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The Marrakesh Climate Negotiations – a Mirror of a Divided World and Silent Europe

December 07, 2016 by Dr. Radostina Primova with input from Damjan Bogunovic Oksana Aliyeva

"Have a bias toward action - let's see something happen now. You can break that big plan into small steps and take the first step right away[1]*"*

The EU's role during COP22 – from a leader to a follower

Compared to COP21 where the European Union had a decisive bridge-building role between developed and developing countries in leading a strong climate coalition, in Marrakesh Europe appeared silent, divided and lagging behind on major negotiation points such as human rights, climate finance, increasing pre-2020 ambition and the Facilitative Dialogue in 2018. After the world woke up to the shock of Trump´s victory in the U.S. presidential election during the first week of COP, most countries started to look at the EU with the hope that it could lead the way out of the deadlock and step in when the U.S. pulls back.

The threat of a potential withdrawal of the U.S. from the Paris agreement and the uncertainty about the future global climate architecture left a vacuum that Europe was not able to fill during these negotiations. In the past two years the old continent has been torn by the ever increasing internal cleavages among its Member States and the ongoing spiral of domestic crisis (the Euro crisis, the sovereign debt crisis, the refugee crisis, the Brexit and the increasing terrorist threats) that led to rising populism in different Member States and shifted climate policy away from the high-level political agenda of the Union. The EU weak domestic targets in renewable energy, energy efficiency and CO2 emission reduction, as well as the lack of a harmonized and stable regulatory framework to guide and accelerate the decarbonisation of the European economy have been in strong contrast with its aspirations to become the world leader in renewables and green innovations, as outlined in the Energy Union strategy. The blocking role of some Member States like Poland and the low level of mitigation ambition in its climate policy measures prevented it from taking a strong leadership role in Marrakesh.

The EU took a cautious approach in addressing many of the contentious issues and most of the time preferred to stay out of the battlefield. In an effort to bridge the future gap in the climate geopolitics, the EU climate diplomacy focused on strengthening its ties with China as the other major player in the power triangle. As an African COP, the climate conference has been seen by the EU also as an opportunity to deepen its partnership with North Africa, both in the general context of EU Neighborhood Policy, the Union for the Mediterranean (UfM), as well as the external dimension of the Energy Union. In addition, renewable energy cooperation has been promoted as a strong pillar in the bilateral energy relations between the EU and Mediterranean countries over the past ten years.

[1] Indira Gandhi

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Turning the Paris Agreement into action – the race against the clock

One of the major tasks of COP22 was to design the rulebook for the implementation of the Paris agreement and prepare a process for the Facilitative Dialogue in 2018. Since the carbon budget for the 1, 5 degree Celsius target is expected to be consumed in the next 5 years, 2018 is a crucial year to review the overall progress made by countries towards the long-term goal and scale up ambition in the individual NDCs. Moreover, the most important decisions on setting the right priorities in the climate and energy action plans of national governments, cities and regions, as well as aligning the public budget with the climate goals, have to be taken in the next 4 years, if we want to be on a pathway towards the 1, 5 degrees Celsius temperature target. Recent research shows that the next 4 years will determine whether or not world´s largest cities can deliver their part of the ambition set in the Paris agreement, and that without determined and fast actions of cities, the Paris commitments cannot be realistically achieved.

Despite the urgency for concrete and immediate actions to bend the curve and win the race against the clock, the negotiations in Marrakesh seemed to be moving in a parallel universe. Deliberations on the important technical issues, the Facilitative Dialogue 2018 and scaling up pre-2020 ambition were highly fragmented and progressing very slowly. Due to the lack of ambition and the risk of arriving at the lowest common denominator, many of the items were passed on to the next Presidencies like a hot potato. Enhancing pre-2020 climate ambition has been one of the dividing lines between developed and developing countries during the Marrakesh negotiations, since developing countries would share the same mitigation responsibilities after 2020, when the Paris commitments will be formally applied. The current pre-2020 action is highly insufficient, especially if one takes into account the commitments of developed countries, some of which will not be able to reach even their 2020 target.

While the Swedish delegation has been pushing forward the European boat by endorsing a speeding-up of the procedures for the Paris rulebook and enhancing mitigation ambition, some climate skeptic governments like Poland have been putting a brake on the progress achieved so far. Others preferred to be silent and not to take any bold steps forward. The EU delegation also appeared divided on setting up a formal process for the Facilitative Dialogue. While some MEPs saw the moment as crucial for elaborating the process for the Facilitative Dialogue 2018 (as the last months of the Obama administration), the EU and most national delegations were resistant in adopting a formal procedure during COP22. More progress was achieved on developing the transparency framework and the long-term mitigation commitments.

The EU handicapped by its own domestic targets

Although the EU delegation promoted its climate and energy targets for 2030 in Marrakesh as ambitious, the adoption of the ambivalent winter package proposal on 30th November showed that the EU failed to do its own homework in order to continue performing as the international climate leader it aspires to be.

The EU´s NDC is based on its 2030 climate and energy framework setting three key targets for the year 2030: at least 40% cuts in greenhouse gas emissions (from 1990 levels); at least 27%

share for renewable energy, and at least 27% improvement in energy efficiency (upgraded to 30% according to the new proposal). However, the climate targets adopted in 2014 have not been properly readjusted to implement the commitments of the Paris agreement. The only adjustment is the upgrading of the energy efficiency goal from 27% to 30%, which falls short compared to the 40% target demanded by the European Parliament. Moreover, the target of 40% emissions reduction by 2030 is based on a decarbonisation scenario of 80% by 2050, which reaches the lower end of the IPCC projected long-term goal of 80-95% by mid-century. While the European Parliament has been calling for aligning the 2030 climate framework with the higher end of the 2050 range, i.e. 95% by 2050 by committing to further emission reductions in its NDC for 2030 in the context of the 2018 global stock take and increasing mitigation action in the pre-2020 period, the Commission has been promoting the 40% emission reduction target as an ambitious contribution to the Paris Agreement.

The heavily criticized winter energy package adopted by the Commission on 30th November under the motto "Clean energy for all Europeans" continues to maintain the low level of ambition without any significant readjustments of the 2030 targets in light of the Paris agreement commitments. Not only does the proposed legislation fail to scale up ambition, but it goes a step backwards – the new package of proposals limits priority access and dispatch for renewables, introduces controversial capacity mechanisms that could be used as a backdoor for fossil fuel subsidies and contains no binding national targets for renewables – one of the backbones of the previous Renewable Energy Directive adopted in 2009. The priority access and dispatch will remain only for generating installations with an installed RES capacity of less than 250kW, or respectively of less than 125 kW as from 2026. One of the few improvements of the legislation is the introduction of emission performance standards setting a limit of 550 gr CO2/kWh for participating in a capacity mechanism. This requirement could finally restrict the building of new coal-fired power stations in Europe but would still allow subsidizing nuclear energy.

The weak energy governance with no binding national targets, the restriction of priority access and dispatch for RES, as well as the lack of an adequate gap-filler could slow down the deployment of renewable energy sources in Europe, hamper investments in green energy and create unfavourable conditions for small-scale RES projects that will not be able to receive feed-in tariffs anymore. The support for RES will be replaced by tendering procedures that could maintain the dominating position of large corporations. The EU retrograde energy move could also predict a lost decade for the energy transition in Europe, and, therefore, continuous lagging behind in renewables compared to other parts of the world. The renewable energy investments in Europe already witnessed a rapid decline of 50% in 2015 compared to 2014, in particular in France and Germany, while other countries such as China and the U.S. significantly boosted their investment levels from 2014.

Another critical part of the package are the new sustainability criteria for bioenergy that fail to incorporate the broad environmental and human rights implications of biofuel production, use and import, as well as to provide adequate protection against displacement of agricultural production. Furthermore, the scope of the safeguards for biomass does not extend beyond waste and residues to address the climate risk of other types of biomass. Setting adequate, comprehensive and human-rights based sustainability safeguards for the use of bioenergy is

essential. Recent evidence shows that EU bioenergy policy has caused harm to communities in developing countries and is not in line with the SDGs and the international commitments undertaken in Paris. Cases of food displacement and land conflicts driven by EU bioenergy policies have been already witnessed in countries of the Global South, particularly in Tanzania, Indonesia and Peru.

Although the Commission highlights the role of energy citizens, self-generation and demand-side management, the proposed set of tools and market rules are insufficient to encourage more participatory governance models in the energy sector. The participation of energy citizens and small- scale actors is crucial in the transition process to a 100% renewable energy system. A new study shows that over 264 million European Union citizens (almost half of the population) could be producing their own electricity by 2050, thus, delivering 19% of the EU's electricity demand by 2030, and 45% respectively by 2050. However, many of them face significant legal obstacles that prevent them to reap this potential. The regulatory framework should address these participatory issues and enhance demand-side management.

Since the EU has acted historically as an exporter of legislative norms and principles beyond its borders, its domestic energy package could have major implications also for its Southern and Eastern neighbours that have always looked at the EU standards as a benchmark for their own trajectories.

Shifting the trillions – a regional approach

Climate financing was the other thorny issue during the negotiations. A major achievement of COP22 was the survival of the Adaptation Fund after 2020 by integrating it into the Paris Agreement. The commitment of developed countries to endorse a long-term climate financing roadmap proved to be very weak and insufficient to cover the need of the most disadvantaged countries, in particular the adaptation needs. Developed countries pledged to double their funding in the Green Climate Fund (GCF) from USD 10 to 20 billion – resulting in 20% of the USD 100 billion envisioned to cover both mitigation and adaptation. The EU and its Member States are the biggest donors of climate finance to developing countries. EU Member States have pledged USD 4.7 billion to the GCF, which accounts to half of its resources received so far. In Marrakesh the EU remained committed to these pledges. From a European side, it was individual Member States such as Germany, Belgium and Sweden that scaled up their contribution to the Adaptation Fund. As a whole, USD 81 million were pledged in the Adaptation Fund, over USD 23 million to the Climate Technology Centre and USD 50 million to capacity-building through the Global Environment Facility (GEF).

Less than two months before COP22, the EU launched its own regional finance initiative - the External Investment Plan (EIP) to increase sustainable investments in Africa and the EU´s Neighbourhood. With an input of EUR 3.35 billion from the EU budget and the European Development Fund, the new initiative aims to leverage private investment and mobilise up to EUR 44 billion of investments. The instrument aims to support the region in the implementation of the SDG goals in key socio-economic sectors and infrastructures including energy, transport, water, ICT, environment, social infrastructure and human capital building. Noteworthy, the fund

will focus in particular on increasing the sustainability of these socio-economic areas, provide support to micro, small and medium-sized enterprises, and address in particular gender and youth aspects. In this way, it will also strengthen its partner dialogues with countries from these regions. While the overall objectives of this instrument are encouraging, it is still unclear how climate objectives and human rights will be mainstreamed in the use of this fund, and what sustainability criteria will be applied to ensure a policy coherence of EU climate and development actions. A major concern for some civil society actors is related to the blending of private and public financing, as well as the lack of clear monitoring mechanisms for the implementation of projects. Furthermore, the increased participation of private actors already raises concerns how their involvement will be monitored in the absence of accountability criteria.

Finally, the European Union is on the way of designing and adopting a new instrument for innovative financing that could be also used to provide support to climate projects and development aid. The Financial Transaction Tax (FTT) has been proposed as an additional revenue source to mitigate the risk of the financial crisis, ensure a fair contribution of the financial sector to public finance and protect the most vulnerable sectors of society. Since some Member States originally did not support this proposal, eleven EU members asked to move ahead with the enhanced cooperation procedure. The proposal has been advancing slowly due to the different position of the group of eleven Member States. After the persistence of key Eurozone countries, finance ministers managed to agree on key elements of the FTT in October, thus, sending a positive signal to the world about innovative sources of public financing.

EU Enlargement, Eastern Neighborhood and Climate Ambition

Countries of southeastern Europe sometimes referred to as the Western Balkans (Serbia, Montenegro, Bosnia and Herzegovina, The Former Yugoslav Republic of Macedonia, Albania) have not progressed much between COP21 and COP22. Albania apart, no country in the region has ratified the Paris Agreement. All of these countries are members of the Energy Community and in the process of (pre)accession negotiations with the EU. They are expected to transpose and implement the EU Third Energy Package. None of the countries, all heavily dependent on fossil fuels, often brown coal, has developed a strategy to phase out coal and most of the climate-friendly developments are still purely formal. It remains to be seen how some of the decisions will be implemented, mainly the decommissioning of some of the coal fired power plants which should take place in 2018.

Between the COP21 and COP22 new analysis published by HEAL clearly demonstrates some of the externalities (in this case health costs) of the existing energy sector in the region and they are staggering. Of all the negotiation chapters (Albania, Serbia and Montenegro are EU candidate countries, while Bosnia and Herzegovina's membership application has been accepted in September), Chapter 27 (Environment and Climate Change) is the most difficult to transpose and most costly to implement. The EU is the major driver of adopting consistent climate policies and the Commission should put pressure on the governments to adopt more ambitious NDCs in the next round. Countries of the region have also started accessing climate finances and are hoping for more.

It is interesting to follow also the position of the Eastern Partnership (EP) countries (Ukraine, Belarus, Moldova, Georgia, Armenia and Azerbaijan) and the Russian Federation before and during COP22. Among these states, only Ukraine and Belarus have ratified the Paris Agreement before the Marrakesh Conference, while other Eastern Neighborhood countries have neither speeded up the process, nor defined a clear timeline for the ratification.

The most relevant negotiation issue for this group of countries was the differentiation between developed and developing economies in transition countries. Some States raised their concerns about a potential weakening of their economies as a result of the low level of technological advancements required to decarbonise their economies in a cost-efficient and affordable way. Since there is no direct reference to the UNFCCC's annexes in the Paris Agreement and no separate definition on "countries in transition", the EP countries repeatedly separated themselves from developed countries.

They also featured a similar approach to the formulation and review of their NDCs. The baseline year for the calculation of their emissions is 1990, which overlaps with the collapse of Soviet economies when the emissions in these countries reached their peak. Based on this year, countries now declare an absolute reduction of GHGs emissions in their NDCs compared to 1990 levels and are therefore not motivated to make any further efforts in decarbonising their economies that are expected to grow in the future. During COP22 the calculation methodology, as well as their NDCs remained unchanged and no further ambitions were announced.

It is important to mention that the Eastern European countries who signed the EU Association Agreement are partly 'motivated' by the EU climate targets. Ukraine, for instance, declared a 40% decrease of GHG emissions in its NDC by 2030, arguing that the EU has set a similar target, while in fact Ukraine had almost reached a 60% decrease in 2012. At the same time, countries that are economically and energy dependant on the Russian Federation tend to have rather low climate targets.

The position of the Russian Federation during COP22 was one of the most pro-active on green washing and at the same time counter progressive on real solutions. Clean coal, safe nuclear and hydrocarbon-based future has been declared as 'a special climate way of Russia's development' by Alexander Bedritsky, the Head of the Russian delegation in Marrakech. Russia defined its mid-term energy priorities as increasing gas production, boosting energy efficiency in the coal and production industries, as well as the use of nuclear energy as a way of combating climate change. At the same time, there are some encouraging signs of a positive shift towards renewable energy development in this region. The EP countries have recognized the benefits of the renewable energy transition, especially in context of the rising prices of conventional energy sources. However, little effort has been made to set up the necessary conditions for the market uptake of renewable energy sources. Most of these countries lack a strategy for the phase out of coal and nuclear and only some of them have formulated Renewable Energy Development plans. The approval of such plans in those countries has been mostly driven by external demands, such as the requirements of the Energy Community. Thus, renewable energy targets are still quite low (Ukraine´s RES target for 2020 is only 11%, while for 2035 - 21, 5% respectively). Despite the

recognition of the importance of renewable energy sources for the low-carbon transition of these economies, concrete climate and energy actions are needed to speed up the process.

Human rights, gender equality and indigenous communities

Little progress has been achieved on the integration and operationalisation of human rights, the rights of indigenous communities, as well as the provisions on loss & damage in the overall climate framework. Most of the countries failed to address human rights in their NDCs, the development of the transparency framework and the five-year review mechanisms, which will shape the implementation of the Paris agreement at national level.

The EU was not actively promoting the operationalisation of human rights during this COP. In Paris it was rather Mexico, the Philippines and other parties that took a leadership role when it comes to the inclusion of human rights, the rights of indigenous people and gender equality into the Treaty. In its parliamentary resolution on COP22 the European Parliament (EP) highlighted in a couple of more substantive paragraphs the importance of human rights, gender equality, the rights of migrants and social rights in the context of climate change, and urged the Commission and the Member States to ensure their consideration in the negotiations on adaptation. The EP also called for the recognition of "climate refugees" in the international climate framework and drew attention to the role of climate-relevant factors as one of the additional triggers of political instability and conflicts in parts of Africa and Middle East.

One of the most relevant decisions in this field adopted in Marrakesh was the mandate given to the Paris Committee to address cross-cutting implications such as gender responsiveness, human rights and indigenous peoples' knowledge in its work on capacity building. In addition, a process was set up to establish an exchange platform for indigenous and traditional knowledge. As one can see, most of the decisions on human rights and gender issues did not go beyond soft mechanism for knowledge exchange and awareness-raising. More progress was achieved on the inclusion of gender with the extension of the Lima Work Programme on Gender and the decision to adopt a Gender Action Plan to promote gender responsive climate policies.

Loss& Damage was one of the areas that almost completely disappeared from the negotiation agenda and received also very little attention. Although loss & damage has been acknowledged in Art.8 of the Paris agreement, the provisions contain very soft measures and no liability or compensation mechanism has been adopted. The review of the Warsaw International Mechanism on Loss and Damage (WIM) should be seized as an important momentum to recognize loss and damage as a core element of climate action. Since the rights of the climate migrants were not treated as a separate item, the mechanism was meant to integrate these issues under its framework. During COP21 countries were very much focused on the Paris Agreement itself and did not put it on the agenda of Marrakesh, which was again another missed opportunity.

In the context of human rights, some civil society organizations also raised the concern that negative emission technologies, such as CCS with bio energy, might cause not only unprecedented environmental risks but also have adverse side effects on local communities related to food security, water scarcity, land degradation and eventually displacement. In a

similar way, biofuel policy has also been critically viewed as a contentious solution, which human rights implications need to be addressed. Another important cross-cutting issue that was included for the first time in the international climate negotiations was the role of health in the context of climate change. On one of the last days of COP, environmental and health ministers gathered for the first time together to discuss how they could tackle at the same time environmental and health challenges – two different problems with one solution. As a result, they adopted the Ministerial Declaration on "Health, Environment and Climate Change", in which they acknowledged the direct impact of environmental crises on human health.

100% local renewable energy - let it flow

Parallel to the official COP process, a number of alternative initiatives and platforms were showcased that galvanized the COP momentum and illustrated that the global transition is more than the lowest common denominator of national governments but a collective act of nations, cities, subnational entities, civil society, private actors, local communities and citizens working at different levels and across national borders. A week after the ghost of Trump´s shocking victory had been haunting the halls of COP22 conference venue in Marrakesh, a broad movement of leaders from civil society, governments, cities, cooperatives and businesses was building up to endorse a global transformation to a 100% renewable energy for 1,5 degrees Celsius, sending a strong signal that the transition is already happening at different levels and is unstoppable.

On the last COP day representatives from 47 of the world's poorest countries, members of the Climate Vulnerable Forum (CVF), announced their pledges to meet 100% of their domestic renewable energy production and green their economy between 2030 and 2050, demonstrating that when there is a will, there is a way. At the same time, they committed to ending energy poverty, protecting water resources and ensuring food security in their regions that are most deeply exposed by the negative consequences of climate change and natural disasters. Some of them, including Bangladesh, Ethiopia, and Haiti, pledged to revise the CO2 reduction targets in their NDCs even before 2020. The green pioneers in the developing world expressed their concerns about the limited progress made by the world´s rich countries.

The Africa Renewable Energy Initiative (AREI) has been proudly announced as an of the African-led and African-owned regional initiative, which aims to scale up the deployment and funding of renewable energy projects in Africa, boost intra-regional and international cooperation, ensure access to electricity for the marginalized population and contribute to sustainable development. The AREI initiative sets ambitious goals for the period up to 2030 – to achieve at least 10 GW of new renewable energy capacity by 2020 and generate additional 300 GW by 2030 by funding primarily small-scale and community-led renewable energy projects. At the same time, it aims to incorporate social, environmental and gender-related safeguards when applying and funding different renewable energy technologies, and encourage multi-stakeholder engagement. Compared to other initiatives, it also stands out with its inclusive governance model characterized by a highly diversified ownership empowering households, communities, cooperatives, as well as micro, small and medium-sized enterprises. The AREI initiative has a programmatic approach and aims to build upon and interact with other existing programmes such

as Sustainable Energy for All, EU-Africa Energy partnership and the African Clean Energy Corridor. It is therefore essential to align existing EU-Africa partnerships with AREI´s strategic objectives, approach and implementation plan, as well as to ensure that the same cross-cutting criteria are applied and respected across the different programmes and partnership tools.

The International Solar Alliance is a similar Indian-led initiative, which aims to strengthen cooperation among countries rich in solar energy and mobilize 1 trillion US dollars in promoting the deployment of solar energy by 2030 by supporting different solar technologies, as well as by enhancing capacity-building and R§D in this area. However, its specific objectives, implementation plan and assessment criteria are not clearly spelled out yet.

Some of the big players, including the US, Canada, Mexico and Germany committed to long-term low-carbon roadmaps 2050 to drastically limit their emissions by this date. However, less ambition was announced with regard to their 2020 and 2030 targets, which will be crucial for setting the right priorities and taking the decisions that will lead us to a 1, 5 degrees Celsius pathway.

The role of subnational climate leadership

Interesting dynamic has been unfolding also at the subnational level of governance led by mayors, regional governors and citizens´ bottom-up initiatives. In the aftermath of COP21, the scope of the Covenant of Mayors (CoM) (an initiative that has involved thousands of municipalities in Europe in adopting sustainable energy action plans and committing to CO2 emission reduction targets) has been broadening to cover the United States, Canada, Mexico, the South Mediterranean region, and Sub-Saharan Africa. At the Climate Summit for Local and Regional Leaders on 14 November in Marrakesh, the European Commission announced the launch of the regional office in North America and the intention to extend the CoM scope to South America, China, South-East Asia, India and Japan, thus, implementing the EU's International Urban Cooperation Programme and promoting city-to-city cooperation on sustainable urban development. At the recent C40 Mayors Summit in Mexico City the mayors of the megacities committed to further concrete climate actions to deliver their part of the Paris agreement. Madrid, Athens, Paris and Mexico City announced their plans to ban diesel-powered cars and trucks by 2025. Will the other big cities follow them? According to the recent C40/Arup report world's megacities must take actions to peak emissions by 2020 and then reduce carbon emissions nearly by half for every citizen in a decade, from an average of 5 tons CO2e per capita today to 3 tons CO2e per capita by 2030.

At COP22, the German government decided to join another initiative which was showcased at last year's climate conference in Paris. The Under Two Memorandum of Understanding (Under 2 MOU) is a growing alliance of 165 cities, states and countries that aim to reduce their GHG emissions by 80-95% (compared to 1990), or to limit to 2 metric tons CO2-equivalent per capita, by 2050 in order to limit global warming to below 2 degrees Celsius.

Despite the limited progress on moving forward with the Paris agreement, the Marrakesh moment would be remembered for the signal it sent to the world that a growing bottom-up

movement has been already building up in support of the global transition that could unite the world again and be a catalyst for change.