



**ENHOJUST**  
PENTRU O JUSTIȚIE ANTIRASISTĂ DE MEDIU ȘI DE LOCUIRE  
FOR AN ANTIRACIST ENVIRONMENTAL AND HOUSING JUSTICE



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### **ENHOJUST POLICY BRIEF :**

#### **FOR AN ANTI-RACIST ENVIRONMENTAL AND HOUSING JUSTICE (IN ROMANIA)**

Research made by: Enikő Vincze (coord), Vasile Gîlbea, Alexandru Luchiiian, Bogdan Mincu, George Iulian Zamfir

Visual materials: Radu Gaciu, István Szakáts

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## **INTRODUCTION. ENHOJUST CONCEPTUAL MATRIX** (Enikő Vincze)

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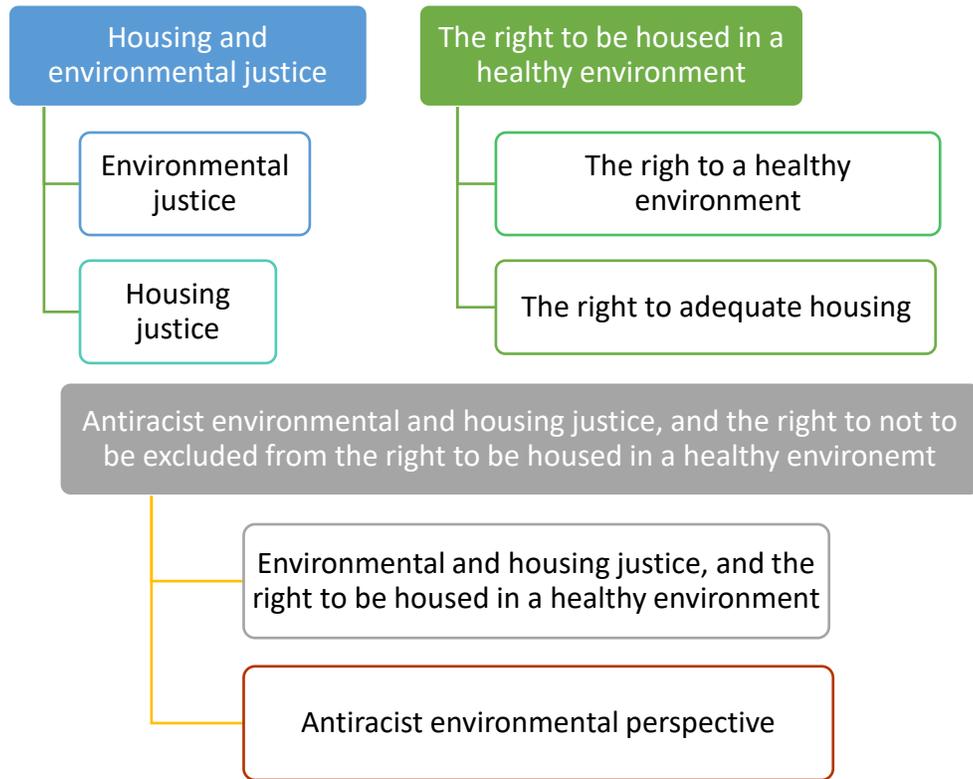
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### **1. The ENHOJUST conceptual matrix in the context of the project**

Through the research carried out in the ENHOJUST project, we aimed to capture the phenomenon of housing in a toxic environment, combining the sociological approach with the legislative, medical, and technical perspective, and measuring air pollution in areas deprived of adequate living conditions. The results of the research are discussed in Part I and II of the report.

Through the ENHOJUST media campaign we want to contribute to raising awareness about the link between polluted environment, inadequate housing, and poor health, but also to make the state responsible for its obligations to ensure, through public policies, the right to live in a healthy environment and to create socio-economic conditions in which all people can exercise this right.

In addition to the two major sets of activities above, through ENHOJUST we also aimed at developing the concept of anti-racist environmental and housing justice. The introductory chapter of our report is dedicated to this endeavor, detailing the conceptual matrix from below. The latter was designed to reflect the complexity of the interdependencies between housing, the environment and health, and the various forms of social justice.



We believe that in Romania there is a need for environmental, housing, and health policies that adopt an anti-racist perspective and eliminate the possibility that people stigmatized and inferiorized on the basis of their ethnicity, class, or social status, are forced to live in a toxic environment that endangers their health and life. For this reason, at the end of our report, we will make some recommendations for an anti-racist intersectional policy. Beyond the report, we aim to help building the anti-racist solidarity between the environmental movement and the housing justice movement that could come to the broader support of the ENHOJUST recommendations/ demands.

## 2. Environmental justice, and the right to a healthy environment

The concept of environmental justice dates back to the 1980s when civic movements in the United States claimed the right of marginalized racial groups to be protected from toxic environments. Later the movement expanded both geographically (towards the countries of the Global South) and thematically (including among victims of environmental injustice several disadvantaged groups, and bringing into discussion international environmental discrimination).

Beyond the civic movements, legislative initiatives in some states show that it is not only desirable that the issue of environmental justice is regulated from a legal point of view, but also that this is possible if there is political will for such an effort. An example for this is the Assembly Bill No. 1628/2019 of the United States, whose text is available here:

[https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201920200AB1628](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB1628).

But we must also mention in this context the Aarhus Convention, an international treaty of the United Nations (Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters). The guide developed to help implement this convention is available here:

[https://unece.org/DAM/env/pp/Publications/Aarhus\\_Implementation\\_Guide\\_interactive\\_eng.pdf](https://unece.org/DAM/env/pp/Publications/Aarhus_Implementation_Guide_interactive_eng.pdf)).

By Law no. 86 of May 10, 2000, Romania ratified the Aarhus Convention, so it has assumed that it will comply with and implement it through appropriate measures at the national level (the law is accessible here - <http://mmediu.ro/app/webroot/uploads/files/>

[1\\_Conventia\\_Aarhus.pdf](#)). Arguments in this law include the need to:

- recognize that everyone has the right to live in an environment conducive to his or her health and well-being;
- citizens must have access to information, be entitled to participate in decision-making and be able to have access to justice in environmental matters, and, where appropriate, be assisted in exercising this right.

Romanian Law 86/2000 provides, among other things, that:

- the state will not request any derogation from existing rights regarding access to information, public participation in decision-making, and access to justice in environmental matters;
- in the event of any imminent threat to human health or the environment, caused by human activities or due to natural causes, all information that would enable the public to take preventive measures or to mitigate the adverse effects of that threat, should be disseminated immediately and without delay by the public authorities to members of the public, who may be affected.

The integration of the principle of environmental justice into the international human rights system has been achieved through the idea of the right to a healthy environment. This right was recognized by the United Nations Human Rights Council in October 2021 (HRC / RES / 48/13). The act is a very important milestone for the environmental legislation of each Member State because the right to a healthy environment creates an obligation for the state to control pollution, to develop and implement legislation to protect people affected by environmental problems, and to ensure environmental justice in this way. The right to a healthy environment is connected with other rights, such as the right to water, food, or the right to health. The principle pursued by the right to a healthy environment is to address the negative impact of the

environment on human health, which is a novelty compared to the traditional approach in the field. The latter was limited to the quality of the environment itself and neglected the relationship with human health and polluted/toxic environment.

By the revision of Law no. 429/2003, the Romanian Constitution included Art. 35 - The right to a healthy environment, and several subsequent paragraphs, among which the following: (1) The state recognizes the right of every person to a healthy and ecologically balanced environment; (2) The state provides the legislative framework for the exercise of this right.

The link between the right to a healthy environment and environmental justice means guaranteeing the right to a healthy environment for all, regardless of class and social status, ethnicity, profession, or other identity and/or socio-economic characteristics. In short, this link refers to the need to achieve social justice in terms of environmental impact on health. The idea of environmental justice results from the recognition that not everyone has equal access to the right to a healthy environment due to the wider socio-economic inequalities in a capitalist society, but also due to the discriminatory institutional treatment of vulnerable groups.

### **3. Housing justice, and the right to adequate housing**

Housing justice is a broader concept than the notion of the right to housing, because, beyond the legal aspect of housing rights, it refers to all the social, economic, and political conditions that make it possible for all people to make effective use of their right to housing provided by the legislation.

Housing justice is the manifestation of social justice in the field of housing: that is, it means a state of affairs, in which all people have effective access to adequate housing, regardless of their class or social status, ethnicity, profession, or any identity and socio-economic criteria. We can therefore say that housing justice translates, on the one hand, into the right to adequate housing, and on the other hand into housing and development policies, which develop a housing stock by recognizing the social value of housing.

Concerning the right to adequate housing, it has been recognized as part of the right to an adequate standard of living in Article 25 of the 1948 Universal Declaration of Human Rights and Article 11.1 of the International Covenant on Economic, Social, and Cultural Rights of 1966. Since then, other international human rights treaties have linked the right to adequate housing to the right to protection of the home and privacy (<https://www.ohchr.org/EN/Issues/Housing/Pages/AboutHRandHousing.aspx>).

The United Nations Committee on Economic, Social, and Cultural Rights has emphasized that the right to adequate housing must not be interpreted restrictively. Rather, it should be seen as the right to live somewhere safe, in peace, and dignified. The characteristics of the right to adequate housing are clarified mainly in the general observations no. 4 (1991) of the

Committee on the Right to Adequate Housing and no. 7 (1997) on forced evictions. The freedoms included in the right to adequate housing are: protection against forced evictions and the arbitrary destruction and demolition of one's home; the right not to be subjected to arbitrary interference with people's privacy, family, home or correspondence; as well as the right to choose one's residence, the place of residence and the freedom of movement. Other component rights of the right to adequate housing include: security of ownership; restitution of housing, land, and property; equal and non-discriminatory access to adequate housing; and participation in housing-related decision-making at the national and community level.

The United Nations High Commissioner for Human Rights considers that the right to adequate housing means the simultaneous fulfillment of seven criteria, as follows:

- Legal security of possession: regardless of the type of possession, it is necessary to guarantee legal protection against eviction or other risks related to housing.
- Financial accessibility: the financial costs of housing should not be so high as to make it impossible for people to meet other needs (food, school education, health care, etc.).
- Habitability: Ensuring elements such as adequate space, protection from cold, heat, wind, rain, etc., and protection from other elements that endanger health (for example pollution).
- Accessibility of services, facilities, and infrastructure: adequate drinking water, waste collection, electricity, heating, hygiene.
- Access for all: the special needs of the poor, people with disabilities, people belonging to discriminated groups, victims of natural or political disasters should be met when it comes to the provision of adequate housing.
- Location: ensuring access to various employment options, medical services, schools, institutions for the care and education of children, ensuring housing in a healthy environment (not in polluted environments or near toxic sources).
- Cultural adequacy: ensuring the expression of cultural identity and preferred lifestyle.

Concerning reconnecting the idea of housing to its social value, it must be stated, as Leilani Farha, the UN Special Rapporteur on Adequate Housing has repeatedly said, that in recent decades, all over the world, housing has rather become an asset for investment or a speculative commodity, in which investors park their capital to increase profit (for example the Statement of the Special Rapporteur on the right to adequate housing, 79th session of UNECE, Committee on Housing and Land Management, Ministerial Meeting, 2017; Guidelines for the implementation of the right to adequate housing, 2019).

#### **4. Housing and environmental justice, and the right to live in a healthy environment**

As we have shown in the two points above, the notions with which we operate in the ENHOJUST project are already recognized in international law (environmental justice and the right to a healthy environment; housing justice and the right to adequate housing), even if the

realities of capitalist society do not allow their realization, and even if they are not fully transposed into Romanian legislation and are not ensured by public policies in Romania.

Based on these recognitions, ENHOJUST aims to develop a new concept at the intersection of the two types of justice discussed above: this is the concept of housing and environmental justice. If environmental justice means ensuring the right to a healthy environment and housing justice means ensuring the right to adequate housing, housing and environmental justice means ensuring the right to live in a healthy environment.

Relating housing to environment and health is based on recognizing that housing conditions include not only the characteristics of the home in which we live but also the environment where our homes are located. That is why the right to a healthy environment is closely linked to the right to adequate housing. Or, in other words, environmental justice and housing justice, in the senses elaborated above, are interconnected.

The right to a healthy environment directly and organically implies the right to live in a healthy environment. Conversely, living in a toxic environment violates the right to a healthy environment, but also the right to adequate housing and the right to health.

People live in homes that may or may not give them the chance to protect themselves from illness, as well as the chance to be treated appropriately when they become sick. The condition of their house, but also the environment in which their house is located, is a condition of their health. Those who live in inadequate conditions or a polluted environment, are more vulnerable to diseases and are deprived of the factors needed for the treatment of such diseases.

Life-threatening diseases are largely due to environmental factors (at work, around the home, in the vicinity of schools, etc.). Life expectancy and healthy life expectancy are also determined by the quality of water, air, and soil. But, of course, it also depends on the condition of the home in which we live and the conditions of our working places.

## **5. Anti-racist environmental and housing justice, and the right not to be excluded from the right to live in a healthy environment**

Referring to environmental injustice in a racist context, in the 1970s and 1980s environmental justice activists began to use the concept of environmental racism.

We know that in general racism denies human dignity to certain categories of people inferiorized by the majority society due to their ethnicity and/or socioeconomic status. But racism does not do only that. Racism also kills by depriving stigmatized people of the proper conditions of life. Racism can also kill by forcing people to live in toxic environments, endangering their health and life. In such cases, we are dealing with the phenomenon of environmental racism. Environmental racism makes it possible and tries to justify the forced

relocation of people near toxic platforms (such as landfills, water treatment plants), but also the construction of poisonous platforms at a short distance from the homes of those who are inferiorized, stigmatized, and disregarded both by the majority society in general, and by housing, environmental and health policy in particular.

Anti-racist environmental and housing justice imposes public policies that:

- make connections between housing, the environment, and health;
- are based on the analysis of the connections between inadequate housing, the toxic environment and poor health or even reduced life expectancy;
- have the potential to result in the improvement of the living conditions for all, including, but not limited to, healthy living;
- include additional measures to counteract the effects of environmental racism on categories of people identified through their identity (example Roma) and/or through their social condition (example the poor), which precisely because of environmental racism are excluded from the right to live in a healthy environment.

In short, anti-racist environmental and housing justice means a state of affairs, in which no one is restricted from exercising the right to live in a healthy environment, or in which no one is excluded from this right. As stated by Government Ordinance no. 137 of 31 August 2000 on the prevention and sanctioning of all forms of discrimination, approved by Law 48/2002, in Romania equality between citizens it should be guaranteed alongside the exclusion of privileges and discrimination in what regards the exercise of economic, social and cultural rights, including the right to housing, but also the right to health and the right to a healthy environment.

Translating the provisions of the anti-discrimination legislation on the right to live in a healthy environment, the Romanian state is obliged to ensure that in Romania there is no discrimination in this area either: that is, no one's right to live in a healthy environment is not restricted; or that there are no practices, criteria, provisions, behaviors that distinguish between people based on race, nationality, ethnicity, belonging to a disadvantaged category, and in this way discriminate and create inequality. Equality between citizens and the exclusion of discrimination are principles that must be applied to the right to live in a healthy environment, too.

The Romanian anti-discrimination law clearly states that special measures implemented to protect disadvantaged people are not only non-discriminatory against those who do not need them to exercise their rights but are necessary to prevent discrimination and to ensure equality between people as regards their de facto access to the rights provided by law. That is why anti-racist environmental and housing justice imposes not only universal public policies to ensure the right of everyone to live in a healthy environment. It also requires special measures for people facing unhealthy housing conditions and unequal treatment and institutional racism based on their ethnicity or social disadvantages.

## **PART I. POLLUTION / TOXICITY, HOUSING, AND HEALTH ((Bogdan Mincu, Alexandru Luchiiian, Enikő Vincze)**

### **Conclusions, with the formulation of principles for public policies which should respond to racialized inequalities produced by the triple injustice “toxic environment – inadequate housing – poor health”**

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#### **1. The conclusions of Part I of the ENHOJUST report in light of the objectives of our study**

Our investigation presented in this report is a cascade type of analysis. In Section A we discussed (1) Pollution with PM2.5 and PM10 particulate matter; (2) Particulate matter pollution and Covid-19; (3) The elements that turn polluting landfills into toxic sites; (4) Effects of landfill toxicity on human health; (5) Cases of toxic waste landfills and activist actions in Romania. From this general level of analysis, in Section B we passed to our case study from Cluj-Napoca: in section 1, we analyzed the formation and perpetuation of Pata Rât as a residential area and as an area of municipal waste dumps; then in section 2 we presented the results of measuring air pollution with PM2.5, PM10, and H2S through our sensors located in 2021 at 800 meters from the landfills; and in section 3 we discussed the health problems of the inhabitants of Pata Rât based on the results of our medical survey conducted in 2021.

Faced with such a complex and worrying problem for millions of people, such as air pollution, in this section we refer to it from the point of view of the relationship between environment, housing, and health as it is revealed to us by the information extracted from our case study from Pata Rât Cluj-Napoca. The conclusions of our entire investigation allow, however, a generalization from this singular case to other similar cases in Romania, namely in cases in which:

- We do not deal only with the violation of the right to be housed in a healthy environment and thus the right to a healthy life;
- But the following are also happening:
  - o the phenomenon of unequal distribution of the effects of pollution (depending on the distance at which people live from toxic areas);
  - o the racialization of inequalities as part of a broader injustice, a phenomenon that is produced at the intersection of the toxic environment, inadequate housing, and poor health.

The latter phenomenon occurs due to institutional racism and its specific forms such as environmental racism and racism inherent in housing policy.

To ensure good health for all, environmental-housing-health policies must urgently do justice to all those who suffer from the location of landfills or waste incinerators near the areas where they live (as shown in the examples mentioned in our report from Cheajna and Bucharest, Tg. Jiu, Băicoi or Iași) or other toxic industrial sites. The sanctioning of these pollutants, which not only poison the natural environment but also humans, must be commensurate with their negative effects, to the point of forcing them to refurbish themselves so that they cease to be toxic or even to their closure. Moreover, these sanctions need to go hand in hand with compensation for people suffering from toxicity caused by pollutants. Beyond these interventions, however, there is a need to ban the forced eviction of Roma and/ or poor people/families and their relocation, by coercion, near landfills, water treatment plants, or toxic industrial platforms, respectively there is a need to ensure housing alternatives to those who, in the absence of other alternatives, in the past have settled in the vicinity of such platforms.

Focusing, therefore, on the relationship between environment, housing, and health from the perspective of racialized inequalities, in the following we formulate the major conclusions of our case study in Pata Rât. Besides, in the boxes at the end of the two parts of the observed conclusions, we are also defining some principles that should be observed in the search for relevant solutions not only in the case of Pata Rât but in all similar situations.

## **2. Conclusions on the formation of the residential area in Pata Rât and principles for policies to address such housing situations**

The residential areas in Pata Rât Cluj-Napoca have been formed over five decades (the vast majority of them, however, in the last 20 years) under the impact of several structural causes. People who worked in the city did not have sufficient financial resources to pay for housing costs elsewhere due to the large discrepancy between their low income and housing prices in the real estate market. All this is happening in the conditions in which the Romanian state and the local government do not offer them adequate and affordable social housing in other areas of the city. Moreover, when these authorities do not offer people protection against forced evictions or homelessness, so, in the absence of adequate housing, they might seek refuge in Pata Rât.

The case of residential areas in Pata Rât shows us the broad spectrum of responsibility of the local public administration for the formation of residential areas near the landfills of toxic waste:

- in relation to the oldest colony (Dallas), whose tenants select garbage on the ramp for the benefit of all the people of Cluj, the authorities practice a policy of indifference, from time to time hidden under the pretext of a passive tolerance;
- in relation to the informal housing area set up on Cantonului Street, the responsibility of the Cluj City Hall is indirect but active, because it evicted and directed to this territory smaller or larger groups of Roma from other areas of the city, accepting the placement

of temporary homes by humanitarian organizations or offering them the alternative to build a makeshift home on their own;

- the responsibility of the local public administration towards the inhabitants of Pata Rât is the most direct and active towards those who live in the modular houses that the town hall built with dedication to the Roma near the landfills, so in a toxic industrial area.

All of the above would not have happened if the Romanian state and local authorities had complied with international treaties on ensuring the right to adequate housing for all, as well as banning and preventing evictions.

The formed residential areas would not have become more acute and permanent if the city government with an annual budget of over 400 million euros had the political will to invest in moving the residents of Pata Rât to adequate social housing in the city.

The existence of the Pata Rât housing area near the landfills has also become possible due to institutional racism against Roma and poor people, an act that not only inferiorizes, dehumanizes, and stigmatizes people, but also endangers their lives. Marginalization and territorial segregation in this case, and in similar cases, means vulnerability to life-threatening diseases and reduces people's life expectancy.

Therefore, among the principles that ENHOJUST considers important to be respected by a public policy that responds to such situations are the following:

- ensuring access to adequate housing for all in a clean environment;
- ensuring adequate social housing to all those eligible according to the housing law, while giving priority to the poorest with precarious living conditions, by building a necessary number of public social housing and using a fair allocation system;
- prevention of forced evictions through integrated housing and social measures (social assistance and benefits);
- legally banning the relocation of Roma and other poor or homeless people near toxic platforms (such as landfills, water treatment plants, and industrial sites);
- ensuring that each urban regeneration project has a housing program because such projects do not only change the built environment but also the social structure of the population in areas undergoing major urban changes, therefore there would be a need to protect the vulnerable victims of these transformations and provide them, as appropriate, with suitable housing alternatives.

### **3. Conclusions on the pollution of the Pata Rât area and principles for policies to respond to such situations**

Air pollution with Hydrogen sulfide (a toxic gas specific to landfills), measured at modular houses in Pata Rât, exceeds the limits of the national standards of the Romanian state: the threshold of 0.008 mg / m<sup>3</sup> or 0.006 ppm in the case of daily average for a long period; and the limit of 0.015 mg / m<sup>3</sup> or 0.011 ppm, in the case of the annual average. These exceedances experienced alarmingly high values in certain periods of 2021. We have no reason to assume that in other years the situation would have been different. So people living in modular homes have been living in this environment for almost 12 years, being exposed to this pollution for a long time. In addition, the H<sub>2</sub>S value measured in Pata Rât / modular houses located at 800 meters from the landfills has always been much higher than the one on Soporului Street in Gheorgheni District, which shows a higher exposure of people living in Pata Rât, or in other words, an uneven distribution of exposure to toxic substances.

Regarding the annual average of the values of the particular matters measured at the modular houses in the case of PM<sub>2.5</sub>, that was: 74ug / m<sup>3</sup>; and in the case of PM<sub>10</sub>, it was: 225 ug / m<sup>3</sup>. In addition to heating with wood, pots, or other unsuitable materials in the absence of anything else, or burning waste around households in winter, occasional ramp fires, as well as traffic specific to landfills that emit harmful gases day and night are pollutants in this case. The values measured in 2021 for modular homes are enormous and very dangerous exceedances compared to the limit values defined by both the World Health Organization and the Romanian legislation. Compared to the limits of the permitted values for 24 hours of the presence of suspended particles PM<sub>2.5</sub> and PM<sub>10</sub>, in Pata Rât they were exceeded as follows: in the case of PM<sub>2.5</sub>: 86 days, and in the case of PM<sub>10</sub>: 97 days per year. In the case of those living in modular houses since December 2010, the exposures to such high values of suspended particles PM<sub>2.5</sub> and PM<sub>10</sub> and for so many days/ year happen for almost 12 years.

In addition to our measurements, the public statements of the Cluj County Committee for Emergency Situations should have also attracted the attention of the responsible authorities. Like the one made in September 2017, when it announced that in Pata Rât there is massive pollution due to the leachate from landfills (an amount of approximately 6,000 cubic meters spread over an area of 3 hectares); as well as due to exceeding 750 times higher the permitted level of ammoniacal nitrogen and 12.8 times higher the value of chlorides, so of toxic substances very dangerous for the environment and human health (Mediafax, 09.09.2017). Or the statement of January 2020, when this Committee declared a possible state of emergency, thus supporting the request of the President of the County Council, Alin Tișe, to open the Center for Integrated Waste Management without environmental authorization. It was stated that the population in the vicinity of these "temporary" landfills is at risk of disease, with impaired lung function, cardio-respiratory events, acute respiratory infections, exacerbation of chronic diseases, poisoning with ammonia, methane, and hydrogen sulfide (Committee Decision No 1. Cluj County for Emergency Situations, 29.02.2020).

The very low number of people over 65 in the three communities surveyed in 2021 (only 15 people) makes us claim that life expectancy in these communities is much lower than the average in Romania, which in 2019 was 78 years (at its turn being lower with 6 years than the

EU average). The vulnerable population living in Pata Rat is exposed to environmental pollution for decades, while their access to health services is suboptimal. Diagnoses of chronic diseases abound, but medication for them is often abandoned, usually due to a lack of financial means. People also have frequent symptoms associated with both pollution and frequent and debilitating respiratory diseases, but in the absence of screening programs in this population, many of them remain undiagnosed. Diseases such as asthma, heart disease, or cancers of all kinds are likely to be common. Left undiagnosed, they lead to poor quality of life, reduced work capacity, and premature death.

All of the above would not have happened if the administrative authorities responsible for waste management had not violated EU provisions in this area, escaping infringement due to partial measures taken in the last moments of the deadlines (such as the relocation with a few meters in the area of the garbage dump, its partial closure, or opening of so-called temporary landfills).

The city authorities do not follow the EC recommendations on air pollution measurement in several parts of the city, including Pata Rât, and the measurements made by the landfill managers are not made public. In addition, people living in the area are not informed of the results of these measurements and, if necessary, are not supported in their efforts to move out from there.

The local public administration did not comply with the provisions of the Romanian and international legislation regarding the minimum distance between a residential area and a toxic platform. At the same time, they did not comply with the standards of the Romanian legislation regarding adequate housing, be it social or emergency housing.

Local public authorities do not consult people when they move them to a toxic area, nor when they decide to place a toxic platform near them.

When it is admitted that there is pollution in Pata Rât, this is done at exceptional times and for purposes other than those of protection of people who are directly affected by this pollution.

Since living in Pata Rât, people have not been offered the opportunity to be screened for their health, and not even the relevant authorities have been interested in informing and consulting them about the harmful effects of living in a toxic area.

For all the reasons listed above, the Pata Rât case is an example of situations where environmental standards for landfills have been violated over several decades along with housing standards, not to mention the lack of urban planning that should consult the people affected by major infrastructure developments or to protect their housing and healthcare needs.

Among the principles that ENHOJUST considers important to adhere to in a public policy that responds to such situations are the following:

- Measurements of air pollution in residential areas in the vicinity of landfills, water pollution stations, or other toxic platforms must also be carried out by public authorities, not just by the polluters, or the measurements of the latter must be monitored by a specialized commission. Besides, the results of these measurements must be communicated to the people affected, and, where appropriate, firm action must be taken both against the polluters and in favor of those affected.
- The minimum distance between a residential area and a toxic platform that ensures the health of the inhabitants must be imposed and respected, people must be informed and consulted about any development of infrastructure that affects their safety and health.
- Those who (still) live in toxic areas should be provided with periodic screening services free of charge and, where appropriate, should be provided with specialist consultations and appropriate therapies, and/or with a residential alternative in another area of the locality.
- It is imperative to develop and implement integrated measures to address both the injustice caused by the toxic environment and housing injustice, to effectively ensure the right to live a healthy life. Because in such situations we are dealing with a complex injustice that occurs at the intersection of environment, housing, and health but also non-transparent urban planning, there is a need for state authorities to develop and implement sets of multi- and inter-sectoral public policies.
- The latter must be supported by both appropriate national laws covering all areas involved and paying attention to the correlations between them, as well as funding mechanisms to ensure their implementation wherever they are needed at the local level.

## **PART II. REGULATIONS REGARDING THE RELATIONSHIP BETWEEN ENVIRONMENT, HEALTH, AND HOUSING** (Vasile Gâlbea, George Zamfir, Enikő Vincze)

### **The urgent need to improve the legislation on the right to a healthy environment and the mechanisms for monitoring cases of housing in a toxic environment by state institutions**

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1. Harmonization of the Romanian legislation with the European one in the field of environment
2. Legislative gaps in Romania regarding housing in a healthy environment
3. The need to improve institutional mechanisms for monitoring housing in a toxic environment

#### **1. Harmonization of the Romanian legislation with the European one in the field of environment**

With Romania's accession to the European Union, Romania was obliged to harmonize its national environmental legislation with the legal provisions of the European Union, an obligation that the Romanian state did not fully fulfill. Although several infringement proceedings were initiated against Romania by the European Commission, after going through all the procedural phases, the Romanian state did not take the necessary measures to remedy the problems. To avoid the opening of new infringement proceedings by the European Commission on the environment, as well as to close the ongoing proceedings, Romania must complete the following measures:

- harmonization of national and European legislation on environmental policy;
- full adoption of the new EU rules on waste management; landfills; urban wastewater treatment; quality of air.

Beyond harmonizing and transposing legislation on environmental issues, air pollution and housing in a toxic environment will continue to affect people's health and endanger their lives if the package of laws is not implemented through concrete local actions.

In Part I of our report, we have already set out the conclusions and principles of the interventions needed to ensure that:

- in the near future, the formation of residential areas in a toxic environment and/or the placement of toxic platforms near human settlements will be prevented;
- the toxic platforms in the vicinity of residential areas will be closed or suitable and affordable alternative housing will be offered to people living in a toxic environment.

In this section of the report, we have noticed that since 2005, through laws, emergency ordinances, or governmental decisions in the field of environment, the Romanian state has

introduced many important legal norms related to landfills, wastewater treatment, and other contaminated environments. We have discussed a series of provisions regarding:

- measuring environmental pollution;
- informing and consulting the population about the problems of the environment in which they live;
- monitoring the risks to people's health of the pollutants and taking immediate measures to protect health;
- elimination of pollutants that affect the health of the population;
- assessment of the toxicity and frequency and extent of human exposure to the environment contaminated with pollutants, which at certain concentrations may pose a significant risk to human health and the environment;
- protection of human settlements;
- the maintenance of a protective distance from the landfill or other contaminated sites, which must be at least 1,000 m for landfills of non-hazardous and hazardous waste;
- the location of buildings with residential functions in areas that do not seriously affect health due to pollutants (suspended particles, gases, metals, etc.);
- housing standards regarding space size, lighting, ventilation, amount of air;
- the obligation for operators of polluting units to take all necessary measures to reduce the inconvenience caused.

## **2. Legislative gaps in Romania regarding housing in a healthy environment**

The above provisions define people's rights regarding environment and are based on the recognition of the obligations of the state to define and implement measures designed to ensure effective access to these rights for all. But unfortunately, in themselves, they do not motivate the authorities to act in the desired direction. The lack of explicit provisions on sanctions that can be applied in cases where the state and its authorities at the central and local levels violate these obligations allows the latter to neglect their obligations in this area.

As we have seen, there are even some explicit provisions in the environmental legislation regarding the relationship between the environment and housing. They are ultimately rooted in the International Declaration of Human Rights and the Environment adopted in Geneva in 1994. The latter notes that, among others, these rights include the right to adequate housing in a healthy environment, free of activities that might harm people's wellbeing and health.

Some rules on environmental protection have been taken up in the Romanian health legislations, but not in a way that generates effective measures to protect the health of the population if they live in polluted areas with high concentrations of toxic elements and long exposures to them, which might lead to illness and even death. The Order of the Minister of Health no. 536 of 23 June 2007, in article 11, took over the norm according to which the minimum distance of sanitary protection, recommended between the residential areas and a

series of units that produce discomfort and sanitary risks, to be of minimum 1000 meters. But this is far from generating effective measures to protect against the effects of living in a toxic environment.

We do not find provisions in the Romanian housing legislation that recognizes the right to live in a healthy environment and/or define the obligations of the state as well as of the local administration authorities in relation to this right. Unfortunately, international law on adequate housing, established by the United Nations Committee on Economic, Social and Cultural Rights through General Comment no. 4, is not transposed and respected by the Romanian state. Thus, in Romania, the seven criteria of adequate housing are not ensured, among them, the provisions regarding living in a clean and healthy environment are also neglected, alongside the provision of a housing infrastructure (water, sewerage, sanitation) necessary for a healthy life. There is an urgent need for legislative changes in the field of housing to eliminate these shortcomings in general, and in particular to regulate the right to an adequate home in a healthy environment.

Furthermore, in Romania, the social legislation that defines the right to housing for categories of vulnerable people (socially marginalized persons, people with disabilities, children) does not make explicit the need to be protected against the harmful effects of living in a toxic environment. To support the need for regulations that ensure adequate housing in a healthy environment, it would be necessary to transpose the relevant rules in this regard from environmental legislation to social legislation. This should be so, especially because the vulnerable, disadvantaged, and marginalized people are exposed to the risks of living in inadequate housing and even living in a toxic environment, not being protected by Romanian legislation against forced evictions, and having no effective guarantees to be able to make use of their housing rights assured by law.

In its turn, the anti-discrimination legislation should also take into account the legal provisions in the field of environmental protection, some of which we have highlighted in this chapter of the ENHOJUST report. Government Ordinance no. 137 of 31 August 2000 on the prevention and sanctioning of all forms of discrimination, approved by Law 48/2002 with subsequent amendments states the need to guarantee equality between citizens, and to exclude privileges and discrimination in the exercise of economic, social and cultural rights, among them the right to housing. To adequately regulate the right to a healthy environment, among others concerning housing, the anti-discrimination law also needs to have explicit provisions in this regard. That is, to prohibit and sanction institutional discrimination that distinguishes between people based on race, nationality, ethnicity, language, religion, social status, beliefs, sex, sexual orientation, age, disability, chronic non-communicable disease, HIV infection, membership in a disadvantaged group, and it pushes people discriminated against on these bases into situations of living in a toxic environment.

In the introduction of our ENHOJUST report we have already noted, and in the last chapter of the report that formulates demands we will return to this idea, that anti-racist environmental

and housing justice imposes not only universal public policies to ensure the right to housing for all in a healthy environment. It also requires special measures for people facing the risk of living in an unhealthy environment due to unequal treatment and institutional racism (which is also manifested in environmental racism) based on their ethnicity or disadvantaged status. Discrimination against poor Roma in terms of access to adequate housing in a healthy environment is "not only" a manifestation of multiple institutional discrimination, but it is also systemic discrimination. Because they are the ones who do not have the financial resources and do not own properties to afford to live anywhere other than the cheapest areas in the localities or to move from the places where they live if corporations or state companies place polluting units near them. Furthermore, they are the ones who have very little or no access to justice, as well as no chance for participating in local/national housing and environmental decision-making. Only when it will be recognized in Romania that injustices are racialized, will it be possible that environmental law could have an impact on the eradication of racism. Only then it could happen in Romania what happened in the USA after the 1980s, when black activists, and especially Benjamin Chavis, who initiated the term environmental racism, began to have an impact on environmental law, as Richard J. Lazarus points out in his 2000 article "Environmental Racism! That's What It Is."

Therefore, we consider that another law, too would also require the introduction of special provisions regarding the right to housing in a healthy environment for all, but also rules to prevent and combat environmental racism that exposes racialized social categories to living in a toxic environment. This is Law no. 2 of January 4, 2021, on some measures to prevent and combat anti-Gypsyism. Because anti-Gypsyism consists not only in "verbal or physical manifestations, motivated by hatred against Roma, directed against Roma or their property", but also in policies that directly or indirectly lead to the ghettoization of Roma in toxic areas or tolerate such situations without intervening against them. As we will show in the last chapter of our report that formulates demands on these matters, the prevention and combating of environmental racism must be objectified, among other things, in several concrete measures at the local level: from the prohibition and prevention of forced evictions, by actually providing social housing in a healthy environment, to the immediate relocation of persons/groups/communities living in toxic environments into suitable housing in a healthy environment.

### **3. The need to improve institutional mechanisms for monitoring housing in a toxic environment**

Following our requests for information from public institutions with responsibilities in environmental matters and the answers received, we can draw the attention of the Romanian government and all institutions involved in environmental issues, about the institutional gaps in terms of recognizing and keeping evidence of cases of living in a toxic environment. This is an important step to identify solutions for them and prevent the occurrence of other new cases.

Until there is no political will at the central level to coordinate efforts in this regard, unfortunately, these issues will continue to be reproduced.

The institutions will continue to avoid their responsibilities, and instead of responding unequivocally, they can send requests for information and solutions across the institutional network both horizontally and vertically. Until it is not clear who is responsible for violating the right to live in a healthy environment, or the existing legislation on human settlements in relation to toxic sites (such as landfills, water treatment plants, and the like), or for the failure to comply with the provisions we have set out in this part of the ENHOJUST report, nobody will be made accountable or sanctioned or stopped in cases of housing in a toxic environment.

In the context of the unequal spatial development model combined with the transformation of housing not only into a good traded on the market but also into an asset of financial speculation, housing becomes even more inaccessible to those on low incomes. And the land that was once the target of abandonment is becoming a point of interest for real estate investments. In this context, ecological/environmental racism is manifested in several forms, and the Roma are either directly pushed to live in toxic areas, or they only have this alternative at hand, these being the areas that the local authorities consider appropriate for their living.

If the Romanian legislation and the mechanisms of the networks of public institutions with attributions in environmental protection will not try to rebalance the inequalities produced by the market economy, the development for profit will continue to generate negative effects both on the environment and on human health. Therefore, through the ENHOJUST project, we argue that Romania also needs policies that address unequal exposure to environmental pollution and inadequate housing, and in particular the maximum vulnerabilities of impoverished Roma communities whose health and life are endangered by living in a toxic environment.

## AFTERWORD.

### CLAIMING PUBLIC POLICY FOR AN ANTI-RACIST ENVIRONMENTAL AND HOUSING JUSTICE

(Enikő Vincze)

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#### 1. Integrating ENHOJUST claims into the recent European trend of awareness about the link between environmental justice and social justice

*Although the implications of the polluted environment for human rights are felt by individuals and communities around the world, the consequences are felt most acutely by those segments of the population who are already vulnerable, including indigenous peoples, the elderly, people with disabilities, women.* (United Nations Human Rights Council Resolution October 2021 (HRC / RES / 48/13).

*Inequalities in exposure to the polluting environment that endanger health are only partially addressed by current European policies and practices. These will continue to exist in the future, which is why it must be recognized at various governmental levels that there is a need for the better alignment of social and environmental policies as well as improved local actions that can help improve environmental justice.* (European Environment Agency: Unequal exposure and unequal impacts: social vulnerability to air pollution, noise and extreme temperatures in Europe, 2019).

Faced with such a complex and worrying issue for millions of people, such as air pollution, based on the analyzes presented in Part I and II of the ENHOJUST report, in this final chapter, we will make **demands for an anti-racist environmental and housing justice in the context of Romania.**

This is in line with the recent findings of the European Environment Agency (EEA) on the interconnection of environmental and social inequalities, contributing to the current debates on social and environmental justice in Europe (EEA: Unequal exposure and unequal impacts: social vulnerability to air pollution, noise and extreme temperatures in Europe, 2019, <https://www.eea.europa.eu/publications/unequal-exposure-and-unequal-impacts/environmental-justice-environmental-hazards-and/view>). The 2019 EEA report notes that local policy responses, somewhat reflecting the mainstream/traditional policies of the European Union, at best reflect on air and noise pollution from the point of view of the whole population, neglecting to address this issue from the point of view of disadvantaged groups or that of social inequalities, which are also manifested in the inequality in terms of the effects of pollution on people. The EEA concludes: **there is a need for environmental, social, and economic policies that address unequal exposure to the dangers of pollution, as well as the unequal vulnerabilities of different groups**. And then it calls for research to show who these vulnerable groups are, to know what categories of people need to be addressed through what policies and actions. **Our research conducted in Romania in 2021 also responds to this need both empirically and conceptually.**

In line with the EEA's problematics, in 2020 the European Environmental Bureau (EEB) published the report "Pushed to the wastelands: Environmental racism against Roma communities in Central and Eastern Europe" (<https://eeb.org/library/pushed-to-the-wastelands-environmental-racism-against-roma-communities-in-central-and-eastern-europe/>). This report identified 32 cases in Central and Eastern Europe, involving 150,000 people from Roma communities in Europe, and found that there are three major ways in which Roma are affected by environmental injustice: (1) they do not have access to services or have very limited access to clean water, waste collection services, while the surrounding areas benefit from them; (2) Roma communities are often constrained, in the absence of other alternatives, to live and/ or work in degraded and polluted environments, in contaminated industrial areas, or areas exposed to environmental hazards such as floods; (3) Roma communities are victims of forced evictions from economically valuable locations that could provide them with access to natural resources such as uncontaminated land, water, and other utilities. **The ENHOJUST research was conducted through legislative analysis, through a questionnaire applied to environmental agencies and county institutions of public administration in Romania, as well as through the case study on Pata Rât from Cluj-Napoca made via multiple methods. The data resulting from this research are the base for our claims regarding pollution, health, and housing, which are connected with the above phenomena identified by the EEB, to address them to decision-makers in Romania.**

We call our recommendations claims, not simply recommendations because the situations we are referring to are very urgent to address because they endanger people's health and lives. Namely, we refer here to **circumstances in which social categories vulnerable due to their precarious socio-economic situation and to the stigmatization/racialization of their ethnicity or social status, end up living in a toxic environment that shortens their life lived in health or their life generally speaking**. In these cases:

- The universal human rights, such as the right to health, the right to a clean environment, the right to adequate housing, the right to a healthy life are violated;

- Life expectancy in general, and life expectancy in health, in particular, is reduced;
- The effects of the unequal distribution of the impact of pollution are felt (depending on the distance people live from the toxic areas and the severity of the toxicity);
- There are specific forms of social injustice or injustice due to the intersection of the effects of the toxic environment, inadequate housing, and poor health;
- These injustices and inequalities are racialized insofar as they affect individuals and communities who, based on their ethnicity and/or socio-economic status, are considered to be an inferior “race” and end up being associated with toxic spaces which in turn are also stigmatized.

Our claims complement several existing international recommendations in the field of the right to a healthy environment and international environmental inequalities, drawing attention in Romania to the following:

- The need to adopt the neglected rights into the Romanian legislation, and to ensure conditions in which all people, regardless of their social status or ethnicity, can have access to them, such as:
  - o The right to a healthy environment;
  - o The right to adequate housing.
- The links between toxic environment, inadequate housing, and poor health, recognizing that the health status of the population depends directly on the conditions of the home in which they live and the environment where their homes are located.
- The environmental inequalities created locally are related to the inequalities between people depending on where they can afford to live and/or where they are forced to live not only because of their financial conditions but also due to the lack of proper housing and environmental policies of the state/authorities of public administration.

## **2. The principles of ENHOJUST claims arising from the recognition of the dangers of living (being housed) in a toxic environment**

The principles listed below can be used at a later stage in defining the concrete legislative changes that are needed to ensure anti-racist environmental and housing justice.

- It is imperative to elaborate and implement **urgent integrated measures to address both the injustice caused by the toxic environment and by housing injustice** to effectively ensure the right to live a healthy life.
- To ensure health for all, **environmental-housing-health policies must urgently do justice to all those who suffer from the proximity of toxic environment**: such as victims of placing landfills or incinerators or toxic industrial sites nearby their residence; as well as the victims who suffer from their move in the vicinity of sources of toxicity.
- Because in such situations we are dealing with a complex injustice that occurs at the intersection of environment, housing, and health, but also urban planning, state authorities must develop sets of **multi- and inter-sectoral public policies**.
- The latter must be supported by appropriate **national legislation** covering all areas involved and paying attention to the correlations between them, as well as **funding**

**mechanisms** to ensure their implementation through **concrete multi-annual plans wherever they are needed locally**.

- Because the victims of living in a toxic environment are often and mainly from social categories that are considered, based on their ethnicity and/ or social status, less important than or inferior to other categories, such as impoverished Roma, **to ensure environmental and housing justice for all, there is also a need to combat institutional racism and its specific forms such as environmental racism and racism inherent in housing policies**.
- **The institutional gaps** in Romania, created in the space between prefectures, county councils, local councils, environmental protection agencies, environmental guards, public health departments result in the fact that **apparently, no institution is responsible for cases of living in a toxic environment**. For this reason, a review of the role of these institutions is also needed: **their responsibilities and modalities of their cooperation need to be established**, so that it becomes clear who is responsible or how several institutions are jointly responsible for the effects of the toxic environment on human health and life, and in specific cases of living in such an environment.

### **3. Obligations of the local public authorities regarding the right to a healthy environment, and in particular regarding the protection of the most vulnerable exposed to toxicity due to the environment in which they live (are housed)**

- **Careful monitoring of air quality** in several areas of the locality, as a starting point in the efforts to ensure a healthy environment for all the inhabitants.
- **Obligation to conduct permanent measurements of air pollution in residential areas in the vicinity of landfills, water pollution stations, or other toxic platforms**, paying attention to several elements, such as: hydrogen sulfide, methane gas, carbon dioxide, mercury, arsenic, cadmium, PVC, solvents, acids, lead, benzene or vinyl chloride, but also particulate matter PM2.5 and PM10. These measurements must also be carried out by public authorities, not just by the polluters, or the measurements of the latter must be supervised by an independent specialized commission.
- Having accurate **knowledge of pollution sources** in various areas, with great attention to toxic platforms.
- Take actions **to improve air quality** in the whole locality, paying close attention to toxic areas:
  - **Make accountable the polluting companies** in localities (penalties, refurbishment obligations, suspension of activity), to prevent, reduce and eliminate pollution that affects human health, and primarily those affected exponentially due to their living near toxic platforms.
  - **Inform people about the degree of air pollution**, and in cases that pose great dangers to their health, **take urgent measures in their favor**.
- Provide technical **assistance to people** most affected by pollution to support their **participation in housing and environmental decision-making processes**:

- **Consulting**, and not just informing people about decisions on the use of land and the environment in their vicinity for various development projects, with particular attention to cases where infrastructure development or the location of an economic unit with polluting activities has a potential to harm the health of nearby residents.
  - Implement clear and accessible **procedures, by which people can present their concerns to the authorities and recommend solutions** so that an infrastructure development project in their vicinity should protect them from possible negative effects and serve their interests.
- **Free screening tests** for the population affected by the toxic environment, to diagnose diseases in stages in which they can be cured.
  - Supporting people living in toxic areas to have **access to medical tests and therapies** needed to treat aggravated diseases due to living in a toxic environment.
  - Support victims of being housed in a toxic environment in their efforts to gain **access to justice**, and **to obtain compensation** from the institutions and companies responsible for the damage caused to their health and life.
  - Adding to the **development strategies and plans of the localities one chapter on environmental justice**, which should include the above provisions and the concrete ways in which they could be implemented by local authorities.

#### **4. Obligations of the local public authorities regarding the right to adequate housing, and in particular regarding the protection of the most vulnerable exposed to toxicity due to the environment in which they live (are housed)**

- Ensuring access to adequate housing for all in a clean environment through **a housing and environmental policy that prioritizes the interests of residents**, and not of the companies that profit from the construction of homes and from polluting economic activities. For this purpose, the following are required:
  - **Ensuring de facto access to adequate social housing in a healthy environment**, which provides affordable homes according to people's income, and where they can protect their health. All social categories eligible under the housing law should be taken into account in this matter, giving priority to the poorest with poor living conditions and/or being housed in toxic environments.
  - **Prevention of forced evictions** through integrated housing and social measures (social assistance and benefits).
  - **Prohibition of relocation of Roma and other poor or homeless people from other areas of the locality to a distance of fewer than 1000 meters from toxic platforms** (such as landfills, water treatment plants, or former/new hazardous industrial sites), and/or in areas with poorly developed or neglected infrastructure.
  - **Ensuring that each urban regeneration project has a housing program** because such projects do not only change the built environment but also the social structure of the population in areas undergoing major urban changes, therefore

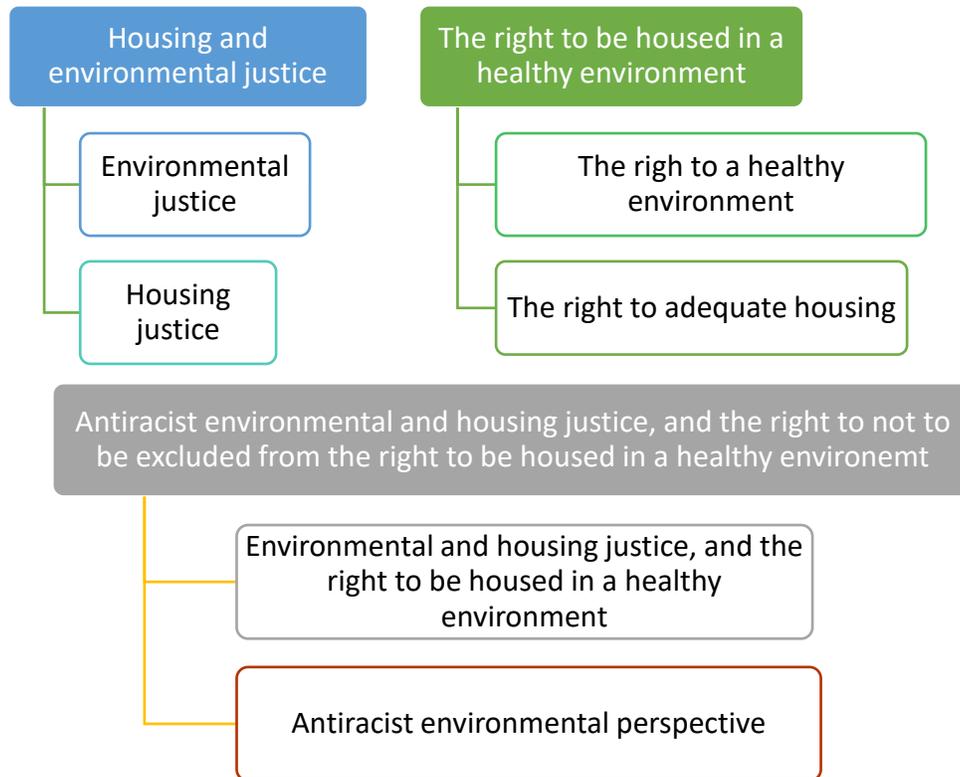
there would be a need to protect the vulnerable victims of these transformations and provide them, as appropriate, with suitable housing alternatives.

- **Strict regulation of the use of hazardous land for residential purposes**, due to previous pollution or the current existence of toxic platforms.
- **Prohibiting the placement of platforms that pollute and whose activity emits toxic elements, less than 1000 meters from a formally or informally inhabited area.**
- **Immediate relocation of persons/groups/communities living in toxic environments** to suitable dwellings in a healthy environment.

##### **5. Concluding remarks: The obligation to ensure conditions for all people to achieve anti-racist environmental and housing justice, or the right to live in a healthy environment**

In this report, we have presented the results of the research carried out by the ENHOJUST project to draw attention to and sound the alarm about **the dangers of living (being housed) in a toxic environment from the point of view of human health**, but also about the need to **combat institutional racism, including environmental racism**.

Then we made demands for both **environmental justice and housing justice**, arguing that in the case of living in a toxic environment it is necessary to connect the two sets of claims. In short, the claim based on our analysis is that of **an anti-racist environmental and housing justice as a form of social justice that combats environmental racism and injustice in all three components of the housing-environment-health nexus**. In the Introduction of the Report, we clarified all these concepts, respectively we elaborated the conceptual matrix that guided us in formulating the problem and the claims in the light of the analysis. We also reproduce it here:



The ENHOJUST report did not assume to formulate proposals for concrete legislative changes which, according to the legislative techniques in force, would have transposed the principles and needs defined into the articles of laws. This step must follow the stage in which the Romanian State (central and local governors, parliamentarians, specialized agencies, etc.) assumes its obligations regarding the protection of people from living (being housed) in a toxic environment. This means **the obligation to implement measures that create conditions in which everyone, regardless of social status, economic situation, ethnicity, will be assured:**

- **the right to a healthy environment,**
- **the right to adequate housing, and**
- **the right not to be excluded from these rights or not to be limited in exercising them.**

After acknowledging that it is aware of this complex problem and assuming its obligations regarding the above-mentioned rights, the Romanian state should elaborate the instruments through which these rights can be translated into reality, such as laws, policies, institutional procedures, financial programs, sanctioning systems in case of non-compliance with the obligations to ensure them.