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COUR EUROPÉENNE DES DROITS DE L'HOMME

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Lisbon Forum 2023

Human Rights, Environment and Economic Crimes: Youth at the forefront

Institutional Opening

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Abel Campos, Deputy Registrar of the European Court of Human Rights

Distinguished guests and speakers,

It is a privilege and honour, as Deputy Registrar of the European Court of Human Rights to provide my remarks during the institutional opening of today's event.

Firstly, many thanks to the North-South Centre of the Council of Europe for organising today's event on such timely issues.

I will begin my remarks this morning by reflecting upon the theme of 'Youth at the forefront' and how it relates to the work of the European Court of Human Rights, before considering economic crime and the environment, and how these link to the enjoyment of human rights.

Youth at the Forefront

Starting firstly with the thematic emphasis on youth at the forefront, it is necessary to mention that even though the European Convention on Human Rights contains only a few explicit references to children, the Court has developed a large body of case-law concerning the rights of the child. Bearing in mind that children are holders of rights, rather than simply objects of protection, the Court has treated

them as beneficiaries of all rights guaranteed by the Convention, as well as subjects of special regulation given their specific characteristics.

We therefore do see children appearing as applicants before the Court, including in high profile cases such as the *Duarte Agostinho and Others* environmental case that I will discuss in more detail shortly.

Children and young people have recourse to the Court through individual applications and therefore certainly do have the capability of being ‘at the forefront’ of Convention-related human rights developments.

Economic Crimes

On the topic of economic crime and corruption, there are a few key points to mention here.

Firstly, is there a link between corruption and the enjoyment of human rights? Here I take corruption to mean “the abuse of (entrusted) power for private gain”¹. As the President of the Court, Siofra O’Leary, has recently said² there is no universally agreed definition of corruption and that the assumed “link” between corruption and human rights is not always easy to demonstrate in a court of law.³ However, corruption can lead to many violations of human rights, including those recognised under the Convention. The scourge of corruption is also a contributor – in some States a major contributor – to democratic erosion and rule of law backsliding.

Secondly, the European Court of Human Rights does not operate in an institutional vacuum, detached from the other areas of work and activity of the Council of Europe. As such, while I address you today as a representative of the

¹ EP, Fighting corruption globally: The link with human rights.

² <https://insite.dhcour.coe.int/Pages/home.aspx?p=home>

³ [Peters](#), Corruption as a Violation of International Human Rights, 29(4) EJIL (2018), 1251-1287.

Court, I would be remiss if I did not refer to relevant bodies of the Council of Europe who I am sure we will hear about today.

In terms of monitoring,⁴ the major bodies within the Council of Europe are, of course, the Group of States Against Corruption (GRECO) and the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL). The Court may refer to evaluation reports adopted by both these bodies in its judgments, and where relevant takes these into consideration in its reasoning.⁵ I could also mention the Economic Crime Cooperation Division (ECCD) of the Council of Europe, which is responsible for cooperation and technical assistance related activities concerning measures against corruption, money laundering and terrorist financing. In particular, their 2020 publication on the use of non-conviction based seizure and confiscation, sets out the Court's case-law extensively.⁶

Environmental Case Law So Far

Turning now to consider the links between human rights and the environment, I will begin by considering the Court's case law so far before touching upon pending cases.

Over the last decades, the Strasbourg Court has developed a rich body of case-law on environmental issues related to a number of different Convention rights.

For an example under Article 2, the right to life, I point to the case of *Budayeva and Others v. Russia*.⁷ This case concerned the failure by authorities to implement land-planning and emergency-relief policies where there was a foreseeable risk of mudslides resulting in loss of life. The Court held this to be a violation of Article 2, as the State had positive obligations to protect the right to life in these circumstances.

⁴

https://www.echr.coe.int/d/speech_20211105_spano_conference_european_standards_skopje_eng?p1back_url=%2Fsearch%3Fq%3Deconomic%2Bcrime

⁵ See *Gogitidze and Others v. Georgia*, no. 36862/05, 12 May 2015.

⁶ <https://rm.coe.int/the-use-of-non-conviction-based-seizure-and-confiscation-2020/1680a0b9d3>

⁷ *Budayeva and Others v. Russia*, nos. 15339/02 and 4 others, ECHR 2008 (extracts).

The Court has also dealt with a number of cases related to environmental issues under Article 8, the right to respect for private and family life. These include, for example, exposure to air pollution from industrial activities,⁸ water contamination,⁹ and hazardous waste.¹⁰

Related to Article 10, the right to freedom of expression, the Court has held that expressions relating to the protection of nature and the environment, health, and respect for animals are issues of general concern which, in principle, enjoy a high level of protection under the right to freedom of expression.¹¹

As today's event focuses also on the linkages between corruption and environmental protection, I point out the case of *Algirdas Butkevičius v. Lithuania*,¹² which demonstrates how these linkages can present themselves in a human rights case.

This case related to an investigation into possible corruption in the process whereby some areas had their status as protected territories revoked by a government resolution. At issue here was that a telephone conversation between the applicant, who was the Prime Minister at the time, and a mayor about the government resolution was secretly recorded then made public at a hearing of the Lithuanian Parliament's Anti-Corruption Commission. The applicant submitted that the disclosure of the telephone conversation was a violation of his right to respect for private and family life. The Court found no violation, as the applicant did not demonstrate tangible and concrete repercussions of the disclosure on his private life. The Court also recognised territorial planning as a matter of public interest and acknowledged the importance of public scrutiny in cases of possible political corruption.¹³

⁸ *Panlov and Others v. Russia*, no. 31612/09, 11 October 2022.

⁹ *Dubetska and Others v. Ukraine*, no. 30499/03, 10 February 2011.

¹⁰ *Giacomelli v. Italy*, no. 59909/00, ECHR 2006-XII.

¹¹ For example, *Mamère v. France*, no. 12697/03, § 20, ECHR 2006-XIII.

¹² *Algirdas Butkevičius v. Lithuania*, no. 70489/17, 14 June 2022.

¹³ *ibid* §§ 96, 101.

To conclude here on the Court’s existing case-law, the Court has emphasised that while none of the Articles of the Convention is specifically designed to provide general protection of the environment as such, the responsibility of the public authorities in this area should in practice result in their intervention at the appropriate time in order to ensure that the statutory provisions enacted with the purpose of protecting the environment are not entirely ineffective.¹⁴

Pending Climate Change Cases

Turning now to pending environmental cases, the Court is currently seised of multiple pending cases related to climate change and which the Court is processing as a matter of priority.

The Grand Chamber held hearings for three climate change related cases this year: *Verein Klimaseniorinnen Schweiz and Others v. Switzerland*, *Carême v. France*, and *Duarte Agostinho and Others v. Portugal and 32 Others*.

Of particular relevance to the theme of today’s event, ‘Youth at the forefront’, is the latter case, *Duarte Agostinho and Others v. Portugal and 32 Others*. In this case, the applicants are Portuguese nationals aged between 11 and 24. The case concerns the greenhouse gas emissions from 33 member States, which in the applicants’ view contribute to the phenomenon of global warming resulting, among other things, in heatwaves affecting the applicants’ living conditions and health.

The applicants complain that the States concerned are failing to comply with their positive obligations under Articles 2 (right to life) and 8 (right to respect for private and family life) of the Convention, read in the light of their undertakings under the 2015 Paris Agreement on climate change (COP 21). They also raised an issue under Article 3 (prohibition of ill-treatment) of the Convention.

¹⁴ *Advisory opinion on the difference in treatment between landowners’ associations “having a recognised existence on the date of the creation of an approved municipal hunters’ association” and landowners’ associations set up after that date* [GC], request no. P16-2021-002, French *Conseil d’État*, § 80, 13 July 2022.

The applicants further allege a violation of Article 14 (prohibition of discrimination) taken in conjunction with Article 2 and/or Article 8 of the Convention, arguing that global warming affects their generation particularly and that, given their age, the interference with their rights is greater than in the case of older generations. They claim that the above-mentioned provisions of the Convention should be read in the light of Article 3 (1) of the United Nations Convention on the Rights of the Child and they also rely on the principle of intergenerational equity.

The Court has also decided to adjourn its examination of seven other climate cases until the Grand Chamber rules on the climate cases pending before it. Among these adjourned cases include two cases brought by young adults which raise similar issues to *Duarte Agostinho and Others v. Portugal and 32 Others*.¹⁵

The climate cases the Grand Chamber has heard this year raise complex legal issues and have attracted unprecedented media attention. As such, the focus of today's Lisbon Forum is very topical and I look forward to today's sessions.

I thank you for your attention and wish you all the best for today.

¹⁵ *Uricchio v. Italy and 31 other States* (application no. 14615/21) and *De Conto v. Italy and 32 other States* (no. 14620/21).