FIGHTING AGAINST CLIMATE CHANGE. AN OVERVIEW OF EUROPEAN UNION AND SPANISH LAW

María Lidón Lara Ortiz[1]

University Jaume I (Spain)

ABSTRACT
The inclusion of the fight against climate change as a target of sustainability determines the need to adopt forceful measures to reduce the effects of climate change. The current situation allows us to see that in the near future its effects will be devastating and irreversible unless drastic measures are adopted imminently. This paper aims to evaluate the legal measures taken through Spanish law, framed in the legal context of the European Union, to assess their real effectiveness. The methods of the research are the scientific methodology of legal disciplines, mainly regulatory analysis and other legal instruments, as well as case law. The results obtained show that some specific actions have been adopted through formal and informal current regulations, but much more could still be done to enforce more drastic measures in the fight against climate change. In this sense, this paper makes some recommendations to improve the effectiveness of the measures taken with this purpose.
KEY WORDS: *climate change, regulations, sustainable development goals, standing to sue.*

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Introduction

Climate change is currently considered the greatest challenge to achieving environmental sustainability that humanity has faced. A consequence of this is that some countries have already declared a climate emergency, which implies the adoption of dramatic measures that seek to redirect the situation. This paper aims to analyse the extension and the adequacy of the regulatory measures that have been adopted in Spain, which should be understood within the scope of the actions adopted in the European Union as the Green Deal and other concordant documents and regulations.

The goal related to the fight against climate change is linked to other more specific environmental goals of the 2030 Agenda of the United Nations. However, there are other goals of this Agenda, which are referred to as social, economic and governance goals. This fact makes it mandatory to find some balance between all the sustainable goals. The scope of the 2030 Agenda that is not environmentally focused gives another sense to the classic concept of sustainability. The most widespread definition of sustainability was coined decades ago in the report 'Our Common Future' issued by the United Nations World Commission on the Environment and Development, and which has also been called the 1987 Brundtland Report. The Commission coined the concept of sustainable development as one that satisfies current needs without endangering the ability of future generations to meet their own needs (United Nations, 1987). So the current extension of the concept of sustainability is defined by the targets included in each and every one of the 17 Sustainable Development Goals (SDG) included in the 2030 Agenda, considered as a binding agreement.

Considering the evolution of the concept of sustainability, the actions taken regarding environmental sustainability must be coordinated with other actions adopted to promote social, economic and governance

[1] María Lidón Lara Ortiz – professor of administrative law at Universitat Jaume I, Spain
Scientific field: research activity focuses mainly on financial regulation, and more specifically on banking regulation
E-mail: marialidon.lara@dpu.uji.es

sustainability, but this fact should not affect the further implementation of measures for fighting against climate change when they do not limit the protection of other SDGs on other matters.

Fundamentally, the objective pursued in this analysis is to determine the effectiveness of the measures adopted in the fight against climate change within the scope of the fight against climate change, not in relation to the proper development of other SDGs.

This goal is achieved by using the scientific methodology of legal disciplines, that is, through regulatory analysis and other legal instruments, as well as case law. The analysis is focused mainly on regulatory measures, but we also consider informal law too, with the purpose of getting to know the utility of informal regulatory tools in relation to formal ones. On the whole, the main question of the paper is whether the current regulations are good enough to fight against climate change, or if they are still insufficient.

1. The climate change phenomenon and its early regulation

generalised and consistent awareness of the dimensions regarding the danger it poses to the planet has been achieved. Initially, the trend towards global warming due to greenhouse gas emissions was pointed out in the mid-19th century by Eunice Newton Foote and John Tyndall. The phenomenon was confirmed by the Nobel Prize winner Svante Arrhenius in 1896, and although at that time there was scientific interest in it, the world wars of the 20th century diverted global attention to armed conflict. Subsequently, it was in the 1970s when a rise in temperatures began to be detected more clearly throughout the world, and it was appreciated that an increase in the concentration of carbon dioxide in the atmosphere would generate an anomalous warming that would reverse the historical cooling corresponding to the interglacial stage (Ruiz De Elvira, 2016: 35).

The situation is currently already worrying enough to declare a climate emergency, as has occurred in some countries, and in the European Union through the European Parliament resolution of 28 November 2019 on the climate and environment emergency, 2019/2930(RSP). A lack of consistent action may lead us to a situation in which extreme weather events increase, entailing serious economic and social risk, which will accelerate the loss of environmental conditions that are necessary for the continuity of life on Earth. It will cause an imbalance in social and cultural conditions, caused by the severe droughts in certain places, migrations that are absolutely disruptive to social patterns, and the destruction of the livelihoods of billions of people who live on coasts as a consequence of the rise of the sea level in tens of metres after the thawing of the polar glaciers (Ruiz De Elvira, 2016: 38). Fig. 1 below shows the evident decrease in the size of Arctic ice in each month between 1979 and 2021.

Some effects derived from climate change are already beginning, such as the extreme snowfalls that occurred in January 2021 in Spain (Portillo, 2021), and also the appearance of new viruses capable of jeopardising health security (Gascueña, 2021), and economic stability (Roldán, García Pascual, Rey, 2020: 1–16), which some authors already associate with the phenomenon of climate change.

Since the end of the 1980s, the interest of the international community in sustainability has been progressively increasing, but one of the biggest problems in achieving effective results has been the difficulty of implementing legal measures accompanied by enforcement, mainly due to existing conflicts of interest of an economic nature that have given rise to actions of soft law (Nava Escudero, 2018: 709–710). So most of the actions destined to fight climate change have remained in the sphere of the merely programmatic for years (García Sánchez, 2013: 143–182). Given state sovereignty, the will of each state is decisive to ensure that international guidelines are more forceful (Chicharro, 2013: 12–19; Mazuelos Bellido, 2004; Alarcón García, 2010: 271–298; Abbot, Snidal, 2000: 421–456). Despite all this, the trend is changing, and in recent years hard law regulations have been approved on this matter. In this, actions implemented as informal legal measures should not be underestimated, because regulatory instruments with an enforcement capacity are not the central axis of action in the fight against climate change.

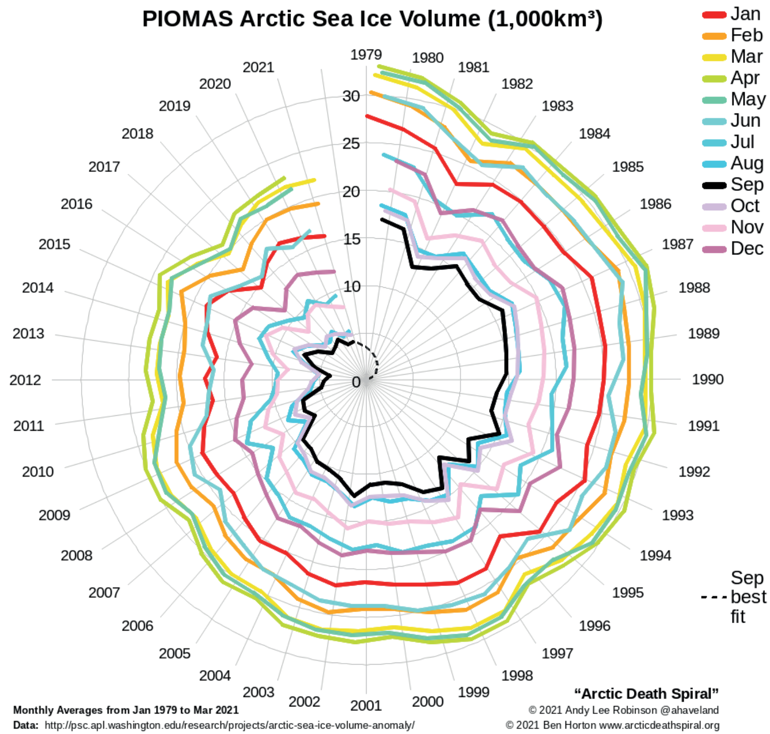

Figure 1. The process of the evolution of the decreasing size of Arctic ice in each month of the year between the years 1979 and 2021

Source: Andy Lee Robinson and Ben Horton, ArcticDeathSpiral.org (2021).

At an international level, starting in the last decades of the 20th century, there have been constant negotiations to try to reach an agreement or compromise that would allow for reducing greenhouse gas emission levels all over the world. This is the key, due to the fact that carbon dioxide accumulation in the atmosphere is considered the main cause of global warming, and the trend in recent decades in relation to its accumulation is upwards, as can be seen in the following graph (Fig. 2).

Figure 2. A representation of the CO2 concentration from the year 1760 to 2020

Source: Richard Betts, Ralph Keeling (2021), Met Office.

The first notable milestone to reduce carbon dioxide emissions was the Kyoto Protocol, signed in 1997, but which entered into force on 16 February 2005. It established specific goals for the reduction of greenhouse gases by signatory countries, with a time frame determined in order not to exceed the warming set as an objective (United Nations, 1998). However, it was not very effective. Firstly, it was a challenge because it represented an important step forward in the fight against global warming to include the legally binding commitment of developed countries to reduce their greenhouse gas emissions by at least 5.2% with respect to the 1990 level during the period 2008 to 2012. However, the non-participation of the United States greatly hampered its success, and marked it as a failed instrument (Lago Candeira, 2016: 22).

The next notable milestone was the Paris Agreement of 2015 (United Nations, 2015). Each and every one of the signatory states is obliged individually to do its best to achieve this goal. The Paris Agreement contains the commitment that at the end of the 21st century the net balance of emissions must be nil, so that it will not be possible to emit more than what nature can absorb, and for this a limit of 2ºC annual warming is the limit (Moreno, 2016: 16, 19). There is a general consensus that the Paris Agreement will be much more effective in achieving the objective it pursues. The political changes that occurred at the end of 2020 in the United States seem decisive (De Salas, 2020), and the United States have made some appointments and agreements in this context (Diarioabierto, 2021). In the same way, the involvement of the European Union in the commitments of the Paris Agreement is equally crucial, because, as happened with the Kyoto Protocol, the European Union has set itself more ambitious goals than those resulting from the international agreement, as seen in the European Green Deal and other legal instruments consistent with it which develop or complement it (European Commission, 2019).

2. Current regulations in the fight against climate change

2.1. European Union regulations

The European Union is promoting regulatory action on climate change based on the shared powers conferred on article 4.2.e) of the Treaty on the Functioning of the European Union in relation to environmental matters. In this sense, it was underlined in the Opinion of the European Committee of the Regions *The impact of climate change on the regions: evaluation of the European Green Deal* (2021/C 37/07), of 2 February 2021, that the Green Deal is a key instrument for the EU to achieve the goals of the Paris Agreement, to fully implement the United Nations 2030 Agenda and the Sustainable Development Goals, and to make an ambitious contribution from the European Union to the Global Framework for Biological Diversity after 2020. In fact, the same document states expressly that 'the Green Deal is an integral part of this Commission's strategy to apply the 2030 Agenda and the United Nations Sustainable Development Goals' (European Committee on the Regions, 2021). All this demonstrates the firm commitment assumed by the European Union to the fight against climate change, and highlights the importance of adopting renewed but achievable objectives for 2030, in order to keep the increase in global temperatures below 2ºC from pre-industrial levels. In fact, the European Union intends to further limit the rise in temperature to 1.5°C, as is required by the Paris Agreement. This is foreseen as a medium-term objective on the Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021, establishing a framework for achieving climate neutrality and amending regulations (EC) No 401/2009 and (EU) 2018/1999 (European Climate Law).

Regulation (EU) 2021/1119 is coherent with the idea of fixing long-term objectives, and is crucial to contributing to economic and societal transformation, sustainable growth, and the achievement of the United Nations' Sustainable Development Goals. It reinforces previous steps taken by the European Union, such as the ones included in the European Green Deal of 11 December 2019 that determined the road map in the following areas relating to climate change (European Commission, 2019): climate ambition; clean, affordable and secure energy; industrial strategy for a clean and circular economy; sustainable and smart mobility; greening of the Common Agricultural Policy; preservation and protection of biodiversity; zero pollution to the environment, without toxic substances; all supposing the integration of sustainability in all EU policies, to transform the EU as a world leader on this matter, establishing collaboration around the European Pact for Climate. As a result, there is a clear relationship between climate change and other areas which are targets

of the SDGs, such as SDG 6, Clean water and sanitation, SDG 9, Industry, innovation and infrastructure, SDG 11, Sustainable cities and communities, SDG 15, Life on the land, SDG 16, Peace, justice and strong institutions, and SDG 17, Alliances for achieving the objectives.

With all these measures, the European Union should be considered a global leader in the transition towards climate neutrality, and is determined to help raise global ambitions and to strengthen the global response to climate change, using all the tools at its disposal, including climate diplomacy.

It is interesting to note that the European Climate Law enshrines the objective of achieving climate neutrality in 2050, because the Union has been pursuing an ambitious decarbonisation agenda. Its relevance is immense, due to the fact that until now most of the actions were formulated as recommendations and agreements, followed and agreed on based on the goodwill of the states, and now the European Union intends to increase the effectiveness and primacy of European regulations over national law throughout the European Union.

This trend towards regulatory consolidation is being followed by all institutions of the European Union and in different areas, for example, in relation to financial regulation, Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and for amending Regulation (EU) 2019/2088, which is based on Article 3, Paragraph 3, of the Treaty of the European Union.

However, there is still a long way to go at the regulatory level, as the judgment of the Court of Justice of the European Union (Sixth Chamber) of 25 March 2021 regarding case C-565/19 P, clearly showed, on the nullity of the package of European legislative measures raised by ten families from Portugal, Germany, France, Italy, Romania, Kenya and Fiji, who operate in the agricultural or tourism sectors, and the Swedish Sami youth association (EFE, 2021). On this judgment, the Court of Justice of the European Union disallowed the appeal due to the plaintiffs' lack of a reason to sue for lacking an individual interest in them, without going into the merits of the matter; but the court suggested that the legislative package on greenhouse gas emissions could be enhanced.

This enhancement is the main aim of Regulation (EU) 2021/1119, which states that European Union institutions and member states shall also ensure coherent and mutually supportive policies, including relevant socio-economic and environmental policies and actions where appropriate. Member states must adopt and implement national adaptation strategies and plans, taking into consideration the EU's strategy and the particular vulnerability of relevant sectors, such as the agriculture, water and food systems, food security, and the promotion of nature-based solutions.

2.2. Regulation through regional law: the case of Spain

In Spain, a climatic and environmental emergency was declared on 21 January 2020, with the aim of achieving climate neutrality in the year 2050, this initiative being consistent with the commitment assumed and ratified by Spain as a party to the 2015 Paris Agreement on climate change (Linares, 2018: 21). The immediate consequence of this declaration was the 7/2021 act of 20 May on climate change and energy transition (CCETA), which considers the so-called Just Transition Strategy as a 'state-level instrument directed [...] at an economy low in greenhouse gas emissions', and in which the implementation of industrial, research and development, and innovation policies favouring such a transition, are included as a necessary content of the process.

The regional Spanish objectives determined in article 3 of the CCETA in relation to the reduction of CO_2 emissions for the year 2030 are at least 20% compared to the year 1990. Furthermore, the implementation of energy from renewable origins in relation to final energy consumption is claimed to be at least 35% of the whole. In addition, another target is achieving an electrical system in 2030 with at least 70% of generation from renewable energy sources. The CCETA also aims to improve energy efficiency by reducing primary energy consumption by at least 35% with respect to the baseline in accordance with European Union regulations. The year 2050 is also set as the horizon for Spain to achieve climate neutrality in order to comply with international commitments. By that year, an electrical system based exclusively on renewable sources should have been established in Spain.

To achieve these objectives, this Act establishes the bases for the National Integrated Energy and Climate Plans, referred to in Article 4 of the CCETA, and a Decarbonisation Strategy by 2050 pursuant to Article 5

of the CCETA. Along with this, the promotion of electricity generation through the hydraulic public domain, energy efficiency and the improvement of buildings is also foreseen. In the same way, limitations are introduced to the use of polluting energies, jointly with a prohibition on granting new exploration authorisations, hydrocarbon research permits or exploitation concessions for them, regulated under the Act 34/1998 of 7 October of the hydrocarbon sector, and the Royal Decree-Law 16/2017 of 17 November which established security provisions in the investigation and exploitation of hydrocarbons in the marine environment.

The CCETA determines the obligation of the government to promote, through the approval of specific plans, the penetration of renewable gases, including biogas, biomethane, hydrogen and other fuels in whose manufacture raw materials and energy of renewable origin are exclusively from the reuse of organic waste or from products of animal or plant origin. In the same line, the CCETA regulates measures for the promotion of mobility without emissions, so that the General State Administration, the regional Autonomous Communities and the Local Entities must adopt measures to achieve a fleet of passenger cars and electric commercial vehicles without direct CO_2 emissions by the year 2050. In relation to maritime transport, the obligation of the government to adopt measures for the gradual reduction of emissions generated by the consumption of fossil fuels from ships, boats, naval devices and physical platforms is also determined when they are moored or anchored in port, with the goal of zero direct emissions from them, in ports under state jurisdiction by the year 2050.

But are all these initiatives accompanied by instruments that guarantee enforcement, so that they really serve to fight climate change and favour genetic transition? The truth is that everything depends on whether the public actions indicated can really be required by citizens.

In other member states of the European Union, such as Italy, the Integrated National Energy and Climate Plan was approved in December 2019, resulting in its contribution to the Strategy for the Energy Union, based on the five dimensions: decarbonisation (including renewable energy), energy efficiency, energy security, a fully integrated energy market, and research, innovation and competitiveness. In the light of the European context, with a first horizon in 2030 and the roadmap to 2050, Italy is making an effort to equip itself with planning tools aimed at identifying objectives, policies and measures consistent with the European and functional framework to improve environmental sustainability, safety and accessibility of energy costs. The new National Energy Strategy (SEN) was adopted on 10 November 2017 by decree of the minister for economic development and the minister for the environment and protection of the territory and the sea, which, according to the ministers who approved it, constitutes a starting point for the preparation of the Integrated Energy and Climate Plan, PNIEC (Piano nazionale integrato per l'energia e il clima, 2019: 20). Following the objectives of the Green Deal, incentives and concessions are planned in Italy to pursue the objective of protecting the environment and promoting growth and the circular economy (Piano nazionale integrato per l'energia e il clima, 2019: 22). In Italy, the trend is the same as in Spain: to determine how to act, and what useful instruments to promote from the public sector in the fight against climate change.

In Spain, regarding the administrative competence for the management of actions in the fight against climate change, it should be noted that although the Just Transition Strategy is an issue of state competence, other administrations can also carry out similar initiatives in the fight against climate change, within the scope of their respective material powers, as declared by the judgment of the Spanish Fundamental Court 87/2019 of June 20 on its grounding 6. This judgment gives the keys to the delimitation of jurisdiction which can be generally applied, because it states that regional and local powers are able to contribute to the transition process by programming or planning administrative activity necessary to achieve this objective in the scope of their own responsibilities.

Moreover, taking into account that the roadmap to fight against climate change also comes from European law, this obliges all national administrations (state, regional and local) within the scope of their respective powers, to meet European standards when they have a direct effect. In this sense, the Spanish Fundamental Court stated that: 'There is no "specific competence" in the [Spanish] Constitution […] for the execution of Community Law (judgment of the Spanish Fundamental Court 141/2016, 21 July, in its grounding number 6). This argument is coherent, in this case, with the fact that all administrations, state, regional and local, have the power to promote the protection of the environment, and for that reason, competences on fighting against climate change affect competences according to environmental protection and with other competences in matters that are in contact with it, due to the cross-cutting nature of the issue (Jaria-Manzano, 2019: 1–23).

3. Other legal instruments in the fight against climate change

In Spain, the CCETA includes the basic lines of the National Adaptation to Climate Change Plan and the Just Transition Strategy respectively in articles 15 and 25. The National Adaptation to Climate Change Plan (NACCP) constitutes the basic planning instrument to promote coordinated and coherent action against the effects of climate change in Spain. The NACCP defines the objectives, criteria, areas of application and actions to promote resilience and adaptation to climate change, to face the impact in Spain of this phenomenon. The specific objectives of the NACCP must include the development of regionalised climate scenarios for Spanish geography; the collection, analysis and dissemination of information about vulnerability and adaptation to climate change in different socio-economic sectors, ecological systems and territories; the promotion and coordination of the participation of all agents involved in adaptation policies, including different levels of the administration, social organisations and citizenry as a whole; the definition of a system of indicators of impacts and adaptation to climate change, to facilitate the monitoring and evaluation of public policies in this regard; and the preparation of periodical monitoring and evaluation reports of the NACCP and its work programmes. The NACCP and the Just Transition Strategy must be consistent with each other, since there is no other way to ensure, in a reliable, inclusive, transparent and predictable way, the achievement of the objectives and goals for the year 2030, and further in the long term.

The effectiveness of the specific actions included in the NACCP and the Just Transition Strategy depends on having access to means of control over them. Fundamentally, within this framework, administrative control must be carried out by the same administration itself and also in a court. Thus, with regard to the possibility that citizens can enforce the law, it is an issue linked to the recognition of their right to sue, at least regarding what is provided in the law, in plans and in public programmes.

On this matter, judicial control of the accomplishment of the measures contained in the NACCP and the Just Transition Strategy is the general one applicable to the defence of the environment contained in the 27/2006 Act of 18 July, which regulates rights of access to information, public participation and access to justice on environmental matters.

The implementation of public participation formulas regarding environmental issues is one of the parameters of good administration, considered a fundamental citizen's right in Article 41 of the Charter of Fundamental Rights of the European Union. The 27/2006 Act contains the idea that for citizens to be able to enjoy the right to a healthy environment and fulfil their duty to respect and protect it, they must have access to relevant environmental information, they must be entitled to participate in environmental decision-making, and they must have access to justice when these rights are denied. The possibility of exercising actions against administrative acts that limit the right to citizen participation in this area is recognised for all citizens, in articles 3.3.a), 20 and 21 of the 27/2006 Act. It should be noted that access to justice is granted to all citizens, in the event that they are denied their right to participate in decision-making processes of an environmental nature, but not to challenge acts in which they are not interested, when they have not been denied the right to participate.

Pursuant Article 9.2 in relation to Article 4.1, the Aarhus Convention (Pons Portella, 2018: 185–186) of 25 June 1998 of the Economic Commission for Europe of the United Nations, on access to information, public participation in decision making and access to justice on environmental matters, states that each state must ensure 'within the framework of its national legislation, that members of the public: a) Have a sufficient interest to act or, otherwise, b) That they invoke an attack against a right', for being entitled to present an appeal before a judicial body or other independent and impartial body (Economic Commission for Europe Environmental Policy Committee, ONU, 2020). It can be deduced from them that citizens have the right to appeal administratively and judicially against public environmental decisions if they invoke a legal infringement in relation to public participation. Access to justice for violation of the right to public participation is included in the same terms of Regulation (EU) number 1367/2006 of 6 September 2006 regarding the application, institutions and community bodies of the provisions of the Aarhus Convention on access to information, public participation in decision making, and access to justice in environmental matters. Although the right of access is quite broad, it is not exempt from exceptions, such as those indicated in Article 4 of Di-

rective 2003/4/CE of the European Parliament and of the Council of 28 January 2003 regarding public access to environmental information, which has recently been interpreted by the Court of Justice of the European Union in the judgment (First Chamber) of 20 January 2021 in the Land Baden-Württemberg case (Communications internes). However, all this is not useful if citizens are not granted the possibility to access justice to control administrative acts that do not comply with environmental policies, because the opportunity for any citizen to effectively control actions is excluded if they do not have a direct interest. This direct interest is a must in the North American legal system too, through 'citizen actions' which 'allow anyone to sue other people (whether public or private) for certain breaches of environmental laws' (Pons Portella, 2018: 192), alleging individual damage derived from the action against which it is litigated over (Niro, 1973: 452).

The Spanish 27/2006 Act recognises the right to sue to non-profit legal entities (Jordano Fraga, 2019: 48). The requirements required to sue are consistent with the ones required in the Aarhus Convention, which are: a) that they have among the purposes accredited in their statutes the protection of the environment in general or in particular, b) that they were legally constituted at least two years before the exercise of the action, and that they have been actively carrying out the activities necessary to achieve the purposes set in their bylaws, and c) that according to their statutes they carry out their activities in a territorial area that is affected by the action or administrative omission.

As a consequence of demanding these requirements, it is considered that we are in front of a legal authorisation to litigate rather than in front of a popular action (Peñalver I Cabré, 2001: 481; Peñalver I Cabré, 2019: 131; Y Pons Portella, 2018: 191).

Perhaps the explanation for this difference in the right to sue recognised individually for citizens and the one granted to non-profit entities is a consequence of the characterisation of the right to a healthy environment as a collective or trans-individual right (Hachem, Klein, Gussoli, 2019: 7), and not strictly individual, which is the character that can be attributed to the action that is granted to all in cases of the violation of the right to citizen participation based on democratic reasons (Barnés, 2019: 112) and good administration (Sitek, 2019: 186).

In the European Union, the Commission is considering a revision of this right to sue for environmental reasons with the purpose of removing the biggest obstacles, but currently only the removal of the cost of the procedure has been considered (European Commission, 2020). So an improvement of this right to sue for environmental reasons requires some other modifications in order to eliminate undue restrictions on procedural capacity (European Commission, 2020) in favour of the effective protection of environmental rights, such as water, nature and air quality, which affect the fight against climate change, as is deduced from the jurisprudence of the Court of Justice of the European Union (Case C-240/09, in the Lesoochranárske zoskupenie case). Despite this intention, there are currently still important limits regarding this issue, as a result of the judgment of the Sixth Chamber of the CJEU of 25 March 2021 regarding case C-565/19 P. In this judgment, the court considered that, according to reiterated case law, which has not been modified by the Treaty of Lisbon, natural or legal persons meet the condition of individual interest to litigate only if the act affects them due to their own characteristics or due to circumstances in which they differ from all other people, as previously collected by the judgment of the CJEU of 3 October 2013, Inuit Tapiriit Kanatami and others against the Parliament and the Council, C-583/11 P, paragraphs 71 and 72. In this regard, it is recognised that there is a *locus standi* for any applicant who defends a fundamental right, as stated by the CJEU in the judgment of 10 May 2001, FNAB and others against the Council, C-345/00 P (EU: C: 2001: 270), in its Section 40, and the judgment of the CJEU of 14 January 2021 in the case of Sabo and others against the Parliament and the Council, C-297/20 P (EU: C: 2021: 24), in its Section 29.

Conclusions

The regulations on the struggle against climate change in Spain are in accordance with the lines drawn up by the European Union, not only in the substantive face of the matter, but also from a procedural respect. From the analysis of the formal and informal normative instruments exposed in this work, we can state that the specific actions that are adopted by the competent public administrations are more extensive and concrete when they are

carried out by informal means, such as planning or administrative programmes. It also true that, with the current regulation, albeit with limitations, it is in this informal sphere that it will be possible to demand compliance with the goals set in the action against climate change, through administrative resources or judicial control.

However, much more can still be done in this regard, expanding the right to sue to demand the adoption and compliance of informal instruments, since the possibilities for their control are weak at present.

One of the keys for amplifying the possibilities to enforce much more drastic measures in the fight against climate change is to grant citizenry a greater right to sue for environmental reasons. For that reason, the main recommendation of this paper is the need to improve formal regulations in this sense, making stronger the right of citizens to sue to claim a more compromised action by the public administration.

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EUROPOS SĄJUNGOS IR ISPANIJOS TEISĖS APŽVALGA KLIMATO KAITOS KONTEKSTE

María Lidón Lara Ortiz
Jaume I universitetas (Ispanija)

Santrauka

Klimato kaita šiuo metu laikoma didžiausiu žmonijos iššūkiu, siekiant aplinkos tvarumo. To pasekmė – kai kurios šalys jau skelbia ekstremalią situaciją, tai reiškia, kad norint pakeisti padėtį, teks imtis drastiškų priemonių. Šiame darbe analizuojamas Ispanijoje priimtų reguliavimo priemonių, kurios Europos Sąjungos veiksmų kontekste turėtų būti suprantamos kaip Žaliasis kursas, ir kitų atitinkamų dokumentų bei reglamentų pateikimas ir jų paaiškinimas.

Veiklos dėl klimato kaitos tikslas neatsiejamas nuo kitų Jungtinių Tautų 2030 m. darbotvarkės dėl aplinkosaugos tikslų. Kiti šios darbotvarkės tikslai apima socialinę, ekonominę ir valdymo sritis. Be abejo, išsi-

kelti tikslai turi būti suderinti tarpusavyje. Populiariausias *tvarumo* apibrėžimas prieš dešimtmečius pateiktas Jungtinių Tautų Pasaulinės aplinkos ir plėtros komisijos paskelbtoje ataskaitoje „Mūsų bendra ateitis“, kuri dar vadinama 1987 m. Brundtlando ataskaita. Ši komisija sukūrė *tvarios plėtros* sąvoką, kuri vartojama, kalbant apie esamų poreikių tenkinimą, sudarant galimybę ir ateities kartoms tenkinti savo poreikius (Jungtinės Tautos, 1987). Taigi dabartinį tvarumo sampratos išplėtimą apibrėžia suformuluoti uždaviniai, įtraukti į kiekvieną iš septyniolikos Darnaus vystymosi tikslų, kurie įtraukti į 2030 m. darbotvarkę, laikomą privalomu susitarimu. Atsižvelgiant į tvarumo sampratos raidą, su aplinkos tvarumu susiję veiksmai turi būti derinami su socialinio, ekonominio ir valdymo tvarumo skatinimo veiksmais, tačiau tai neturėtų trukdyti įgyvendinti kovos su klimato kaita priemonių.

Iš esmės šia analize siekiama nustatyti kovos su klimato kaita priemonių veiksmingumą, jų nesiejant su kitų tvarios plėtros tikslų įgyvendinimu. Šio tikslo siekiama taikant teisės disciplinų mokslinę metodologiją, tai yra atliekant dokumentų analizę bei taikant teismų praktiką. Analizėje daugiausia dėmesio skiriama reguliavimo priemonėms, nors atsižvelgiama ir į neformaliąją teisę, siekiant pažinti neformaliojo reguliavimo priemonių naudingumą, lyginant su formaliosiomis. Apskritai pagrindinis dokumento klausimas, ar dabartinių reglamentų pakanka, siekiant kovoti su klimato kaita?

PAGRINDINIAI ŽODŽIAI: *klimato kaita, taisyklės, tvari plėtra, vystymosi tikslai, ieškinio teikimas.*

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