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## Committee on Social Affairs, Health and Sustainable Development

### Minutes

#### Joint public hearing on “For stronger action on climate change”, held by videoconference, on Tuesday, 1 December 2020

In the framework of the reports currently in preparation on “Inaction on climate change – a violation of children's rights” and on “Anchoring the right to a healthy environment: need for enhanced action by the Council of Europe” with Ms Jennifer De Temmerman (France, ALDE) and Mr Simon Moutquin (Belgium, SOC) respectively as rapporteurs, the Committee held a joint public hearing composed of two sessions.

##### Session I: Inaction on climate change – a violation of children's rights

*(Rapporteur: Ms Jennifer De Temmerman, France, ALDE)*

- ✓ Mr Nathan Méténier, Member of the UN Secretary-General's Youth Advisory Group, Europe Director of Youth4Nature, and co-founder of Generation Climate Europe, France
- ✓ Aida, Eugénie and Nèle, Eco-delegates, and Mr Najib Benarafa, Earth and Life Sciences Teacher, Sustainable Development Co-ordinator, Joan of Arc High School, Colombes, France

**Mr Leite Ramos**, in the Chair, opened the hearing, pointing out that the previous day, the European Court of Human Rights had ordered priority treatment for the case brought by six young Portuguese nationals, who accused 33 States of failing to honour their climate commitments. After introducing the guest speakers, he gave the floor to the rapporteur.

**Ms de Temmerman** thanked the children and the teacher accompanying them. “What better way to report on inaction on climate change as a violation of children's rights than by listening to what children have to say?” One of the principles of the International Convention on the Rights of the Child was that children had a right to be heard.

**Mr Méténier** thanked the rapporteur and the committee members for listening today. He explained that he was part of a group of seven young people who had been selected from around the world to talk with the United Nations Secretary-General about the climate crisis and its consequences. He applauded the Committee's decision to adopt the term climate crisis rather than global warming to describe the current situation. He had five years' experience in environmental advocacy, having started out as an “eco-delegate” at his school as part of a French civic engagement initiative which he was delighted to note had since been rolled out to all French secondary schools. He believed the role of young people must go beyond mere participation and required engagement in genuine dialogue and recognition of meaningful participation in decision-making. He was willing to contribute to the Committee's work on behalf of the organisations he represented in Europe. He would be unable to attend the entire hearing owing to prior commitments.

As the first eco-delegate from Joan of Arc High School, Colombes (France) to take the floor, **Nèle** began by presenting this year's project on saving water. After providing an overview of the action already taken by previous eco-delegates at her school, she went on to describe the investment and successful efforts made to reduce waste in recent years. She pointed out that two years earlier, her predecessors had been participating in a school strike. She and her fellow representatives had high expectations of Ms de Temmerman's report, which they hoped would include penalties for polluters and binding measures.

**The Chairperson** took note of the “very strong message” which had been sent and then gave the floor to committee members.

<sup>1</sup>The minutes were approved and declassified by the Committee on Social Affairs, Health and Sustainable Development at its meeting on 21 December 2020, held via videoconference.

**Mr Davies** applauded the young people for finding the courage to speak up while their elders had preferred to remain silent.

**Mr Schennach** wished to point out that while Europe was currently caught up in negotiations on recovery plans and the response to the health crisis, the status quo could not be allowed to last. When it came to spending the vast sums of money allocated, “we need to take a firm grip and get it right the first time.” Participation would be absolutely vital since everyone must be heard, starting with scientists and their bleak forecasts.

**Mr Méténier** said that there was no miracle solution to ensure successful youth participation. Both motivated policy makers and funding were needed to reach youth communities. He regretted that the voices of young people often went unheard. He welcomed the Council of Europe’s commitment to ensuring children had a voice.

**Eugénie** explained that she had participated in the “Climate march” with her friends and since then, she wanted to make her voice heard as she was aware that the threat of climate change was real.

**Mr Benarafa** stressed that, compared to adults, young people had a completely different notion of time. They had an urgent need to take action and wanted to see results right away. It was impossible to tell children to wait until 2050 to act. This was why his school was taking steps to make children agents of change. If they were empowered today and saw tangible results, they would be able to effect change in the future. A new strategy was necessary. Every school around the world should serve as an oasis for transition, a place where society took time to adapt to the future and where new ideas were tested out.

During a second round of comments, **Mr Moutquin** asked the young people what they would do if the changes did not come up to their expectations.

**Mr Davies** praised the climate action recently taken by some young people who, following the cancellation of COP26, due to take place in Glasgow and postponed until 2021, had decided to go ahead and hold their summit online, producing a list of recommendations. Mr Davies also expressed his concern about whether his country would be able to meet the commitments it had made. He further called for an instrument that took into account the rights of future generations and the right to a healthy environment.

**Aida** made a point of stressing that no one action was more important than another and that every action counted.

**Mr Boyd** warmly congratulated the young participants for speaking in the hearing via the KUDO platform before he took the floor during the second session.

**Ms de Temmerman** spoke about a French initiative entailing a children’s parliament bringing together pupils in CM2 (aged 10 to 11 years, in the fifth year of primary school). This year, the parliament had considered the issue of a sustainable and balanced diet. The children had been invited to draw up a draft law and enter a competition, with a visit to the French parliament awarded to the winning team. She wished to know whether the children had heard of this initiative, whether they thought it was an appropriate measure and how children’s participation should be facilitated. She thanked Baroness Massey and Ms Wonner for their work; children had been given a voice and it was important to get them involved.

**Mr Benarafa** said that he had not heard of the Children’s parliament. It might not be the best way of doing things. Children felt that everything took too long and that practical results were slow to materialise. This was why the eco-delegates worked on modest measures which could be easily implemented in their school. However, they had difficulty understanding certain things, for example why was so much paper still used for photocopying at school? And why was recycled paper more expensive to buy? Lastly, he thanked Ms de Temmerman for her work and said he was looking forward to the follow-up.

**Mr Leite Ramos** thanked the first session participants and invited them to stay online for the second part of the hearing.

## **Session II: Anchoring the right to a healthy environment: need for enhanced action by the Council of Europe**

*(Rapporteur: Mr Simon Moutquin, Belgium, SOC)*

- ✓ Ms Catherine Le Bris, Researcher on international law of human rights and the environment, CNRS (National Centre for Scientific Research), France
- ✓ Mr David R. Boyd, UN Special Rapporteur on Human Rights and Environment, Associate Professor of Law, Policy, and Sustainability, Institute for Resources, Environment and Sustainability, School of Public Policy and Global Affairs, University of British Columbia, Canada

In his capacity as rapporteur, **Mr Moutquin** outlined the main objectives of his report in the context of environmental degradation which gave rise to both violations of fundamental rights and legal disputes, including on climate change, the direct effects of which were already being felt by many people (especially farmers and climate refugees). This report aimed to take advantage of stronger political will to make up Europe's undeniable delay, with a view to strengthening the legal framework for the protection of a new generation of human rights; this framework would also serve to better guide the efforts of businesses.

**Ms Le Bris** noted that the young people at the hearing expected society to take action, much like the young Portuguese citizens who had applied to the European Court of Human Rights. There were two main ways of establishing the right to a healthy environment: the first being by introducing an additional protocol to the European Convention on Human Rights and the second by setting up an open convention.

An additional protocol was an inadequate solution as it would only establish individual and not collective rights, meaning that although it was interesting, it remained incomplete. Protection of the right to a healthy environment was long overdue in Europe and even if some indirect protection was already afforded, it was limited in scope. Exercising the right to a healthy environment should have beneficial effects from a procedural point of view, by improving the transparency of decision-making, but also from a substantive point of view, by strengthening the protection and preservation of the environment. With regard to the limited scope of an additional protocol, the European Court protected individuals in the event of an actual and proven violation of human rights; however, in the case of environmental damage, it was not always possible for it to be immediately ascertained. The consequences of such damage might only become clear much later. Should a protocol enter into force, it would be impossible to lodge applications in anticipation of future violations, and non-governmental organisations would not be allowed to take legal action.

In contrast, the advantage of a new instrument would be that it could grant new rights, including the rights of humankind (*humanité* in French, *Menschheit* in German), inspired by Auguste Comte's positivism, i.e. humanity in its broadest possible definition, including future generations. The approach would then be collective, intergenerational and particularly suited to protecting future generations. Complaints filed under *actio popularis* would be allowed in this case.

It would be best if the new instrument were not limited to environmental protection but also covered the rights of nature such as biodiversity or the right to clean air. It should be accompanied by a monitoring body which would be allowed to receive complaints. The instrument would enable the transition between human rights at the regional level and the rights of humankind at the world level. These two approaches were complementary. She expressed her support for both an additional protocol based on quality of life and a new, open instrument, universal in scope, establishing the right of humankind to a sustainable environment. Merely extending the protection of individual rights would not be enough to rise to the challenges of the climate crisis.

**Mr Boyd** highlighted Europe's well-deserved reputation for protecting human and environmental rights. In 1976, Portugal had become the first country in the world to enshrine the right to a healthy environment in its constitution. Nevertheless, Europe was now lagging behind all other regions since it was the last not to afford this protection directly. In the light of the gravity of the climate crisis, this shortcoming must be addressed as soon as possible. To paraphrase the words of Michelle Bachelet, UN High Commissioner for Human Rights, the perils facing humanity had never been more serious and change must come quickly. Human rights had demonstrated their role as a catalyst by accompanying radical changes in society. Since its inception, the European Court of Human Rights had never recognised the rights of nature. Yet those rights were essential to achieving the right to a healthy environment. The right to a healthy environment ensured the protection of human beings and nature. One could not subtract the existence of harm to individual health caused by environmental damage. In general, damage to health was caused by several factors, such as air pollution. 39 Council of Europe member States had already enshrined the right to a healthy environment in their constitutions and 40 had ratified the Aarhus Convention.

Nevertheless, the Committee of Ministers had blocked new measures of this kind on two occasions. We must now make up for lost time and restore Europe's role as a driving force in protecting the environment and combating pollution and global warming. It was now vital to draft an additional protocol to the European Convention on Human Rights.

**Mr Schennach** voiced his support for an open legal instrument along the lines of MEDICRIME but said that it would require the backing of young people to bring about such a text owing to the difficulty of convincing the Committee of Ministers. He hoped that the Committee would make its voice heard.

**Nèle**, took to the floor on behalf of the eco-delegates to add to their previous comments, making the most of this rare and very valuable opportunity to make children's voices heard and address the Parliamentary Assembly. They were deeply concerned about forest fires, heatwaves and floods. Some of them knew farmers who had experienced several extreme weather events. The children were worried about the impact of such

events on biodiversity, and about reaching a “point of no return” where the damage to ecosystems would be irreversible. Disasters of this kind were also a violation of rights. The children failed to understand why countries did not choose to end conflicts and wars, extensively subsidise research into renewable energy and put ecology before economics. Greenwashing society was not enough. We must move towards a Europe which respected the environment and promoted a circular economy. The children insisted that their views be respected when they were expressed on issues as serious as global warming – “to fight a common enemy”. Schools around the world should teach empowered and responsible citizens to act collectively to combat the climate crisis.

**Mr Leite Ramos** thanked Nèle for sending such a strong message, assuring her that it had been heard and that parliamentarians would strive to respond in kind.

**Ms Makowiak**, from the Faculty of Law and Economics at Limoges University (France), spoke in her capacity of expert to provide additional arguments in favour of a new international legal instrument. The protection of the environment afforded by European Court of Human Rights case-law was indirect. Difficult to access and fully comprehend, it was dependent on the receptiveness and inclinations of judges and lawyers. It was clear that human rights and environmental rights were interdependent. A new instrument would complement the protection afforded by the Court and the European Social Charter, acting as a third layer of protection including various principles such as prevention, precaution, information, education, training, participation and the obligation to repair damage to the environment by establishing a duty of non-retrogression.

Following these comments, **Mr Boyd** wished to clarify a matter to avoid any confusion. There were two dimensions to the right to a healthy environment: human health and the protection of the ecosystem; it was both an individual and a collective right. In Columbia, it had been possible to file a lawsuit against deforestation on the basis of a collective right. Its scope had been established to include future generations in a significant move mirrored by the important mobilisation of young people on the fringes of the “mock” COP26 in 2020. These young people had called for the right to live in a healthy environment and expressed their dismay at the disappointing results of COP25 and the decision to postpone the next summit until 2021.<sup>2</sup>

**Mr Boyd** concluded by calling for an additional protocol and a United Nations resolution to recognise the right to a healthy environment. He had prepared several *amicus curiae* briefs advocating this approach and would be glad to share the outcome of his work. He was now doubtful that the Global Pact for the Environment<sup>3</sup> would come to fruition, although he had been one of its supporters. The resistance had been too great for there to be any hope of an agreement being reached.

**Mr Leite Ramos**, the Chairperson, gave the floor to both rapporteurs for their conclusions.

**Ms de Temmerman** said that the hearing’s two sessions had complemented each other and had sent a clear message to governments about the need to act. It was the task of the Committee to see its discussion through on the standards the Council of Europe should set. The role of national parliaments was to draw attention to these issues at national and European level, including with regard to ecocide, so that action would be taken to move society forward. She thanked the experts for sharing their views which would serve as a basis for her future work on the report.

**Mr Moutquin** also thanked the experts for outlining their viewpoints. It was clear that Europe had fallen behind in terms of protecting the right to a healthy environment. The Committee would draw up a range of specific proposals based on his report. It would be down to the members of the Assembly to persuade the Committee of Ministers that the Council of Europe must rise to the challenge. Having spoken with many young people, their deep-rooted distrust of democratic institutions had been clear.

**The Chairperson** stressed that Europe was lagging behind in protecting the environment and that it was the duty of parliamentarians to take action on this burning issue. He warmly thanked the experts for their contributions and closed the hearing.

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<sup>2</sup> Further information about the virtual conference organised by young people can be found here: <https://www.theguardian.com/environment/2020/nov/10/we-want-real-action-young-activists-aim-to-fill-void-on-climate-with-mock-cop26>.

<sup>3</sup> See <https://globalpactenvironment.org/en/>.

Committee on Social Affairs, Health and Sustainable Development  
*Commission des questions sociales, de la santé et du développement durable*

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