



# Item 4: Access to Justice among Youth and Children

## Statement

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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	Applicable to youth	Applicable to children
<ul style="list-style-type: none"> <li>• <b>Costs of litigation:</b> Children and youth are very unlikely to be in a position to pay for legal advice or representation, yet they must be able to access and rely on justice systems to provide remedies for rights violations. Some countries impose very high limits on liability for environmental cases meaning the potential costs of litigation are prohibitively high (e.g., United Kingdom).</li> </ul>	✓	✓
<ul style="list-style-type: none"> <li>• <b>Burden of proof:</b> The burden of proof, including the need to establish causation, is another serious barrier to accountability. Article 9.3 currently leaves room for states to set criteria in national law determining which NGOs should have access to justice, preventing them from bringing certain cases to court (e.g., Sweden).</li> </ul>	✓	✓
<ul style="list-style-type: none"> <li>• <b>Legal standing:</b> The lack of independence and legal status that national legal systems commonly accord to children is a serious barrier to them accessing justice. In many countries children often cannot act before courts without their parents or legal representatives (e.g., Albania, Belgium, Cyprus, Denmark, Finland, France, Germany, Latvia, Liechtenstein, Luxembourg, Malta, Norway, Poland, Romania, Slovenia, Spain, Sweden, Switzerland).</li> </ul>		✓

# Key challenges faced by children and youth

Challenge	Applicable to youth	Applicable to children
<ul style="list-style-type: none"><li>● <b>Limitation periods:</b> Strict time limits on when a case must be submitted can present a serious barrier to children accessing remedies (e.g., Belgium, Germany, Hungary, United Kingdom), particularly for children who may not be able to approach the courts until they have reached the age of majority.</li></ul>		✓
<ul style="list-style-type: none"><li>● <b>Mechanisms enabling access:</b> Despite the relevance of such information to the full exercise of their rights, available information rarely accounts for child-specific factors and is often beyond children's reach. In some cases, there are no specific provisions on children's right to access information (e.g., France, Germany, Sweden).</li></ul>		✓



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



Recommendation	Applicable to youth	Applicable to children
<ul style="list-style-type: none"> <li>• Adopt <b>rules of standing</b> that enable youth and children to challenge any violation of their rights under the Convention on the Rights of the Child and the Aarhus Convention in the context of environmental harm and climate change.</li> </ul>	✓	✓
<ul style="list-style-type: none"> <li>• <b>Reverse the burden of proof in environmental cases</b> and interpret the law concerning the burden of proof in a way that promotes environmental protection.</li> </ul>	✓	✓
<ul style="list-style-type: none"> <li>• Explicitly <b>relax limitation periods</b> in environmental proceedings, particularly where delay in bringing a case is not in fault of the victim, where the harm is particularly severe or where it may take time for harm suffered to become evident.</li> </ul>	✓	✓
<ul style="list-style-type: none"> <li>• Implement <b>free legal aid</b>, advice and representation for youth and children, as well as <b>protective cost orders</b>, which limit the financial risk to a person who brings a case in the public interest.</li> </ul>	✓	✓
<ul style="list-style-type: none"> <li>• Define more clearly the <b>requisites of "not prohibitively expensive"</b> (NPE; Article 9.4) for parties to the Convention, particularly in the context of providing access to children and youth.</li> </ul>	✓	✓

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



Recommendation	Applicable to youth	Applicable to children
<ul style="list-style-type: none"> <li>Urge parties to the Convention to keep up with the dynamics of the climate emergency and <b>create specific legal remedies available for the public</b>, with a focus on children and youth (on an individual and organisational level).</li> </ul>	✓	✓
<ul style="list-style-type: none"> <li>Ensure children can <b>access all court complaints</b> and mechanisms as applicable to the Convention.</li> </ul>		✓
<ul style="list-style-type: none"> <li>Create <b>age-appropriate information</b> that accounts for child-specific factors, easily accessible to children, concerning climate change and environmental matters.</li> </ul>		✓
<ul style="list-style-type: none"> <li>Encourage the establishment of <b>novel forms of remedy</b> that address the specific damage caused in the context of environmental harm and climate change.</li> </ul>	✓	✓

# Good practices on access to justice

## Country Reports



find out everything you need to know about **AARHUS** in our new handbook

**JUSTICE**

justice information participation

YEE!  
YOUTH AND ENVIRONMENT EUROPE

ON AARHUS ACCESS TO CLIMATE JUSTICE

## WHEN YOUTH TAKE STATES TO COURT

A HANDBOOK TO UNDERSTAND THE PROCEEDINGS OF CLIMATE LAWSUITS

Learning from the case:  
**Duarte Agostinho et al v. Portugal and 32 Other States**

OUR HOUSE IS ON FIRE!!

There is NO PLANET B

SYSTEM CHANGE EVIDENCE

NOT CLIMATE CHANGE!

IGNORANCE

# Children's Access to Environmental Justice



**THANK YOU FOR YOUR ATTENTION!**

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