

**CLIMATE MIGRATION IN THE
WESTERN BALKANS: LEGAL
FRAMEWORK AND SECURITY**

University Dialogue with the Western Balkans
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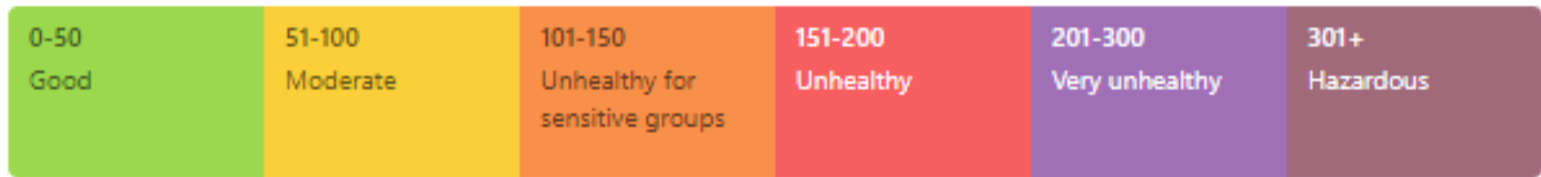
**RIGHT TO CLEAN AIR AND
ENVIRONMENTAL MIGRATION**







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Clean air as human right

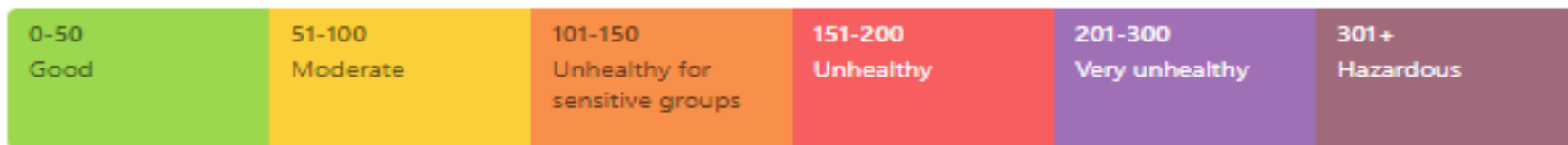
In July 2022, the United Nations General Assembly passed a historic resolution declaring that everyone on the planet has the right to a healthy environment, including clean air, water, and a stable climate. Although this resolution is not legally binding on the 193 UN member states, advocates are hopeful it will prompt countries to enshrine the right to a healthy environment in national constitutions and regional treaties, encouraging states to implement such laws.

AQI+ US legend



Rank	Major city, country/region	AQI+ US	Followers
1	 Lahore, Pakistan	256	491.4K followers
2	 Dhaka, Bangladesh	253	247K followers
3	 Delhi, India	196	2.8M followers
4	 Tehran, Iran	191	1.1M followers
5	 Karachi, Pakistan	185	90.7K followers
6	 Hanoi, Vietnam	179	2.2M followers

AQI+ US legend



17		Skopje, North Macedonia	142	25.4K followers
18		Yangon, Myanmar	139	35.3K followers
19		Chengdu, China	137	1.9M followers
20		Oslo, Norway	132	47.5K followers
21		Sarajevo, Bosnia Herzegovina	123	77.6K followers
22		Kuwait City, Kuwait	119	70.8K followers
23		Chongqing, China	119	198.2K followers

World / Germany / Brandenburg / Cottbus



Air quality in Cottbus

Air quality index (AQI*) and PM2.5 air pollution in Cottbus • 20:00, Dec 10 Local time

62

US AQI*

Moderate



Main pollutant: PM2.5

15 $\mu\text{g}/\text{m}^3$



1°



12.5 km/h



81%



2 Stations operated by
Landesamt für Umwelt Brandenburg



World / North Macedonia / Skopje

Air quality in Skopje

Air quality index (AQI*) and PM2.5 air pollution in Skopje • 20:00, Dec 10

142

US AQI*

Unhealthy for sensitive
groups



Main pollutant: PM2.5

52.2 $\mu\text{g}/\text{m}^3$



7°



9.3 km/h



87%

- PM10 and PM2.5 are among the most harmful air pollutants in Macedonia. The daily limit value of PM10 constantly exceeds 120 to 180 days per year, which is way above the accepted norm of 35 days per year.
- The annual concentrations of PM2.5 exceed the European Union (EU) limit value of 25 $\mu\text{g}/\text{m}^3$ in nearly all Macedonian cities

Skopje

PM2.5 concentration is currently 10.4 times the World Health Organization annual PM2.5 guideline value

Health recommendations



Reduce outdoor exercise



Close your windows to avoid dirty outdoor air

Get a monitor



Sensitive groups should wear a mask outdoors

Get a mask



Run an air purifier

Get an air purifier

The major sources of air pollution in Skopje

- **Household fuel use (firewood)** is consistently identified as the predominant source of PM emissions in Macedonia.
- **Industrial activities** can have a detrimental effect on air quality at the local level due to the prevalence of old industrial plants that lack modern emission reduction systems.
- **Vehicular emissions** are a significant source of pollution in many urban areas. At the national level, circa half of the nation's passenger cars and buses are old, belonging to the high-emission vehicle categories.
- **Energy:** According to the International Energy Agency, Macedonia remains reliant on fossil fuels. The majority of its total energy mix, falls under the category of fossil fuels mostly due to the usage of coal and oil.

Consequences of air pollution

The country is considered to have one of the highest degrees of pollution in Europe

Consequences of air pollution

- **Health:** The most extreme estimates suggest that in selected Macedonian cities **1,903 human lives (excess deaths) are lost annually** due to PM 2.5 exposures (22.3% of total all-cause mortality).
- The mortality rate attributable to PM 2.5 exposures (per 100,000 populations) is **highest** in the city of Tetovo (301); Bitola (234); and Skopje (208)
- **Economic:** The World Bank estimated **the economic cost associated with mortality** from exposure to air pollution in Macedonia is in the range of US\$ 500– 900 million annually, equivalent to **5.2–8.5% of GDP in 2016** (This valuation only quantifies economic impacts from premature mortality associated with specific diseases).
- **Political:** Whilst the political consequences of air pollution are multifaceted and can be difficult to identify, it is important to acknowledge the potential impact of poor air quality. For example, Macedonia's accession to the European Union is dependent on it meeting obligations, including those around air quality.

Macedonian Constitution art.43

Everyone has the right to a healthy environment to live in.

Everyone is obliged to promote and protect the environment.

The Republic provides conditions for the exercise of the right of citizens to a healthy environment.

- On 18 July 2019, B.N. and MYLA filed a lawsuit against the Government of North Macedonia, the Ministry of Environment and Physical Planning, and the municipality of Skopje at the Skopje Basic Court-SBC. The lawsuit initiated the first domestic litigation seeking the state's and its bodies' accountability for air pollution-related human rights violations.
- The plaintiff invoked the right to health, the right to a healthy environment, the right to privacy of personal and family life, and the inviolability of the home, without seeking compensation for damages linked with air pollution.
- SBC rejected the lawsuit as inadmissible

15 October 2024

- The Macedonian Supreme Court, following the practice of international courts, through the general opinion indicates that the right to clean air is an **individual right**.
- The Supreme Court points out that the violation of the right to a healthy environment, that is, the right to clean air, can be violated by authorized and official persons and by not taking actions that are part of their competence.
- The Supreme Court indicates that the right to a healthy environment **can be protected according to the Law on Administrative Disputes**.

New government plan

- Cogeneration plants will be priority – on 4 to 5 locations to build cogeneration thermal plants that will also mean heating through hot water heating and electricity production.
- Based on all analyses, 60% of these PM 10 and PM 2.5 particles come from the way of heating and burning fossil fuels.

Considering that pollution is a silent killer, the research question is: do people who migrate out of fear for their lives due to pollution have the right to be treated as refugees or as regular environmental migrant, and whether they would have the same rights?

Air pollution - environmental migration factors

- According to the statistic research around **22.5 million people** move each year within and across borders because of climate and weather-related disasters.
- According to UN reports, climate change refers to long-term shifts in temperatures and weather patterns and since the 19 century, **human activities have been the main driver of climate change**, primarily due to the burning of fossil fuels like coal, oil and gas.
- According to the Intergovernmental Panel on Climate Change - IPCC's most recent report on climate adaptation, "disasters fueled by the climate crisis are already worse than scientists originally predicted".

Types of migration

Internal migration is the movement of people within **the same country** between regions, especially from economically poor areas and rural parts to major cities. This may take place due to economic factors (e.g. one state is more prosperous than another), to follow family (chain migration), or for lifestyle factors.

External migration or international migration is simply any movement of people **from one country to another**. It can be motivated by a variety of factors, including economic opportunities, family ties, and cultural attachments.

Economic migration is the movement of people from one place to another **in order to find work** or improve their standard of living.

Climate migration is thus a subcategory of environmental migration; it defines a singular type of environmental migration, where the change in the environment is due to climate change. Climate migration refers to “the movement of a person or groups of persons who, predominantly for reasons **of sudden or progressive change in the environment due to climate change**, are obliged to leave their habitual place of residence, or choose to do so, either temporarily or permanently, within a State or across an international border”

Forced migration - when people are displaced against their will, often due to conflict or natural disaster. This type of migrant is often treated with most sympathy by host nations because their migration was not of their choosing.

International rules state that **nations must accept people who are fleeing their homeland due to conflict or persecution, but this doesn't always happen in practice.** Forced migrants may be displaced within their own countries (internally displaced persons) or across international borders (refugees and asylum seekers). According to the United Nations Refugee Agency (UNHCR), there are over **82 million forcibly displaced people worldwide.**

Trapped populations

- It is important to note that the concept of “vulnerability” needs to be put at the centre of current and future responses to environmental migration. The most vulnerable may be **those who are unable to or do not move (trapped populations)**.
- Trapped populations are those “who do not migrate, yet are situated in areas under threat, [...] at risk of becoming ‘trapped’ or having to stay behind, where they will be more vulnerable to environmental shocks and impoverishment.
- The notion of trapped populations applies in particular to poorer households who **may not have the resources to move and whose livelihoods are affected**”.
- In the context of climate change, some populations might not be able to move due lack of resources, disability or social reasons (e.g. gender issues), and other might choose not to move due cultural reasons, such as the ancestral links people have with their land.

Migrant vs refugee

At international level, no universally accepted definition for 'migrant' exists, but the UN recommendations for statistics on international migration and on population censuses **specifies at least one year as the criterion for change of country of usual residence to define this change as 'migration'**.

The term 'migrant' is usually understood to cover all cases where the **decision to migrate is taken freely by the individual concerned for reasons of 'personal convenience'** and without intervention of an external compelling factor

Refugee migrant

A refugee is defined as "a person who is outside his country of nationality because of a well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group, or political opinion."

After leaving his mother country, a refugee does not change his nationality.

The difference between climate migrants and climate refugee

Environmental Climate migrants: are often displaced within their own country or may cross borders. Importantly, **they are not legally recognized as "refugees" under international law.**

All persons moving in the context of environmental drivers are protected by **international human rights law**. They are also covered by provisions laid out in the **Guiding Principles on Internal Displacement**.

Climate Refugee: the term has no official legal status under international refugee law, such as the 1951 Refugee Convention. Convention defines a refugee as someone fleeing persecution based on race, religion, nationality, political opinion, or membership in a particular social group. Since climate change isn't considered a form of persecution, people displaced solely due to climate factors do not qualify for the protections granted to refugees under international law.

Yet reducing the issue of migration in the context of climate change to the status of “climate refugees” fails to recognize a number of key aspects that define human mobility in the context of climate change and environmental degradation.

- 1. Climate migration is mainly internal**
- 2. Migration is not necessarily forced**
- 3. Isolating environment/climatic reasons is difficult**

- 1. Climate migration is mainly internal:** when migration is internal, people moving are **under the responsibility of their own state**, they do not cross borders and are not seeking protection from a third country or at the international level.
- 2. Migration is not necessarily forced,** especially for very slow onset processes migration is still a matter of choice, even if constrained, so countries need to think first migration management and agreements rather than refugee protection.
- 3. Isolating environment/climatic reasons is difficult,** in particular from humanitarian, political, social, conflict or economic ones. It can sometimes be an impossible task and may lead to long and unrealistic legal procedures

4. Creating a new convention might be a terribly lengthy political process.

5. Climate migration discussions should not lose their focus on preventive measures.

6. IOM encourages the full use of all already existing bodies of laws and instruments. Hard and soft law in humanitarian, human rights and refugee law, instruments on internal displacement, disaster management, legal migration and others.

4. Many responses can come from migration management and policy as highlighted already in the 2011 International Dialogue on Migration and the recently adopted Global Compact for Safe, Orderly and Regular Migration.

5. The **Paris Agreement** offers anchorage for climate action that considers human mobility to avert, minimize and address displacement in the context of climate change. Under the UNFCCC it also explicitly acknowledges the rights of all persons in vulnerable situations, including migrants, calling for States to respect, promote and consider human rights when taking climate action.

Seven key steps that States must take in fulfilling the right to a healthy environment by ensuring clean air

1. Establishing networks and programmes to monitor air quality and health effects.
2. Reducing the disease burden attributable to air pollution and fulfilling the right to clean air by understanding the types of pollution and major contributing sources, and identifying the highest priority and most cost-effective actions for controlling emissions to protect public health, human rights and the environment.
3. Sharing information in a timely, accessible way, educating the public about the health risks and having systems in place to provide warnings when pollution poses an acute health threat, particularly for vulnerable populations.
4. Establishing air quality legislation, regulations and standards.

5. Developing air quality action plans that identify the most important and effective measures that can be implemented to improve air quality, particularly for vulnerable populations.
6. Ensuring the effective enforcement of their environmental standards against public and private actors, and ensuring that people have access to remedies, through judicial or similar processes, when their right to a healthy environment is being threatened or violated by air pollution.
7. Evaluating progress (or the lack thereof) on a regular basis and revising air quality standards and plans accordingly

Good practices relating to human rights and clean air

- The Dominican Republic, France and the Philippines explicitly recognize the right to breathe clean air in legislation.
- In Europe, legal developments have established that European citizens have an enforceable right to breathe clean air.
- China strengthened its Law on the Prevention and Control of Atmospheric Pollution Control and invested to improve air quality.
- In Macedonia the Supreme Court established a principled position that opens the door for citizens to sue the state for polluted air. In the future, they will be able to initiate proceedings before the Administrative Court, due to the enormously polluted air.
- Phasing-out of leaded gasoline and reductions in the sulphur content of transport fuels have improved air quality in many countries.

- Curitiba, a large Brazilian city, has built an extensive rapid bus system. In 2013, a plan to add 300 kilometres of bicycle paths was launched.
- The International Maritime Organization recently established a strict new limit for the sulphur content of fuel used in shipping.
- A growing number of States have eliminated the use of coal to generate electricity, are phasing out coal or are committed to never using coal.
- A growing number of countries have pledged to phase out the sale of internal combustion vehicles by dates ranging from 2030 to 2040.

Conclusions

- Migrants and refugee is not the same category
- Human rights vs special documents
- Refugee from Europe vs refugee from Middle East not equal treatment
- Clean air is human right, the pollution is invisible killer.
- Window of the globe – **Paris agreement.**

Its overarching goal is to hold “the increase in the global average temperature to well below 2°C above pre-industrial levels” and pursue efforts “to limit the temperature increase to 1.5°C above pre-industrial levels.”

To limit global warming to 1.5°C, greenhouse gas emissions must peak before 2025 at the latest and decline 43% by 2030.