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**SUBMISSION TO THE COMMITTEE ON THE RIGHTS OF THE CHILD**

DRAFT GENERAL COMMENT NO. 26 “CHILDREN’S RIGHTS AND THE ENVIRONMENT WITH A SPECIAL FOCUS ON CLIMATE CHANGE”

BY THE ALL-YOUTH RESEARCH PROJECT, TAMPERE UNIVERSITY, FINLAND

**INTRODUCTION**

The ALL-YOUTH research project includes five sub-projects at three universities. Tampere University, the University of Helsinki and the University of Eastern Finland. “ALL-YOUTH – All youth want to rule their world” is a multidisciplinary research project which explores the capacities of young people (aged between 16 and 25) and the obstacles that hamper their engagement with society. We also explore the visions of youth regarding a sustainable future, growth and well-being. On 27 November 2020 we organized a virtual conference “Youth, Climate Change and the ECtHR.”[[1]](#footnote-1) The impact of climate change is causing more harm to youth, children and future generations than to any other population segment. We have also provided third-party intervention before the European Court of Human Rights in the case of **Duarte Agostinho and others v. Portugal and others.**

In our submission to the Committee, we aim to discuss particularly the role of youth, right to be heard and access to justice and remedies**. Our submission introduces how digital democracy services can be applied in law drafting (Digiraati/Digital Council) and provide a participatory tool for young people in order to combat climate change.** We recognize that the Convention on the Rights of the Child (CRC) is most widely ratified international human rights treaty with 196 State parties. Our focus is to provide some key recommendations that could be part of implementation of treaty provisions by national authorities in contracting state. Therefore, the Convention has more potential to become one of the key instruments in achieving emerging international consensus human rights and climate change.

First of all, it is important that the **concept of future generations** is now recognized as one of the key concepts (II:B). The concept of future generation can be found in Article 1 of the Aarhus Convention, entitled ‘Objective’, provides that ‘[i]n order to contribute to the protection of the right of every person of present and future generations to live in an environment adequate to his or her health and well-being, each Party [to the convention] shall guarantee the rights of access to information, public participation in decision-making, and access to justice in environmental matters in accordance with the provisions of this Convention’.

It would be important that in addition to referring to environmental standards, the Committee would promote international human rights consensus which is clearly reflected in the case-law of different human rights bodies allover the world.

The recent international human rights trends should also highlight **the concept of** **scientific consensus on human rights violations related to climate change**. A strong scientific consensus prevails that climate change has serious impacts on human rights. It is common knowledge that States' actions, and also failure to act, may irreversibly violate the welfare of present and future generations.[[2]](#footnote-2)

Finally, we appreciate that **vulnerability** of childrenis one of the key concepts in the Draft. We would like to particularly refer to the concept of “**situation vulnerability**”. These situations may include environmental projects or environmental problems rendering individuals vulnerable due to changes in the living environment.[[3]](#footnote-3)

**THE RIGHT OF THE CHILD TO BE HEARD (ART. 12)**

In the section I the General comment (para. 56) rightly refers to potential of digital environment in consulting with children and expanding their capacity to effectively engage on environmental matters. This digital environment and applying new forms of consultation has been one of the key focus points in ALL-YOUTH research group.

Finland has active digital democracy services which are kept by the Ministry of Justice. These include Digiraati.fi. The concept of Digiraati (Digital Council) was developed with ALL-YOUTH research group and changed into official tool. The main idea of Digiraati is to give a non-discriminatory platform for under 29 years old to participate in societal questions.

**Digiraati platform is an example of a low-threshold digital citizen council for children and officials that emphasizes two-way communication between citizens and officials while supporting both synchronous and asynchronous communication.**

Effort is required to motivate children for societal participation. With digital participation tools the focus should be in providing a safe environment, building trust toward the service, offering personally interesting topics, and showing a proof of a real impact from participation.

The first trials were done with co-operation from schools and different NGOs. For example, Finnish Red Cross (FRC) was involved in a pilot with youth shelters (Nuorten turvatalo) operated by FRC.

Also questions related to climate change were discussed in one of the pilots with Ministry of Agriculture and Forestry. The Ministry was developing its National Climate Change Adaptation Plan 2022 (KISS2030) and wanted contribution from youth. [[4]](#footnote-4)

KISS2030-Digiraati youth consultation[[5]](#footnote-5) combined over 100 notions written by young people from different parts of Finland. Based on these discussions, Finnish youth stressed that in climate change adaptation, it is essential to consider safety, well-being, global and social responsibility, the ability to receive (understandable) information relating to climate change and to recognize the interdependence of environmental resources and society. Well-being was also seen to have a connection with what the future is perceived to be like. Therefore, adaptation and mitigation policies (in climate change) play a significant role; does it create hope for a better future? In addition, youth stated in KISS2030-Digiraati that (national) climate political aims and standards evaluating those aims should be concrete and solutions-oriented to ensure that it is possible to commit them and assure that established policy goals do have a real impact.

Considering the intergenerational nature of climate change, children's right to be heard must be a cross-cutting issue not only at the international and national level but also in the municipalities and institutions close to children's everyday life. Based on the Digiraati trials, digital democracy tools, has great potential to expand children's capacity to be engaged in climate change-related policies, but this requires that the children themselves are also involved in the development of digital democracy tools.

**ACCESS TO JUSTICE AND REMEDIES (ART. 4)**

General Comment Draft is correctly explaining the problems related to access to justice and remedies. It is important that national legislation has necessary remedies available to children and young people. These remedies should include also local level, meaning cities and other municipalities. The Climate Act reformation in Finland, includes concrete remedies to those NGOs promoting nature, environment and health issues and governmental authorities monitoring impacts of climate change (Section 21 b). The amendment enters into force 1.3.2023 (SK 108/2023, Government proposal HE 239/2022 vp). This does not mention particularly children and youth organisations, but it could include those youth organization with a specific approach protection of nature, environment and health issues.

Already the first Finnish climate complaint is currently before the Finnish Supreme Administrative Court (KHO, korkein hallinto-oikeus). The Court has already asked additional questions from the Government. This was done already under the existing legislation (28.11.2022). This complaint was made by two applicants, Suomen luonnonsuojeluliitto (Finnish Association for Nature Conservation) and Green Peace Norden. One of the human rights arguments related to the unfair share of impacts of global warming, the impacts have negative effects especially on those in vulnerable position, for example children. The complaint also refers to danger on future generations, which is problematic for the equality (Constitution Section 6).[[6]](#footnote-6)

ALL-YOUTH projects have expressed the importance of accessible complaint procedures. This was one of the key statements in our Third-Party Intervention in the Portuguese Youth case before the European Court of Human Rights.[[7]](#footnote-7) It is important that there is low threshold in climate complaints to use domestic remedies and bring complaints into national judicial system. As the Draft says these mechanisms should be “free of charge, confidential, prompt, child-friendly and accessible.

One of the important elements missing in the Draft is the role of national ombudsmen systems that monitor public authorities and have oversight of government activities. In Finland this refers to Parliamentary Ombudsman and Chancellor of Justice (Constitution of Finland, Sections 108 and 109). Both have mandate to monitor how human rights and fundamental rights are ensured by authorities. In Finland, the Chancellor of Justice has made clear references to environmental human rights obligations and EU legislation in order for the Ministry of Economic Affairs and Employment to report on long-term climate plans (Diaarinumero: OKV/987/10/2022, 5.8.2022).

Chancellor of Justice considered that protection of biodiversity, right to healthy environment and wide opportunities to participate decision-making on environment have increased their weight as human rights and fundamental rights in all levels, including national and European union fundamental rights systems and also in the international human rights protection. Previously, the Deputy Chancellor of Justice also complained that the Government had not provided annual climate change report in time (OKV/1050/2019, 28.1.2020).

**VI CLIMATE CHANGE, A. STATE OBLIGATIONS, IMPLEMENTATION AND ACCOUNTABILITY**

One of the elements mentioned in para 100 is highly significant and should be further explained. This is question of extraterritorial responsibility. The question is relevant because in human rights adjudication there is a relatively high threshold to apply extraterritorial approach to other cases than military conflicts.

It is important that states do not circumvent their environmental rights obligations by doing environmentally hazardous activities outside their own borders or by using private companies. It comes back to this principle that states have a shared responsibility on cross-border issues, but the Committee could remind that share is greater for those countries who fail to take necessary reasonable steps to avoid a risk of ill-treatment about which they knew or ought to have known.

The Committee (para.103) has rightly required to facilitate children’s greater participation. Finland has amended Climate Act to include also the local level decision making in climate change planning. Finland has already consultative youth councils. According to the Government proposal youth councils are relevant for taking voice of the young generation into the local level planning (Climate Act Section 15). Similar structures have been proposed also at the national level by consortium of Finnish Youth organisations.

ALL-YOUTH made also recommendations for the National Child Strategy. One of the key recommendations was defining and integrating sustainable development goals and climate change theme as a permanent part of mandate in Children's Parliaments and municipal and provincial youth councils.[[8]](#footnote-8) The message of ALL-YOUTH is that participation needs to take place both at the national level and local level.

ALL-YOUTH project has especially acknowledged that results of consultations must be transparent and include follow-up. There is an imminent danger in providing opportunities to participate. If participation takes place and does not have any concrete impact on the legislative or decision-making process, this will lead to unfortunate consequences e.g. increase the frustration and distrust of children on a democratic system.

**CONTRIBUTORS TO THE SUBMISSION**

The contact person and main author is Jukka Viljanen, Professor of Public Law (Tampere University), and the other members involved in making this submission are Henna Juusola, Post-Doctoral Research Fellow (Tampere University), Jari Varsaluoma, University Lecturer (Tampere University) and Irmeli Mustalahti, Professor of Natural Resources Governance (University of Eastern Finland).

Tampere 14.2.2023

Jukka Viljanen

Professor of Public Law, Tampere University, Finland

1. The video of the conference can be watched via the Tampere University site <https://tuni.cloud.panopto.eu/Panopto/Pages/Viewer.aspx?id=551f5f05-2f59-421f-8b1f-ac830082fa3b> [↑](#footnote-ref-1)
2. See Emissions Gap Report 2020 | UNEP - <https://www.unep.org/emissions-gap-report-2020> [↑](#footnote-ref-2)
3. See Heta-Elena Heiskanen: Towards Greener Human Rights Protection, 2018, p. 108. [↑](#footnote-ref-3)
4. See ALL-YOUTH blogi <https://www.allyouthstn.fi/ilmastonmuutokseen-sopeutuminen-puhututti-nuoria-maa-ja-metsatalousministerion-kokemuksia-digiraadista/> [↑](#footnote-ref-4)
5. See KISS2030-Digiraati final statement <https://digiraati.fi/kiss2030/finalstatement?lang=fi> [↑](#footnote-ref-5)
6. See <https://www.sll.fi/app/uploads/2022/11/Ilmastolakivalitus-korkeimmalla-hallinto-oikeudelle-28.11.2022.pdf> [↑](#footnote-ref-6)
7. See <https://www.allyouthstn.fi/wp-content/uploads/2021/05/ALL-YOUTH-Tampere-University-third-party-intervention.pdf> [↑](#footnote-ref-7)
8. See <https://www.allyouthstn.fi/wp-content/uploads/2019/11/ALL-YOUTH-lausunto-lapsistrategian-valmisteluun.pdf> [↑](#footnote-ref-8)