Warsaw, 16 November 2022

With reference to the call for input from the Special Rapporteur on the promotion and protection of human rights in the context of climate change to the thematic report *Addressing the human rights implications of climate change displacement including legal protection of people displaced across international borders*, Poland would like to present its answers to the questionnaire below.

**Questionnaire**

**1. What experiences and examples are you aware of, of individuals or communities, displaced by climate change?**

According to the United Nations High Commissioner for Refugees (UNHCR), an annual average of 21.5 million people have been forcibly displaced by weather-related events – such as floods, storms, wildfires and extreme temperatures – since 2008. These numbers are expected to increase in the coming decades. Forecasts from international think-tank, the Institute for Economics & Peace, predict that 1.2 billion people could be displaced globally by 2050 due to climate change and natural disasters. However, it should be mentioned that not all natural disasters that cause displacements are the result of climate change. In order to properly assess the impact of climate change on the human rights of displaced persons, each example of weather-related events should be assessed individually in the long-term climate trends.

It is worth mentioning a few examples of individuals or communities displaced by natural disasters in the recent years:

* In March 2019, Tropical Cyclone Idai made landfall in Mozambique which forced 140,000 people to evacuation centers or makeshift shelters and damaged 230,000 houses;
* Bushfires that raged across Australia triggered around 65,000 new displacements between July 2019 and February 2020;
* In 2020 persons from Honduras, Guatemala and El Salvador were forced to across the border into Mexico and headed towards the U.S. because two hurricanes – Eta and Iota – caused torrential rains and landslides, which meant those displaced lost their homes, livelihoods and access to clean water;
* Since December 2020, Angolan citizens started crossing the border into Namibia in search for food, water, healthcare and employment because of a drought in their country;
* In Germany a series of storms in the summer of 2021 forced 30,000 people to displace.

**2. Do you think there are differences between the notion of climate change migrants and people displaced by climate change? If yes, what are these differences?**

Given the lack of precise and legally binding definitions, the two terms seem to be used interchangeably. Nevertheless, we could assume that the term “climate change migrants” applies to persons who change their living place voluntarily due to different factors, one of being climate change, and the term “people displaced by climate change” applies to those who were forced to change their domicile.

**3. What legislation, policies and practices are you aware of that are in place to give protection to the rights of individual and communities displaced by climate change.**

Under international human rights law, states have the primary responsibility to promote and protect the human rights of all persons within their territory or jurisdiction – both citizens and non-citizens. Where individuals are displaced within national borders, the obligations of states under international human rights treaties are clear, and are further clarified by relevant soft law instruments and guidelines, such as the guiding principles on internal displacement and the IASC Operational Guidelines on the Protection of Persons in Situations of Natural Disasters. The guiding principles, adopted in 1998, identify and clarify universal rights and guarantees relevant to the protection of displaced persons during all phases of displacement – from pre-displacement through to recovery and return. They relate to protection against arbitrary displacement, access to protection and assistance during displacement, and guarantees during return or alternative settlement and reintegration. The guiding principles are also relevant to displacement in the context of disasters and climate change. If persons are displaced across an international border, the receiving state is still obliged to treat them in accordance with its international human rights obligations.

It is important to note that Poland, as a party of UNFCCC, participates in activities provided by the Convention to protect individuals and communities displaced by climate change, which was determined in the following decisions:

* The 2010 Cancun Adaptation Framework (Decision 1/CP.16 Paragraph 14 (f)) tasked Parties to: ‘enhance understanding, coordination and cooperation with regard to climate change induced displacement, migration and planned relocation, where appropriate, at the national, regional and international levels’;
* At the 2012 Doha Conference of the Parties (Decision 3.CP/18 Paragraph 7 (a)(vi)) Parties acknowledged the need for further work on the impacts of climate change and how they are affecting patterns of migration, displacement and human mobility;
* The Paris Agreement adopted in 2015 agrees to the establishment of a taskforce to ‘develop recommendations for integrated approaches to avert, minimize and address displacement related to the adverse impacts of climate change’. The taskforce was established by the Executive Committee of the Warsaw International Mechanism for Loss and Damage.

Other initiatives which give protection to the rights of individuals and communities displaced by climate change include:

* The 2030 Agenda for Sustainable Development, adopted by all UN Member States in 2015;
* Sydney Declaration of Principles on the Protection of Persons Displaced in the Context of Sea Level Rise;
* The Nansen Initiative, launched by Switzerland and Norway;
* Platform on Disaster Displacement;
* The Migrants in Countries in Crisis (MICIC) - is a government-led initiative co-chaired by the United States and the Philippines.

**4. Please provide examples of policies, practices and legal remedies and concepts of how States, business enterprises, civil society and intergovernmental organizations can provide protection for people and communities displaced by climate change.**

In order to provide protection for people and communities displaced by climate change the holistic approach on regional, national and local levels is needed. First of all, international community should take action to mitigate climate change impacts, strengthen adaptation and build resilience. Activities should include building capacity of local communities and governments to develop risk assessments and manage disaster responses, as well as supporting national and local disaster risk reduction plans, policies and strategies, and private sector partnerships.

It is necessary to enhance observations, forecasts, monitoring and early warning systems for droughts, extreme temperatures and cyclones. Moreover, information about climate change impacts, combined with non-climate information such as crop conditions and with early warning systems and adaptation options, have the potential for governments and communities to take timely and appropriate actions to avert and prepare for forced displacement and migration. States should also pay attention to food insecurity, as well as humanitarian information and actions concerning safe return and early recovery.

**5. What international, regional and national policies and legal approaches are necessary to protect people and communities displaced by climate change.**

Enhancing disaster management, i.e. mobilizing the resources and responsibilities for dealing with climate change migration (prevention, preparedness, response, mitigation, and recovery) on local and national level is essential. Moreover, community-centered approach that involves multiple stakeholders including those taking part in planned relocation, host communities, and others likely to be affected ensures information, consultation and participation in decision-making. They are enhanced by the multilateral approach – joint activities of international community.

**6. Please provide separate considerations for people or communities internally displaced and those displaced across international borders.**

The majority of displaced persons were internally displaced. According to the above mentioned report in 2020 alone there were an estimated 30.7 million new internal displacements associated with disasters, the vast majority of them linked to weather- and climate-related natural hazards. In these cases, the state remains obligated to protect, promote and fulfil the human rights of internally displaced persons within their territory without discrimination.

It should be noted that there is a range of international and regional instruments that may provide responses to various forms of external displacement. However, these instruments only cover a few groups of displaced persons and generally have not been applied to persons who are forced to cross an international border only because of natural disasters. Nor do they apply to those who cannot return because their land has become uninhabitable as a result of the long-term effects of climate change. The above gaps lead to the conclusion that the overall number of persons displaced across international borders is unknown.

Displacement causes many problems, but it is easier and more beneficial for both states and individuals/communities to cope with internal migration rather than external, due to the lack of transnational procedures, integration issue and, if possible, return. Therefore, national and municipal governments should do whatever it takes to find a solution internally so that external migration is avoided.

**7. What do you understand by the concept of “climate change refugee”? Do you think that the UN Refugee Convention should include a separate category for climate change refugees? How do you think this would work? What other legal options may be possible?**

Isolating climatic reasons is difficult, in particular from humanitarian, political, social, conflict-related or economic ones. It can sometimes be an impossible task and may lead to long and unrealistic legal procedures.

Creating a special refugee status for climate change-related reasons might unfortunately have the opposite effects of what is sought as a solution: it can lead to the exclusion of categories of persons who are in need of protection, especially the poorest migrants who move because of a mix of factors and would not be able to prove the link to climate and environmental factors. It should be noted that climate change is not the sole driver of migration.

Taking above into consideration opening the 1951 Refugee Convention might weaken the refugee status, which could turn detrimental given the current world affairs where so many individuals are in need of protection because of persecution and ongoing conflicts.

This also applies to creating a new convention which might be a lengthy political process and countries might not have an appetite for it. Many responses can come from migration management and policies. The example of the latter could be the Nansen Initiative, which was launched to look at gaps in protection for persons being displaced across borders by disasters, and after undertaking thematic and regional consultations concluded with a document that proposes a “toolkit” of migration policies rather than recommending the establishment of a new status for these persons.

**8. Should separate and particular considerations be given to indigenous peoples with respect to climate change displacement? What are these particular considerations?**

Indigenous peoples are among the first to face the direct consequences of climate change, due to their dependence upon and close relationship with the environment and its resources. Climate change exacerbates the difficulties already faced by indigenous communities, including political and economic marginalization, loss of land and resources, human rights violations, discrimination and unemployment.

It goes beyond the loss of homes and livelihoods assets, but also include the very real risk of loss of cultural heritage. Indigenous peoples who choose or are forced to migrate away from their traditional lands often face double discrimination as both migrants and as indigenous peoples. Indigenous peoples may be more vulnerable to irregular migration such as trafficking and smuggling, owing to sudden displacement by a climactic event, limited legal migration options and limited opportunities to make informed choices. Deforestation, particularly in developing countries, is pushing indigenous families to migrate to cities for economic reasons, often ending up in urban slums. Therefore, persons creating national and international law, as well as decision-makers should pay special attention to the situation of indigenous peoples, whose interests are very often not represented on the political scene. Due to the need to preserve culture, priority should be given to ensure returning to their native land or at least allow them to settle as close to the previous living place as possible.