

Item 5 Tools to promote access to justice: experience in multi-stakeholder dialogue.

Statement by Emma Pagliarusco, Youth and Environment Europe at the 15th Meeting of the Task Force on Access to Justice under the Aarhus Convention

I will speak on behalf of Youth and Environment Europe, the largest network of environmental youth organizations in Europe to present intergenerational dialogue as an effective tool to remove barriers to and promote access to justice.

And I am doing so

- Being extremely concerned about the climate and environmental crisis, that will disproportionately affect children and young people;
- and considering the positive contributions given by youth movements and organizations to enhancing the ambition of climate policies worldwide.

The latest IPCC report published the 19th of March has clearly shown, once again, that the impacts of climate change will be mostly suffered by the children and young people of today, other than the future generations. If so far environmental legislation has ignored the long term impacts of the climate crisis and did not succeed to ensure that intergenerational equity is respected, there is absolutely no time to continue with this trend.

The principle of intergenerational equity relies on the assumption that *“every generation holds the earth in common with members of the present generations, past and future”*. It articulates a concept of fairness among generations in the use and conservation of the environment and its natural resources (Oxford Public International Law). So, approaching climate change from the perspective of intergenerational equity involves decision-makers considering the impacts of different greenhouse gas emissions trajectories on future generations: the longer we wait to curb emissions, the more drastic the adverse impacts of climate change will be on present and future generations, and the more drastic the measures future generations will have to take to adapt to and mitigate climate change.

The IPCC reports with high confidence that *“the choices and actions implemented in this*

decade will have impacts now and for thousands of years".

Intergenerational equity can be considered to have both a procedural and a substantive dimension: procedurally speaking, effective youth participation can fulfill the principle of intergenerational equity, by ensuring that young people have access to information and to justice and can participate in decision-making processes. Likewise, effective access to justice from young people ensures strong enforcement mechanisms within environmental laws. In a scenario where climate targets are not met and where environmental laws must be drastically ambitious, youth civil society and NGOs should be able to hold EU institutions and Member States accountable if and when they fail to protect the environment and people's health.

Unfortunately, we are here to present the challenges young people face when exercising the rights protected by the Aarhus Convention and the lack of communication and multi-stakeholder - intergenerational- dialogue in environmental decision making fora. Starting from the exclusion of young people from environmental decision-making processes to the criminalisation of climate movements, young people systemically face many hurdles when exercising their rights protected by the Aarhus Convention.

To start with, as a consequence of general climate inaction since 2019 the environmental youth movement has challenged the status quo by demonstrating in the streets asking for climate justice, environmental protection and for phasing out fossil fuels.

Since then, Fridays for Future, Last Generation, Just Stop Oil, Extinction Rebellion and many other youth organizations continue to campaign, raise awareness and peacefully strike pro-climate all around the world.

However, they have been more than often referred to as "extreme" and "radical", up to being criminalized and targeted, as it was already reported by more than 400 leading experts – including 14 authors from the IPCC more than one year ago.

Silencing the voices of young people and ignoring the interests of those people who will have to deal with climate inaction of the present is anti-democratic and a disrespect of Aarhus rights of present and future generations.

I remind you that climate protests are one of the last resources youth activists can opt for: they are risky and result from public apathy and disinterest towards the always more threatening climate change and its effects on the most vulnerable. They are a consequence of the fact that these voices are not democratically heard in decision

making processes, of stagnation in terms of climate policy developments and therefore of a breach of procedural and substantive rights of many human beings.

Targeting youth activists can happen through suppressing demonstrations, enacting new laws to limit strikes (e.g. UK), and intimidating through SLAPP strategies; but also through building barriers to youth public participation, access to information and access to justice. Democratic representation is hindered by not having regular youth representatives and by not funding youth councils and youth organizations to actually exercise their rights. Taking into consideration these, we cannot speak of a successful implementation of the Aarhus Convention.

The last resource we can opt for is accessing justice, therefore climate and environmental litigation. Youth-led and youth-focused climate litigation have recently increased: such a trend is a way for young people to make their voices heard in the political processes they often are excluded from. With the help of pro bono legal advice from NGOs and lawyers, young people have begun to reach out to national and regional courts (e.g. the ECtHR): the *Neubauer et al. v. Germany*; *Duarte Agostinho and others v. Portugal and 32 Other States*; *Sacchi et al. v. Argentina et al.* are among the most famous ones. In these cases, youth has shed light on States' failure to prevent climate change by reducing emissions; cooperate internationally; respect the principle of intergenerational equity and human rights. However, the right of recourse to a court of law is far from being considered mainstream amongst youth: children and youth still depend on positive support, such as capacity building, information sharing and legal support. These conditions are hardly met, therefore the right of access to justice is hardly fulfilled.

In this regard, the Aarhus Convention is a key instrument for environmental democracy, as it gives the public (individuals and their associations) rights with regard to environmental matters. Its art.1 recognizes the role of guaranteeing its procedural rights for the purpose of contributing to the protection of the rights of every person of present and future generations.

It is therefore crucial to ensure that intergenerational dialogue enters the doors of the Aarhus Convention and fills the existing intergenerational gap. As no right of intergenerational equity exists, procedural rights protected by the Convention have the potential to cover the gap.

Multi-stakeholder dialogue should be strengthened in order for youth to have easier

access to decision making processes. Likewise, citizens and NGOs should be able to hold EU institutions and Member States accountable if and when they fail to protect the environment and health protection.

There are some successful results of multi-stakeholder dialogue globally: I report here the essential role played by Pacific youth movements led by the Pacific Islands Students Fighting Climate Change behind the government of Vanuatu successfully leading a coalition of 132 countries for the adoption of a UN GA resolution calling for the Advisory Opinion of International Court of Justice on the link between human rights and the climate crisis, and related state obligations. This is an example of how a youth-led campaign, supported by intergenerational dialogue, led to a UNGA Resolution, co-sponsored by 105 UN member states.

Apart from this example, many are the benefits that intergenerational dialogue can bring to the decision making table: alignment of the laws with scientific evidence (young people have no interest in ignoring scientific evidence on climate change, and therefore they advocate for ambitious laws), expertise in the fields of climate justice, environmental protection and intersectionality; and a better alignment between the Aarhus Convention and national laws. We have no interest in ignoring scientific evidence on climate change, and therefore a strong one in making the Convention alive, dynamic and strongly implemented among its State parties.

In light of this, Youth and Environment Europe would like to suggest the Aarhus Convention Secretariat to undertake the following actions, with the objective of supporting intergenerational dialogue and enhance the exercise of access to justice within the Convention framework:

1. Ensure the permanent presence of a youth envoy to the Aarhus Convention Processes.
2. Ensure that pro bono legal services are available among its Parties, with special attention to marginalized and vulnerable groups, as well as children and youth willing to undertake legal action against other more powerful stakeholders. This could be done by establishing a network of pro bono lawyers under the Aarhus Secretariat to specifically guide youth and marginalized groups to access justice. Ensuring effective and equitable access to justice for young people and NGOs (e.g addressing obstacles to standing faced by NGOs, as well as the cost of litigation generally) facilitates the integration of youth perspectives into the climate dialogue

and policy development by ensuring that litigation is a tool that is available to them (even if as a last resort).

Besides, we would like to suggest some actions from State Parties to the Aarhus Convention:

1. Include youth representatives at Aarhus Convention Processes, to solve unmeaningful engagement and ensure democratic representation;
2. Adopt legally binding and enforceable environmental laws, with clear provisions dedicated to access to justice;
3. Decriminalise youth activists and involve them into decision making processes instead, ensuring a good implementation of the Aarhus Convention;
4. Support the mandate of the UN Special Rapporteur on Environmental Defenders. This mechanism, agreed on last year, is crucial, among others, for youth to exercise access to justice. Protecting youth activists and giving them ways to ask for redress means to respect, protect and fulfill their fundamental rights.

In order to ensure a greener, more equitable and just world for us and our (your) children,

I ask you to take action now
and I thank you for your attention.