SOME THOUGHTS REGARDING THE SPANISH CLIMATE CHANGE LAW PASSED IN 2021

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SUMMARY:

ABSTRACT:

The study purports to offer a critical reflection on some interesting aspects of the new Spanish law on climate change. Without wishing to cast doubts on Spain´s interest in the success of the regulation of this matter, I consider that it should have been a law with more obligations, more sanctions and, ultimately, much more forceful in terms of those measures and commitments related to climate change.

KEY WORDS: Climate change. Regulation. Liabilities. Encouragement. Penalties. Disability

1. THE SERIOUSNESS OF CLIMATE CHANGE AS AN ENVIRONMENTAL PROBLEM[1]

[1] This study is part of the research project "Legal and environmental challenges of the European Union Biodiversity Strategy in the context of climate change" (PID2020-115505RB-C21).

Currently, one thing is clear: climate change is an alarming and unquestionably the most serious environmental problem today, as affirmed among others by the Intergovernmental Panel on Climate Change, the highest-level scientific body that studies this matter. The excess of polluting gases produces this abnormally high warming, which in turn brings about adverse effects of different kinds, such as rises in sea levels produced by melting glaciers, as well as an increase in rainfall and a higher propensity of extreme meteorological phenomena, such as frequent heat waves, etc.

This greenhouse effect that occurs in the atmosphere caused by human action has been a cause of concern for the entire international community, thus sparking an important debate, recently at the Rio Summit, on the need to establish emission reduction targets. It is a global phenomenon, due to both its causes and its effects, and requires a multilateral response based on the collaboration of all countries.

It goes without saying that the consequences of climate change are very harmful. It is a problem that negatively affects human health specifically and nature in general; and according to what is known about air pollution, it is a problem that affects the entire planet, not just one certain area, but crossing borders and affecting a huge number of countries. Nowadays, climate change is considered to be one of the main potential risks to human health in our planet alongside poverty and hunger.

Therefore, it is imperative that research be carried out on the surveillance and control of this phenomenon, bearing in mind the different climate change scenarios. It is also necessary to carry out epidemiological studies to assess the impact of ozone and other pollutants, as well as to develop models to predict the effects that climate change and changes in air quality may have on our health.

For this reason, if the pollution existing in cities, as a general rule, has a negative impact especially on children, an excess or an increase, with the consequence of a sudden change in the climate is seriously detrimental, so it should be taken as one more reason for alarm and concern that would serve to have more severe measures aimed at reducing air pollution imposed. The same occurs with the population over 65 years of age, which also coincides with the fact that this is the population group that suffers from respiratory or cardiovascular diseases and that, consequently, is more vulnerable to a considerable increase in temperatures and a higher level of air pollution. The Spanish Society of Pneumology and Thoracic Surgery warned that three times more people die as a result of air pollution than from traffic accidents and almost ten times more than from work

accidents. These serious conditions also have a negative impact on people with disabilities, especially on those people considered as vulnerable, as will be seen later.

As I have mentioned before, the repercussions of climate change are very varied, with many areas being affected, such as alterations in ecological systems, with an incidence on vectors and parasites, changes in the microbiological ecology of water and food, changes in crop productivity, rises in sea levels and changes in air quality.

Taking into account all the above, the repercussions of climate change in the different sectors and specifically in human health are clear. All these effects are more than enough reasons and grounds to demand a prompt and effective solution. Therefore, a country´s legal system must intervene to control and reduce such high levels of pollution and thus reduce the serious consequences of climate change and thus improve human health.

2. THE EUROPEAN UNION'S FORCEFULNESS IN THE FIGHT AGAINST CLIMATE CHANGE

Without going into an in-depth description of the regulations and programmes, plans and other documents approved by the European Union, I would like to simply highlight some of them in order to demonstrate its firm commitment to the fight against climate change.

Firstly, I would like to cite the European Green Pact of 11 December 2019 as part of the European Commission's Strategy for the transformation of the economy towards a model that is neutral in greenhouse gas emissions by 2050, separating economic growth from resource use, as well as for the implementation of the 2030 Agenda and the Sustainable Development Goals (SDGs).

Secondly, it is necessary to highlight that in this Agreement the need for a European Climate Law was emphasized, as it would imply the existence of a legally binding regulation at EU level, with obligations and measures aimed at achieving the objective of climate neutrality by 2050, thus committing both the Member States and the EU institutions.

Previously, in 2011, the roadmap towards a competitive low-carbon economy in 2050 was formulated, setting the objective of reducing greenhouse gas emissions by 80-95% compared to 1990, with two intermediate targets, a 40% reduction by 2030 and a 60% reduction by 2040.

The Paris Agreement, signed in 2015, also set the goal of a global transition to a low-carbon development model capable of meeting the challenges of climate change. It aimed to limit global warming to below two degrees Celsius above pre-industrial levels. Ratifying states committed themselves to submitting their national contributions to reach these targets.

The "Clean Energy for All" package, presented in November 2016, addresses the need to accelerate both the transition to more sustainable energy, without neglecting growth and job creation whilst maintaining the EU's competitiveness. Known as the "winter package", it includes measures that aim to accelerate, transform and consolidate the transition of the EU economy towards clean energy, which should foster the generation of employment, contribute to the achievement of the objectives of reducing emissions and improving energy efficiency, increase the competitiveness of production, the growth of new economic sectors and improve the quality of life of its citizens.

The idea is to combine sustainable but also competitive energy development while meeting the climate change objectives of reducing greenhouse gas emissions by 80% to 95% compared to 1990. Specifically, three lines of action are set as goals: to increase energy efficiency by 30%, to achieve world leadership in renewables and to offer a fair deal to the consumer. To this end, it proposes a wide range of legislative initiatives affecting the electricity market, cooperation between national energy regulators, promotion of the use of renewables for transport, heating and self-consumption, sustainability of bioenergy, innovation, labelling and eco-design, security of supply, strategies for connected and automated mobility, and governance and planning rules for energy efficiency and renewable energy targets.

In conclusion, the European Union has been concerned with making progress in the fight against climate change, laying the foundations for the rest of the EU Member Otates to continue in the same direction[2].

3. DISAPPOINTING ASPECTS AND WEAKNESSES OF THE SPANISH LAW ON CLIMATE CHANGE.

3.1. AN AMBITIOUS LAW IN TERMS OF ITS OBJECTIVES

[2] GILÉS CARNERO, R. Mª, "El papel de la Unión Europea en la acción ante el cambio climático", *Anuario de la Facultad de Derecho de la Universidad Autónoma de Madrid*, 26, 2022, pp. 135-156.

With the situation described in the previous section, which demonstrates the concern and the interest of the European Union in combating climate change, the first reaction after reading Spanish Law 7/2021, of 20 May, which regulates climate change and energy transition in our country, is one of a certain degree of disappointment,[3] the first of which being that there was no real transposition of Community legislation in this area; namely because the Spanish law seems to be more a law of good intentions and principles rather than a law with commitments and obligations.

I refer to the fact that the law regulates rather pretentious objectives (art. 3), such as to reduce greenhouse gas emissions in the Spanish economy as a whole by at least 23% by 2030 compared to 1990; to achieve a penetration of renewable energies in final energy consumption of at least 42% by 2030; to achieve by 2030 an electricity system with at least 74% of generation from renewable energy sources, and to improve energy efficiency by reducing primary energy consumption by at least 39.5% compared to the baseline in accordance with Community legislation. The same article also establishes that before 2050 and in any case, in the shortest possible time, Spain must achieve climate neutrality.

And the law does not stop there, but ends the precept with the statement that the first review of the objectives established in this article will begin in 2023.

Therefore, it cannot be denied that the spirit of the Law is to achieve ambitious goals, thus complying with the Paris Agreement and European regulations. This is all well and good.

With these premises, it would be appropriate for the Law to regulate the instruments and measures to achieve these objectives, and this is where the problems begin.

It is more than evident that climate change is the most important environmental challenge at present, and we have been reiterating this for some time now, so we can appreciate the seriousness of the problem. Therefore, in any law, it is logical that there should be measures that legally bind or oblige the addressee; but in an area such as the

[3] For further information, véase HERNÁNDEZ GONZÁLEZ, F. L. (Dir.), *El Derecho ante el reto del cambio climático*, ed. Aranzadi Thomson Reuters, ed. Cizur Menor, 2020; LÓPEZ RAMÓN, F., "Notas de la Ley de cambio climático", *Cuadernos de Derecho Local*, 57, 2021, pp. 61-81 y PALOMAR OLMEDA, A. y TEROL GÓMEZ, R. (Coords.), *Comentarios a la Ley 7/2021, de 20 de mayo, de cambio climático y transición energética*, ed. Aranzadi, Cizur Menor, 2021.

environment, it seems even more necessary if that is possible. However this has just not been the case in the current Spanish Law on Climate Change.

In this sense, the law includes many programmatic or planning instruments that are far removed from this idea of obligation or direct legal responsibility.

We should consider, for example, the Decarbonisation Strategy for 2050 set out in article 5 of the Law, which must establish a path for reducing greenhouse gas emissions and increasing absorption by sinks in the Spanish economy as a whole until 2050, necessary to meet the objectives set out in article 3 and in accordance with the requirements of European Union regulations. The Decarbonisation Strategy to 2050 will be reviewable every five years and will include, at least, an indicative intermediate greenhouse gas emission mitigation target in 2040.

Along the same lines, article 34 empowers the Government to require the market operator, the system operator, the transmission operator and the distributors, as defined in article 6 of Law 24/2013, of 26 December, concerning the Electricity Sector, to draw up and present a decarbonisation strategy with regard to their scope of action. Regulations will establish the minimum conditions and criteria that these strategies must include.

It can be seen and deduced, therefore, that this is merely a document of intentions and objectives, but without going any further, as it expressly enables a Regulation to delve into the matter in greater depth and, in the best case scenario, to establish measures that commit the parties involved in order to achieve decarbonisation by 2050. However this is unpredictable because it is in the future.

Another example where this programmatic spirit is demonstrated is the provision made in article 4 of the Law on the National Integrated Energy and Climate Plan for the period 2021-2030. Once again, this Plan is referred to, inevitably, as the national strategic planning tool that integrates energy and climate policy and reflects Spain's contribution to the achievement of the objectives established within the European Union in the field of energy and climate, in accordance with the provisions of European Union regulations. In addition, the law includes the content that it should have, which should in turn bring about the same result as it refers to the objectives and quantitative contributions in line with the law, at national and sectorial levels, for the reduction of greenhouse gas emissions and removals by drains, renewable energies and energy efficiency, thus

guaranteeing the contribution of all sectors of the economy to the achievement of these objectives.

As these things always come in threes, the law also regulates the Just Transition Strategy provided for in Article 27, defining it as the state-level instrument aimed at optimising opportunities in activity and employment in the transition to a low greenhouse gas emissions economy and at identifying and adopting measures that guarantee fair and supportive treatment for workers and territories in this transition. It establishes that the Government will approve every five years, by means of an Agreement of the Council of Ministers, Fair Transition Strategies, to be jointly proposed by a number of Ministries, with the participation of the Autonomous Communities and the representatives of the unions and industrial leaders.

As it has done with the Integrated Energy and Climate Plan, it also regulates the content of this Strategy, referring to the identification of groups, sectors, companies and territories potentially vulnerable to the process of transition to a low-carbon economy; the analysis of opportunities for the creation of economic activity and employment linked to the energy transition; industrial, agricultural and forestry policies, research and development, innovation, promotion of economic activity and employment and occupational training for the fair transition: the instruments for monitoring the labour market in the framework of the energy transition through the participation of the social partners, as well as the social dialogue roundtables and the framework for drawing up the Fair Transition agreements

Taking into consideration another document of this type, there is the International Climate Finance Strategy, regulated in the third Additional Provision, which, obviously, the law frames as a just yet another planning instrument. This Strategy aims to achieve goals such as fulfilling the Kingdom of Spain's international climate financial commitments, ensuring that the action developed by Spanish Cooperation is coherent with the objectives of the fight against climate change, introducing the consideration of climate change and the Sustainable Development Goals in a coordinated manner in the different international financing instruments and support for the internationalisation of business, improving trade agreements with the inclusion of reciprocity clauses in environmental requirements.

However it is inevitable to conclude once again that in all the cases mentioned, these are just planning instruments, without any degree of obligation in terms of measures

or commitments acquired. I consider that these measures are not negative in themselves, but that they are insufficient if other more far-reaching measures are not regulated.

And as I mentioned earlier, the Law attempts to make up for this indeterminacy with numerous references to future regulatory developments where the measures will be specified. Such are the cases of article 7 which provides for pumping, storage and turbining to maximise the integration of renewable energies, article 13 regulating compliance with the objectives of integrating renewable energies and the supply of alternative fuels in transport, article 5 on obligations relating to the installation of electric vehicle recharging points in car parks not integrated in buildings, article 30 on specifying the percentage contribution of the general State Budget to climate change, article 34 on the conditions and conditions for the use of renewable energies and the supply of alternative fuels in transport, article 34 on the conditions and conditions for the use of alternative fuels in transport, article 34 on the use of renewable energies and the supply of alternative fuels in transport, article 34 on the use of electric vehicles in car parks not integrated into buildings, article 30 on the percentage contribution of the general State Budget to climate change, article 34 on the minimum conditions and criteria to be included in the Electricity Sector Decarbonisation Strategy, article 37 on the composition, organisation and operation of the Committee of Experts on Climate Change and Energy Transition, article 40 on measures to guarantee Greenhouse Gas Policies, Measures, Inventories and Projections and, lastly, expressly, in the sixth additional provision, where the Government is empowered to approve, within the scope of its powers, any provisions necessary for the application, execution and development of the provisions of this Act.

In view of the numerous references to future regulations, this shows, if I may say so, that it seems to be an unfinished and incomplete law, which requires future developments or complements in order to fulfil its objectives. It would have been desirable for the law itself to regulate its measures in more or less detail.

3.2. A LAW THAT PROVIDES FOR CLEAR INCENTIVES

The Spanish Climate Change Law is undeniably a law with a clear tendency to promote certain actions and activites. It is a law that encourages, promotes or incentivises, (all three verbs synonyms of one another) certain actions towards combatting climate change.

Once again, it is insufficient and ineffective because, like all administrative promotional activities, it is nothing more than a law of good intentions and grandiose rhetoric, going no further, in that it does not commit or create obligations for anyone .

If these measures were combined with other, more incisive or coercive measures, they would unite well and would thus constitute a balanced climate policy.

After having previously referred to the numerous regulatory references, I would also like to examine the many measures for promotion that are laid down throughout the law. Firstly, it is in article 8 where it is established that the Public Administrations may establish incentives that favour the achievement of the objectives foreseen in this article, with special attention to the introduction of renewable energies in the rehabilitation of housing, promoting self-consumption, small power installations, zero-emission heating and cooling.

Article 16 reads along the same lines by laying down that the Ministry of Transport will apply economic incentive measures aimed at stimulating electricity supply or the use of alternative fuels.

The fostering of the process of accreditation of professional competences acquired through work experience and non-formal training, promoting education and training to advance in the fight against climate change and energy transition is regulated in Article 35.

In addition to these references throughout the Law, there are specific precepts dedicated to promotional activities, such as article 12, which regulates the promotion of renewable gases, including biogas, biomethane, hydrogen and other fuels whose production exclusively uses renewable raw materials and energy or allows the reuse of organic waste or animal or vegetable by-products.

It is also worth highlighting Article 26, entitled "Promotion of the absorption capacity of carbon sinks", which provides that actions that emphasize the positive externalities provided by terrestrial and marine carbon sinks will be promoted, together with the promotion of the participation of public and private enterprise owners and managers, especially those in the agricultural and forestry sector, in increasing the CO2 capture capacity of carbon sinks.

The Government will promote the use of passenger rail within the scope of the future law on Sustainable Mobility and Financing of Public Transport, establishing the necessary measures to promote it over and above more pollutant means of transport.

In conclusion, all these measures are an example of good intentions on the part of the legislator aimed at the public authorities, but the problem lies in the fact that there is no obligation on the government in question to allocate part of its budget to these measures set out in the law, as is the case with promotional activities in general. It follows from this statement that these promotional measures may never be implemented because the government in power considers that they are not appropriate. It is therefore questionable whether the promotional activity is the best option for achieving the objectives of climate policy.

3.3. AN INHERENTLY WEAK AND INEFFECTIVE LAW

I have given this section this title precisely because I would like to point out that, in my opinion at least, it is a law that does not impose obligations or penalties if the provisions of the law are not complied with, the very reason for which it is not very effective.

Unfortunately, as we all know, any law without a part of it drawn up to deal with those conducts considered administrative infringements and, consequently, without the rules and precepts applying to the corresponding administrative sanctions, is somewhat idyllic and naïve. It would seem that if the addressee of a rule knows that there is no punitive or coercive consequences for non-compliance, he or she will feel less coerced than if there were.

This is applicable to any other field or sector, i.e. a citizen can be very responsible and drive always within the speed limit without taking into account that there is a road safety regulation that regulates a certain administrative sanction when the speed limit is exceeded. Nevertheless, this is a best-case scenario and not even a very realistic one since, in general, citizens comply with the rules and regulations because they know that there is a certain consequence, usually a financial penalty, that they will have to pay.

Could we really imagine a road safety law without rules laying down administrative penalties? The answer that any citizen would give would be a resounding no. Following on from this, can this same question be applied to the Spanish law on climate change? My answer, of course, is a resounding yes.

What can be concluded is that there are no sanctionary measures either in the Spanish law on climate change. An example of this can be found in article 15, which regulates electric charging points. Obviously, this is a crucial aspect of the law, with the intention of a progressive implementation of less polluting vehicles. The criticism of this precept lies in the fact that at no time are sanctions or negative consequences foreseen for those who, for example, own fuel supply installations and do not have at least one electric recharging infrastructure with a power equal to or greater than 150 kW in direct current, which must provide service within a certain period of time. In other words, the law only regulates that they must have this charging infrastructure, but nothing is laid down if, for whatever reason, they decide not to provide it. So, once again, the law is lax.

In relation to this area of mobility, the law, with the same philosophy of not imposing obligations, makes reference to a future regulatory development, a trend that I highlighted earlier, that the Government will adopt the necessary measures to achieve compliance with the objectives of integration of renewable energies and supply of alternative fuels in transport, with special emphasis on advanced biofuels and other renewable fuels of non-biological origin in air transport, including synthetic fuels whose manufacture has used exclusively raw materials and energy of renewable origin.

This type of sustainable mobility is one of the commitments of the Climate Change law because the transport sector is one of the most pollutant sectors, making climate change worse or at least not improving it. The trend to seek alternatives to traditional transport models is very positive, but it cannot be belittled once again to stating that the public authorities will adopt measures to achieve a fleet of cars and light commercial vehicles without direct CO2 emissions by 2050, without specifying how and by what means and resources.

The same applies to local authorities, as it states that municipalities with more than 50,000 inhabitants and island territories shall adopt sustainable urban mobility plans by 2023 that introduce mitigation measures to reduce emissions from mobility. This is a very positive idea if it is implemented, but what happens if a municipality fails to do so? The law does not regulate the consequences of non-implementation and, in my opinion, this is problematic, because once again it is left to the will, in this case, of the municipalities, whether they do it or not, and this obviously poses a major risk. Does this mean that the municipality will not be penalized for non-compliance?

The same idea is repeated in the integration of climate change into the different sectorial policies, as the law has references to this much-needed measure, again with the policy of encouraging public administrations to improve knowledge on the vulnerability and resilience of wild species and habitats in the face of climate change, as well as the capacity of ecosystems to absorb emissions. Another means included for integration is that of a specific strategy for the conservation and restoration of ecosystems and species especially sensitive to the effects of climate change, which the law defines as a programmatic planning instrument of the Public Administrations, which will include the basic guidelines for the adaptation to climate change of natural terrestrial ecosystems, marine ecosystems and Spanish wild species, as well as the basic lines for their restoration and conservation, with special reference to aquatic or water-dependent ecosystems and high mountain ecosystems.

I believe it essential, in an environmental issue as serious as climate change, to apply the necessary principle of integration because to do otherwise, relying only on the specific regulations on climate change, would be insufficient to tackle or, at least, reduce the harmful effects of climate change. Hence my opinion that the legislator has missed out on a golden opportunity to regulate the application of this principle in a more forceful way in this law.

Both the specific legislation regulating climate change, in this case, the Spanish law, and the specific legislation applied to forests, water, transport, etc., should include in their articles and, therefore, in their policies, measures aimed at reducing greenhouse gas emissions as the cause of global warming or measures aimed at increasing the absorption of these gases. This simply has not been the case, since what the legislator has actually provided for are plans, programmes and strategies which, once again, are not legally binding in any way.

In as much as this principle of integration can also be related to the principle of transversality or horizontality, given that this law is a regulation in which the different areas or sectors are not related; and in the environmental field this is absolultely crucial. Evidently, it is also the task of these specific sectors to incorporate specific measures that take climate change into account, but the fact that a law passed in 2021 that deals with the legal regime of climate change has not introduced this issue, when many of these legislations have already done so, is, to say the least, somewhat alarming and disappointing.

3.4. A LAW THAT IS NOT VERY SENSITIVE TO VULNERABLE PEOPLE

A) The special vulnerability of people with disabilities to climate change

Vulnerable people, as is logical, are more likely to suffer the consequences and impacts of certain actions. In a sector such as climate change, which manifests itself in a multitude of adverse effects such as an increase in sea level caused by a process of melting glaciers, an increase in rainfall, an increase in extreme meteorological phenomena, frequent heat waves, desertification and droughts among others, are much more pressing for people who are more sensitive or vulnerable, including those people with disabilities.

Disabled people are at greater risk of suffering the harmful consequences of climate change because of their special vulnerability, so there is a clear imbalance here. It thus follows that climate change may accentuate inequalities in health and health management, as it brings about less access to health facilities and may aggravate public health problems, such as malnutrition or respiratory problems among others.

As we well know, climate change leads to extreme weather phenomena such as earthquakes and hurricanes, and these situations obviously alter the availability of health services and access to them. In this sense, it is necessary to address, for example, the architectural barriers in evacuations and landslides or the added difficulties in getting to shelters due to their physical or mental disabilities. This is also the case with technical assistance, whether in terms of mobility, understanding, hearing or sight, which are damaged or lost due to the urgency and improvisation of the phenomena. In the light of all this, it is crucial to establish emergency instructions adapted and accessible to disabled people, such as the provision of personal support assistants, pets and medical equipment to help people with disabilities.

Although the connection between climate change and disability may seem a priori somewhat forced and contrived, in my opinion there is a clear link between the two; I consider the express integration of specific measures for disabled people into climate change regulations to be of great importance. If it were not so, there would be a clear disproportion, putting people with disabilities at a clear disadvantage and a situation of inequality. In particular, the principles of the Declaration on Disability should be applied in all sectorial policies that affect them and this is the only way to ensure their being protected. Logic dictates that greater awareness and sensitization of society towards people with disabilities would help in this respect.

Therefore, it should be established that people with disabilities be included in the category of people considered vulnerable when coming up against the severe impact of the effects of climate change and, in this way, the principles of equality and non-discrimination would be respected and upheld.

In the previously cited UN study, adopting a human rights-based and disability-inclusive approach to climate change implies climate action that includes people with disabilities and takes them into account at all stages. That is why the effectiveness of climate change measures depends on the approach incorporating human rights and disability into climate action. This disability-inclusive approach will empower people with disabilities as agents of change, prevent discrimination against them and increase the effectiveness and efficiency of climate action.

The vulnerability of people with disabilities in the field of climate change is thus evident, and the policy aimed at mitigating its effects and adapting to the new reality brought about by climate change must take into account their special characteristics, avoiding any type of discrimination or inequality; but the Spanish law on climate change leaves an awful lot to be desired with regard to people with disabilities.

B) The responses of climate change regulations to people with disabilities

Looking back to the recent past, the main international standard on climate change, the Kyoto Protocol, does not make any provision at any point to people with disabilities, not even to people vulnerable to the effects of climate change. The Paris Agreement recognises that climate change is a problem for all humanity and that, in taking action to address it, Parties should respect, promote and take into account their respective obligations relating to human rights, the right to healthcare, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities and persons in vulnerable situations and the right to development, as well as gender equality, women's empowerment and intergenerational equity.

In the Act, with regard to adaptation measures, Article 7 states that each State shall take into account the assessment of climate change impacts and vulnerability to climate change, with a view to formulating its nationally determined priority actions, taking into account vulnerable people, places and ecosystems. The reference is therefore subtle, although it has at least partly made up for the shortcoming of the Kyoto Protocol in this respect; but it is still insufficient.

Having recognized this shortcoming, the content of the Climate Change Law in Spain should have been at least in line with the provisions of the Convention on the Rights of Persons with Disabilities, the Inter-Agency Standing Committee guidelines on the inclusion of persons with disabilities in humanitarian action and the United Nations Strategy for Disability Inclusion; however this has not been the case either.

Taking as a reference the content of this Convention, it is clear that people with disabilities must be integrated into society, involving them and adapting the measures that are implemented to their needs and characteristics, different from those of people without disabilities. Otherwise, it is clear that discriminatory, non-inclusive and inaccessible policies would be applied.

Looking now at the principle of equality, the consolidated text of the Spanish General Law on the Rights of Persons with Disabilities and their Social Inclusion (approved by Royal Legislative Decree 1/2013, of 29 November) establishes, in article 7 that, in order to make this right to equality effective, public administrations will promote the necessary measures in order that all elements regarding equal terms of the rights of persons with disabilities be real and effective in all walks of life. Public administrations shall protect in particular the rights of people with disabilities in terms of equality between women and men, health, employment, social protection, education, effective judicial protection, mobility, communication, information and access to culture, sport, leisure, as well as participation in public affairs.

It is also important that public administrations protect especially vulnerable individuals or groups of people in a particularly intense way. That is why, in each sectorial policy, the legislator must integrate people with disabilities into its articles so that in that area they receive the protection they deserve since, if it were to be otherwise, it would be discriminatory.

In designing measures to try to mitigate climate change, we must consider both mitigatory measures aimed at reducing greenhouse gas emissions as well as adaptation measures, aimed at finding ways to adapt to the effects caused by climate change. To give one example, we might make public transport accessible to people with disabilities. As far as adaptation measures are concerned, the provision of spaces is very relevant and, therefore it is essential that there is international cooperation to mobilise resources to support a disability-inclusive approach to climate change.

In this sense, the Spanish Climate Change Law, for example, does refer in Article 14 to zero-emission mobility, following the premises established by the European Union, creating municipalities with low-emission zones, establishing measures to promote walking and cycling, improving the use of public transport, promoting private electric transport and promoting shared electric mobility. While all these measures can be seen as positive as they are aimed at achieving a significant reduction in greenhouse gas emissions, which in turn are the cause of climate change, they are once again deficient with regard to people with disabilities. It is alarming, to say the least, that the law makes no express mention of the special needs of people with disabilities in such a basic area as mobility.

The Climate Change Adaptation Plan also seems to me to be yet another missed opportunity for setting an inclusive policy towards persons with disabilities, as they are not given a prominent enough place. It only mentions that the human rights-based approach will be integrated into all adaptation measures, promoting the strengthening of the adaptive capacity of all people, especially the most vulnerable.

On the other hand, it is stated that it is necessary to identify vulnerable groups and their location and develop socially just adaptive responses. These social differences must be identified in vulnerability studies and considered in the definition of adaptation measures. However, it has to be assumed again that within the group of the most vulnerable people, there are disabled people. I consider that there should not be a presumption or something implied, but rather that there should be an express mention of them in the adaptation measures, since they require a differentiated and specialised treatment, as mentioned above.

One of the principles to come under the spotlight in the field of climate change is the principle of common but differentiated responsibilities, in other words that each State should respond according to its contribution to climate change, maintaining balance and proportion in accordance with the circumstances of each country and the consequences, also taking into account the rights of disabled people.

It is clear that climate change affects us all, and it must also be said that we all share responsibility for it. This statement should be qualified because we must bear in mind the aforementioned principle, which aims to establish differences in the commitments and obligations required of each of the countries affected by and involved

in climate change. If it were to be otherwise, injustice would be done to those countries that pollute less and therefore contribute less to climate change.

In particular, this principle is based on the protection and safeguarding of underdeveloped countries, as they emit fewer emissions and therefore contribute less to climate change, and also have fewer resources to cope with climate change and its adverse consequences. It makes sense for each country to respond according to the degree of pollution it has caused according to its characteristics and needs and taking into account the commitments it has made.

Therefore, everyone has a duty not to allow climate change to increase and a duty to seek measures to mitigate it. However, it should be pointed out that there is an important difference in the degree of these duties because the amount of emissions of developed countries is much higher than that of developing countries and, therefore, it is established that developed countries must take the initiative to combat climate change and its adverse effects and even lists the obligations in a differentiated way, clearly distinguishing between developed and underdeveloped countries. In this assessment, by analogy with this principle, disabled people and their needs must logically also be taken into consideration, applying this necessary and just differentiation, because obviously the effects and harmful consequences of climate change on a person with a disability are not the same compared to another without.

The only reference made, although not expressly, in the Spanish Law on Climate Change is in Article 2, where reference is made to the protection of vulnerable groups, with special consideration for children. In this reference to vulnerable groups, it can be deduced that persons with disabilities are included, but it would have been advisable to make a specific and express reference, such has been done with children. Disability is a palpable reality and it is very striking that, in an area such as climate change, which has very harmful repercussions in many ways and where it is more than evident that in the face of an extreme meteorological phenomenon, disabled people are going to have many more difficulties than a person without disabilities, there is no reference to the special consideration that disabled people should have, as they are clearly a vulnerable group. The law does not have an inclusive vision, clearly thus casting disability aside, which is a very important and shortcoming deserving strong cristicism indeed.

Throughout its articles, the law mentions vulnerable groups and makes express reference to children and young people, but in no case to persons with disabilities.

Moreover, when the term "vulnerable" is mentioned, it is associated with territories, with plant species, with populations, with socio-economic sectors, with habitats, but in no case with persons with disabilities, and this is very worrying and surprising to say the least.

However, this is not the case with the 2030 Agenda for Sustainable Development, since some of its goals are rightly stated in an inclusive manner, such as Goal 4 (quality education), which calls on Member States to ensure equal access to all levels of education and vocational training, including for persons with disabilities, or Goal 11 (sustainable cities and communities), which provides, among other things, for the need to ensure access to a safe and healthy environment for people with disabilities, the need to ensure access to decent housing, services and transport and to provide universal access to green spaces and public spaces, in particular for persons with disabilities, or Goal 17 (Global Partnership for Sustainable Development) which calls on Member States to increase capacity-building support to developing countries to increase the availability of data disaggregated according to different variables, including disability.

Disappointingly, the Spanish Climate Change Law is once again sadly lacking, but in this case, I find it more serious because it does not take into account different realities such as disability, something that has been integrated in many sectoral policies (education, health, sport, cinema, housing, urban planning, etc.). Disability is a visible reality that has been regulated for some time now, and like many other realities, it is not something taboo as it might have been in the past, but the law neither regulates it in detail, nor makes any mention of it. It cites vulnerable groups in general, although it expressly mentions children, and this is purported to include people with disabilities. In my opinion, this is not at all sufficient. If we want society to be inclusive of people with disabilities, it is essential that the rules that are being passed go in the same direction and regulate measures that are oriented towards the integration of the singularities of people with some type of disability, of whatever kind, because if it were otherwise, society would not advance in the right direction.

4. BY WAY OF A FINAL CONCLUSION

I do not want to end this study by giving the impression that it is all is wrong in this law. The regulation of a reality is always a good thing because, as its very name indicates, it is a matter of regulating or, in other words, ordering that reality. In this sense, we must take into consideration the climate change regulations of the Autonomous

Communities as, to begin with, they were actually passed before the national State Law, which is, in itself, worthy of mention.

Climate change, unfortunately, is a reality, not only in Spain, but worldwide, which is why the existence of regulations at all territorial levels is appropriate, and thus applicable to our country. So, from this point of view, it is positive.

Evidently, any regulation can be improved and with regard to this particular one dealt with in this study, I believe that it could be enriched if it were aimed towards greater obligatory compliance with the measures, greater forcefulness in them, the establishment of sanctionary measures and fewer programmes, plans and strategies that can be effective but which can remain programmatic instruments without greater scope.

The consideration of especially vulnerable groups, such as those people with disabilities, should be a reality in the Spanish law on climate change. However, the reality is that this is clearly not the case, since specific measures should be considered that provide for the special characteristics and needs of this group of people. It is about laying down inclusive regulations and policies.

Day-to-day reality wakes us up to the seriousness of climate change as the most important environmental problem there is, and it thus follows that the rules governing it should be in line with these circumstances, regulating serious and effective measures to mitigate its harmful effects.

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