

A critical consequence of climate change that has been inadequately addressed at the policy level so far is climate-induced migration. Apart from the potential number of climate refugees, the issue of their legal status is also the subject of a controversial debate. A recent study commissioned by the German Federal Environment Agency (UBA) attempts to identify solutions relating to legal implications in dealing with environmental refugees.

The authors recommend the establishment of an international coordination mechanism given that the rights and obligations of the countries of origin and of host and third countries are not explicitly enshrined in primary law. Such an organization should put in place binding instruments and define the resulting responsibilities. The authors also suggest establishing a fund financed through contributions from third countries or taxes on emission-intensive activities. This fund could be used for financing measures for adaptation, resettlement or disaster relief. An equalization fund for internal burden-sharing is also conceivable. The specific responsibilities of individual states should be agreed on the basis of the “polluter pays” principle or the principle of common-but-differentiated responsibility, measured, for instance, in terms of per capita greenhouse gas emissions and per capita income. An inter-state sanction mechanism could form part of an enforcement system, in case a third state does not comply with its financial obligations. The study however leaves open the contours of such a sanctions regime and how it would be enforced effectively.

Political acceptance for such an organization would also depend on whether its jurisdiction is restricted solely to cases of migration caused by climate change or whether other natural environmental changes would be accepted as well. Ultimately, the decision on setting up such an institution largely depends on developments in the international climate regime. In the absence of a comprehensive agreement that has the buy-in of all countries it is difficult to envisage a consensual and decisive approach to the issue of climate refugees. (Stefanie Schaefer)

The study (in German only):

<http://www.umweltdaten.de/publikationen/fpdf-l/4035.pdf>

A summary (in English):

http://www.umweltbundesamt.de/umweltrecht-e/publikationen/texte_54_2010_kurzfassung_e.pdf