' in [Fair society, healthy lives. The Marmot review](#) (2010). Many policy recommendations from the Combat poverty, insecurity and social exclusion service are based on this. See, for example: Combat poverty, insecurity and social exclusion service (2021). [Solidarity and poverty. Contribution to political debate and political action. Biennial Report 2020-2021](#), Brussels, Combat poverty, insecurity and social exclusion service.

Recommendations

- Address - along with the environment and climate change - the structural causes of socioeconomic and other inequalities by realising people's fundamental rights (education, employment, housing, health...).
- Give priority to fulfilling the rights of those most affected by environmental, social and economic inequalities and those who face (multiple and intersectional forms of) discrimination.
- Spend available budgets as a priority to protect and fulfil the rights of the most vulnerable.
- Collect disaggregated and intersectional data to identify who is at increased risk of climate and environmental damage and who is negatively impacted by climate and environmental policies.
- Develop indicators to integrate attention to vulnerable groups into climate and environmental policy development, implementation, monitoring, evaluation and reporting.
- Conduct *ex-ante* (ex-ante) and *ex-post* (ex-post) analysis when designing and implementing policies to identify their impact on vulnerable groups, avoid inequalities and counter discrimination.
- Based on these assessments, provide transitional, compensatory or corrective measures for vulnerable groups. Provide sufficient efficient, accessible and affordable alternatives based on their needs, risks and abilities.
- Apply the principle of proportional universalism to the maximum, in order to provide tailored support to citizens in different situations.

3.3 Participation and empowerment

Since climate and environmental policies have far-reaching effects on people's everyday lives, climate and environmental action and crisis management in natural disasters must take into account the needs, interests and situations of different groups, especially the most vulnerable. To this end, it is fundamental to involve them in taking action¹⁰⁷.

Broad participation from all levels of society is not only necessary to ensure the quality and support of policies¹⁰⁸. It is also a legal obligation included in numerous international (human rights) instruments¹⁰⁹. **The right to participation¹¹⁰ states that all stakeholders, including vulnerable groups, should have a voice in decision-making processes and be able to advocate for their needs.** Access to accurate and timely information on the impacts of climate change and the effectiveness of measures is crucial here¹¹¹.

¹⁰⁷ [Right to participation matters more than ever: UN Secretary-General | OHCHR.](#)

¹⁰⁸ Armeni Chiara and M. Lee (2021). '[Participation in a Time of Climate Crisis,](#)' *Journal of Law and Society*, pp. 1-24.

¹⁰⁹ See Articles 21 and 27 Universal Declaration of Human Rights, Article 25 ICCPR and Articles 13.1 and 15.1 IVESCR.

¹¹⁰ See, for example: ECtHR, November 2, 2006, *Giacomelli t. Italy*, no. 59909/00, para. 94.

¹¹¹ See, for example: ECtHR, February 19, 1998, *Guerra and Others v. Italy*, no. 14967/89, para. 60.

On the environment, the Aarhus Convention¹¹² is fundamental: it gives individuals the right of access to information, participation in decision-making on environmental matters and opportunity for redress if these rights are not respected. Thus, the Convention allows everyone to have their voice heard and confers transparency on government decisions¹¹³. Article 6 also sets certain conditions for participation. First, everyone must have access, free of charge and without justification, to all information relevant to decision-making. Furthermore, participation must be early and effective, when all options are still open. **In addition, citizens must not only be given a voice. They must actually be heard and their input taken into account.** If not, the government must be held accountable. Too often participation processes are used as ‘cover’ to legitimise decisions already made and reproduce existing power relations¹¹⁴. *"To be ‘meaningful and effective’ participation must not be merely formal or tokenistic; it must have an actual impact on decisions; and be timely and sustained. And, crucially, participation must be inclusive, extending participation most especially to marginalized and vulnerable groups"*¹¹⁵.

States should take measures to facilitate the participation of vulnerable groups in decision-making processes at every level¹¹⁶. However, heterogeneity also exists within these groups and opinions and needs may differ. Participation structures should be accessible and inclusive to all those vulnerable to discrimination and exclusion. Participating in decision-making is indeed more evident for those who have more money, time or other resources¹¹⁷. States have a positive obligation to identify and remove barriers to participation so that vulnerable groups can also fully participate to a just transition. Indeed, participation not only increases the effectiveness and sustainability of interventions. It empowers citizens, including vulnerable groups, to act and bring about change. Associations, community work and social movements play an important role here¹¹⁸.

Recommendations

- Start from the needs and rights of the people first and most affected by climate change when developing climate and environmental policies. Involve them as stakeholders and partners to ensure that measures taken are inclusive.

¹¹² The Aarhus Convention was adopted 25 June 1998, within the United Nations Economic Commission for Europe (UNECE). The convention entered into force on 30 October 2001. As of November 2009, 40 parties have signed the convention, including the European Union, which is committed to applying its provisions to European institutions. Belgium ratified the convention on 21 January 2003. See: [Access to information, public participation and access to justice in environmental matters \(Aarhus Convention\)](#) (1998).

¹¹³ FOD Volksgezondheid (2016). [De inspraak van de burger bij besluitvormingsprocessen](#).

¹¹⁴ Van Hootegem, Henk et al. (2021). "De strijd tegen armoede blijft een kwestie van participatie, mensenrechten en samenwerking" in Jill Coene et al. (red.), [Armoede en Sociale Uitsluiting, Jaarboek 2021](#), Antwerp, USAB, pp. 379-394.

¹¹⁵ UN High Commissioner for Human Rights (2020). [Right to participation matters more than ever: UN Secretary-General](#).

¹¹⁶ Committee of Ministers, Council of Europe (2017). [Guidelines for civil participation in political decision making](#).

Office of the United Nations High Commissioner for Human Rights (OHCHR). [Guidelines for States on the effective implementation of the right to participate in public affairs](#).

¹¹⁷ Magdalena Sepúlveda Carmona (2013). [Report of the Special Rapporteur on extreme poverty and human rights](#), United Nations General Assembly, March 11, 2013. (A/HRC/23/36).

¹¹⁸ Office of the United Nations High Commissioner for Human Rights (2012). [Guiding Principles on Extreme Poverty and Human Rights](#). (A/HRC/21/39).

- Invest the necessary time, energy and resources in dialogue and participation of vulnerable groups at all stages of the policy and decision-making process concerning just transition (conception, development, implementation, monitoring, *ex-ante* and *ex-post* evaluation and adjustment).
- Encourage participatory democracy initiatives (for example, the *commissions délibératives* within the COCOF, the AGORA within the States General Just Transition, the Citizens' Council within the German-speaking Community...), paying particular attention to their accessibility to vulnerable groups and groups that are usually less reached.
- Consider the results of participatory processes when making policy decisions. Motivate decisions, make them public, provide feedback to stakeholders.
- Provide information on the causes and consequences of climate and environmental change, on climate and environmental policies, and on opportunities to challenge inequalities and claim rights. Guarantee that this information is accessible, affordable and understandable to vulnerable groups by using different messengers, diverse communication channels and forms, and appropriate support.
- Strengthen, recognize and support the democratic and empowering added value of associations and civil society organisations that bring together and support different groups of citizens, including the most vulnerable.

3.4 Transparency and accountability

Belgium has ratified international treaties and agreements on climate and the environment and has accepted the human rights commitments associated with them. Human rights not only provide a framework for a just transition, but also for its transparency and accountability.

States must first inform all citizens about their policies and their implementation. Furthermore, they must ensure that their legal and institutional frameworks for climate mitigation and adaptation effectively protect individuals and groups in vulnerable situations¹¹⁹. To this end, the impact on the **effectiveness of their human rights** must be **continuously monitored and adjusted, using appropriate indicators and benchmarks**. This presupposes the involvement of these groups in the development, implementation and evaluation of these measures and indicators.

Where policies to avoid or mitigate adverse effects of climate and environmental change are ineffective, States should provide **access to judicial and other procedures to redress human rights violations**. These should be impartial, independent, affordable, transparent and fair; intervene promptly; have the necessary expertise and resources; include the right of appeal to a higher authority; and provide binding decisions, including for provisional measures, compensation, restitution and restoration¹²⁰. Decisions should be made public and implemented quickly and effectively.

¹¹⁹ Knox, John H. (2018). [Framework Principles on Human Rights and the Environment](#), principle 10, United Nations Human Rights Special Procedures, p. 15. ([UN Doc. A/HRC/37/59](#)).

¹²⁰ Knox, John H. (2018). [Framework Principles on Human Rights and the Environment](#), principle 14, United Nations Human Rights Special Procedures, p. 20-21 ([UN Doc. A/HRC/37/59](#)).

Both within¹²¹ - and abroad¹²² climate cases have already been brought before the courts challenging the inadequacy of national governments' climate targets. Human rights arguments and instruments are increasingly being used today¹²³. Soon, the ECtHR will have to rule for the first time on three climate cases. In one of the three cases, the applicants, six Portuguese children and adolescents, also cite the prohibition of discrimination (see also 3.2 Equality and non-discrimination). Given their young age, they will be more impacted by climate change on their lives¹²⁴.

For vulnerable groups, however, taking legal action is not obvious. They are not always aware of the rights they have, they do not know the different possibilities to claim their rights, they do not have sufficient resources to initiate proceedings...¹²⁵ At the same time, they are all the more at risk of violations of their fundamental rights. They are particularly affected by environmental and climate change and by regressive effects of policies. **Ensuring effective access to justice for all is essential.** Through collective action (as provided for in Article 17(2) Judicial Code), associations can bring underexposed cases to court and give greater visibility to their outcome. Obstacles for vulnerable groups - such as language, low literacy, cost and distance - must be removed. Human rights and equal opportunity organisations can play a role here.

Recommendations

- Valorise existing follow-up and monitoring mechanisms for evaluating the implementation of human rights treaties and international climate agreements.
- Implement the formulated recommendations for a just transition by relevant international human rights bodies. The UN Committee on Children's Rights¹²⁶, the UN Committee on the Elimination of Discrimination against Women¹²⁷ and the UN Committee on Economic, Social and Cultural Rights¹²⁸ formulated concluding observations on climate (change).

¹²¹ See: the *Klimaatzaak*: In June 2021, the Brussels Court of First Instance condemned the Belgian authorities for the inadequacy of Belgian climate policy, but without imposing concrete reduction targets on them. In November 2021, the non-profit organisation *Klimaatzaak* appealed in order to still win concrete reduction targets.

¹²² One important case was the [Urgenda case](#) in the Netherlands, in which the Dutch Supreme Court in 2019 required the Dutch government to take further measures to reduce greenhouse gas emissions in order to protect the right to life (Article 2 ECHR) and the right to respect for private life (Article 8 ECHR).

¹²³ Council of Europe. [Protecting the environment using human rights law - Portal \(coe.int\)](#). Climate Action Network CAN Europe (2023). [Using human rights as a weapon to hold governments and corporations accountable on climate change. Thematic report: the use of human rights in climate change litigation in Europe.](#)

¹²⁴ [Eerste klimaatzaken voor Europees Hof voor de Rechten van de Mens | FIRM-IFDH \(federaalinstituutmensenrechten.be\)](#).

¹²⁵ Combat poverty, insecurity and social exclusion service (2015). [Public services and poverty](#), Brussels, Combat poverty, insecurity and social exclusion service.

¹²⁶ Committee on the Rights of the Child (2019). [Concluding observations on the combined fifth and sixth periodic reports of Belgium](#), 28 February 2019. (CRC/C/BL/CO/5-6).

¹²⁷ Committee on the Elimination of Discrimination against Women (2022). [Concluding observations on the eighth periodic report of Belgium](#), November 1, 2022. (CEDAW/C/BEL/CO/8).

¹²⁸ Committee on Economic, Social and Cultural Rights (2020). [Concluding observations on the fifth periodic report of Belgium](#), March 26, 2020, (E/C.12/BEL/CO/5).

- Use human rights norms and standards as a guide to shape and implement national and regional policies and legislation around climate and environment (sustainable development, climate, energy, environmental law....) for a just transition.
- Develop indicators and criteria to monitor and evaluate the progress of transition policies, both environmental and social.
- Conduct *ex-ante* (ex-ante) and *ex-post* (ex-post) evaluations of mitigation and adaptation measures to measure their impact on the effectiveness of the rights of different vulnerable groups.
- Improve the accessibility of justice for citizens and associations to denounce any inequities, discriminations or human rights violations resulting from the climate policies implemented.
- Inform associations of the existence of the instrument of collective claims and encourage its application (as referred to in Art. 17(2) Judicial Code).

4. In conclusion

Climate and environmental changes force us to reflect on the effectiveness of human rights. The enjoyment of human rights is threatened not only by these changes per se, but also by climate mitigation and adaptation measures. Indeed, vulnerable groups are both disproportionately affected by climate and environmental changes and face negative distributional effects of policies. From a human rights-based approach, the climate crisis forces us to take socially just measures in the transition to a more sustainable world. Under section 3 we listed several recommendations. By way of conclusion, we repeat here some key recommendations:

- Take the situations, needs and visions of vulnerable groups as a starting point for transition policies: what is good for the most vulnerable is good for all. Protect and promote their human rights in a sustainable way (climate-neutral and fundamental) and eliminate structural socioeconomic and other inequalities.
- Guarantee the participation of vulnerable groups in all phases of the policy and decision-making process around equitable transition (design, development, implementation, monitoring, evaluation and adjustment) and take their input into account.
- Make equitable transition policies effective: develop targeted strategies, plans and actions and the corresponding indicators and criteria to monitor progress (environmental and social). Deploy the maximum available budget for the benefit of the most vulnerable groups.
- Collect disaggregated and intersectional data to identify who is at increased risk of climate and environmental damage and who is negatively affected by climate and environmental policies.
- Conduct *ex-ante* (before implementation) and *ex-post* (after implementation) evaluations to measure the impact of climate mitigation and adaptation measures on different groups, with the involvement of these groups and civil society.
- Apply the principle of proportional universalism and provide transitional, compensatory or corrective measures for vulnerable groups where appropriate.
- Improve the accessibility of justice for citizens and associations to denounce any inequities, discriminations or human rights violations resulting from the climate policies implemented.

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