

## 2021 ORDINARY SESSION

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### **TEXTS ADOPTED BY THE ASSEMBLY**

**Provisional versions**

## Table of contents

### Opinion

- [Opinion 299 \(2021\)](#) Draft Second Additional Protocol to the Convention on Cybercrime on enhanced co-operation and disclosure of electronic evidence ([Doc. 15379](#))

### Recommendations

- [Recommendation 2209 \(2021\)](#) Humanitarian consequences of the conflict between Armenia and Azerbaijan / Nagorno-Karabakh conflict ([Doc. 15363](#))
- [Recommendation 2210 \(2021\)](#) Socio-economic inequalities in Europe: time to restore social trust by strengthening social rights ([Doc. 15365](#))
- [Recommendation 2211 \(2021\)](#) Anchoring the right to a healthy environment: need for enhanced action by the Council of Europe ([Doc. 15367](#))
- [Recommendation 2212 \(2021\)](#) More participatory democracy to tackle climate change ([Doc. 15351](#))
- [Recommendation 2213 \(2021\)](#) Addressing issues of criminal and civil liability in the context of climate change ([Doc. 15362](#))
- [Recommendation 2214 \(2021\)](#) The climate crisis and the rule of law ([Doc. 15353](#))
- [Recommendation 2215 \(2021\)](#) Research policies and environment protection ([Doc. 15357](#))

### Resolutions

- [Resolution 2391 \(2021\)](#) Humanitarian consequences of the conflict between Armenia and Azerbaijan / Nagorno-Karabakh conflict ([Doc. 15363](#))
- [Resolution 2392 \(2021\)](#) Guidelines on the scope of the parliamentary immunities enjoyed by members of the Parliamentary Assembly ([Doc. 15364](#))
- [Resolution 2393 \(2021\)](#) Socio-economic inequalities in Europe: time to restore social trust by strengthening social rights ([Doc. 15365](#))
- [Resolution 2394 \(2021\)](#) Gender representation in the Parliamentary Assembly ([Doc. 15366](#))
- [Resolution 2395 \(2021\)](#) Strengthening the fight against so-called "honour" crimes ([Doc. 15347](#))
- [Resolution 2396 \(2021\)](#) Anchoring the right to a healthy environment: need for enhanced action by the Council of Europe ([Doc. 15367](#))
- [Resolution 2397 \(2021\)](#) More participatory democracy to tackle climate change ([Doc. 15351](#))
- [Resolution 2398 \(2021\)](#) Addressing issues of criminal and civil liability in the context of climate change ([Doc. 15362](#))
- [Resolution 2399 \(2021\)](#) The climate crisis and the rule of law ([Doc. 15353](#))
- [Resolution 2400 \(2021\)](#) Combating inequalities in the right to a safe, healthy and clean environment ([Doc. 15349](#))
- [Resolution 2401 \(2021\)](#) Climate and migration ([Doc. 15348](#))
- [Resolution 2402 \(2021\)](#) Research policies and environment protection ([Doc. 15357](#))
- [Resolution 2403 \(2021\)](#) The situation in Afghanistan: consequences for Europe and the region ([Doc. 15381](#))
- [Resolution 2404 \(2021\)](#) Instrumentalised migration pressure on the borders of Latvia, Lithuania and Poland with Belarus ([Doc. 15382rev](#))

Opinion  
299





**Opinion 299 (2021)<sup>1</sup>**

Provisional version

## **Draft Second Additional Protocol to the Convention on Cybercrime on enhanced co-operation and disclosure of electronic evidence**

Parliamentary Assembly

1. The Parliamentary Assembly recalls that the 20<sup>th</sup> anniversary of the adoption of the Convention on Cybercrime (ETS No. 185) will be celebrated in November 2021. It welcomes the success that this Convention of the Council of Europe is enjoying world-wide, currently with 66 ratifications.
2. The Assembly notes that since 2001, the exploitation of information technology for criminal purposes has strongly increased. Cybercrime is considered by many States as a serious threat to human rights, the rule of law, and to the functioning of democratic societies and even to national security. Examples of cybercrimes include online sexual violence against children, the theft and misuse of personal data, election interference and other attacks against democratic institutions, attacks against critical State and public service infrastructures, misuse of informational technology for terrorist purposes and during the ongoing Covid-19 pandemic, cyberattacks on hospitals and laboratories developing vaccines, misuse of domain names to promote fake vaccines and treatments, etc.
3. The purpose of the Second Additional Protocol to the Cybercrime Convention is to provide sharper tools to investigate cybercrime and obtain justice for victims. Given the prevalence of cybercrime today, victims of online crime must be given a better chance at obtaining justice, and perpetrators must be made to face a substantially greater risk of being held to account.
4. The Assembly recalls its previous work on the fight against cybercrime, including its [Opinion 226 \(2001\)](#) "Draft Convention on cyber-crime", its [Opinion 240 \(2002\)](#) "Draft additional Protocol to the Convention on Cybercrime concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems", its Recommendations [2041 \(2014\)](#) "Improving user protection and security in cyberspace" and [2077 \(2015\)](#) "Increasing co-operation against cyberterrorism and other large-scale attacks on the Internet" and most recently, its [Resolution 2256 \(2019\)](#) "Internet governance and human rights". The Assembly has consistently taken a constructive approach to improving international co-operation in this field whilst upholding human rights.
5. The Assembly recognises that the Draft Protocol is designed to function within the criminal justice systems of the Parties with all the procedures, regulations, methods for transmitting data, conditions and safeguards foreseen in the respective national legal systems. This applies also to the "direct co-operation" provided for by Articles 6 and 7, both of which require Parties to establish a proper domestic legal basis for the exercise of these powers.
6. The Assembly further recognises that both the Cybercrime Convention itself and its Additional Protocols face a difficult dilemma. The purpose of these treaties presupposes that as many States as possible to participate in fighting cybercrime as the latter does not recognise borders. Otherwise, cybercriminals will continue to operate from safe havens, to the detriment of their victims all over the world. Countries have very different legal systems, including in the sphere of criminal law and different levels of regulation regarding data

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1. *Assembly debate* on 30 September 2021 (30th sitting) (see [Doc. 15379](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Kamal Jafarov). *Text adopted by the Assembly* on 30 September 2021 (30th sitting).



protection. The Convention and its Protocols can therefore only set minimum standards of protection that must be implemented by all participant States whilst leaving open the possibility for more advanced States to implement stronger protections for their citizens. But such higher standards of protection must not jeopardize the common goal of the Convention and its Protocols, namely, to make international co-operation in the fight against cybercrime more efficient and effective.

7. The Assembly considers that the Second Additional Protocol to the Cybercrime Convention in principle strikes a reasonable balance in facing the dilemma described above. Having considered numerous proposals by different stakeholders, it suggests nevertheless the following improvements to further strengthen the protection of human rights, in particular the right to privacy:

7.1. enshrine the application of the principle of proportionality in the text of Article 13, in addition to this being mentioned in the Draft Protocol's explanatory report;

7.2. specify in Article 14 paragraph 2 that the further processing of personal data by the receiving Party shall be provided by law, and shall constitute a necessary and proportionate measure in a democratic society to safeguard important objectives of general public interest or shall otherwise provide for the adequate protection of human rights and liberties;

7.3. include in the list of information to be made available to data subjects under Article 14 paragraph 11 the contact details of the competent data controller;

7.4. update paragraph 12.b of the Draft Protocol so as to ensure that as a general rule, information to individuals related to access and rectification shall be provided free of charge;

7.5. expressly recognise in the text of the Draft Protocol or its explanatory report that privileges and immunities of certain professions such as lawyers, doctors, journalists, religious ministers, or parliamentarians shall be respected;

7.6. make mandatory the public disclosure, by oversight authorities, of aggregate information on the use of the measures under the Protocol and on the number of individuals affected by them;

7.7. in the provisions allowing evidence taking by video conferencing, to accommodate witness protection measures available at national level; and to include the possibility for lawyers to participate in a hearing conducted by video conference to be able to defend their clients' interests;

7.8. to enhance "equality of arms" between prosecution and defence by compelling the competent authorities of the Parties to make use of the investigative instruments placed at their disposal by the Draft Protocol also on behalf of the defence.

Recommendations  
2209 to 2215







**Recommendation 2209 (2021)<sup>1</sup>**

Provisional version

## Humanitarian consequences of the conflict between Armenia and Azerbaijan / Nagorno-Karabakh conflict

Parliamentary Assembly

1. The Parliamentary Assembly refers to its [Resolution 2391 \(2021\)](#) "Humanitarian consequences of the conflict between Armenia and Azerbaijan / Nagorno-Karabakh conflict".
2. The Assembly believes that the Council of Europe has an important role to help both Armenia and Azerbaijan tackle the humanitarian consequences of the conflict between the two countries.
3. The Assembly therefore invites the Committee of Ministers to:
  - 3.1. take into account the humanitarian consequences of the conflict, when preparing new Action Plans for Armenia (2023-2026) and Azerbaijan (2022-2025) and show flexibility in on-going action plans and adapt them to the consequences of the conflict. The Committee of Ministers is invited to pay particular attention to the needs and rights of displaced persons and issues surrounding their return, confidence building measures for all affected communities, and measures necessary to build tolerant societies and tackle hate speech;
  - 3.2. follow up on the notification to the Committee of Ministers by the European Court of Human Rights, on 16 March 2021, concerning alleged Armenian captives, and promote a solution to this ongoing issue.

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1. *Assembly debate* on 27 September 2021 (24th sitting) (see [Doc. 15363](#), report of the Committee on Migration, Refugees and Displaced Persons, rapporteur: Mr Paul Gavan. *Text adopted by the Assembly* on 27 September 2021 (24th sitting).







**Recommendation 2210 (2021)<sup>1</sup>**  
Provisional version

## **Socio-economic inequalities in Europe: time to restore social trust by strengthening social rights**

Parliamentary Assembly

1. The Parliamentary Assembly refers to its [Resolution 2393 \(2021\)](#) “Socio-economic inequalities in Europe: time to restore social trust by strengthening social rights” and underscores the role of States in upholding the implementation of benchmarks for social rights enshrined in the European Social Charter (ETS No. 035 and 163, hereafter “the Charter”) by all social partners. It deplores the gap between the rights protected by the European Social Charter and the socio-economic policies pursued at national level, which is reflected in the annual conclusions and statements of the European Committee of Social Rights.

2. The Assembly supports the view of the European Committee of Social Rights that the effective implementation of the European Social Charter requires both legal action and practical measures by States Parties so as to allocate adequate resources to underpin the rights recognised in the Charter and to seek “to achieve the objectives of the Charter within a reasonable time, with measurable progress and to an extent consistent with the maximum use of available resources”. The Assembly asks the Committee of Ministers to remind all member States of these obligations, be they party or not to the Charter, with a view to supporting human development and more effectively narrowing socio-economic inequalities.

3. The Assembly supports the proposals put forward by the Secretary General of Council of Europe to reform the implementation of the Charter through elevating political support and commitment of member States to developing a level playing field for social rights across Europe and improving capacity of the Charter’s organs to respond effectively to the member States’ need for feedback and guidance. The Assembly also supports the proposal for the continued promotion of the ratification of the revised European Social Charter by all member States, and reiterates its own recommendations contained in paragraph 3 of [Recommendation 2205 \(2021\)](#) “Overcoming the socioeconomic crisis sparked by the Covid19 pandemic”. It moreover recommends to the Committee of Ministers to ask the European Committee of Social Rights to study the feasibility of adding new clauses to the Charter on the social protection of workers in non-standard forms of work.

4. In this context, the Assembly recalls the decisions of the 131<sup>st</sup> Session of the Committee of Ministers on 21 May 2021, notably as regards co-operation between the Council of Europe and the European Union, whereby the European Union was encouraged to participate in and accede to the Council of Europe instruments “as a way of achieving coherence and complementarity and promoting synergies”. The latter is particularly important for the more effective implementation of social rights in Europe and for stronger action to narrow socio-economic inequalities. The Assembly therefore asks the Committee of Ministers to pursue efforts to promote the European Union’s accession to the revised European Social Charter and thus seek greater complementarity between the Charter system and the European Pillar of Social Rights. It also asks the Committee of Ministers to support the wider application of the European Child Guarantee initiative, namely across non-EU member States, including through joint co-operation projects.

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1. *Assembly debate* on 28 September 2021 (25th and 26th sittings) (see [Doc. 15365](#), report of the Committee on Social Affairs, Health and Sustainable Development, rapporteur: Ms Selin Sayek Böke). *Text adopted by the Assembly* on 28 September 2021 (25th and 26th sittings).







**Recommendation 2211 (2021)<sup>1</sup>**  
Provisional version

## **Anchoring the right to a healthy environment: need for enhanced action by the Council of Europe**

Parliamentary Assembly

1. The Parliamentary Assembly refers to its [Resolution 2396 \(2021\)](#) “Anchoring the right to a healthy environment: need for enhanced action by the Council of Europe” and reiterates the need for the Council of Europe to modernise its standard setting activity so as to embrace the new generation of human rights. The Assembly is highly concerned by the speed and extent of environmental degradation, loss of biodiversity, and the climate crisis that directly impact on human health, dignity and life. It considers that it is high time for the Council of Europe to show ambition and strategic vision for the future by facing up to this major transformative challenge for human rights and securing their enhanced protection in the era of systemic environmental threats to the present and future generations.
2. The Assembly notes that harmful environmental impacts are increasingly affecting the enjoyment of first and second generation human rights by individuals and society at large, hurting the shared values that the Council of Europe is called upon to defend. Those impacts are being recognised through environmental litigation at national level across Europe and beyond; they constitute a compelling case for consolidating and updating the Council of Europe legal arsenal, and linking up national action with commitments under the relevant international treaties, such as the United Nations Framework Convention on Climate Change (UNFCCC) and the Paris Agreement.
3. To this end, the Assembly recommends that the Committee of Ministers:
  - 3.1. draw up an additional protocol to the European Convention on Human Rights (ETS No. 5, hereafter “the Convention”) on the right to a safe, clean, healthy and sustainable environment, based on the terminology used by the United Nations and drawing on the text reproduced below, which is an integral part of this recommendation. The inclusion of this right in the Convention would establish the clear responsibility of member States to maintain a good state of the environment that is compatible with life in dignity and good health and the full enjoyment of other fundamental rights; this would also support a much more effective protection of a safe, clean, healthy and sustainable environment at national level, including for generations to come;
  - 3.2. draw up an additional protocol to the European Social Charter (ETS Nos. 35 and 163, hereafter “the Charter”) on the right to a safe, clean, healthy and sustainable environment; the inclusion of this right in the ESC would make it possible to recognise the interrelationship between protection of social rights and environmental protection; it would also enable non-governmental organisations to lodge collective complaints on environmental issues;
  - 3.3. launch the preparation of a feasibility study for a “5P” convention on environmental threats and technological hazards threatening human health, dignity and life; the drawing-up of such a convention would afford an opportunity to incorporate therein the principles of prevention, precaution and non-regression, which are necessary if humanity’s right to a healthy environment is to be properly protected; the convention could also include a supranational monitoring mechanism modelled on independent

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1. *Assembly debate* on 29 September 2021 (27th sitting) (see [Doc. 15367](#), report of the Committee on Social Affairs, Health and Sustainable Development, rapporteur: Mr Simon Moutquin). *Text adopted by the Assembly* on 29 September 2021 (27th sitting).



*Recommendation 2211 (2021)*

expert committees such as the Group of Experts on Action against Trafficking in Human Beings (GRETA) and The Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO);

3.4. revise Recommendation CM/Rec(2016)3 on human rights and business with a view to strengthening corporate environmental responsibility for the adequate protection of the human right to a safe, clean, healthy and sustainable environment.

## **Appendix – Text of the proposal for an additional protocol to European Convention on Human Rights, concerning the right to a safe, clean, healthy and sustainable environment**

### **Preamble**

The member States of the Council of Europe and other High Contracting Parties to the European Convention on Human Rights, signatories hereto,

Considering the urgent nature of the environmental crisis and its consequences for biodiversity, ecosystems and present and future generations;

Recognising the interrelationship between environmental protection and human rights;

Taking into account the intrinsic value of Nature and the paramount importance of the duties and obligations of present generations towards the environment and future generations;

Noting that every human being “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 that he bears a “solemn responsibility to protect and improve the environment for present and future generations” (Principle 1 of the Stockholm Declaration of 1972);

Noting that the right to a safe, clean, healthy and sustainable environment requires going beyond an approach based on individual rights alone;

Being resolved to define the right to a healthy environment as an autonomous human right;

Have agreed as follows:

### **Section I – Definition**

#### *Article 1*

For the purposes of this Additional Protocol, “the right to a safe, clean, healthy and sustainable environment” means the right of present and future generations to live in a non-degraded, viable and decent environment that is conducive to their health, development and well-being.

### **Section 2 – General principles**

#### *Article 2: Principle of transgenerational responsibility, equity and solidarity*

Every generation has a duty to protect the environment and biodiversity and to prevent any irreparable and irreversible damage to life on Earth, so as to ensure the right of subsequent generations to live in a safe, clean, healthy and sustainable environment.

Every generation shall ensure that natural resources are used and managed in an environmentally sustainable manner, and that scientific and technological progress in all areas does not harm life on Earth.

Every generation is responsible for protection of the environment and has a duty to:

- a. prevent environmental damage;
- b. remedy environmental damage.

#### *Article 3: Principle of environmental non-discrimination*

- a. No one shall be discriminated against on account of his/her belonging to a particular generation.
- b. Each High Contracting Party shall see to it that discrimination is prohibited and shall ensure equal and effective protection against discrimination to enable all individuals, groups and peoples to enjoy a safe, clean, healthy and sustainable environment
- c. Each High Contracting Party shall ensure that additional measures are taken to protect the rights of persons who are more vulnerable to or particularly threatened by environmental harm.

*Article 4: Principles of prevention, precaution, non-regression and in dubio pro natura*

Where a risk of harm to the environment and biodiversity has been established, measures for preventive action and rectification, as a priority at source, shall be put in place to avoid the occurrence of environmental damage.

Where there are threats of severe damage to the environment or to human, animal or plant health, lack of scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent the degradation of the environment and biodiversity.

- a. Any rolling back of legal protection of the environment or of access to environmental justice shall be prohibited.
- b. National and international provisions on the environment may be subject only to continuous improvement, having regard to the current state of scientific and technological knowledge.

In case of doubt, all matters before courts, administrative agencies and other decision makers must be resolved in a way most likely to favour the protection and conservation of nature, with preference to be given to alternatives that are least harmful to the environment.

**Section 3 – Substantive right**

*Article 5: Right to a safe, clean, healthy and sustainable environment*

Everyone has the right to a safe, clean, healthy and sustainable environment.

*Article 6: Procedural rights*

- a. Everyone is entitled to access information relating to the environment held by public authorities, without having to prove an interest.
- b. If a project, programme or policy has an impact on the environment and biodiversity, everyone shall be entitled to be consulted in advance in order to be heard by the decision-making bodies regarding the authorisation and development of that project.
- c. Everyone has the right of access to justice in matters relating to the environment.
- d. Everyone whose rights as set forth in this Protocol are violated shall have an effective remedy.

**Section 4 – Implementation of the protocol**

*Article 7*

In the interpretation of the right set forth in Article 5 of this Protocol, the principles of international and European environmental law shall be applied.

The exercise of the rights set forth in this Protocol may be subject only to such formalities, conditions and restrictions as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or for the protection of the rights and freedoms of others.

**Section 5 – Final clauses**

*Article 8*

No derogation from the provisions of this Protocol, with the exception of Article 6 b thereof, shall be made under Article 15 of the Convention.

*Article 9*

No reservation may be made under Article 57 of the Convention in respect of the provisions of this Protocol, with the exception of Article 6 b thereof.



*Article 10*

This Protocol shall be open for signature by the member States of the Council of Europe and the other High Contracting Parties to the European Convention on Human Rights. It shall be subject to ratification, acceptance or approval. The instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

*Article 11*

- a. This Protocol shall enter into force on the first day of the month following the date on which five member States of the Council of Europe have expressed their consent to be bound by the Protocol in accordance.
- b. In respect of any member State which subsequently expresses its consent to be bound by it, the Protocol shall enter into force on the first day of the month following the date of the deposit of the instrument of ratification, acceptance or approval.

The Secretary General of the Council of Europe shall notify the member States of:

- a. any signature;
- b. the deposit of any instrument of ratification, acceptance or approval;
- c. any date of entry into force of this Protocol;
- d. any other act, notification or communication relating to this Protocol.

In witness whereof the undersigned, being duly authorised thereto, have signed this Protocol.

Done at Strasbourg on [date], in English and French, both texts being equally authentic, in a single copy, which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe.





## Recommendation 2212 (2021)<sup>1</sup>

Provisional version

# More participatory democracy to tackle climate change

Parliamentary Assembly

1. The Parliamentary Assembly refers to its [Resolution 2397 \(2021\)](#) “More participatory democracy to tackle climate change”, highlighting the added value of innovative democratic practices and enhanced citizens’ participation and deliberation, which aim at deepening democracy and allowing for more effective responses to major policy dilemmas, in particular the climate crisis.
2. The enormous challenges posed by climate change and its unprecedented scale, character and impact, including distributive conflicts and necessary adaptations to social, economic, personal life, come at a time when democracies all over the world are fragile and citizens’ trust in elected officials, institutions and experts is faltering.
3. The Assembly is convinced that citizens’ participation and deliberation, in combination with representative democracy, can help provide public support, legitimacy, trust, empowerment, inclusion and equality, and facilitate the constructive reconciliation between multitude of interests. It also acknowledges that digital transformation opens up additional channels to promote citizen engagement and participation in public affairs and decision-making, thus strengthening democratic governance.
4. Bearing in mind that changes in production and consumption patterns imply a modification of our lifestyles that requires the participation of all, the Assembly strongly believes that only informed and committed citizens will be able to show resilience and engage in a collective dynamic with a view to ambitious environmental action.
5. Consequently, the Assembly recommends that the Committee of Ministers:
  - 5.1. building on the work of the European Committee on Democracy and Governance, as well as on the 2018 Committee of Ministers’ Recommendation on the participation of citizens in local public life and the 2017 Committee of Ministers’ Guidelines for civil participation in political decision-making, encourages its competent steering committee to draw up a report on new forms of participatory democracy, with a view to sharing good practices amongst member States, and to take into account the present report as a contribution in the specific area of climate change;
  - 5.2. invites member States to promote effective means of enhancing citizens’ competences for democratic culture, in particular through the Council of Europe Reference Framework of Competences for Democratic Culture, with a view to empowering them, especially the young generations, to constructively tackle the environmental challenges;
  - 5.3. considers setting up, in co-operation with the European Union, a European-wide “Citizens’ Assembly for Climate and the future of Europe”, including citizens, experts as well as elected representatives at local, regional, national and European level, and discuss this proposal at the forthcoming World Forum for Democracy entitled “Can Democracy Save the Environment?”, which will take place from 8 to 10 November 2021.

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1. *Assembly debate* on 29 September 2021 (27th sitting) (see [Doc. 15351](#), report of the Committee on Political Affairs and Democracy, rapporteur: Mr George Papandreou). *Text adopted by the Assembly* on 29 September 2021 (27th sitting).







**Recommendation 2213 (2021)<sup>1</sup>**

Provisional version

## Addressing issues of criminal and civil liability in the context of climate change

Parliamentary Assembly

1. Referring to its [Resolution 2398 \(2021\)](#) “Addressing issues of criminal and civil liability in the context of climate change”, the Parliamentary Assembly welcomes the establishment by the European Committee on Crime Problems (CDPC) of its Working Group on the Environment and Criminal Law (CDPC-EC).
2. Bearing in mind the work recently started by the CDPC-EC, it recommends 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 (ETS No. 172), which remains unimplemented due to the lack of ratifications. The new legal instrument should address the recent developments in the environmental situation (including climate change) and should seek to update and improve the existing convention. It should combine the fundamental principles of criminal and environmental law and try to achieve a minimum degree of harmonisation as regards definitions of criminal offences and related sanctions, according to the below principles:
  - 2.1. the offences and sanctions must be governed by the principle of the legality, namely they must be defined clearly and precisely;
  - 2.2. sanctions must be necessary and proportionate;
  - 2.3. recognition of the general interest of protecting the environment shall be the core principle;
  - 2.4. a harmonised sanctions mechanism shall be based on solidarity between the States and the existence of common rules for developing international co-operation in the criminal law;
  - 2.5. the cost of climate change and inaction with regard to environmental challenges must be well-defined, and effective measures and policies shall be taken within the comprehensive and inclusive framework, in co-operation with other international organisations, in particular the United Nations, the World Bank, the Organisation for Economic Cooperation and Development (OECD) and the European Union.
3. The Assembly also recommends that the Committee of Ministers:
  - 3.1. conduct a study on the notion of ‘ecocide’, its introduction into domestic legislation and its possible universal recognition;
  - 3.2. examine why the Convention on Civil Liability for Damage Resulting from Activities Dangerous to the Environment (ETS No. 150) has received none ratification and encourage member States that have not yet done so to ratify it;
  - 3.3. consider whether it would be desirable to revise this convention (in particular by updating its Appendix I on dangerous substances) or replace it by another legal instrument better adapted to the current environmental challenges;
  - 3.4. conduct a study on national climate litigation cases;

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1. *Assembly debate* on 29 September 2021 (27th sitting) (see [Doc. 15362](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Ziya Altunyaliz). *Text adopted by the Assembly* on 29 September 2021 (27th sitting).



3.5. when taking stock of the implementation of its Recommendation CM/Rec(2016)3 on human rights and business, reflect on how environmental issues, are taken into account by member States of the Council of Europe, in particular in the context of access to effective remedies and due diligence procedures.



## Recommendation 2214 (2021)<sup>1</sup>

Provisional version

# The climate crisis and the rule of law

Parliamentary Assembly

1. The Parliamentary Assembly refers to its [Resolution 2399 \(2021\)](#) “The climate crisis and the rule of law”. The Earth has entered the Anthropocene Era and irreversible changes have been made. Despite the strong commitments made in connection with the United Nations Framework Convention on Climate Change and the Paris Agreement, the possibility of a doomsday scenario cannot be ruled out. The climate crisis is a local, national, regional, and global challenge, which humankind must face up to.
2. The climate crisis is a systemic threat, which puts institutions and societies to the test. It questions our ability to react to risks and vulnerabilities which were not seen in time for what they really were. Like the Covid-19 pandemic, this crisis amplifies the effects of other crises, namely those of society, the economy and democracy.
3. The Assembly is convinced that the Council of Europe can help to establish climate resilience in the face of global overheating by drawing on the rule of law, democracy and human rights. The rule of law orchestrates the capacity of institutions to play their role with due regard for the separation of powers and when faced with adversity. The Assembly invites the Committee of Ministers to reincorporate the task of protecting the environment into the Council of Europe’s intergovernmental activities as a matter of priority.
4. Bearing in mind the huge changes in mentalities and attitudes required to meet the challenge of the climate crisis, the Assembly solemnly emphasises the scale of the efforts required. The last ways of tackling the climate crisis will have to be attempted over the next nine years because it may be too late afterwards. Consequently, the Assembly calls on the Organisation to mobilise every partner, at local, national, regional and world levels, to make these changes promptly and to share the results of their experimentation.
5. The Assembly recommends that the Committee of Ministers:
  - 5.1. incorporate sustainable development and climate crisis-tackling objectives into all of the Council of Europe’s activities and operations, including when preparing strategies and action plans;
  - 5.2. encourage Council of Europe partners, whether from the public or private sector, to implement the States’ commitments with regard to the reduction of greenhouse gas emissions;
  - 5.3. assess and limit the Council of Europe’s environmental impact at local, national, regional, and international levels so as to enhance its sustainability;
  - 5.4. strengthen co-operation with other international organisations, in particular the United Nations, the World Health Organisation, and the European Union, in order to consolidate efforts in tackling climate crisis issues.

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









## Recommendation 2215 (2021)<sup>1</sup>

Provisional version

# Research policies and environment protection

Parliamentary Assembly

1. The Parliamentary Assembly recalls its [Resolution 2402 \(2021\)](#) “Research policies and environment protection” and it stresses the major geostrategic importance of research and innovation in the areas of green economy, and in particular of energy transition and of circular economy.
2. The economic and strategic stakes behind technological progress may create a barrier to international co-operation in these domains. However, the fight against climate change is an absolutely key issue that concerns all Council of Europe member States: they must all contribute to finding the right solutions and be able to share them.
3. The 27 member States of the European Union are moving in this direction, as the programme Horizon Europe and the previous Horizon 2020 clearly show, but Europe is bigger than the European Union and it is important that we be able to work together on a wider European scale (for example, through transnational research programmes). The Council of Europe has a key role in this respect, and it should open a new avenue of co-operation to strengthen the ties that unite us and the solidarity between our peoples.
4. Therefore, the Assembly recommends that the Committee of Ministers consider setting up a framework – an enlarged partial agreement, for example – that would allow our countries to move forward together by pooling ideas and research resources for targeted projects; the Council of Europe Development Bank could be involved to provide its expertise and help establish funding mechanisms for these joint research projects. Within this framework, Council of Europe member States could also be encouraged to establish a bank of strategic resources necessary for the energy transition, to create stocks and manage them in a mutually beneficial way, with a view to strengthening the strategic independence of all our countries.

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1. *Assembly debate* on 29 September 2021 (28th sitting) (see [Doc. 15357](#), report of the Committee on Culture, Science, Education and Media, rapporteur: Mr Olivier Becht). *Text adopted by the Assembly* on 29 September 2021 (28th sitting).





Resolutions  
2391 to 2404





**Resolution 2391 (2021)<sup>1</sup>**  
Provisional version

## Humanitarian consequences of the conflict between Armenia and Azerbaijan / Nagorno-Karabakh conflict

Parliamentary Assembly

1. The Parliamentary Assembly regrets the tragic humanitarian consequences of the conflict between Armenia and Azerbaijan / Nagorno-Karabakh conflict. It is a conflict which has seen two major outbreaks of war, the first from the end of 1991 to 1994, and a 6-week war in 2020.
2. The Assembly has dealt with many aspects of the conflict over the years, in particular in [Resolution 1047 \(1994\)](#) and [Recommendation 1251 \(1994\)](#) “Conflict in Nagorno-Karabakh” and in [Resolution 1416 \(2005\)](#) “The conflict over the Nagorno-Karabakh region dealt with by the OSCE Minsk Conference”.
3. The Assembly recalls that both Armenia and Azerbaijan committed themselves, upon their accession to the Council of Europe in January 2001, to use only peaceful means for settling the conflict. It deeply regrets that this common commitment remained unfulfilled all these years as the negotiations between Armenia and Azerbaijan over the past three decades didn't yield any tangible result. Therefore, the 6-week war in 2020 constitutes a breach of these commitments and should be duly addressed by the Council of Europe.
4. The Assembly notes that the recent 6-week war was brought to an end by the Trilateral statement of 9-10 November 2020, signed by the President of the Republic of Azerbaijan, the Prime Minister of the Republic of Armenia and the President of the Russian Federation. It considers that the Trilateral statement provides the main elements of a cease-fire and creates a framework to solve many of the humanitarian consequences of the recent 6-week war and conflict.
5. The Assembly is appalled by the number of people killed or who went missing during the 6-week war: reportedly over 3 900 Armenian and 2 900 Azerbaijani military killed or missing, 163 Armenian and 548 Azerbaijani civilian casualties and around 243 Armenians and 7 Azerbaijanis missing. The Assembly welcomes and encourages the efforts of both parties to recover and exchange the dead and recognises the valuable contribution of the International Committee of the Red Cross (ICRC) and Russian peacekeepers. It is also aware of around 3 890 Azerbaijanis and 1 000 Armenians still unaccounted for from the 1991-1994 war and regrets that little progress has been made on these cases. It invites both parties to resume work at the intergovernmental commission level, with the assistance of the ICRC.

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1. *Assembly debate* on 27 September 2021 (24th sitting) (see [Doc. 15363](#), report of the Committee on Migration, Refugees and Displaced Persons, rapporteur: Mr Paul Gavan. *Text adopted by the Assembly* on 27 September 2021 (24th sitting).

See also [Recommendation 2209 \(2021\)](#).



6. The Assembly notes that under Article 8 of the Trilateral statement “An exchange of prisoners of war ... is to be carried out” and that both countries claim to have complied with this. The Assembly however notes with concern the notification by the European Court of Human Rights, communicated to the Committee of Ministers of the Council of Europe on 16 March 2021, in relation to 188 Armenians allegedly captured by Azerbaijan (some of whom have since been returned to Armenia). In this connection the Assembly:

- 6.1. notes that under the Geneva Convention (III) Relative to the Treatment of Prisoners of War and Geneva Convention (IV) Relative to the Protection of Civilian persons in time of War, both Azerbaijan and Armenia have binding obligations to repatriate prisoners of war and release civilian persons without delay after the secession of active hostilities;
- 6.2. considers that the clear intention of Article 8 of the Trilateral statement was the exchange of all detained persons, without distinction as to the status assigned by one or other of the parties;
- 6.3. is deeply concerned about the fate of around 30 Armenians, allegedly seen, filmed or photographed in captivity, with no indication as to their current whereabouts. The Assembly is alarmed at allegations made by Armenia that these persons have been subjected to enforced disappearances and possibly killed;
- 6.4. calls on the Azerbaijani authorities to expedite their investigations on this matter and provide relevant information to the European Court of Human Rights and to Armenia;
- 6.5. welcomes the recent release of 15 Armenians on 12 June 2021 and a further release of 15 persons on 3 July 2021, bringing the total of repatriated to above 100;
- 6.6. remains concerned about the detention conditions of around 48 Armenians captured after the Trilateral statement, who are still in captivity, most of whom have undergone or are undergoing speedy criminal trials, which may raise fair trial issues under the European Convention on Human Rights (ETS No. 5);
- 6.7. calls on the Azerbaijani authorities to release all remaining captives and return them to Armenia without further delay;
- 6.8. encourages the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) to carry out an ad hoc visit, notwithstanding that the ICRC has regular access.

7. The Assembly is concerned about the many allegations of crimes, war crimes and other wrongful acts levelled against both Armenia and Azerbaijan during the 6-week war. It notes the individual cases and inter-state cases brought before the European Court of Human Rights, including by Armenia against Azerbaijan on 18 October 2020 (no.42521/20) and against Turkey on 9 May 2021 (no. 43517/20), and by Azerbaijan against Armenia on 26 October 2020 (47319/20).

8. Among allegations made by both sides, backed up by reputable international NGOs and a wealth of information available from different sources, there are worrying allegations and evidence of:

- 8.1. extrajudicial killings, including, for example, the alleged decapitation or throat slitting of at least two Armenians and one Azerbaijani;
- 8.2. substantial number of consistent allegations of inhuman and degrading treatment and torture of Armenian prisoners of war by Azerbaijanis, as well as a number of allegations of similar treatment of Azerbaijani prisoners of war by Armenians;
- 8.3. highly disturbing evidence of despoliation of both Armenian and Azerbaijani dead;
- 8.4. indiscriminate use of weapons killing and injuring civilians particularly in places not located in the conflict zone. According to the parties, there were 205 Armenian and 548 Azerbaijani casualties. In this respect, Armenian forces appear to have used ballistic missiles and unguided artillery and multiple rocket launchers, while Azerbaijani forces also appear to have used unguided artillery and multiple rocket launchers as well as loitering munitions and missiles launched by drones. Both sides had a responsibility to respect international humanitarian law and protect civilians from explosive weapons certain to have an impact in civilian areas and failed to do so;
- 8.5. the use by Azerbaijan, with Turkey’s assistance, of Syrian mercenaries, and the use by Armenia of Armenians from different countries as foreign fighters.

9. In the light of the highly disconcerting information above, the Assembly calls on Armenia and Azerbaijan to fully investigate the allegations and bring to justice anyone, including at command level, found to be responsible for crimes, war crimes or other wrongful acts. Both countries should co-operate fully with the European Court of Human Rights on the complaints lodged against them, and Turkey is invited to do the same. Unless there is accountability and some form of truth and reconciliation, these allegations will poison relations between the two countries for generations, and the consequences of the conflict will linger. Appropriate investigations should also be carried out in relation to allegations of crimes, war crimes or other wrongful acts which took place during the 1991-1994 war, for which there should be similar accountability.
10. The Assembly is gravely concerned that the conflict region is one of the most contaminated mine and unexploded ordnance regions in the world. In consequence the Assembly:
- 10.1. considers that it is incumbent on both sides to work together to remove mines, deploring that since the November cease-fire, 159 Azerbaijanis and 5 Armenians have been killed or injured;
  - 10.2. welcomes that on 12 June, Armenia handed over maps indicating 97 000 mines in the region of Aghdam and on 3 July, maps of 92 000 mines in the Fuzuli and Zangilan districts, while noting with concern that, according to Azerbaijan, portions of the shared maps are said to lack necessary information required for effective demining;
  - 10.3. calls on Armenia to release, without delay, all mine maps in its possession;
  - 10.4. recommends that both Armenia and Azerbaijan step up mine and unexploded ordnance awareness programmes and calls on the international community to provide assistance in terms of equipment, training and funding, for the clearance of what could be around 1 million mines.
11. Concerning the issue of displaced persons in Armenia, the Assembly:
- 11.1. notes that, according to Armenian sources, around 91 000 Armenians fled from the conflict area during the 6-week conflict, 85% of whom were women and children;
  - 11.2. welcomes that notwithstanding many difficulties, including winter and Covid-19, the Armenian authorities, along with the international community, including importantly the ICRC, were able to deal with the basic humanitarian needs and shelter of displaced persons;
  - 11.3. notes, based on Armenian sources, there are currently around 36 000 Armenians from the six-week war who have not returned to their homes;
  - 11.4. notes the problems facing those displaced, namely long-term shelter, ongoing cash assistance, education for children and the provision of livelihoods, in particular for women.
12. Concerning those from the Nagorno-Karabakh region who either remained or returned, the Assembly:
- 12.1. strongly regrets the international community's absence from the region due to ongoing disagreement between Armenia and Azerbaijan over the issue of access; in this sense, having in mind its Resolution 2240 (2018) "Unlimited access to member States, including 'grey zones', by Council of Europe and United Nations human rights monitoring bodies" and recalls the legal obligations on Council of Europe member States to co-operate fully and in good faith with international human rights monitoring mechanisms, including those of the Council of Europe and the United Nations;
  - 12.2. reminds that all individuals in the Council of Europe area, including those living in conflict zones, are equally entitled to full protection under the European Convention on Human Rights, including via applicable monitoring mechanisms;
  - 12.3. shares their feeling of abandonment by the international community and notes their concerns over security due to border incidents, the vicinity of Azerbaijani troops, and the regular sound of shots being fired;
  - 12.4. notes the difficulties they face in terms of livelihoods and the need to rebuild and repair war damage and provide new housing, as well as protection of their basic human rights;
  - 12.5. calls on all involved States to ensure unimpeded access of representatives of international independent humanitarian organisations and mass-media to the Nagorno-Karabakh region.
13. The Assembly welcomes the support of the international community towards Armenia, and in particular the role played by the United Nations Resident Coordinator's Office and High Commissioner for Refugees (UNHCR), as well the support of the European Union. The ICRC plays an essential role as the only

international organisation with access to the whole conflict region. The Russian Federation also has access to the region and has performed an extremely important role in terms of providing humanitarian aid and security through its peacekeepers.

14. Concerning the issue of displaced persons in Azerbaijan, the Assembly:

14.1. notes that, according to Azerbaijani sources, around 84 000 Azerbaijanis were temporarily displaced during the 6-week war;

14.2. welcomes that notwithstanding the difficulties of winter and Covid-19 that the Azerbaijani authorities were able to provide all necessary assistance. This they did without calling on the aid of the international community;

14.3. welcomes that almost all those displaced by the 6-week war have returned to their homes, and most of the damage has been repaired;

14.4. understands that the greater challenge now for Azerbaijan is the return of the 650 000 displaced from the 1991-1994 war and that 65% of these displaced persons would like to return to their homelands; recognises in this respect the enormous challenge faced by Azerbaijan as the territories are heavily mined and the damage is extensive. Areas such as Aghdam and Fuzuli are almost totally destroyed;

14.5. welcomes the large-scale smart cities programme being developed by Azerbaijan and calls on the international community to provide assistance so that those displaced are able to return.

15. In designing and implementing their respective policies towards displaced persons, the Assembly recommends that Armenia and Azerbaijan make good use of Council of Europe expertise in designing and implementing their respective policies ensuring that they comply with Council of Europe human rights and rule of law standards.

16. The Assembly encourages the international community to continue to support Armenia and Azerbaijan and move towards a more mid and long-term strategy to include not just recovery but also peace building and confidence building measures.

17. The Assembly is greatly concerned by the increase in incidents at various points of the border since May 2021. There have been deaths and injuries and Armenian soldiers have been taken captive. The Assembly therefore calls on both sides to:

17.1. de-escalate and keep to the positions agreed by the parties under the Trilateral statement;

17.2. negotiate on a process of delimitation and demarcation of the border and examine the possibility of creating a demilitarised zone with the presence of a peacekeeping or military monitoring force.

18. The long running conflict has had a catastrophic impact on the cultural heritage and property of the region, for which both Armenia and Azerbaijan have a responsibility. In light of this, the Assembly:

18.1. condemns the damage and destruction for which Armenia is responsible in the former conflict areas returned to Azerbaijan, and in particular the almost total destruction and looting of Aghdam, Fuzuli and other areas over the last 30 years, as well as the transfer of cultural heritage;

18.2. condemns the destruction over the last 30 years of Armenian cultural heritage in Azerbaijan for which Azerbaijan is responsible, notably in Nakhchivan Autonomous Republic, and condemns the damage deliberately caused to cultural heritage during the 6-week war, and what appears to be the deliberate shelling of the Gazanchi Church/Holy Saviour, Ghazanchetsots Cathedral in Shusha/Shushi as well as the destruction or damage of other churches and cemeteries during and after the conflict;

18.3. remains concerned, in the light of past destruction, about the future of the many Armenian churches, monasteries, including the monastery in Khutavank/Dadivank, cross-stones and other forms of cultural heritage which have returned under Azerbaijan control;

18.4. expresses concern about a developing narrative in Azerbaijan promoting a "Caucasian Albanian" heritage to replace what is seen as an "Armenian" cultural heritage;

18.5. recommends that Armenia and Azerbaijan allow UNESCO unlimited access to all cultural heritage sites in both countries to assess the damage and assess the steps necessary to safeguard what remains;

18.6. invites UNESCO to look into the developing narrative promoting a "Caucasian Albanian" heritage, to ensure it is not manipulated by either side.



19. Hate speech has been a long-standing problem in both countries, as noted by the European Commission against Racism and Intolerance (ECRI) in its reports, in particular in relation to Azerbaijan, which has also been criticised by the Advisory Committee on the Framework Convention for the Protection of National Minorities. The Assembly:

19.1. is shocked by the level of hate speech and hate crimes by both sides that took place during the 6-week war, including the filming of horrific acts and their sharing on social media;

19.2. is aware of various statements that Azerbaijan is proud of its multiculturalism but regrets that there remain statements at the highest level which continue to portray Armenians in an intolerant fashion. The so-called military “Trophy Park” in Baku creates serious concerns, and the Assembly considers that the use of caricatured and stereotyped mannequins exacerbates levels of intolerance and should have no place in a museum or society;

19.3. recommends that both countries take steps to tackle hate speech, including from public and high-level officials, as well as hate crimes. Both countries should introduce appropriate legislation with the assistance of the Council of Europe.

20. In view of the many human rights issues linked to the humanitarian consequences of the conflict, the Assembly encourages the Council of Europe Commissioner for Human Rights to work with both the Azerbaijani Ombudsman and the Armenian Human Rights Defender to tackle these and to visit the region as soon as possible.

21. The Assembly invites Armenia and Azerbaijan to investigate the allegations raised and invites the delegations of both parliaments to the Parliamentary Assembly of the Council of Europe to start a dialogue on these.





**Resolution 2392 (2021)<sup>1</sup>**

Provisional version

## **Guidelines on the scope of the parliamentary immunities enjoyed by members of the Parliamentary Assembly**

Parliamentary Assembly

1. In addition to national regimes, members of the Parliamentary Assembly benefit from a supranational regime of parliamentary immunity conferred by the Statute of the Council of Europe (ETS No. 1) and the General Agreement on Privileges and Immunities of 1949 (ETS No. 2), which could be described as “European” parliamentary immunity. This regime offers functional protection beyond national borders and opens up the scope of parliamentary action, in line with the mission that the Parliamentary Assembly is called upon to fulfil.
2. The Parliamentary Assembly recalls that it regularly reviews the mechanism for the protection of its members, taking into account the changes or challenges faced by national parliaments in the various aspects of parliamentary immunity, with a view to ensuring effective protection of its members and thus of the Assembly, in particular in the light of new political risks.
3. Notwithstanding the fact that the 70-year-old system of immunities has not evolved in the statutory and conventional texts, the Assembly has sought to improve it through successive resolutions in order to adapt it to the reality of the work of its members and to take account of activities linked to parliamentary diplomacy. It still has a solid legal basis to ensure effective protection of its members and the institution and, at the same time, to avoid abuses.
4. However, the Assembly notes that, in implementing the system of protection for its members, it is now essential to clarify the scope of the current provisions and to lay down clear and objective criteria enabling privileges and immunities to serve their institutional purpose while preventing the possible misuse of privileges by parliamentarians for personal purposes.
5. The Assembly recalls that both the Group of States against Corruption (GRECO) in 2017 and the Independent Investigation Body on the allegations of corruption within the Parliamentary Assembly in 2018 recommended that the immunity regime be supplemented and clarified by a set of criteria, in order to prevent immunities and privileges from being invoked in case of real suspicions of corrupt activity.
6. The Assembly therefore considers it appropriate to adopt guidelines on the scope of parliamentary immunities enjoyed by members of the Assembly with a view to clarifying the application of existing rules under the Statute of the Council of Europe, the General Agreement on Privileges and Immunities of the Council of Europe and its Additional Protocol. These guidelines do not create new rights and privileges. They summarise domestic practice, introduce the principles and interpretation established by the European Courts and provide practical information to make the handling of immunity-related claims smoother and provide safeguards against abuse. They will ensure the consistent application of the regime of privileges and immunities in all member States.

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1. *Assembly debate* on 27 September 2021 (24th sitting) (see [Doc. 15364](#), report of the Committee on Rules of Procedure, Immunities and Institutional Affairs, rapporteur: Mr Tiny Kox). Text adopted by the Assembly on 27 September 2021 (24th sitting).



7. Furthermore, the Assembly considers that, in view of the absolute and perpetual nature of the immunity guaranteed by Article 14 of the General Agreement on Privileges and Immunities, Rule 73.6 of the Rules of Procedure should be supplemented in order to allow former members of the Assembly to make a request for the defence of their immunities and privileges in relation to an opinion expressed or a vote cast in the exercise of their functions as members of the Assembly.

8. Therefore, the Assembly decides to:

8.1. adopt guidelines on the scope of parliamentary immunities enjoyed by members of the Assembly and, accordingly, to add the following new sub-paragraph d. to [Rule 73.6](#):

*“The guidelines on the scope of parliamentary immunities enjoyed by members of the Parliamentary Assembly shall be appended to these Rules of Procedure as a complementary text”;*

8.2. replace the second sentence of [Rule 73.6](#) with the following:

*“A member or former member may address a request to the President of the Assembly to defend his or her immunity and privileges”.*

9. Furthermore, the Assembly notes that the vast majority of its members are unaware of the protection regime from which they benefit and the scope of the immunities granted to them, and considers it essential to promote the existing instruments and mechanisms both among Assembly members and in national parliaments.

10. Finally, the Assembly recalls the importance of the immunity enjoyed by its members in the exercise of their functions for the unhindered functioning of the Parliamentary Assembly and, referring to its [Resolution 1325 \(2003\)](#) “Immunities of members of the Parliamentary Assembly”, and its [Resolution 2087 \(2016\)](#) and [Recommendation 2083 \(2016\)](#) “Introduction of sanctions against parliamentarians”, reminds member States of their existing obligations; it calls on them to ensure scrupulous compliance with their commitments under the Statute and the General Agreement on Privileges and Immunities of the Council of Europe and its Additional Protocol.

#### *Guidelines on the scope of parliamentary immunities enjoyed by members of the Parliamentary Assembly*

11. The following principles pursue the objective of clarifying the application of the existing rules under the Statute of the Council of Europe, the General Agreement on Privileges and Immunities of the Council of Europe and the Additional Protocol thereto.

12. The members of the Parliamentary Assembly enjoy privileges and immunities which serve to preserve the integrity of the Assembly and ensure the independence of its members in the discharge of their office. They are granted by Article 40 of the Statute of the Council of Europe, Articles 13 to 15 of the General Agreement on Privileges and Immunities of the Council of Europe and Article 3 of the Additional Protocol thereto.

13. Their practical implementation is further detailed in the Rules of Procedure and relevant Assembly resolutions<sup>2</sup> bearing in mind:

- the need to protect the independence of the Assembly;
- the functional purpose underlying the concept of immunities;
- existing precedents.

14. The parliamentary immunity is not a member’s personal privilege but an institutional privilege which members enjoy in their individual capacity.

#### *Absolute immunity in respect of words spoken and votes cast (Article 14 of the General Agreement on Privileges and Immunities of the Council of Europe)*

15. Freedom of expression is the most valuable tool enabling members to exercise their duties and it enjoys enhanced protection.

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2. In particular [Resolution 1325 \(2003\)](#), [Resolution 1490 \(2003\)](#) and [Resolution 2127 \(2016\)](#).

16. Therefore, the immunity guaranteed by Article 14 of the General Agreement:
- 16.1. is absolute, permanent and perpetual in nature; it continues to apply after the end of a member's mandate; it cannot be waived by the Parliamentary Assembly or the national parliament;
  - 16.2. is an institutional privilege; a member or a former member has no liberty to waive or to renounce it;
  - 16.3. applies to all legal proceedings (criminal, civil or administrative) which may arise in relation to words spoken and votes cast. As a corollary, no parliamentarian covered by such an immunity should be heard, including as a witness to testify concerning information obtained confidentially in the performance of their parliamentary duties which they do not see fit to disclose;
  - 16.4. has an autonomous scope, which could be different from the scope of the absolute immunity which protects national parliamentarians, to be established bearing in mind relevant statutory provisions, the case law of the European jurisdictions and relevant Assembly practices;
  - 16.5. given the exceptional protection, covers merely what is strictly necessary for the Assembly members to perform their duties, to carry out respectful debate or to express critical positions while precluding the misuse of the privileges and immunities for personal benefit. With this in mind, it does not cover activities prohibited by the Code of Conduct such as, for instance, paid advocacy.
  - 16.6. covers votes cast and opinions expressed by the members of the Parliamentary Assembly "in the exercise of their functions" bearing in mind the present-day definition of core functions of the Assembly members;
  - 16.7. could, in addition to covering statements made by members during the debate in the plenary or during the meetings of the committees and sub-committees, be also extended to oral and written statements made by members outside official premises as well as to other activities performed by them in their capacity as Assembly members if there is an obvious and direct connection between these statements or activities and the exercise of their functions as Assembly members<sup>3</sup>;
  - 16.8. does not cover an inquiry into bribery-related offences (for example offering or requesting undue advantages in return for certain voting behaviour) given that those offences do not pertain to opinions expressed or/and votes cast.
17. It is the responsibility of the competent national court to recognise that a member or a former member enjoys absolute immunity owing to the direct and obvious link to his or her parliamentary functions. By doing so, the relevant Council of Europe bodies and national jurisdiction must co-operate so as to avoid any conflict in the interpretation and application of the provisions of the Statute and the General Agreement.<sup>4</sup>
18. Where a request for waiver of immunity is submitted to it by a national authority, the Assembly must first of all ascertain whether the facts giving rise to the request for waiver are covered by Article 14 of the Protocol, in which case immunity cannot be waived.

*Immunity from detention and prosecution (Article 15 of the General Agreement on Privileges and Immunities of the Council of Europe)*

19. The purpose of this immunity is to protect a parliamentarian from undue pressure which could be exercised against him or her in respect of acts which do not constitute a part of typical parliamentary activities and applies as follows:
- 19.1. the members of the Parliamentary Assembly enjoy the immunity provided for in Article 15 during the Assembly sessions. The term "during the sessions" covers the whole parliamentary year in view of the continuous activity of the Assembly and its bodies;
  - 19.2. members of the Assembly enjoy the immunities secured by this provision when they are no longer members of their national parliament, and do so until their replacement as members of the Assembly or until the opening of the next session;

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3. For instance, when a member carries out duties following an official decision by a competent Assembly body (e.g. election observation, visits in the context of the monitoring procedure, a fact-finding visit of a committee rapporteur in a member State).

4. Consequently, where the national authority is informed of the fact that that member has made a request for defence of that immunity, it should stay the judicial proceedings.

19.3. according to the Statute, protection afforded to members of the Assembly applies during their Assembly mandate. It could also cover proceedings initiated prior to becoming a member of the Assembly as long as those proceedings contain evidence of *fumus persecutionis*. This position, which intends to make protection fully effective, is in line with practices existing in several member States and does not contradict the Statute in that it links the acquisition of immunity to the beginning of the term of office. Nor does it contradict to the principle of the functionality of parliamentary immunity in that the protection will only be granted if factual elements indicate that the intention underlying the legal proceeding pre-dating the mandate of an Assembly member is to damage a member's political activity and thus the Assembly. In all other cases if the prosecution is for no other reason than the proper administration of justice, immunity has to be lifted at the request of the national authority;

19.4. immunity cannot be invoked in the case of *flagrante delicto*. As the objective of this provision is to quickly restore public order and reduce the risk of evidence disappearing, its use by national authorities shall not be inspired by concerns unrelated to the proper administration of justice<sup>5</sup>;

19.5. at all stages when parliamentary immunity is waived the presumption of innocence must be respected;

19.6. when considering a request to waive the immunity the Assembly has to consider the following elements: legal proceedings initiated against the member do not jeopardise the proper functioning of the Parliamentary Assembly, and the request must be serious, that is not be inspired by reasons other than that of dispensing justice.<sup>6</sup> If neither of these elements could be established, the Assembly should normally propose to waive immunity;

19.7. the immunity cannot be waived except by the Assembly at the request of a "competent authority" of the member State concerned. The competent authority is the judge in charge of the case, but it could also be the public prosecutor or the Minister of Justice. The request to waive immunity may be submitted by an authority of a member State other than the one of which the member in question is a national;

19.8. where members are required to appear as witnesses or expert witnesses, there is no need to request a waiver of immunity, provided that they will not be obliged to appear on a date or at a time which prevents them from performing their parliamentary duties, or makes it difficult for them to perform those duties, or that they will be able to provide a statement in writing or in any other form which does not make it difficult for them to perform their parliamentary duties;

19.9. detention of an Assembly member requires very serious grounds as it prevents him or her from taking up his or her seat or representing the voters and in this way jeopardises the independence of the legislative and the effectiveness of the electoral process designed to determine the will of the people. Where there are no indications that the suspect will evade justice the proper conduct of the investigation shall be ensured, if possible, by other security measures (for example release on bail).

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5. In the case of a strong assumption that a member was groundlessly deprived of his or her privileges by the application of the provision on *flagrante delicto*, the President could take an initiative to assert the privilege and immunity of the member concerned. The member could also petition the President to defend his or her immunities.

6. To consider if there are reasons which may be behind legal proceedings at stake the following elements could be taken into account: the broader political and legal context in which the legal proceedings against a member were launched; the timing of the prosecution; any indication of specific and personal targeting; a member's specific status and activities, even though the absence of a particular political status does not rule out political motivation behind the legal proceedings; the gravity of charges in comparison to what an ordinary citizen would face and the sufficient connection with the objectives of criminal justice; uncertainty as to the status and sources of the evidence presented as a basis for charges; the reasoning and the elements on which the request for waiver of immunity is based; the means to defend him or herself.



**Resolution 2393 (2021)<sup>1</sup>**  
Provisional version

## **Socio-economic inequalities in Europe: time to restore social trust by strengthening social rights**

Parliamentary Assembly

1. Europe's prosperity has been seemingly growing for decades but disparities in income, wealth, educational achievement, health status, nutrition, living conditions, occupations, social identity and participation in society have kept widening between and within countries. These inequalities not only negatively affect individuals and communities, but also restrain overall economic development, undermine social justice, and hurt the functioning of our society. Entrenched structural inequalities magnified during the global financial crisis of 2008-2009 and the Covid-19 pandemic, leading to deeper poverty, the erosion of social rights, reduced social mobility and greater social polarisation in society. Across Europe, widening inequalities made economies less robust and less resilient to external shocks, while the social resentments increased the risk of social unrest and political instability.

2. The Parliamentary Assembly notes that the prevailing economic development models will always entail a certain degree of socio-economic inequalities, calling to revisit the structural root causes of inequalities. However, this is no reason for States to dodge their responsibilities to guarantee socio-economic rights for all by using tools from a wide set of economic policies and redistribution mechanisms to narrow inequalities and especially to better protect the most disadvantaged and the most vulnerable. As pointed out in [Resolution 2384 \(2021\)](#) "Overcoming the socioeconomic crisis sparked by the Covid19 pandemic", the budgetary austerity measures of the last decade only weakened social systems, thus amplifying inequalities, with dramatic effects on the neediest population. Instead, a major shift in policy making is needed to pursue genuinely inclusive and sustainable growth: States must invest in rebuilding the economy while strengthening their social systems. The crises of the past decades have shown that equality and sustainable growth are two sides of the same coin.

3. Reducing inequality within and among countries is one of the UN Sustainable Development Goals (SDGs). Despite some positive developments in a few countries before the Covid-19 pandemic, inequalities have since worsened again, unleashing a human development crisis as global investment levels and overseas development aid flows shrank dramatically in 2020. The Assembly underlines the need for and importance of collective action in favour of the poorest countries and the most vulnerable population groups (including older persons, children, persons with disabilities, women, migrants and refugees, and precarious workers).

4. Rising inequalities hit especially hard the vulnerable and marginalised groups, with the biggest setbacks concerning older people and persons with disabilities. Moreover, inequalities and poverty drives child labour and child marriage, a persistent problem worldwide though to a differing degree across countries. European States have a moral duty to address these scourges more effectively both nationally and by assisting other countries concerned in eliminating child labour, child exploitation and child marriage, with an additional sense of urgency due to the Covid-19 crisis.

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1. *Assembly debate* on 28 September 2021 (25th and 26th sittings) (see [Doc. 15365](#), report of the Committee on Social Affairs, Health and Sustainable Development, rapporteur: Ms Selin Sayek Böke). *Text adopted by the Assembly* on 28 September 2021 (25th and 26th sittings).

See also [Recommendation 2210 \(2021\)](#).



5. The Assembly is particularly concerned with the slow-down in social mobility and extensive inter-generational transmission of inequalities which hamper children's well-being and development prospects and threaten their rights. Socio-economic circumstances in early stages of life play a critical role in determining the socio-economic and health status of individuals later in life, with parent's education and wealth having a significant impact. The Assembly highlights the need for more progress on ensuring universal access to endowments, based on guaranteed basic financial resources but most importantly with a focus on educational equality and better access to the health and social protection services, as well as adequate housing in order to give children from less privileged backgrounds the same opportunities in life as those from wealthier families. It welcomes the European Child Guarantee initiative under the European Pillar of Social Rights of the European Union and considers that this initiative should be promoted across all Europe.

6. The Assembly deplores socio-economic inequalities' significant impact on the health of individuals, which is starting to create a health-divide in society. The growing prevalence of chronic and long-term diseases in Europe, most notably and fastest among socio-economically deprived populations, especially women, has clear links to inequalities in educational status. In addition to the physical health impacts, there are also significant mental health issues related to inequality and employment status. This combination of physical and mental health impacts takes a deadly toll on European society by reducing the average life expectancy, in particular as regards healthy life expectancy.

7. The Assembly concurs with the Council of Europe Development Bank in viewing housing inequalities as both a symptom and a cause of existing income inequalities. Given that poor households often live in substandard homes and in deprived neighbourhoods, they face greater difficulties in accessing certain public services such as basic healthcare and quality education, as well as better remunerated jobs. National housing policies should be rethought towards providing more equitable options for enjoying one's right to housing of an adequate quality at an accessible price, as provided for by the European Social Charter (ETS No. 35 and 163).

8. During the Covid-19 pandemic, social inequalities have persisted across age groups, gender, geographical areas and income clusters, with single-parent families (mostly headed by women) being at the highest risk ever of poverty and social exclusion. Low-income households and ethnic minorities were also more likely to experience inadequate living conditions with repercussions on their health status, life expectancy and their socio-economic status. The Assembly notes the expert insight which concludes that a high level of social capital in the neighbourhood and social networks within communities provide essential mutual support to disadvantaged households and should be encouraged by the local authorities.

9. Against the background of the persisting gender pay and pension gap across Europe, the Assembly reiterates the right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex proclaimed by the European Social Charter. It points to the conclusions of the European Committee of Social Rights on State-parties' implementation of the right to equal pay and to equal opportunities in the workplace, which show a massive violation of this right and urge additional legislative steps to better protect this right and prevent discriminatory practices in the labour market. The Assembly welcomes the adoption on 17 March 2021 by the Committee of Ministers of the Council of Europe of a declaration on equal pay and opportunities for women and men, aimed at tackling existing inequalities in employment.

10. Recalling the member States' duties to adequately protect socio-economic rights set out in the European Social Charter and with a view to tackling structural socio-economic inequalities more effectively, the Assembly urges member States to:

10.1. compile comprehensive datasets using information from national accounts, surveys and tax administration in order to allow for effective analysis and stock-taking of the extent of socio-economic inequalities;

10.2. carry out an in-depth assessment of macroeconomic factors, technological and regulatory changes, domestic labour laws and macroeconomic financing requirements and choices that may have contributed to worsening socio-economic inequalities and the effective implementation of social rights at national level;

10.3. seek legislative and regulatory changes aimed at facilitating their population's access to quality public services, adequate housing and stable employment;

10.4. mainstream social objectives in their policy making by systematically screening policy changes for their impact on social cohesion and carrying out comprehensive human rights impact assessments of economic policies, in line with the UN Guiding Principles on Human Rights Impact Assessments of Economic Reform;



- 10.5. revisit their budgetary policies in a more socially egalitarian direction, so that basic needs would be universally covered, and upfront equal opportunities would be spread fairly across society by:
  - 10.5.1. guaranteeing universal, free and equal public provision of basic education, health and social protection services;
  - 10.5.2. increasing the share of public spending on vocational training, higher education and life-long education programmes;
  - 10.5.3. evaluating alternative policies of basic income or basic wealth endowment programmes (including options to access adequate housing) that would help ensure minimal financial resources for decent living;
  - 10.5.4. considering regulatory caps on pricing for the use of privatised basic infrastructure and services to remedy immediate hardships, while also revisiting the role of public ownership in provision of basic services;
- 10.6. review their fiscal policies so as to ensure fair and equal spread of economic and social opportunities through redistribution channels, notably by:
  - 10.6.1. closing loopholes in current tax codes, improving tax compliance and reducing tax avoidance both nationally and through tax havens;
  - 10.6.2. eliminating or scaling back tax deductions or tax benefit schemes tending to serve high earners disproportionately;
  - 10.6.3. reassessing the possible role of taxes on all forms of property and wealth with a view to consolidating households' and children's material well-being;
  - 10.6.4. guaranteeing that the proportion of direct and indirect taxation in total revenues is optimised to eliminate socio-economic inequalities;
- 10.7. consider systemic changes to labour market policies, notably by:
  - 10.7.1. strengthening the bargaining power of workers through trade unions and enhancing communication between social partners;
  - 10.7.2. revisiting minimum wage policies and collective bargaining frameworks that will guarantee a decent living wage and social protection, as well as stable and quality jobs for all;
- 10.8. take stronger legislative action to eliminate the gender pay and pension gap, as well as discriminatory practices in the labour market by:
  - 10.8.1. ensuring access to effective remedies for victims of wage discrimination, as well as discrimination on any other grounds;
  - 10.8.2. guaranteeing wage transparency and enabling wage comparisons;
  - 10.8.3. maintaining effective equality bodies and related institutions with enhanced control functions in order to ensure equal pay in practice;
  - 10.8.4. ensuring more flexible quality employment opportunities with decent pay and training perspectives for vulnerable population groups;
  - 10.8.5. guaranteeing effective access to affordable and quality childcare services for working parents;
  - 10.8.6. enhancing the protection of workers with long-term and chronic illness, and/or disabilities in line with the Assembly's [Resolution 2373 \(2021\)](#) "Discrimination against persons dealing with chronic and long-term illnesses";
- 10.9. provide for the setting up of personal training accounts and life-long learning opportunities to enable continuous upgrading of professional competences, acquisition of new skills, and requalification or transition to different types of jobs due to artificial intelligence, digital/platform economy needs and other technological developments;
- 10.10. adapt and strengthen social protection coverage for non-standard and new forms of employment;
- 10.11. improve incentive structures through competition policies, public procurement rules and regulations with the goal of reducing rewards for non-productive and rent-seeking activities;

- 10.12. strengthen regulatory policy frameworks on corporate social responsibility so that businesses and financial markets align more closely with SDGs and human rights as highlighted in the Assembly's [Resolution 2311 \(2019\)](#) "Human rights and business – what follow-up to Committee of Ministers Recommendation CM/Rec(2016)3?";
- 10.13. use the Council of Europe Development Bank (CEB) to co-finance priority social projects, in particular with regard to improving the provision of health services more equitably across national territory, and reducing the rural versus urban divide;
- 10.14. give public local authorities enhanced financial means to support the development of social capital, solidarity schemes and networking, in particular in more disadvantaged and rural areas;
- 10.15. enhance collective solidarity mechanisms, co-ordination of public investment and aid flows targeted at the implementation of SDGs, both at national and international level;
- 10.16. initiate international coordination to agree on;
  - 10.16.1. a binding set of international minimum labour rights to be enshrined in global trade and investment rules;
  - 10.16.2. transparency rules and public scrutiny of public interest for internationally financed public projects, including through private-public partnerships;
- 10.17. enhance international efforts to restructure the global governance framework with the aim of overcoming the fragmented landscape of international law that drives a wedge between economic policies and human rights, and to increase international coordination/cooperation between human rights agencies and economic policy institutions;
- 10.18. increase financial resources available for protecting public interest by ensuring full cooperation with the Group of States against Corruption (GRECO) and the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL), aimed at ending corruption;
- 10.19. guarantee sufficient allocation of economic and financial resources to ensure proper social protection and sufficient provision of public services, and protection of economic and social rights enshrined in national and international legal documents.



**Resolution 2394 (2021)<sup>1</sup>**

Provisional version

## Gender representation in the Parliamentary Assembly

Parliamentary Assembly

1. The sharing of responsibilities in political and public decision making between women and men is an inherent element of any true and effective democracy, a matter of equity and justice, and responds to the necessarily legitimate aspirations that have been expressed in our societies for decades. Women's empowerment and capacity building are essential to achieve women's effective and active participation in representative institutions and decision-making bodies. Our societies are composed of an equal number of men and women. Combining this reality with political representation and establishing parliamentary parity is a legitimate objective; where there is political will and where the impetus is given at the highest institutional level, parity can become the norm.

2. In ten years, the proportion of women in the Parliamentary Assembly has increased to 37%, reflecting the clear progress made in most member States' national parliaments, where the entry of more women into each new legislature has been made possible by proactive electoral legislation. However, whether in the Assembly or in national parliaments, women are still the under-represented sex; in only ten national parliaments in Europe do women hold more than 40% of the seats.

3. The Assembly congratulates the member States which, through their proactive legislation, but also through awareness-raising, accompanying, support and training policies, have made it possible to open the doors of legislative power more widely and sustainably to women. It recalls all the recommendations it made in its [Resolution 2290 \(2019\)](#) "Towards an ambitious Council of Europe agenda for gender equality", its [Resolution 2111 \(2016\)](#) "Assessing the impact of measures to improve women's political representation", its [Resolution 1781 \(2010\)](#) "A minimum of 30% of representatives of the under-represented sex in Assembly national delegations" and its [Resolution 1585 \(2007\)](#) "Gender equality principles in the Parliamentary Assembly". The Assembly once again urges the national parliaments of member States, in particular the 16 national parliaments with less than a quarter of women members, to make women's access to elective office a priority, in line with the recommendations of the Assembly and the Committee of Ministers of the Council of Europe, as contained in [Recommendation Rec\(2003\)3](#) of the Committee of Ministers on balanced participation of women and men in political and public decision making and [Recommendation CM/Rec \(2007\) 17](#) of the Committee of Ministers on gender equality standards and mechanisms.

4. In 2007, the Assembly set a target for national parliaments to ensure that their delegations include "a percentage of women at least equal to the percentage of women in their national parliament, with a target of at least 30%, bearing in mind that the threshold should be 40%". 32 out of 47 national delegations include a percentage of women greater than or equal to 30%, of which 21 delegations have a percentage greater than or equal to 40%. In this respect, the Assembly congratulates the national parliaments of Albania, Andorra, Bosnia and Herzegovina, Croatia, Finland, Iceland, Ireland, the Republic of Moldova, Monaco, North Macedonia, Norway, San Marino and the Slovak Republic for guaranteeing parity in their parliamentary delegations to the Assembly, even though some of them come from parliaments with a much lower percentage of women.

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1. *Assembly debate* on 28 September 2021 (26th sitting) (see [Doc. 15366](#), report of the Committee on Rules of Procedure, Immunities and Institutional Affairs, rapporteur: Ms Nicole Trisse; and [Doc. 15376](#), opinion of the Committee on Equality and Non-Discrimination, rapporteur: Ms Petra Bayr). *Text adopted by the Assembly* on 28 September 2021 (26th sitting).



5. All the parliamentary delegations shall comply with the requirement set out in [Rule 7.1.b](#) of the Rules of Procedure to include at least one woman representative (full member). This requirement, which is binding for small delegations, is unquestionably minimal for medium-sized delegations and even more so for large delegations of 20, 24 or 36 members. In order to promote progress towards parity, and to call on certain parliaments to set a higher example, the regulatory requirements will have to be increased.

6. The Assembly therefore intends to redefine the representation criteria that national parliaments must meet when setting up their delegations to the Assembly. In this respect, it considers that a delegation made up entirely of women does not respect the principle of equal gender representation in the Assembly.

7. Finally, the Assembly supports the political objective in the Council of Europe of promoting the threshold to be reached for participation of women and men that is 40% minimum for each sex. However, such an objective cannot at present be regarded as a regulatory principle, the disregard of which by national delegations would be sanctioned. The Assembly therefore formally undertakes to increase the minimum representation of each sex in its delegations to 40% as from the opening of its 2026 session.

8. In order to make the Assembly more representative and to encourage national delegations to promote more effectively the political objective of equal representation of women and men in the Assembly, in keeping with a non-discriminatory approach, which takes into account the size of the delegations, the Assembly decides to amend its Rules of Procedure as follows:

8.1. with regard to the *composition of national delegations*, in [Rule 6.2.a](#), delete the second sentence and add the following new paragraph [new Rule 6.2.b]:

*“Each national delegation must include both women and men among its representatives. As long as women are under-represented in the Parliamentary Assembly, each national delegation shall include women as members at least in the same percentage as in its parliament or, if this is more favourable to the representation of women, ensure gender representation as follows:*

- *delegations with two seats (4 members) shall include at least one woman as representative;*
- *delegations with three seats (6 members) shall have a minimum of two women, including at least one woman as representative [footnote 1];*
- *delegations with four seats (8 members) shall have a minimum of three women, including at least one woman as representative;*
- *delegations with five seats (10 members) shall have a minimum of three women, including at least two women as representatives;*
- *delegations with six seats (12 members) shall have a minimum of four women, including at least two women as representatives;*
- *delegations with seven seats (14 members) shall have a minimum of five women, including at least three women as representatives;*
- *delegations with ten seats (20 members) shall have a minimum of seven women, including at least four women as representatives;*
- *delegations with twelve seats (24 members) shall have a minimum of eight women, including at least four women as representatives;*
- *delegations with eighteen seats (36 members) shall have a minimum of twelve women, including at least six women as representatives.”*

*[footnote 1: “Pursuant to [Resolutions 1113 \(1997\)](#) and [1376 \(2004\)](#), the delegation of Cyprus can only fill 4 of the 6 seats to which it is entitled; it should be considered as a four-member delegation”];*

8.2. in order to clarify *the procedural grounds for a challenge to the credentials of a national delegation relating to its composition*, replace [Rule 7.1.b](#) with the following:

*“the conditions set out in [Rule 6.2.a](#) and [Rule 6.2.b](#)”;*

8.3. with regard to the *election of Assembly Vice-Presidents*, as delegations are encouraged to present candidates who are women, add the following sentence at the end of [Rule 16.3](#):

*“A delegation may propose a man as Vice-President only if it includes at least 40% of women”.*

9. In order to encourage the effective role of women in the decision-making process and in parliamentary work, the Assembly calls on the Assembly's political groups to promote more proactively the balanced representation and participation of women and men in the Assembly's decision-making bodies, and in particular to:

9.1. strengthen consultation when nominating candidates for the bureaux of the nine Assembly committees so as to achieve parity in the offices of chairpersons and vice-chairpersons;

9.2. establish the principle that, when proposing members of ad hoc committees, their gender breakdown is no less balanced than the composition of the group proposing them or, if this is more favourable to the promotion of gender equality, according to the "one in three" principle;

9.3. follow the "one in three" principle in the appointment of women and men as group spokespersons in Assembly debates;

9.4. aspire to parity and alternation between men and women for group chair and vice-chair positions;

9.5. aspire to follow the "one in three" principle in the appointment of women and men as members of ad hoc committees in charge of election observation.

10. Moreover, the Assembly considers that the "one in three" principle shall apply to the composition and functioning of committees. It therefore decides to amend its Rules of Procedure as follows:

10.1. with regard to the appointment of members of the Monitoring Committee, the Committee on Rules of Procedure, Immunities and Institutional Affairs, and the Committee for the Election of Judges to the European Court of Human Rights, add the following sentence to the end of [Rule 44.3.a](#):

*"At the beginning of each ordinary session, the candidatures presented by each political group to each of these committees must include at least one-third women where the group holds at least three seats. The Bureau shall appoint members, ensuring that the committees concerned always include at least one-third women."*

10.2. with regard to the composition of ad hoc committees, in [Rule 44.4.c](#), after the second sentence add the following sentence:

*"An ad hoc committee, with the exception of ad hoc committees in charge of election observation, shall include at least one-third women"*;

10.3. with regard to the *appointment of rapporteurs by committees*, in [Rule 50.1](#), after the third sentence, add the following sentence:

*"A committee shall include at least one-third women among its rapporteurs"*.

11. Finally, the Assembly instructs its Bureau to ensure that this "one in three" principle is applied in all appointment decisions for which it is responsible, in particular in the institutional representation of the Assembly.

12. The Assembly invites the Bureau to report to it at least once annually on the implementation of the above measures, including on efforts to promote gender mainstreaming and change parliamentary culture on gender equality in the Assembly's work more generally, and to publish this report. In addition, it invites the Bureau to draw up guidelines for committees regarding the promotion of gender balance in their work. These guidelines should aim, inter alia, to ensure that committees pay due attention to gender balance amongst external interlocutors invited to participate in their work and in the appointment of representatives to external events. Committees should also be required to report at least once annually to the Bureau on the implementation of these guidelines and on their efforts to promote gender mainstreaming in their work.

13. The Assembly underlines that progress towards gender equality in parliamentary structures will be hampered if due attention is not paid to the need to eliminate sexism and sexual harassment within these structures. It recalls the crucial recommendations made in its [Resolution 2274 \(2019\)](#) "Promoting parliaments free of sexism and sexual harassment", and instructs the Bureau to report to it by January 2022 on the steps taken to implement this Resolution within the Assembly.

14. The Assembly considers that the implementation of the obligations and objectives set out in this resolution is the collective responsibility of each national parliament and each political party or group. This responsibility should be shared equally within each delegation between all political parties and, in the case of bicameral parliaments, between the two chambers.

15. The Assembly decides that the changes to the Rules of Procedure contained in this resolution shall enter into force at the opening of the January 2023 part-session. The bodies concerned (national delegations, groups, committees) are invited to make adaptations over the months in order to achieve the objectives of more balanced representation of women and men.



**Resolution 2395 (2021)<sup>1</sup>**

Provisional version

## Strengthening the fight against so-called “honour” crimes

Parliamentary Assembly

1. Throughout the world, violence against women, domestic violence and violence against LGBTI people are the tangible expression of a desire to control and an indicator of gender inequality. They are serious human rights violations which must be systematically and firmly condemned.
2. The entry into force of the Council of Europe Convention on preventing and combating violence against women and domestic violence (CETS No. 210, “Istanbul Convention”) in 2014 laid down a major marker by setting out fundamental principles and calling on the States parties to do everything in their power to put an end to violence against women and domestic violence. The Parliamentary Assembly recognises that this Convention is a key instrument for preventing and combating violence against women and domestic violence that has the Assembly’s unwavering support. The Convention offers a tool to reign in so-called “honour”-related violence perpetrated against women and girls and States parties can decide to apply its provisions on domestic violence in relation to men and boys in all their diversity.
3. The Istanbul Convention unequivocally asserts that customs, tradition, culture, religion or so-called “honour” cannot not be put forward as justification for violence. No mitigating circumstance on grounds of so-called “honour” may be enshrined in national legislation or tolerated by courts when passing judgment. The Assembly stresses that so-called “honour” constitutes no ground, excuse or explanation for violating physical integrity and human dignity. Reiterating its [Resolution 1681 \(2009\)](#) “Urgent need to combat so-called honour crimes”, it emphatically condemns these crimes.
4. So-called “honour” crimes are most often perpetrated or ordered by members of the victim's family who refuse to accept their gender identity, sexual orientation, fashion or lifestyle choice, desire for emancipation or refusal of marriage. These crimes may take the form of murder, sequestration, abduction, torture, mutilation, burning, forced suicide, forced marriage, conversion therapy, interference in the choice of a partner or assault. They are often premeditated and organised. Large-scale awareness-raising initiatives must be carried out in order to have a tangible impact.
5. The Covid-19 pandemic has resulted in an increase in gender-based violence, including acts aimed at upholding “honour”. Significant progress made in gender equality has been slowed and even set back in certain sectors. Referring to its [Resolution 2339 \(2020\)](#) “Upholding human rights in times of crisis and pandemics: gender, equality and non-discrimination”, the Assembly emphasises that an effective response to the Covid-19 pandemic must include a gender dimension, be inclusive, take an intersectional approach and make preventing and combating violence a priority. It asserts that the education system has a fundamental role to play in promoting gender equality from the earliest age, deconstructing stereotypes and encouraging the development of critical thinking.

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1. *Assembly debate* on 28 September 2021 (26th sitting) (see [Doc. 15347](#), report of the Committee on Equality and Non-Discrimination, rapporteur: Ms Béatrice Fresko-Rolfo). *Text adopted by the Assembly* on 28 September 2021 (26th sitting).



6. In light of these considerations, the Assembly calls on the Council of Europe's member States, as well as on all States whose parliaments enjoy an observer or a partner for democracy status, to:
  - 6.1. ratify and implement the Council of Europe Convention on preventing and combating violence against women and domestic violence, if they have not already done so, and implement [Resolution 2289 \(2019\)](#) "The Istanbul Convention on violence against women: achievements and challenges";
  - 6.2. abolish from their criminal code any justification of crime linked to the upholding of so-called "honour" or any mitigating circumstance linked to the upholding of "honour";
  - 6.3. adopt a clear definition of so-called "honour" and recognise the upholding of so-called "honour" as an aggravating circumstance of any form of violence, take into account the aggravating circumstances established by the Istanbul Convention;
  - 6.4. firmly condemn violence against women, domestic violence and violence against LGBTI people, ensure that the sentences passed are carried out and condemn a system of oppression based on so-called "honour";
  - 6.5. punish any public statements inciting violence against women, domestic violence and violence against LGBTI people, including in the name of so-called "honour";
  - 6.6. recognise that LGBTI persons are vulnerable to so-called "honour" crimes and include them in all action plans aimed at preventing and combating this violence, and also ban conversion therapy;
  - 6.7. make the collection of data on violence against women, domestic violence and violence against LGBTI people a priority and log cases of violence committed to uphold so-called "honour";
  - 6.8. adopt action plans aimed at preventing and combating violence against women, domestic violence and violence against LGBTI people, comprising a section dedicated to so-called "honour"-based violence, and provide adequate funding for them.
7. The Assembly also calls on them, where protection and assistance for the victims are concerned, to:
  - 7.1. open telephone helplines, available in several languages and with trained staff, for individuals looking for advice after being subjected to violence, including so-called "honour"-based violence, or seeking protection;
  - 7.2. ensure the protection, including through protection orders, of persons at risk of or having been subjected to gender-based violence;
  - 7.3. train police officers and members of the judiciary in the identification of violence against women, domestic violence and violence against LGBTI people, including so-called "honour"-based violence, and in the reception of, support and assistance for victims;
  - 7.4. guarantee a sufficient number of places, with adequate funding, in facilities for the reception of persons having fled such violence and offer care appropriate to their situation;
  - 7.5. offer refuge and support for victims of gender-based violence, including so-called "honour"-based violence, or potential victims of so-called "honour" crimes who have fled their own country, in reception centres for asylum seekers, include a gender dimension in asylum policies and accept their requests for asylum;
  - 7.6. support national human rights institutions and equality bodies, civil society and non-governmental organisations working to promote the rights of women and to prevent and combat violence against women and domestic violence, as well as those providing assistance to them, by guaranteeing them a space in which to operate, enabling them to carry out their work without hindrance;
  - 7.7. provide support for national human rights institutions and equality bodies, civil society and non-governmental organisations dedicated to protecting the rights of LGBTI people as well as those providing them with support and assistance;
  - 7.8. adopt an intersectional approach in combating gender-based discrimination, violence against women, domestic violence and violence against LGBTI people.
8. In the area of prevention, the Assembly calls on them to:
  - 8.1. run campaigns to prevent violence against women, domestic violence and violence against LGBTI people, and raise awareness of so-called "honour" crimes, as well as communication initiatives aimed at parents;



- 8.2. launch campaigns or awareness-raising programmes to promote gender equality aimed at the general public;
  - 8.3. carry out activities to promote gender equality within education establishments, from the earliest age, and offer training on the prevention and detection of gender-based violence for teachers.
9. The Assembly also asks national parliaments to:
- 9.1. carry out awareness-raising activities aimed at promoting gender equality and preventing violence, including so-called “honour”-based violence;
  - 9.2. organise debates at regular intervals on the action taken at national level to combat violence against women and domestic violence, on the implementation of the Istanbul Convention or its ratification, and engage actively in its promotion.
10. The Assembly encourages the organisations involved in preventing and combating violence against women, domestic violence and violence against LGBTI people to continue their work and expresses its full support for them.





**Resolution 2396 (2021)<sup>1</sup>**

Provisional version

## **Anchoring the right to a healthy environment: need for enhanced action by the Council of Europe**

Parliamentary Assembly

1. The global vision of contemporary human rights protection has evolved significantly in the last decade. While the notion of sustainable development has slowly made its way into policy making worldwide, our understanding of the environment as a crucial factor for human development and human rights has brought new legal challenges into focus for the member States of the Council of Europe. Environmental pollution, loss of biodiversity and the climate crisis are making the people and the planet sick, leading to premature deaths in the current generation and stealing viable living space from future generations.
2. These novel threats to human life, well-being and health no longer stem only from national governments' failure to uphold civil and political rights, but also their lack of action to prevent cumulative harm to individuals from environmental degradation due to the commercial exploitation of nature. The current situation increasingly gives rise to both violations of fundamental rights and legal disputes.
3. The Parliamentary Assembly notes that already in 1972, the Stockholm Declaration of the United Nations Conference on the Human Environment explicitly linked environmental protection and first generation human rights, indirectly referring to the right to a healthy environment. Since then, about half the countries of the world have recognised the right to a healthy environment in their constitutions, including 32 Council of Europe member States. The right to a healthy environment is also recognised through a series of regional agreements and arrangements worldwide – with the exception of the European region.
4. The Assembly believes that the European vision of contemporary human rights protection could nevertheless become a benchmark for ecological human rights in the 21<sup>st</sup> century, if action is taken now. So far this vision has been limited to civil and political rights enshrined in the European Convention on Human Rights and its Protocols (ETS No. 5, hereafter “the Convention”) and socio-economic rights recognised in the European Social Charter (ETS Nos. 35 and 163, hereafter “the Charter”).
5. The Assembly notes that the Convention does not make any specific reference to the protection of the environment, and the European Court of Human Rights (hereafter the “Court”) can thus not deal effectively enough with this new generation human right. The Assembly’s call for action, in particular in Recommendation 1885 (2009) “Drafting an additional protocol to the European Convention on Human Rights concerning the right to a healthy environment”, was unfortunately not followed by the Committee of Ministers.
6. The Court’s case law provides for indirect protection of a right to the environment by sanctioning only environmental violations that simultaneously result in an infringement of other human rights already recognised in the Convention. The Court thus favours an anthropocentric and utilitarian approach to the environment which prevents natural elements from being afforded any protection *per se*. The Assembly encourages the Council of Europe to recognise, in time, the intrinsic value of Nature and ecosystems in the light of the interrelationship between human societies and Nature.

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1. *Assembly debate* on 29 September 2021 (27th sitting) (see [Doc. 15367](#), report of the Committee on Social Affairs, Health and Sustainable Development, rapporteur: Mr Simon Moutquin). *Text adopted by the Assembly* on 29 September 2021 (27th sitting).

See also [Recommendation 2211 \(2021\)](#).



7. The Assembly is convinced that the Council of Europe as the European continent's leading human rights and rule of law organisation should stay proactive in the evolution of human rights and adapt its legal framework accordingly. A legally binding and enforceable instrument, such as an additional protocol to the Convention, would finally give the Court a non-disputable base for rulings concerning human rights violations arising from environment-related adverse impacts on human health, dignity and life.

8. The Assembly considers that an explicit recognition of a right to a healthy and viable environment would be an incentive for stronger domestic environmental laws and a more protection-focused approach by the Court. It would make it easier for victims to lodge applications for remedies and would also act as a preventive mechanism to supplement the currently rather reactive case law of the Court.

9. Recognising an autonomous right to a healthy environment would have the benefit of allowing a violation to be found irrespective of whether another right had been breached and would therefore raise the profile of this right. In this context, the Assembly notes that the United Nations (UN), in its studies and resolutions on human rights and the environment, mainly refers to the human rights obligations linked to the enjoyment of "a safe, clean, healthy and sustainable environment". The Council of Europe should be encouraged to use this terminology for its own legal instruments – though it may want to go even further and guarantee the right to a "decent" or "ecologically viable" environment.

10. The Assembly also supports drafting an additional protocol to the Charter on the right to a safe, clean, healthy and sustainable environment. The Charter and the Convention are two complementary and interdependent systems, each of which has its own specific features, hence the need for separate additional protocols.

11. The Assembly moreover believes that there is a growing need to ensure genuine co-responsibility towards the prevention and alleviation of environmental harm by both States and non-State actors, including corporate actors. As the latter's self-regulation alone does not always serve the common interest, State regulation has a major role to play. States should therefore strengthen corporate environmental responsibility, not least through the revision of Committee of Ministers Recommendation CM/Rec(2016)3 on Human Rights and Business, and engagement in the work of the UN "open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights on a legally binding instrument on business activities and human rights."

12. The Assembly also recognises the particular responsibility that present generations bear towards future generations. The irreversible damage to nature and the short- and long-term effects of the climate crisis will adversely affect future generations, which must be protected accordingly. In order to entrench the principle of transgenerational responsibility, equity and solidarity, new rights and duties are needed. The Assembly thus supports recognising the right of future generations to a healthy environment and humanity's duties towards living beings. Among these, the duty of non-regression meets the requirement for transgenerational equity by helping to counter growing environmental degradation and by ensuring a degree of legal certainty with respect to environmental law.

13. While the threats of environmental degradation and climate change are amongst the biggest challenges facing humanity today, the Assembly views the unfettered use of certain new, man-made technologies (such as artificial intelligence, nano technology and genetic engineering) as a human rights challenge. It therefore considers that the Council of Europe should prepare a "5P" convention on environmental threats and technological hazards threatening human health, dignity and life – in the spirit of the Stockholm Declaration. By preventing and prosecuting violations of the right to a safe, clean, healthy and sustainable environment, and protecting the victims, the contracting States would adopt and implement state-wide "integrated policies" that are effective and offer a comprehensive response to environmental threats and technological hazards, involving parliaments in holding governments to account on the effective implementation of environment-friendly pro-human rights policies.

14. In the light of the above considerations, the Assembly recommends to the member States of the Council of Europe to:

14.1. build and consolidate a legal framework – domestically and at European level – to anchor the right to a safe, clean, healthy and sustainable environment, based on the UN guidance on this matter;

14.2. support multilateral efforts concerning the explicit recognition and protection of the right to a safe, clean, healthy and sustainable environment through international and European law;

14.3. participate in a political process under Council of Europe auspices aimed at preparing legally binding and enforceable instruments – an additional protocol to the Convention, and an additional protocol to the Charter – in order to protect more effectively the right to a safe, clean, healthy and sustainable environment, as well as a “5P” convention on environmental threats and technological hazards threatening human health, dignity and life;

14.4. strengthen corporate environmental responsibility of enterprises operating under their jurisdiction by setting up a dedicated binding legal framework that defines corporate responsibility for safeguarding human health, the right to a safe, clean, healthy and sustainable environment, and environmental integrity, and by making them reduce the harmful environmental footprint of their commercial activities;

14.5. contribute to the revision of the Committee of Ministers Recommendation CM/Rec(2016)3 on human rights and business in order to determine and incorporate the requirements of corporate environmental responsibility.

15. The Assembly urges national parliaments to advocate for adequate protection of the right to a safe, clean, healthy and sustainable environment at national, European and global level. It invites them to hold extensive public consultations on this matter and to proceed with the adoption of laws and the initiation of the legal instruments necessary for the completion of the comprehensive coverage of this right, and to monitor their effective implementation.





## Resolution 2397 (2021)<sup>1</sup>

Provisional version

# More participatory democracy to tackle climate change

Parliamentary Assembly

1. The 2015 Paris Agreement of Parties to the United Nations Framework Convention on Climate Change, which was signed by all 47 member Council of Europe member States, promotes stronger climate action, and along with a world-wide citizen movement, strongly driven by young people, has created political pressure and a momentum for more ambitious climate action throughout the world.
2. The Parliamentary Assembly refers to its [Resolution 2210 \(2018\)](#) “Climate change and implementation of the Paris Agreement” stressing the importance of parliamentary action in taking strong national measures to promote the implementation of the Paris Agreement at all levels of governance, and calling on national parliaments to ensure that dedicated structures, mechanisms and resources are in place for stepping up national efforts on climate change.
3. Noting that the human-made climate crisis is also responsible for the upsurge in pandemics and zoonotic diseases, the Assembly reiterates its call for immediate action to prevent future catastrophic events. Climate change demands long term adaptation and changes in behaviour, production and consumption patterns and only informed and committed citizens will be able to show resilience and engage in a collective dynamic.
4. While protest movements have shown their strength, the positions voiced need an institutional structure to allow for sustainable, regular and impactful public participation. The Assembly strongly believes that representative democracy can be enriched by meaningful public participation, which also provides a credible response to citizens demands, in particular young people, to be more regularly involved in decision-making and in the debate on the ecological transition and the green recovery plan.
5. The Assembly therefore urges governments to combine a clear political engagement and top-down leadership with bottom-up, participatory governance, to tackle the urgency of the climate crisis and ensure meaningful contributions from citizens. Deliberative democracy can also provide an antidote to the resurgent threat of authoritarian regimes and reinvigorate democratic practices.
6. In this respect, stressing the need to increase citizens’ active participation and ensure further involvement of all people in the conduct of public affairs, the Assembly refers to its [Resolution 1746](#) and [Recommendation 1928 \(2010\)](#) “Democracy in Europe: crises and perspectives”, in which it called on all Council of Europe member States to establish participatory and deliberative mechanisms, such as citizens’ juries or conferences to facilitate citizens’ participation in decision making on a public affair that is of urgent concern to them.
7. In line with its [Resolution 2271](#) and [Recommendation 2150 \(2019\)](#) “Strengthening co-operation with the United Nations in implementing the 2030 Agenda for Sustainable Development” and [Resolution 2369 \(2021\)](#) “The Assembly’s vision on the strategic priorities for the Council of Europe”, the Assembly also reiterates its

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1. *Assembly debate* on 29 September 2021 (27th sitting) (see [Doc. 15351](#), report of the Committee on Political Affairs and Democracy, rapporteur: Mr George Papandreou). *Text adopted by the Assembly* on 29 September 2021 (27th sitting). See also [Recommendation 2212 \(2021\)](#).



firm support to achieving the Sustainable Development Goals, in particular Goal 16 “Promote peaceful and inclusive societies for sustainable development”, which includes Target 16.7 “Ensure responsive, inclusive, and participatory and representative decision-making at all levels”.

8. The Assembly notes that citizens’ assemblies in particular represent a way to tap into the collective wisdom, restore trust in politics and allow citizens to reclaim the public space which has been taken over by social media. Citizens’ input can inform environmental action and provide governments with useful information on people’s preferences, the trade-off they are ready to make as well as public support for action.

9. To be relevant and credible, citizens’ assemblies should:

9.1. base their work on reason, evidence, arguments, perspectives and different forms of knowledge and not be dominated by power, money or partisan logics;

9.2. aim at reducing the excessive influence of interest groups and lobbies and select citizens randomly, paying attention to include all age groups, qualification levels, socio-economic differences and geographical distribution;

9.3. ensure close co-operation with the scientific community to reach meaningful science-based decisions;

9.4. confront experts’ views with vested interests and engage a wide range of stakeholders, including non-governmental organisations, particularly youth NGOs, industry and environmental activists;

9.5. generate a national debate to create a sense of empowerment and self-confidence as citizens, prepare for people’s support of the proposed measures and put pressure on policy makers to implement the recommendations.

10. Ultimately, it is the responsibility of the decision makers to give power to citizens’ assemblies’ recommendations and proposals and ensure that they are incorporated into the policy process, including via parliamentary committees.

11. The Assembly argues that a successful approach to climate change may require action far beyond what climate assemblies have proposed thus far and future citizens’ assemblies need to address the underlying systemic drivers of the climate emergency. This involves *inter alia*:

11.1. being explicit on the need for ambitious systemic change;

11.2. sharing with citizens the most pre-eminent available forecasts of climate impacts to explicitly illustrate the real consequences for people’s lives globally;

11.3. sharing all possible scenarios with a future-focused approach;

11.4. designing a robust independent process, including procedures on key decisions, agenda set up, selection of experts and voting procedures;

11.5. allowing citizens to influence the agenda, which enhances ownership and creativity, with the benefit of dissolving group polarisation;

11.6. ensuring that citizens’ recommendations are complemented by further expertise, cost assessments and evidence-based input;

11.7. providing for an accountable follow-up, allowing citizens’ assembly members to evaluate and provide input to any legislation that flows from their deliberations.

12. The Assembly believes that involving young people in decision-making processes addressing the climate crisis is of key importance and refers to the work of the Advisory Council on Youth of the Council of Europe, which is a living example of participatory democracy at European level and serves as a model to all member States embarking on participatory processes.

13. Referring to the Council of Europe Charter on Education for Democratic Citizenship and Human Rights Education and to the Reference Framework of Competences for Democratic Culture, the Assembly calls on all Council of Europe member States to encourage continuous youth participation and citizenship education in schools and universities, communities and non-governmental organisations. This includes giving children and young people the right to participate in decision-making processes, which are key to empowering them to participate in public life, foster critical thinking and engage in democratic practices.



14. Furthermore, the Assembly welcomes the European Union Conference on the Future of Europe, an open and inclusive exercise in deliberative democracy which seeks to engage citizens directly to help guide Europe's future direction and policy making through a Europe-wide series of citizens' assemblies and panels, including multilingual digital platforms. As a follow-up to its joint debate on the environment and human rights, the Assembly should provide an input to the conference to make the case for the universal legal recognition of the right to live in a healthy environment.

15. Finally, the Assembly underlines the potential to use public deliberation to tackle public policy problems that require the consideration of both values and evidence, and encourages all Council of Europe member States to embed deliberative processes in the policy cycle to facilitate the constructive reconciliation between a multitude of interests.





**Resolution 2398 (2021)<sup>1</sup>**

Provisional version

## Addressing issues of criminal and civil liability in the context of climate change

Parliamentary Assembly

1. The Parliamentary Assembly is convinced of the importance of a healthy and sustainable environment. It notes that climate change has now become a global concern of humankind: it puts at risk the integrity of all ecosystems and biodiversity and poses serious threats to the enjoyment of people's human rights and fundamental freedoms, including the right to life and the right to respect for private and family life enshrined in Articles 2 and 8 of the European Convention on Human Rights (ETS No. 5). Such urgent challenges to humankind need to be addressed by Council of Europe bodies without delay.
2. The Assembly recalls that by acceding to the 1992 United Nations Framework Convention on Climate Change, member States of the Council of Europe committed themselves to achieve stabilisation of greenhouse gas (GHG) concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system. Moreover, member States ratified the 2015 Paris Agreement have committed themselves to limit global warming to well below 2, preferably to 1.5°C, compared to pre-industrial level.
3. Therefore, by acceding to these two treaties, member States of the Council of Europe have recognised their legal responsibility for climate change at national, European and international levels and thus, indirectly, the concept of "climate justice". While human rights law may prove useful for ensuring the protection of the environment and for countering climate change, other areas of law, including criminal and civil law, play an increasingly important role in "climate litigation". The Dutch case *Urgenda Foundation v. the Netherlands*, in which the domestic courts confirmed the State's duty to prevent dangerous climate change and further cut its GHG emissions, clearly shows that this type of litigation can be successful.
4. The Assembly has always endeavoured to promote environmental protection and to promote the role of the Council of Europe, responsible, *inter alia*, for drawing up the Convention on the Protection of the Environment through Criminal Law (ETS No. 172, 1998) and the Convention on Civil Liability for Damage Resulting from Activities Dangerous to the Environment (ETS No. 150, 1993). Therefore, it is disappointed that these two conventions have not attracted the number of ratifications necessary to enter into force.
5. Therefore, the Assembly calls on Council of Europe member States to give renewed attention to these two treaties without delay. In light of the current circumstances, member States should reflect as a matter of urgency on whether there is a need to revise or replace these treaties, in order to adapt them to the current challenges related to climate change.
6. Moreover, recalling the United Nations "Guiding Principles on Business and Human Rights: Implementing the United Nations 'Respect, Protect and Remedy' Framework", the Committee of Ministers Recommendation CM/Rec(2016)3 on human rights and business and its own [Resolution 2311 \(2019\)](#) and [Recommendation 2166 \(2019\)](#) "Human rights and business – what follow-up to Committee of Ministers

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1. *Assembly debate* on 29 September 2021 (27th sitting) (see [Doc. 15362](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Ziya Altunyaldiz). *Text adopted by the Assembly* on 29 September 2021 (27th sitting). See also [Recommendation 2213 \(2021\)](#).



Recommendation CM/Rec (2016)3?” the Assembly stresses that it is now widely recognised that businesses hold responsibilities for human rights abuses, including in the environmental field, and that the victims of such abuses shall have access to an effective remedy.

7. Therefore, the Assembly calls on member States of the Council of Europe to:
  - 7.1. ensure that relevant legal instruments are available to respond to environmental and other harm caused by climate change; in this context, access to judicial (civil, criminal and administrative) remedies, both to prevent and compensate for damages caused by climate change in relation to actions or omissions by the State, natural and/or legal persons, is essential;
  - 7.2. implement national courts' judgments delivered in climate litigation cases;
  - 7.3. ensure that NGOs working for environmental protection and human rights protection are entitled to launch proceedings against States and private entities for conduct that might have an impact on climate change;
  - 7.4. ensure an enabling environment for environmental human rights defenders and refrain from any acts of intimidation or reprisal against them;
  - 7.5. strengthen corporate liability by establishing companies' duty of vigilance, requiring them to detail their activities affecting the environment, and so on climate change;
  - 7.6. ensure that corporate social responsibility for preventing and remedying environmental harm is taken into account in procurement contracts and the allocation of public funds;
  - 7.7. ensure that any person with an interest in climate litigation have effective access to appropriate information on environmental matters and the risks related to climate change;
  - 7.8. provide training and workshops on the specificities of environmental law and aspects of climate change for judges and legal practitioners.
8. As regards reinforcing criminal liability for acts and omissions that might have an impact on climate change or cause other severe environmental damage, the Assembly calls on member States of the Council of Europe to:
  - 8.1. strengthen their co-operation as regards pursuing a common criminal policy aimed at the protection of environment;
  - 8.2. give priority to harmonisation of laws on liability for environmental damage, with special focus on the definition of environmental crimes and sanctions related thereto;
  - 8.3. revise or replace, as soon as possible, Convention No. 172 in order to have a legal instrument better adapted to the current challenges;
  - 8.4. ensure that the most serious environmental crimes are punished with appropriate severity, by introducing relevant sanctions in their criminal legislation and by effectively prosecuting the perpetrators of such crimes;
  - 8.5. consider introducing the crime of ecocide in their national criminal legislation, if not yet done;
  - 8.6. consider recognising universal jurisdiction for ecocide and the most serious environmental crimes, including in the 1998 Rome Statute of the International Criminal Court.
9. As regards reinforcing civil liability for acts and omissions that might have an impact on climate change or cause other severe environmental damage, the Assembly calls on member States to:
  - 9.1. ratify Convention No. 150 and take the necessary measures to adapt it to the current challenges;
  - 9.2. strengthen civil liability for environmental damage by amending national civil law legislation, if need be, in particular by alleviating the burden of proof, in particular by establishing factual presumptions regarding causation, for persons requesting compensation for damage, adding specific provisions on responsibility for ecological harm, and/or by expanding the scope of strict liability in relevant situations relating to environmental damage.
10. The Assembly also invites Council of Europe member States which are also member States of the European Union promote the revision of the relevant European Union legal instruments concerning liability for environmental damage, including Directive 2008/99/EC of the European Parliament and the Council on the

protection of the environment through criminal law and Directive 2004/35/EC of the European Parliament and the Council on environmental liability, in order to adapt them to current challenges, including climate change, in line with relevant international and Council of Europe's standards.

11. The Assembly also calls on member States of the Council of Europe to fulfil all their commitments stemming from the UN Framework Convention on Climate Change and the Paris Agreement.

12. It also calls on them to enhance their co-operation with other international organisations, in particular the United Nations, the World Bank, the Organisation for Economic Cooperation and Development (OECD) and the European Union, in order to consolidate coherent standards on legal responsibility for conduct that might have an impact on climate change and promote implementation of the United Nations Guiding Principles. In particular, member States of the Council of Europe should support the adoption of a legally binding instrument on business activities and human rights, which is now being examined by the United Nations Open-ended inter-governmental working group on business and human rights.





## Resolution 2399 (2021)<sup>1</sup>

Provisional version

# The climate crisis and the rule of law

Parliamentary Assembly

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

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

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

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

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

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

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

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

See also [Recommendation 2214 \(2021\)](#).



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

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

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

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

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

7. The Assembly emphasises the importance of the involvement of parliaments. Renewing the ground-breaking commitment to combating the climate crisis which it made through [Resolution 1292 \(2002\)](#), it calls for the establishment of a parliamentary network operating under its auspices. Its task will be to inspire and follow the action taken by 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.





**Resolution 2400 (2021)<sup>1</sup>**

Provisional version

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

Parliamentary Assembly

1. The United Nations states in its Environment Programme that “human rights cannot be enjoyed without a safe, clean and healthy environment; and sustainable environmental governance cannot exist without the establishment of and respect for human rights”. This relationship between human rights and the environment is increasingly recognised, and the right to a healthy environment is currently set out in over 100 constitutions worldwide. Despite this, the United Nations High Commissioner for Human Rights has estimated that at least three people a week are killed protecting our environmental rights, while many more are harassed, intimidated, criminalised and forced from their lands.
2. The Parliamentary Assembly recalls the United Nations 17 Sustainable Development Goals with a declared ambition to “end poverty, protect the planet and improve the lives and prospects of everyone”, and its Decade of Action 2020-2030. It also refers to the relevance of Articles 2 and 8 of the European Convention on Human Rights (ETS No. 5) which set out the right to life and the right to respect for private and family life, and to the obligations undertaken by member States of the Council of Europe by acceding to the 1992 United Nations Framework Convention on Climate Change and by ratifying the 2015 Paris Agreement adopted at the 21st Conference of the Parties (COP 21).
3. The Assembly draws attention to the 1998 United Nations Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) which addresses procedural law related to the environment and aims to support “environmental democracy”.
4. The Assembly also recalls the Preamble of the Paris Agreement “Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights, the right to health, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity”.
5. The Assembly has addressed some of the issues relating to climate change and its consequences in its recent texts, including [Resolution 2210 \(2018\)](#) “Climate change and implementation of the Paris Agreement” and [Resolution 2307 \(2019\)](#) “A legal status for ‘climate refugees’”. It is convinced that stronger international norms, legislation and sanctions must be implemented in order to guarantee the right to a safe, healthy and clean environment for all. In this context, the Assembly welcomes the final declaration adopted in February 2020 at the High-Level Conference on environmental protection and human rights held under the aegis of the Georgian Presidency of the Committee of Ministers, which called for pan-European legal standards to be upgraded in the light of the urgent environmental challenges posed by climate change today.
6. Just as access to the substantive right to a safe, clean and healthy environment is unequally shared between regions, countries and individuals, so is access to the procedural rights deriving from them, which include the right to information, participation in policy and decision making and training. The Assembly urges

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1. *Assembly debate* on 29 September 2021 (28th sitting) (see [Doc. 15349](#), report of the Committee on Equality and Non-Discrimination, rapporteur: Ms Edite Estrela). *Text adopted by the Assembly* on 29 September 2021 (28th sitting).



all member States to work to ensure that environmental rights are not only a reality for all, but are developed in cooperation between all represented groups, in particular those most affected by climate change and adaptation policies.

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

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

9. Socially disadvantaged people and minorities also suffer from stigmatisation which associates them with their living conditions, which are most often forced upon them. Roma are relegated to sites located on the margins of urban settlements, where they are obliged to share the space with polluting industries, landfills, waste dumps and other contaminated and contaminating installations. Their health and safety are threatened, and in addition they become associated with the negative images of their surroundings by the rest of the population. Member States must distance reception areas for Roma and Travellers from polluted areas, work with them to disassociate their way of life from stigmatising and discriminating stereotypes and provide them with adequate facilities to allow them to live safe and healthy lives.

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

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

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

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

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

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

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

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

13. With respect to indigenous peoples, the Assembly:
  - 13.1. insists on the necessity for new legislation to tap into the knowledge and experience developed over centuries by communities whose traditions have preserved the strongest links with and respect for the living world and are less anthropocentric than others, in order for future policies to place higher priority on the environment and take into account this world view;
  - 13.2. calls on countries where indigenous peoples are living to ensure they are consulted and take part in decisions related to their lands and ways of living, and in particular that measures taken in the name of protection of the environment (wind farms, green constructions, for instance) do not affect their lives and livelihoods;
  - 13.3. encourage and provide the means for representatives of indigenous peoples to meet and exchange across national borders and internationally, in order to share experiences and reinforce their position.
14. With respect to women's access to and contribution to the enjoyment of environmental rights, the Assembly calls for:
  - 14.1. more gender-responsive climate finance to be allocated, in particular at grass-roots and rural levels, in order for women to be enabled in their work and their competences increased;
  - 14.2. equal access to property and tenure rights for women in all member States, in order for them to be in a secure position from which they can build on their knowledge and experience, in particular through community co-operation;
  - 14.3. empowerment of women and girls to lead a just transition to a green economy;
  - 14.4. more quantitative and qualitative data collection on the gender-environment nexus, a more enabling environment for women and girls through education and training.
15. Concerning young people, the Assembly stresses the absolute necessity to associate youth organisations and other young people in the design of any new legally binding framework for environmental rights, as a condition for success. Young people are acutely aware of the state in which previous generations are leaving the planet, are on the whole more respectful of the need to end wasteful and damaging practices, and have shown their power to apply pressure on governments and decision-makers. In this context, the Assembly supports proposals under discussion to include youth representatives more systematically in its work.
16. The Assembly emphasises that any new and specific legally binding instrument must address all of the sources of inequalities set out above, with the aim of minimising inequalities in the right to a safe, healthy and clean environment. In the spirit of the Convention on combating violence against women and domestic violence (CETS No. 210), a new text should include a "four Ps" mechanism providing for prevention, protection, prosecution and policies, and add to this a fifth "P", which is parliamentary commitment.
17. Climate justice does not only require equal access to rights but also to the means to uphold and defend these rights before the courts. To this end equally, member States must allow non-governmental organisations such as Notre Affaire à Tous in France and Oxfam on an international level to continue without their work of awareness-raising and advocacy so that mentalities change at the same time as climate injustices are denounced.





## Resolution 2401 (2021)<sup>1</sup>

Provisional version

# Climate and migration

Parliamentary Assembly

1. The Parliamentary Assembly is deeply alarmed by the dramatic effects of climate change and its impact on the lives of millions of people in Europe and beyond. Extreme events are multiplying. Record temperature levels have been measured on the Antarctic ice sheet, the world's largest freshwater reserve. Its complete melting would cause sea levels to rise considerably. If global warming continues, the consequences are known: flooding of coastal areas and deltas, outright disappearance of many islands, an increase in the territories affected by drought and desertification making life impossible, and pushing tens of millions of poor unfortunates who have lost everything to find food and a more hospitable land within or outside their country. This phenomenon will be destabilising and could lead to tensions, conflicts and even war.

2. Current efforts to sustain climate change are not sufficient. The results will not be seen for decades. Millions of people, however, are forced to migrate already today. They cannot afford to wait until climate change is reversed. We should, therefore, act as a matter of urgency, to prevent mass displacement due to climate change and help those on the move to survive and live dignified lives in their host countries. In doing so, we should also bear in mind the need to do all it takes to secure – in Europe and beyond – the human right to a safe, clean, healthy, and sustainable environment. This right should become a reality as soon as possible for people to feel safe enough to live in their homeland, wherever this is.

3. The Assembly welcomes the Joint Declaration on human rights and the environment issued on 15 May 2020 by the Georgian, Greek and German presidencies of the Committee of Ministers of the Council of Europe, underscoring that life and well-being on our planet is contingent on humanity's collective capacity to guarantee both human rights and a healthy environment to future generations.

4. Adequate solutions to help meet the challenges related to migration caused by climate change are needed. New human rights protection instruments are necessary for an effective implementation of a human right to a safe, clean, healthy, and sustainable environment, which could also protect migrants moving in search for such a safe, clean, healthy, and sustainable environment.

5. This "new generation" human right should also be embedded in international instruments that influence migration – from disaster preparedness and climate adaptation instruments to economic development strategies, energy production and trade agreements. The actions taken must ensure that a gender-responsive approach is fully integrated into the design and implementation of all projects and programmes. The Green Climate Fund provides guidance and has produced a practical manual entitled "Mainstreaming Gender in Green Climate Fund Projects" that supports the integration of gender equality in climate change interventions and climate finance.

6. The Assembly underscores the importance of joining forces to strengthen human rights protection for those affected by climate-change-induced migration in Europe and beyond, acting on the following pillars: Ensuring human rights protection for people who are forced to migrate by climate-change-induced disasters or

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1. *Assembly debate* on 29 September 2021 (28th sitting) (see [Doc. 15348](#), report of the Committee on Migration, Refugees and Displaced Persons, rapporteur: Mr Pierre-Alain Fridez). *Text adopted by the Assembly* on 29 September 2021 (28th sitting).



hardship; Using science and technology to serve people and save lives; Improving development co-operation and emergency support in the countries of origin of migrants; and Preventing environment degradation that multiply the effects of climate change.

7. In order to ensure human rights protection for people, who are forced to migrate by climate-change-induced disasters or hardship, the Assembly:

7.1. notes the current push in the UN Human Rights Council for the recognition of the human right to a healthy environment, building, *inter alia*, on the decision of the UN Human Rights Committee in the Kiribati case on cross border movement of individuals seeking protection from climate change related harm;

7.2. recalls its recommendations formulated in [Resolution 2307 \(2019\)](#) “A legal status for ‘climate refugees’” and calls for a legal status for people displaced or migrating for climate-related reasons. It notes that the term “refugee” falls within the remit of the 1951 Refugee Convention and 1967 Protocol, and has a specific legal status linked to persecution on the five enumerated grounds of race, religion, nationality, membership of a particular social group or political opinion. However, there is a need for developing specific policies to protect people who are forced to move as a consequence of climate change. In this respect, the “Legal considerations regarding claims for international protection made in the context of the adverse effects of climate change and disasters” issued by the United Nations High Commissioner for Refugees provide valuable guidelines for assessing those in need of protection.

7.3. calls for a people-centred, human rights-based, and systemic approach to deal with climate migration. Human rights frameworks can effectively guide States in designing policies that prevent displacement, protect people during displacement and allow people to move in safety and dignity;

7.4. asks Council of Europe member States to provide adequate protection to those who raise awareness about environmental degradation that may lead to mass displacement, whether these be whistle-blowers, civil society organisations, journalists, or other stakeholders. It welcomes the European Union Directive on the protection of persons who report breaches of Union law (Directive EU 2019/1937 of 23 October 2019) and invites non-EU Council of Europe member States, to implement similar instruments at national level, ensuring the highest possible protection for those who often risk their lives for public good;

7.5. welcomes the UN Human Rights Council’s actions aimed at raising awareness of the world community about the effects of climate change and human rights protection needs of those who are particularly vulnerable and who are pushed to migrate by climate change-induced disasters. Climate change and migration policies and programmes should meet the needs of vulnerable groups, which are disproportionately affected by climate change, such as persons living in coastal areas, indigenous people, minorities, older persons, women and girls, children and persons with disabilities;

7.6. welcomes the focus of the 2021 edition of the Council of Europe’s World Forum for Democracy on the environment and climate change and its effect on human rights and democracy. In the framework of the Forum’s “12 Months, 1 Question” campaign, the Assembly notes the attention paid to disasters, displacement and climate change during the month of February 2021, during which the Special Representative on Migration and Refugees of the Secretary General, Ambassador Drahoslav Štefánek called climate change one of the biggest challenges for human mankind and argued that climate change can result in climate refugees, displacing thousands, even millions in the future.

8. As regards the use of science and technology to serve people and save lives, the Assembly:

8.1. calls for a better use of science and technology to improve communication on, and predictability of, migration trends. The States should undertake, both nationally and internationally, a side by side mapping of both climate change and migration, using the latest developments in science and technology. Merging dynamic mapping of climate change with dynamic mapping of migration would help determine migration trends and build reliable predictions. Policy makers would have a clearer picture of where the people are likely to move from (regions/countries), where they are likely to go, in what numbers and when;

8.2. urges member States to improve responses to major hazards (hydrological, geophysical, meteorological, etc.) and early warning mechanisms and appeals to improve ecosystem services – whether these be provisioning services (fresh water, raw materials), regulating services (water purification, disease regulation), or cultural and economic services (for example tourism to ensure protection against job losses);

8.3. calls for enhancing corporate responsibility and participation of businesses – including those, which are most technologically advanced – in displacement prevention. The role of businesses is crucial: they lead development and technological innovation and provide stable sources of income for migrants and their families.

9. Development co-operation is essential for new initiatives to become reality. Such co-operation requires, however, sufficient resources, expertise, organisation, and commitment from all countries involved in the process. To improve development co-operation and emergency support in the countries of origin of migrants in Europe and beyond, the Assembly:

9.1. invites member States to strengthen development co-operation to respond to security issues that individuals face: from access to food and water security to personal and political security, energy security and global and environmental security;

9.2. calls for greater support to the relevant world programmes, such as the Sendai Framework for Disaster Risk Reduction 2015-2030, and those implemented under the United Nations Framework Convention on Climate Change, the Global Compact for Safe, Orderly and Regular Migration and the Global Compact on Refugees. The Assembly invites member States to pay particular attention to the work of the UN Secretary General's Special Rapporteur on Human Rights and the Environment;

9.3. calls upon member States to initiate and contribute to the creation of a World Solidarity Fund for Climate Migration that would assist both migrants' countries of origin and host countries. The international community has to step-up development co-operation with the countries that are most at risk of being affected by climate change, such as the countries of Sub-Saharan Africa and the Sahel region, to improve the living conditions of people living there so that they do not feel forced to migrate. This Europe-based World Solidarity Fund for Climate Migration could co-operate with the Green Climate Fund, following accreditation and which would be a major step forward in meeting international commitments of "leaving no one behind", including migrants, in a world affected by climate change. Specific programmes should be developed, engaging experts from all Council of Europe member States to drive forward technological developments in countries receiving development assistance and in countries providing assistance. The World Solidarity Fund for Climate Migration could also support migrants themselves, in addition to projects designed to improve living conditions in their countries of origin;

9.4. reiterates its call for co-operation with the Council of Europe Development Bank, launched in its [Resolution 2307 \(2019\)](#). To meet the challenges posed by climate-induced migration in Europe, Council of Europe member States can already now use the two trust funds managed by the Bank: the Migrant and Refugee Fund established in 2015 and the Green Social Investment Fund established in March 2020;

9.5. invites members of parliament to remain vigilant to ensure that a gender-responsive approach is integrated into the design and implementation of projects and programmes on climate-change-induced migration.

10. Council of Europe member States should act resolutely to prevent environmental degradation that multiply the effects of climate change and may lead to mass displacement. To prevent environment degradation, the Assembly:

10.1. calls upon all member States to refrain from developing major industrial projects that may have dramatic consequences on peoples' lives, when there is an undeniable risk that these projects could multiply the negative effects of climate change on either their own territory or that of another member State. The respect of a human right to a safe, clean, healthy, and sustainable environment should be a primary consideration;

10.2. underscores, in particular, the importance of access to quality drinking water, as an intrinsic part of a healthy and sustainable environment and a basic human right, and calls upon member States to prevent environment degradation that may endanger access to water on their own territory or on the territory of a neighbouring state. In doing so, all necessary steps should be taken to comply with international obligations on environmental matters in the framework of the United Nations Convention on Environmental Impact Assessment in a transboundary context (Espoo Convention, 1991). When issues related to access to water arise between neighbouring countries or regions, international negotiations should lead to finding appropriate solutions in accordance with international human rights standards and practices.







**Resolution 2402 (2021)<sup>1</sup>**

Provisional version

## Research policies and environment protection

Parliamentary Assembly

1. The United Nations 2030 Agenda for Sustainable Development commits all countries to taking “urgent action to combat climate change and its impacts” (Goal 13) while the Paris Agreement calls on them to cut greenhouse gas emissions to reach climate neutrality by the second half of the century. The Parliamentary Assembly is concerned that, despite the significant results achieved, current policies and the level of effort of Council of Europe member States remain below what is required to achieve this result.
2. Climate change, as well as the progressive depletion of resources that are being overexploited, could trigger tragic consequences for hundreds of millions of people, especially the most vulnerable, and undermine social cohesion, democratic stability and peace in all regions of the world. Research can provide the innovative solutions that are necessary to counter both the impoverishment of the planet and the problem of climate change, and to ensure the sustainable development of our societies.
3. Economic systems will have to change radically if the planet is to be saved. There is a need to rethink an economic model that is too heavily reliant on (over) consumption, to have the courage to take a stand against planned obsolescence of goods and to review consumption habits; clean transport systems must be developed, living spaces reorganised and less energy-intensive homes built. Through individual behaviour and lifestyle choices, it is possible to help contain the demand for energy.
4. The growth of the world's population, social and economic development, which must benefit all, and the new horizons that progress opens up, with the deployment of technologies and activities that have a huge need for energy (such as the expansion of the digital world, artificial intelligence, and the plans to conquer space), make it highly unlikely that there will be a decline in energy consumption. Reducing the carbon footprint of human activities therefore necessarily requires decarbonised energy production, so more research needs to be carried out on the energy sources of the future.
5. The resources that humankind has at its disposal are limited, moreover, and the way those resources are used today is not sustainable. Another key focus of research, therefore, is the circular economy. It is important to learn to reuse and recycle the resources on which existing economic systems so heavily rely, including those required for energy transition, without which development would come to a halt.
6. In order to steer the research effort, it is important to objectively assess all the constraints – economic, social, environmental and temporal – that are apt to make certain paths hazardous and to weigh properly the consequences of our strategic choices. The impact of fossil fuels is disastrous but there is also environmental damage caused by the extraction of the rare metals and minerals indispensable for the development of renewable energy production and storage technologies. Research must be directed at minimising, and if possible avoiding, this damage and any environmental impact that renewable energy production may have, such as visual and noise pollution or the presence of substances that may be hazardous to health.

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1. *Assembly debate* on 29 September 2021 (28th sitting) (see [Doc. 15357](#), report of the Committee on Culture, Science, Education and Media, rapporteur: Mr Olivier Becht). *Text adopted by the Assembly* on 29 September 2021 (28th sitting). See also [Recommendation 2215 \(2021\)](#).



7. Because of the large-scale deployment of renewable energy, future demand for key raw materials is expected to increase significantly. We should not underestimate the risks to which European countries would expose themselves by becoming dependent on the countries that produce the rare minerals whose widespread use (in the absence of their full recycling) can only lead to increased prices, scarcity and exhaustion. A similar risk arises from the quasi-monopolies that one or a few countries may hold in the processing of these rare minerals and/or in manufacturing components which are essential to European countries' industrial production. Failure to take due account of these risks will only make those countries weaker.

8. In order to ensure the competitive edge and sovereignty of European industry, Council of Europe member States must ensure a secure, sustainable, responsibly-sourced supply of raw materials, but also make choices to increase their autonomy in critical raw materials, and maximise the value of the resources and materials available to them; reusing and recycling can reduce the risk of scarcity and also help to preserve countries' economic independence, or even sovereignty.

9. In a world of interdependencies, technological responses to current problems are perforce multisectoral. Interdependency and complexity lead to co-operation on cross-cutting fields and issues between researchers and other research and development actors and make this co-operation indispensable. In addition, policy solutions (and hence plans) necessarily involve several levels, from local to international, both in their development and in their delivery.

10. Active civic participation and engagement are key to building the green economy; citizen involvement in decision making from the outset is both a democratic requirement and a condition for achieving the desired results: citizens are the drivers of the paradigm shift, and the ones who bring it about through their action. If the ecological transition is to succeed, a collective effort is needed; behavioural economics should make it possible for citizens to co-design the technical solutions and innovations of tomorrow.

11. The Sustainable Development Goals point the way. Policy action must not be diverted from the path of sustainable development, because time is running out. In the view of the Assembly, the process of making market-ready technologies available for sale and upscaling them needs to be supported. At the same time, it is important to dedicate more resources to researching and developing new solutions, while making the best use of existing funding mechanisms and considering new forms of funding.

12. Public finances are under severe strain due to the economic impact of the Covid-19 pandemic and the urgent need to address the social distress that this pandemic has caused among the more vulnerable sections of the population, in Europe and elsewhere. The Assembly considers, however, that when seeking to rebuild our societies and economic systems, it is to tomorrow's world that attention should be directed, not yesterday's. To some extent, the crisis is an opportunity for change, one that we cannot afford to miss. Research and innovation for the green economy must be among the "beneficiaries" of national post-crisis recovery plans.

13. Accordingly, the Assembly calls on Council of Europe member States to review their research, innovation and development policies, in order to give the highest priority to the green economy, and more specifically energy transition and the circular economy, so as to bring economic development into line with the goal of achieving carbon neutrality by 2050. In this context, the Assembly calls on member States to:

13.1. develop specific research programmes with the focus on:

13.1.1. renewable energies, without forgetting the specific constraints that may hinder large-scale deployment of the relevant technologies, and in particular the importance of developing storage technologies, and the imperative need to upgrade the electricity grid and ensure the security and resilience of the energy production and distribution system, which also require significant research efforts;

13.1.2. the circular economy, including notably the recycling (if not replacement) of critical materials needed for energy transition technologies, and waste-heat recovery and carbon capture and storage (or reuse) technologies;

13.2. maintain fundamental research projects that may lead to the discovery and harnessing of new sources of sustainable, abundant and cheap energy, and ensure that any progress in this direction is discussed within the scientific community;

13.3. take due account of the geopolitical risk, as well as economic, social and environmental constraints, because, alongside sustainable development issues, there is also the question of markets and strategic autonomy, or even national sovereignty;

- 13.4. encourage, including through funding, collaboration and pooling of research efforts at national level, having regard to public-public, public-private and private-private co-operation and synergies;
- 13.5. promote co-operation between universities and large companies and foster through incentives the creation of consortia among large companies to work together with publicly funded science;
- 13.6. develop a technology watch activity in strategic areas to identify innovative projects and support their development and the move to the commercialisation stage;
- 13.7. put in place funding mechanisms that can be activated with a degree of flexibility and speed, direct research funds towards long-term innovation demands and provide incentives for the creation of research-industry partnerships, with more funding for collaborative projects between research laboratories and industry projects on strategic matters;
- 13.8. consider new forms of research funding and, in this context:
  - 13.8.1. consider the possibility of issuing public debt securities, “green bonds” accessible to the general public and designed to fund strategic research in the fields of energy transition and the circular economy;
  - 13.8.2. consider supporting the establishment of a national online platform with a selection of innovative projects to which the State would undertake to provide financial support and which would be open to participatory financing;
- 13.9. strengthen the European dimension of their research policies, and – when possible – encourage and support participation in the European programmes through tools such as better information, advice and assistance in completing the required steps and procedures, as well as financial incentives;
- 13.10. define core areas where it is crucial to widen co-operation between European countries, but also between Europe and other regions of the world, and design the research framework accordingly, to foster mutually beneficial co-operation and strategic international partnerships, for example to ensure complementarity and greater efficiency in terms of research efforts.





**Resolution 2403 (2021)<sup>1</sup>**

Provisional version

## The situation in Afghanistan: consequences for Europe and the region

Parliamentary Assembly

1. The Parliamentary Assembly expresses its deepest concern at the situation in Afghanistan following the military withdrawal of the United States of America and its NATO allies and partners and the Taliban's return to power, which has opened a phase of political uncertainties in which violence continues and the potential for civil war is not excluded. This state of affairs leads to heightened risks for peace, stability and security in Afghanistan, the region and beyond.
2. The Assembly is convinced that tackling the immediate and future momentous challenges posed by this situation requires a coherent, co-ordinated and concerted response by the international community and believes that Council of Europe member States should spare no effort to achieve this objective.
3. The first and foremost imperative should be addressing the harrowing humanitarian crisis, which affects the lives and livelihood of millions of people due to the combination of a protracted military conflict, successive droughts, and the Covid-19 pandemic. In this context, the Assembly welcomes the international conference organised by the United Nations in Geneva (13-14 September 2021) during which donors pledged more than one billion US dollars in humanitarian assistance for Afghanistan.
4. The Assembly regrets that, despite the unanimous and repeated calls by the international community and the Taliban's initial public statements, the interim government is neither inclusive nor representative. The Assembly believes that only a government which reflects Afghanistan's political, religious and ethnic diversity, includes women, and engages in a genuine process of reconciliation in line with United Nations Security Council Resolution 1325 (2000) can lead to a durable political settlement and could aspire to legitimacy and international recognition.
5. Similarly, extremely alarmed by credible reports of serious human rights and humanitarian law violations by the Taliban, the Assembly recalls that, as *de facto* authorities, they have obligations, and they can be held accountable in this regard. To this end, the Assembly considers the setting up of a specific, robust, independent mandate of the United Nations to monitor human rights violations in Afghanistan as the best way to collect objective and systematic information on the ground and bring it to the attention of the international community.
6. Reiterating in the strongest terms its condemnation of terrorism in all circumstances, the Assembly expresses its deep concern at the high number of Taliban figures subjected to the system of sanctions established by Resolution 1267 (1999) of the UN Security Council being members of the interim government.
7. It recalls that the fight against terrorism is one of the formidable transnational challenges arising from the current situation which could potentially spill-over with disastrous and destabilising effects, together with organised crime, drug trafficking, smuggling of migrants and trafficking in human beings. In this context, the Assembly underlines that addressing these challenges will require a stronger dialogue, partnership and solidarity with countries of the region.

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1. *Assembly debate* on 30 September 2021 (29th sitting) (see [Doc. 15381](#), report of the Committee on Political Affairs and Democracy, rapporteur: Sir Tony Lloyd). *Text adopted by the Assembly* on 30 September 2021 (29th sitting).



8. In light of the above, the Assembly calls on Council of Europe member States to:
  - 8.1. work towards achieving a coherent, co-ordinated and concerted response in relation to Afghanistan;
  - 8.2. step up efforts to provide humanitarian assistance to Afghanistan;
  - 8.3. continue the evacuation of foreign nationals and eligible Afghans, and make additional efforts to ensure co-ordination and effectiveness of evacuation operations;
  - 8.4. support the central role of the United Nations and its specialised agencies in co-ordinating international efforts in relation to Afghanistan, starting with humanitarian assistance;
  - 8.5. support the setting up of a specific, robust and independent mandate of the United Nations Human Rights Council to monitor the respect of human rights in Afghanistan over the whole territory, including in rural areas;
  - 8.6. establish a cautious, pragmatic and operational engagement with the Taliban with a view to addressing the areas of concern which are identified in the present resolution;
  - 8.7. make any upgrading of their operational engagement with the Taliban conditional upon:
    - 8.7.1. the respect of human rights, in particular those of vulnerable groups such as minorities, women and LGBTI people, and humanitarian law;
    - 8.7.2. the rejection of terrorism and violent extremism, as demonstrated by conclusive actions;
    - 8.7.3. the formation of an inclusive and representative government and starting a reconciliation process;
    - 8.7.4. the provision of unhindered access to Afghanistan for the United Nations and for humanitarian relief agencies;
    - 8.7.5. the practical facilitation of the evacuation operations organised by foreign countries;
  - 8.8. ensure that any removal of Taliban members from the list of UN sanctions pursuant to Resolution 1267 (1999) of the UN Security Council be conditional upon an actual change of the individual circumstances which led to their inclusion in the first place;
  - 8.9. support the establishment of mechanisms aimed at ensuring that the freezing of Afghan financial assets does not aggravate the socio-economic situation of the population;
  - 8.10. find ways to provide development aid to Afghanistan to avoid the collapse of the economic situation, which would further aggravate the humanitarian crisis and act as a push factor for migration;
  - 8.11. introduce visas for Afghan students enrolled in universities of member States;
  - 8.12. shoulder their moral and legal responsibilities as regards refugee protection and, in this context to:
    - 8.12.1. ensure the respect of the principle of *non-refoulement*;
    - 8.12.2. make greater resettlement opportunities available for Afghans, especially for those who are more at risk and vulnerable in particular minorities, women and LGBTI people;
    - 8.12.3. introduce humanitarian visas, temporary protection or special visa programmes, especially for women and other vulnerable groups such as minorities and LGBTI people;
    - 8.12.4. reassess current and recent asylum applications by Afghans in light of recent developments;
    - 8.12.5. refrain from enforcing forced returns to Afghanistan;
  - 8.13. multiply diplomatic efforts, at global and regional level, to promote peace, security and stability in Afghanistan and the region and to develop a common, coherent approach toward the Taliban.
9. In addition, given the frontline role of the countries of the region, in particular neighbouring countries, in tackling the consequences of the Taliban takeover, the Assembly calls on Council of Europe member States to make available political and financial support to help them in their efforts to:
  - 9.1. provide shelter and protection to people fleeing Afghanistan in dignified conditions;

9.2. tackle threats such as terrorism, violent extremism, drug trafficking, smuggling of migrants and trafficking in human beings and other transnational criminal activities.

10. The Assembly also asks its Bureau to consider strengthening inter-parliamentary dialogue between the Assembly and countries from Central Asia and their regional organisations, with a view to contributing to greater dialogue, mutual understanding and resilience in the face of the need to promote regional stability and avoid the risks of any further spill-over.

11. Furthermore, the Assembly calls on the Taliban, as the *de facto* authorities in Afghanistan to:

11.1. put an end to violence;

11.2. engage in a broad national dialogue with a view to setting up a representative and inclusive government including women, members of religious and ethnic minorities, as well as representatives of the previous government;

11.3. introduce an amnesty for Afghans having been members of the security forces, civil servants, and those having held public responsibilities under the previous government, while refraining from and sanctioning any form of harassment or persecution against them;

11.4. facilitate the safe departure of foreign nationals and Afghans in possession of the necessary documentation and who wish to leave;

11.5. ensure the respect of human rights and humanitarian law;

11.6. respect the cultural, social and legal progress that has been achieved in the past twenty years as regards human rights and individual freedoms and refrain from any statement or action that could undermine it, including as regards:

11.6.1. girls' access to education;

11.6.2. women's freedom of movement, access to work, healthcare and sports;

11.6.3. representation and active participation of women and persons from minorities in all areas of public and political life;

11.7. allow full, safe, and unhindered access to all areas of Afghanistan for the United Nations, its specialised agencies and implementing partners, and all humanitarian actors engaged in humanitarian relief activity, including with respect to internally displaced persons;

11.8. accede to requests for information or co-operation by the United Nations, its specialised agencies, bodies and mechanisms;

11.9. respect the immunities and inviolability of diplomatic missions and staff;

11.10. refrain from, and effectively counter, any action or statement that could support terrorism and violent extremism in or outside Afghanistan, including recruiting, providing training, financial support or shelter to terrorists;

11.11. take resolute action to tackle the production and trafficking of narcotics and dismantle networks involved in domestic or transnational criminal activities.

12. The Assembly calls on the national parliaments of Council of Europe Member and Observer States as well as parliaments enjoying the Observer or partner for democracy status to scrutinise their governments and hold them to account for the way in which they respond to the current situation.

13. Finally, the Assembly considers that, given the far-reaching implications of the current situation in Afghanistan, it should continue to be seized on the matter.







**Resolution 2404 (2021)<sup>1</sup>**

Provisional version

## **Instrumentalised migration pressure on the borders of Latvia, Lithuania and Poland with Belarus**

Parliamentary Assembly

1. The Parliamentary Assembly is concerned by the unfolding situation of hybrid attacks by the Belarusian authorities resulting in increased migration and asylum pressures at the Belarus border with Latvia, Lithuania and Poland. This is all the more worrying as it has been orchestrated by the Belarusian authorities in response to European Union sanctions against Belarus imposed for harsh violations of human rights. It condemns any instrumentalisation of migrants, refugees and asylum seekers by States for political purposes.
2. The Assembly notes with concern that recent arrivals of migrants and asylum seekers created significant challenges for Latvia, Lithuania and Poland, putting a strain on their migrant and refugee reception capacities.
3. The Assembly however reiterates the obligations of all Council of Europe member States to uphold human rights and humanitarian principles as well as refugee law and the right to seek asylum. Member States should furthermore ensure necessary humanitarian assistance to people in need of protection, paying a special attention to the situation of vulnerable groups, including families with small children, unaccompanied and separated children and people with disabilities and special needs. In this they should consider a gender perspective in terms of protection needs.
4. The Assembly considers that effective border management by Council of Europe member States should be accompanied by adequate responses to the rights of asylum seekers. Border management should be fully compliant with European and international law and in particular the European Convention on Human Rights (ETS No. 5) and the 1951 Convention Relating to the Status of Refugees.
5. The Assembly condemns the growing tendency to restrict the right to seek asylum of persons crossing a border irregularly and any practice by member States of pushbacks of migrants and asylum seekers to third countries, where international protection needs may not be guaranteed. It recalls the obligation of member States to respect the principle of *non-refoulement* and the prohibition against collective expulsion of aliens.
6. The Assembly considers that the European Union and its agencies should closely monitor the situation at the border and the actions by its member States that could lead to violations of human rights of migrants and asylum seekers.
7. The Assembly is highly concerned that the situation at the European Union's eastern border provoked a new wave of anti-migrant rhetoric, which resulted in countries being forced to build new fences in Europe to prevent the neighbouring authoritarian regime from instrumentalising migrants, asylum seekers and refugees for its political goals.
8. The Assembly welcomes the efforts of the European Union to reconsider its reception procedures and solidarity mechanism, including the resettlement solution in the New Pact on Migration and Asylum. The situation at the European Union's eastern border has shown that the Temporary Protection Directive of the

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1. *Assembly debate* on 30 September 2021 (30th sitting) (see [Doc. 15382rev](#), report of the Committee on Migration, Refugees and Displaced Persons, rapporteur: Ms Anne-Mari Virolainen). *Text adopted by the Assembly* on 30 September 2021 (30th sitting).



European Union should be reanimated in order to be used in exceptional situations where there is a mass influx of migrants, asylum seekers and refugees. It is also important to develop a comprehensive migration risk assessment algorithm allowing for the elaboration of effective reaction strategies.

9. In response to the current situation at the border with Belarus, the Assembly calls on governments of member States of the Council of Europe to support Latvia, Lithuania and Poland by:

9.1. providing urgent financial and technical assistance to ensure necessary protection of migrants, asylum seekers and refugees;

9.2. establishing effective support arrangements for these countries so that they can ensure efficient reception, adequate accommodation, effective identification of people with special needs, timely access to information about asylum procedure and social and other services for new arrivals while their applications for asylum are being processed in fair and prompt procedures.

10. The Assembly calls on the authorities of Belarus to:

10.1. stop the instrumentalisation of migrants, refugees and asylum seekers, in particular those in a vulnerable situation, and stop facilitating travel to Belarus of third country nationals under false pretences of tourism;

10.2. take full responsibility under applicable international law for third country nationals present in Belarus territory, especially those in vulnerable situations, and refrain from illegal actions such as taking away their travel documents or forcibly pushing them towards the border;

10.3. co-operate with its neighbours, Latvia, Lithuania and Poland, as well as with the European Union, on cross-border arrangements in order to solve ongoing problems in terms of irregular migration flows across these borders.

11. The Assembly also calls on the authorities of Latvia, Lithuania and Poland to:

11.1. provide access to asylum procedures to all those seeking asylum international protection;

11.2. refrain from pushbacks to Belarus, and provide necessary safeguards to ensure the human rights of those seeking entry to their territory;

11.3. ensure that detention of asylum seekers is only used as a last resort and alternatives to detention are explored. When detention is resorted to, it should be carried out with all relevant safeguards, including an assessment on the circumstances of the individuals and their families. Children should never be detained regardless of their migratory status;

11.4. in co-operation with the European Asylum Support Office, provide adequate reception, accommodation, identification of people with special needs, access to information about the asylum procedure and social and other services to new arrivals;

11.5. ensure that the United Nations High Commissioner for Refugees (UNHCR) and organisations providing humanitarian assistance and legal aid are provided with unhindered access to migrants, asylum seekers and refugees, including at the border;

11.6. despite the state of emergency, ensure that vulnerable groups, such as unaccompanied minors, survivors of torture, sexual violence and other forms of serious violence are exempted from accelerated asylum procedure and referred to more adequate and safe reception facilities, and ensure that those who need psychological support have access to specialist services;

11.7. guarantee that returns of migrants to third countries do not take place without sufficient safeguards for the rights of those being returned, and work with Belarus and the European Union to solve ongoing problems in terms of irregular migration flows across these borders.

12. The Assembly welcomes the support offered by the UNHCR to the countries concerned in order to provide legal and technical expertise on reception, site management and processing of asylum applications, and encourages the UNHCR and the International Organization for Migration to further strengthen their monitoring of migratory pressure situations, in co-operation with other human rights organisations, in order to provide early warning of impending problems.

13. The Assembly proposes the creation, within the Council of Europe, of a permanent group or body on the human rights situation in Belarus, one of the tasks of which will be monitoring the situation of migrants, refugees and asylum seekers from Belarus.