

# Item 4: Access to Justice among Youth and Children

Statement 28th Meeting of Working Group of the Parties to the Aarhus Convention, Geneva, 02-04 July 2024



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# **Outline**

- Introduction
- Key challenges faced by youth and children
- Recommendations
- Good practices on access to justice



# Access to justice for youth and children: current state of play

The context: Triple planetary crisis - climate change, biodiversity loss, pollution

- The recent landmark ruling by the ECtHR on the KlimaSeniorinnen case formed a **baseline** for state non-compliance with the ECHR, criteria on climate inaction and the affirmation that legally recognised climate-focused NGOs represent individuals or groups impacted by climate change rightfully (in relation to the Aarhus Convention).
- Climate litigation momentum was accelerated by Duarte Agostinho et al v. Portugal and 32 other states (adjudicated), Soubeste et al v. Austria and 11 other States, and Auroramalet v. Sweden, to name a few.

Youth environmental NGOs, young climate activists and children are becoming more and more crucial stakeholders for the implementation of the Aarhus Convention.



## Key challenges faced by children and youth

### Challenge

- Costs of litigation: Children and youth are very unlikely to be in a positi for legal advice or representation, yet they must be able to access and r justice systems to provide remedies for rights violations. Some countries very high limits on liability for environmental cases meaning the potent litigation are prohibitively high (e.g., United Kingdom).
- Burden of proof: The burden of proof, including the need to establish c another serious barrier to accountability. Article 9.3 currently leaves roo to set criteria in national law determining which NGOs should have acce justice, preventing them from bringing certain cases to court (e.g., Swed
- Legal standing: The lack of independence and legal status that nationa systems commonly accord to children is a serious barrier to them acces In many countries children often cannot act before courts without their legal representatives (e.g., Albania, Belgium, Cyprus, Denmark, Finland, Germany, Latvia, Liechtenstein, Luxembourg, Malta, Norway, Poland, Ro Slovenia, Spain, Sweden, Switzerland).



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## Key challenges faced by children and youth

## Challenge

- Limitation periods: Strict time limits on when a case must be submitte present a serious barrier to children accessing remedies (e.g., Belgium, Germany, Hungary, United Kingdom), particularly for children who may able to approach the courts until they have reached the age of majority.
- Mechanisms enabling access: Despite the relevance of such information full exercise of their rights, available information rarely accounts for child factors and is often beyond children's reach. In some cases, there are no provisions on children's right to access information (e.g., France, German Sweden).



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# (Some) Recommendations to address current challenges faced by youth and children

## Recommendation

- Adopt rules of standing that enable youth and children to challenge and violation of their rights under the Convention on the Rights of the Child Aarhus Convention in the context of environmental harm and climate of
- Reverse the burden of proof in environmental cases and interpret th concerning the burden of proof in a way that promotes environmental protection.
- Explicitly **relax limitation periods** in environmental proceedings, partic where delay in bringing a case is not in fault of the victim, where the ha particularly severe or where it may take time for harm suffered to become vident.
- Implement free legal aid, advice and representation for youth and child well as protective cost orders, which limit the financial risk to a person brings a case in the public interest.
- Define more clearly the requisites of "not prohibitively expensive" (NI Article 9.4) for parties to the Convention, particularly in the context of pr access to children and youth.



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# (Some) Recommendations to address current challenges faced by youth and children

## **Recommendation**

- Urge parties to the Convention to keep up with the dynamics of the clir emergency and **create specific legal remedies available for the publi** focus on children and youth (on an individual and organisational level).
- Ensure children can **access all court complaints** and mechanisms as a to the Convention.
- Create **age-appropriate information** that accounts for child-specific face easily accessible to children, concerning climate change and environmenters.
- Encourage the establishment of **novel forms of remedy** that address t specific damage caused in the context of environmental harm and clim change.



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## **Good practices on access to justice**

## **Country Reports**

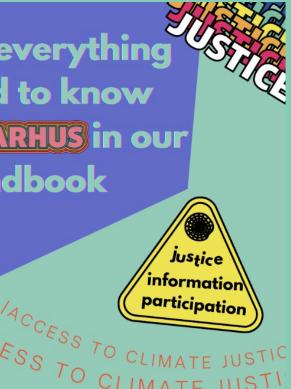


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CRIN<sup>CHILD</sup> RIGHTS INTERNATIONAL NETWORK

**Children's Access to Environmental Justice** 





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A HANDBOOK TO UNDERSTAND THE PROCEEDINGS OF **CLIMATE LAWSUITS** 

Learning from the case:

Duarte Agostinho

et al v. Portugal and 32 Other

States

# THANK YOU FOR YOUR ATTENTION!

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