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Almut Arneth: Climate change: Status and Trends, and a Land-Ecosystem Perspective

Michael Krennerich: Die Klimakrise aus der Perspektive der Menschenrechte

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Christina Binder

Human Rights in the Face of the Climate Crisis: What Role for the Local Level?

THE EXAMPLE OF THE EUROPEAN URBAN CHARTER III (2023)

Abstract

The contribution explores human rights in the face of the climate crisis from a two-fold perspective. First, it applies a human rights-based approach to the multiple and complex interrelations between human rights and climate change. Second, it examines the possible role of the local level, especially of cities, when it comes to countering climate change. In so doing, it argues that local authorities have an increasingly important role to implement and uphold human rights in face of the climate crisis. Especially the European Urban Charter III, as adopted by the Congress of Local and Regional Authorities of the Council of Europe in October 2023, exemplifies the relevance of cities in the fight against climate change, in line with the human rights-based approach.

Der Beitrag untersucht Menschenrechte im Zeichen der Klimakrise vor allem mit Blick auf die mögliche Rolle, die die lokale Ebene bei der Umsetzung von Menschenrechtsgarantien spielen kann. Die zunehmende Bedeutung insbesondere von Städten im Kampf gegen den Klimawandel wird in Anwendung eines menschenrechtsbasierten Ansatzes herausgearbeitet. Dabei verdeutlicht vor allem die European Urban Charter III, die vom Kongress für Lokal- und Regionalautoritäten des Europarates im Oktober 2023 angenommen wurde, das Potenzial von Städten im Kampf gegen den Klimawandel, im Einklang mit einem menschenrechtsbasierten Ansatz.

1. Introduction

The climate crisis is a multidimensional crisis. Among others, the severe impacts of climate change, as extreme weather events and temperature changes, negatively affect multiple human rights: for example the rights to health, an adequate standard of living, the right to private life or even the right to life. Also states' mitigation and adaptation measures to address the climate crisis may have negative impacts on human rights, especially of marginalized groups.

The manifold facets of "human rights in the face of the climate crisis" will be addressed in this contribution which undertakes to dissect relevant human rights stand-

ards and state obligations as regards mitigation, adaptation and the participation of those affected as well as their implementation. More specifically, we hope to contribute to the discussion from two perspectives: First, in light of the multiple and complex interrelations between human rights and climate change, a human rights-based approach (HRBA) will be applied, as most appropriate technique to guide and assess state action in face of the climate crisis. Second, in light of the complex nature of climate change and the multilevel system of global climate governance, the possible role of the local level, especially of cities, will be explored since a merely nation-state-oriented focus seems insufficient. This is in line with the increasing relevance of local authorities in human rights implementation more generally.

This article will first deal with states' human rights obligations in face of the climate crisis (Part 2). Then, the possible role of the local level in light of these human rights obligations will be examined, with due attention to climate change (Part 3). Finally, the European Urban Charter III (2023) as adopted by the Congress of Local and Regional Authorities of the Council of Europe in October 2023 will be taken as example of how cities may contribute to upholding and implementing human rights in the face of the climate crisis (Part 4).

2. Human Rights in the face of the climate crisis: applicable standards, state obligations and the HRBA

2.1 A GENERAL PERSPECTIVE ON THE CLIMATE CRISIS AND HUMAN RIGHTS

The link between environmental protection, climate change and human rights is by now obvious (see already Maguire 2013: 152).¹ For example, the High Commissioner for Human Rights has repeatedly acknowledged the negative impact of the climate crisis on a considerable range of human rights; former Commissioner Mary Robinson described “climate change” as “the greatest threat to human rights in the 21st century” (OHCHR 2019). The Human Rights Committee (HRCttee), found that “[e]nvironmental degradation, climate change and unsustainable development constitute some of the most pressing and serious threats to the ability of present and future generations to enjoy the right to life.” (General Comment No 36 (2019): para. 62).

Increasingly, international instruments provide for a right to a healthy environment: at the global level, such right is contained for instance in Human Rights Council

1 Note that already the 1972 Stockholm Declaration affirmed that an intact environment is “essential for the enjoyment [...] of human rights” (Preamble, para 1).

Resolutions (e.g., HRC 2008; HRC 2021) and a 2022 Resolution of the UN General Assembly (UN GA 2022). Moreover, in some regional human rights treaties, as in Africa and in the Americas, the right to a healthy environment is already established as a stand-alone human right.² The European Convention on Human Rights (ECHR) does not yet include an explicit right to a healthy environment, but the Parliamentary Assembly of the Council of Europe expressly recommended in a Resolution of 2021 that such a right be included in the ECHR by means of an additional protocol (PACE 2021). A right to a healthy environment likewise enjoys constitutional protection in more than 100 states (Boyd 2019; see also May/Daly 2014).

Even without an explicit right to a healthy environment, numerous human rights can be invoked in connection with the effects of climate change. Social rights, such as the rights to health, an adequate standard of living, food, water or housing are at stake when events caused by the climate crisis, as natural disasters or extreme weather events, heavily impact on peoples' life, leading to crop failures, water shortages, malnutrition and disease or when they are destroying habitats. Likewise civil and political rights, above all, the right to life and the right to private and family life, may be drawn upon in such cases.³ At the same time, procedural and participatory rights are crucial, especially when processes and decisions aimed at combating climate change require the involvement of those affected/the public. Also the rights to access to court and to an effective remedy may be at stake. Finally, the prohibition of discrimination, the rights to equality, as well as those of minorities and indigenous peoples are relevant, as the negative effects of the climate crisis tend to impact upon marginalized population groups with particular strength.

These human rights dimensions are increasingly recognized by human rights institutions. At the global level, in 2020, the HRCtte held in *Teitiota v. New Zealand* for the first time that threats resulting from the climate crisis can affect the right to life in such a way that a right to asylum exists (even though the Committee did not find a violation) (HRCtte, *Teitiota* 2020). In *Torres Strait Islanders v. Australia* the HRCtte established a violation of the cultural identity and the right to private and family life of the indigenous applicants as the effects of climate change, such as rising temperatures,

2 See Art. 13 of the African Charter on Human and Peoples' Rights; Art. 11 of the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights.

3 See also the General Comment of the HRCtte (No 36, Right to Life (2019)) and different Cttes' Joint Statement on Human Rights and Climate Change (2020). See for further reference Ammer 2022. Even the collective right to self-determination should be considered if the survival of entire peoples were at risk; especially in case of small island states whose inhabitants might be robbed of their existence in case of sea-level rise (Cf. Narula 2021: 146).

ocean acidification and the decline of culturally important marine species, had not been countered by sufficient prevention and adaptation measures (HRCtte, *Daniel Billy* 2022; see Feria Tinta 2022). The applicants were ultimately awarded full compensation and Australia requested to take adaptation and mitigation measures (HRCtte, *Daniel Billy* 2022: para. 11). The Committee on the Rights of the Child (Ctte RC) recognized in *Sacchi et al. v. Argentina et al* – even though the communication was declared inadmissible for non-exhaustion of domestic remedies –, that states may have extraterritorial obligations with regard to their CO₂ emissions if there is a causal link between the action/omission and the negative impact on children's rights (Ctte RC, *Sacchi* 2021).

At the regional level, the Inter-American Court of Human Rights (IACtHR) highlighted in its 2017 Advisory Opinion OC 23/17 “The Environment and Human Rights” *inter alia* that the degradation of the environment, including the adverse impacts of climate change, affected the enjoyment of the right to a healthy environment as well as other human rights and that States had an obligation to ensure that their actions did not negatively impact upon the enjoyment of these rights (IACtHR 2017: esp. paras. 47, 54-55, 101-103, 108-109, 242-243).⁴ An advisory opinion explicitly on the relationship between human rights and climate change is currently pending before the IACtHR (Request for Advisory Opinion 2023).⁵ For Europe, the European Court of Human Rights (ECtHR) has recognized the negative effects of climate change upon human rights especially in its most recent case law. In light of the Court's far reaching findings, we will deal with the latter more in detail next.

2.2 THE ECtHR'S KLIMASENIORINNEN JUDGMENT AND RELEVANT STATE OBLIGATIONS

The most important climate-related judgment so far was handed down by the Grand Chamber of the ECtHR on 9 April 2024: the Court found in *Verein Klimasenioreninnen Schweiz et al. v. Switzerland* that the right to respect for private life as well as the right to access to court (Articles 8 and 6(1) ECHR) of an association of elderly women had been violated by the Swiss government's failures to mitigate climate change – and in

⁴ See also IACtHR *Lhaka Honhat* 2020.

⁵ Note that likewise an Advisory Opinion currently pending before the International Court of Justice (ICJ) should address human rights dimensions, since the Court is *inter alia* asked to assess: “What are the legal consequences [...] for States where they [...] have caused significant harm to the climate system and other parts of the environment, with respect to: [...] Peoples and individuals of the present and future generations affected by the adverse effects of climate change?” (ICJ, Request for Advisory Opinion 2023).

particular the effect of global warming – in light of the serious adverse effects of climate change on life, health, well-being and quality of life and since no domestic legal remedies had been available (ECtHR, *Klimaseniorinnen* 2024).⁶

Most importantly, the ECtHR identified concrete state obligations in relation to climate change, detailing states' duties of mitigation and adaptation (paras. 538 ff.). In particular, while affirming the wide margin of appreciation of states in relation to the choice of which mitigation measures to adopt, the ECtHR found that states had a strict obligation to do something against climate change by reducing GHG/greenhouse gas emissions (paras. 543 ff.). The Court also held that these mitigation measures needed to be complemented by according adaptation measures aimed at alleviating the most severe or imminent consequences of climate change (para. 552). The ECtHR moreover recognized the need for procedural safeguards, in terms of informing the public about relevant measures to combat climate change. These included making information available to the public, eg by providing access to relevant studies. According to the Court, procedures had to be in place through which the views of the public, and in particular the interests of those affected, could be taken into account in the decision-making process (para. 554). Conversely, in relation to damages/compensation, the ECtHR again referred to the broad margin of appreciation of states and left it to Switzerland which measures to adopt with further determination in the course of the execution process (paras. 653 ff.).

2.3 THE CLIMATE CRISIS AND A HRBA

Human rights law and institutions, and especially the ECtHR in *Klimaseniorinnen*, provide for increasingly specific state obligations as regards mitigation and adaptation measures in face of the climate crisis. While states have a certain leeway as to which mitigation measures to adopt, they have a very concrete obligation to reduce their GHG emissions. Moreover, there is a positive obligation (of adaptation) to alleviate the hardships caused by climate change. As emphasized above, also procedural safeguards are required, such as the need to inform the public about the climate crisis and the provision of meaningful participation avenues. The latter seems crucial also in light

⁶ Note that a complaint in which a resident of the commune of Grande-Synthe argued that France had not taken sufficient measures to combat climate change and that this constituted a violation of the rights to life and to private and family life, was declared inadmissible since the applicant was found not to be sufficiently individually affected to have victim status (ECtHR, *Careme* 2024). Also a case where a group of Portuguese young people had complained about global warming causing, among others, heatwaves that affected their living conditions and health, was declared inadmissible; the latter for lack of exhaustion of domestic remedies (ECtHR, *Duarte Agostinho* 2024).

of the delicate balance which needs to be struck when states' very mitigation and adaptation measures have counterproductive human rights impacts, especially on the most marginalized.⁷ Finally, also effective remedies are to be provided for at domestic level.

Against this background, it seems warranted to incorporate an even more comprehensive human rights perspective in climate change policies. As was affirmed likewise in the submission of the Office of the High Commissioner for Human Rights to the 21st Conference of the Parties to the United Nations Framework Convention on Climate Change: "Integrating human rights in climate actions will necessitate higher levels of ambition and improve mitigation and adaptation strategies by making them more effective and inclusive [...]" (OHCHR 2021: 7). To apply a human rights lens also throughout the various phases of climate related action seems therefore most beneficial.

Here, the human rights-based approach (HRBA) appears as most appropriate tool. To apply a HRBA to climate change-related policies, as a conceptual framework based on international human rights standards and directed to promoting and protecting human rights⁸ gives criteria for upholding human rights in face of the climate crisis to the maximum possible extent. The HRBA's principles of participation, non-discrimination/equality, accountability/rule of law, transparency/information as well as empowerment and a link to human rights standards⁹ may usefully guide states' approaches to deal with climate change.¹⁰ More specifically, the principle of participation requires processes to be participatory and reflect the consensus between those whose rights are violated and those with a duty to act. Non-discrimination and equality involves following an inclusive approach with special priority being given to marginalised persons and groups who are most vulnerable. Accountability and the rule of law maintain that when human rights go unfulfilled, the responsibilities of different actors

7 See also the contribution by Krennerich in this journal.

8 Cf. the OHCHR: "A human rights-based approach is a conceptual framework for the process of human development that is normatively based on international human rights standards and operationally directed to promoting and protecting human rights [...]" (OHCHR 2006: 15).

9 See Suntinger: "[The operative principles of the HRBA] are commonly abbreviated as PANEL: Participation, Accountability, Non-discrimination, Empowerment and Link to human rights standards." (Suntinger 2022: para. 6).

10 In favour of an expansion of the HRBA to other policy fields cf. Suntinger: "The HRBA is gradually turning into a mature conceptual and methodological framework for operationalizing human rights in development practice. It has the potential to become a useful umbrella concept for applying human rights more generally and mainstreaming human rights in other policy fields. It has all the major ingredients for successfully steering societal development in line with human rights." (Ebd.: para. 26).

must be analysed and legal remedies made available. Moreover, everyone should have access to the relevant information regarding decision-making processes: Without transparency in decision-making, it is not possible to achieve accountability and participation would not be meaningful. Due account of and reference to relevant human rights standards needs to be ensured at all times. Therewith, the HRBA offers a most valuable framework to address the challenges of the climate crisis, dissect the required societal measures and identify and design the most appropriate ones from a human rights perspective. The human rights framework applicable to state action in the face of the climate crisis is thus rather clear.

A next, related question concerns the societal/state levels where the application of a HRBA and, more generally, the implementation of human rights in face of the climate crisis may take place. While the national level, the central government, is generally considered the primary addressee, the subnational (i.e. local) level and especially cities are increasingly important actors to operationalize, design and implement climate related policies in accordance with the HRBA.

3. The climate crisis and the local level: what role for cities from a human rights perspective?

A focus on the subnational level in relation to climate change corresponds to the growing importance of cities in human rights protection and implementation more generally. For instance, several (soft law) instruments refer to the role of local and regional authorities in human rights protection. Recommendation 280 (2010) of the Council of Europe's (CoE) Congress of Local and Regional Authorities insists that "local and regional authorities are not only agents of the central government: they secure human rights at the same time as they fulfil local self-government" (CoE Congress Recommendation 2010: para 1.d). Also the HRC Advisory Committee noted that whilst "[i]t is the central government which has the primary responsibility for the promotion and protection of human rights, [...] local government has a complementary role to play" (HRC 2015: para. 21; see also Mégret 2022: para. 20).

An increasing role of local authorities and cities should indeed contribute to the most comprehensive anchoring of human rights at both, the national and especially the subnational levels (McGregor 2019: 1306ff). This holds true even more, since human rights are not a purely legal project, but also based on political, sociological-anthropological and other factors, which makes their embedding in society as a whole all the more necessary. The latter may probably best be achieved when next to organized civil

society, national human rights and ombudsman institutions as well as the media, also municipalities and cities are involved in the realization and, more specifically, the implementation of human rights (Binder 2020; Binder 2023: 134). Since the local level is generally most directly in touch with the population, this ideally contributes to the development of a “human rights culture” (for further reference see Binder 2023: 134 ff.) (“vernacularization” of human rights) (Engle Merry/Levitt 2017: 213 ff.). There is thus much to say in favour of the role of cities from a human rights perspective.

Also, when addressing the climate crisis, the relevance of the subnational level has been explicitly recognized. For example, in the context of climate action, the local level’s potential in fostering popular backing and increasing legitimacy has been emphasized (Oomen 2020: 36). Local authorities have also been praised for their practical effectiveness (ibid.: 36; see generally Ismangil et al 2020: 9).

So, the local level turns increasingly important for the implementation of human rights (as well as in countering climate change). Its potential is acknowledged likewise in legal scholarship. According to Mégret: “[...] the embrace by many local actors of their human rights responsibilities remains a productive moment in the history of human rights, one which questions international human rights law’s relentless focus on the state, whilst not giving up on the specificity of public obligations when it comes to governance. It can help us rethink how international law can actually be constituted from below rather than simply enforced from above. It is also one that has potential for enhancing democratic life as well as transnational cooperation and emulation. It represents an inherently pluralistic form of implementation of rights.” (Mégret 2022: para. 35)

Cities therewith become important human rights actors including in the context of climate change. They complement the national level in relevant areas especially as regards human rights implementation and the fight against the climate crisis.

Such increasing role of local governments in international law may also be argued on the basis of the principles of subsidiarity and participation (Pavoni 2020: 76). These principles additionally emphasize the important role of local actors in the implementation of human rights (including obligations in face of the climate crisis). Especially the subsidiarity principle¹¹ seems of key relevance. Thus, as affirmed by Pavoni in the context of sustainable development: “local authorities constitute the level of government closest

11 According to Pavoni: “The principle of subsidiarity governs the articulation of competencies between different levels of government. Insofar of relevance for our purposes, it dictates that, in policy areas where local governments possess regulatory powers, the function of the central government should be subsidiary, i.e., it should intervene only when, or only to the extent that, local action is lacking, insufficient or inefficient to meet the intended objectives.” (Pavoni 2020: 71 f.).

to, and most immediately representative of, their citizens. They are therefore best placed to assess the needs and interests of citizens, and are – to a greater or lesser degree – directly accountable to them in case of regulatory failures [...]” (Pavoni 2020: 71).

Put differently, in line with the subsidiarity principle, the local level, as the one closest to citizens, is frequently best placed to identify the most adequate policies for upholding human rights as well as in relation to climate change. In the context of the climate crisis, this was also put in terms of appropriateness. According to Oomen: “[...] one of the key challenges in combating climate change is the complexity of its causes and the vast array of potential ways to address them. The best fit will differ from sunny suburb to monumental town to tribal community. A strong role for subnational authorities allows for a focus on those measures that form an optimal fit with the people, place and purpose.” (Oomen 2020: 36).

In short, the subnational level has a key role to play in both, human rights and climate change. This is most evident in the context of climate-related policies,¹² in the fields of mitigation, adaptation as well as participation. The potentially fundamental role of the local level in all these dimensions is perhaps best illustrated by taking the example of the European Urban Charter III (2023). In the framework of the Council of Europe, it is a showcase of how the local level may contribute to deal with climate change in a human rights respectful way.

4. The European Urban Charter III (2023) as example for the role of cities in the fight against climate change from a human rights perspective

4.1 GENERALITIES ON THE EUROPEAN URBAN CHARTER III

What can the local level – cities and local communities – add to “human rights in the face of the climate crisis”? The European Urban Charter III (2023) may indeed serve as model here; which turns especially evident in application of a HRBA. The Charter was adopted in October 2023 by the Congress of Local and Regional Authorities of the Council of Europe, as second revision of the first European Urban Charter of 1992. The revision was considered necessary against the backdrop of changes in European urban life, being *inter alia* the climate crisis (next to Covid-19, Ukraine war, digitali-

12 See CoE Congress 2022. According to Bakker, “[...] cities are progressively claiming a role as normative global climate actors [...] by developing and implementing climate laws and policies at the domestic level. [...] the coordinated efforts by local governments have resulted in an explicit recognition that cities [...] should be involved in national climate action.” (Bakker 2020: 105).

sation/smart cities) (see the Preamble of the European Urban Charter III). This is alluded to in the Charter's telling name which reads in full "The European Urban Charter III (2023): Urban living in the era of transformations" and is likewise reflected in the comprehensive approach to climate change throughout the Charter.

4.2 THE EUROPEAN URBAN CHARTER III'S APPROACHES TO THE CLIMATE CRISIS

How to best respond to the climate crisis plays a prominent role in the European Urban Charter; as regards mitigation and adaptation measures as well as in terms of participation and procedural tools. Among the Charter's six Sections,¹³ the entire Section 3 "Sustainable Development, Protection of Environment and Climate Change" features measures to address (amongst others) the climate crisis.¹⁴ It contains a total of six principles, all of which may be, more or less directly, linked to climate action. Climate change is also "mainstreamed" as cross-cutting theme and reflected in several principles/Sections throughout the Charter. The Charter therewith provides important guidance for climate change related policies at the local level. Most generally, local authorities are directed to "adopt multi-dimensional policies and streamline environmental protection and the fight against climate change into urban policies; mitigate the consequences and reduce the impact of climate change." (Section 3, Principle 1).

In doing so, urban residents' participation in (environmental) decision making is considered key. For example, the Charter directs local authorities to "engage in awareness-raising and information campaigns, as well as the general education of urban residents in environmental affairs, to strengthen the participation of residents, including of resident foreigners, in environmental decision-making; intensify scientific research on various effects of climate change on different segments of the urban population; involve urban residents prior to development projects through environmental

13 The six Sections are the following: 1. Democracy and Urban Residents' Participation; 2. Social Rights, Economic and Cultural Development; 3. Sustainable Development, Protection of the Environment and Climate Change; 4. Integrity and Prevention of Corruption; 5. Security and Crime Prevention; 6. Digitalisation and Artificial Intelligence.

14 As stated in the Explanatory Memorandum to the European Urban Charter: "[...] the consequences of the climate crisis are having an imminent impact on towns and cities, with a general rise in temperatures as well as an increase in the frequency and intensity of extreme weather phenomena as thunderstorms, heat-waves and heavy rain falls. Against the background of these threats affecting urban life, environmental issues and climate action in cities and regions are high on the agenda. Living conditions must be radically improved by implementing innovative local policies that respect the environment and combat climate change. In doing so, the respective principles should guide local authorities in their action." (CoE Congress 2023: para. 48).

impact assessments.” (Section 3, principle 2). Likewise, a more general emphasis on consultation and participatory tools in the Charter’s Section 1 “Democracy and Urban Residents’ Participation” adds to and further refines the possibilities of urban residents’ participation, including in environmental/climate change related decision making. Therewith, from awareness raising to the creation of conditions for informed participation, environmental (climate change) impact assessments, consultation and grass roots participation, a comprehensive toolset to involve the population (i.e. urban residents) in environmental/climate action is outlined in the Charter.

Also possible mitigation measures to prevent climate change are referred to in the Charter. In terms of natural wealth and resources, *inter alia* the promotion of renewable energy and energy efficiency as well as the furtherance of green technology is emphasized (Section 3, principle 4). Likewise, the promotion of a circular economy should contribute to this objective by furthering the production of goods and services in a sustainable way (Section 3, principle 5). In Section 2 “Social Rights, Economic and Cultural Development”, one principle – “economic development and infrastructure” – more generally mentions the necessary support of a “balanced and forward-looking economic development, taking into account environmental protection”. The objective of mitigation is also acknowledged when it comes to mobility. The aspired “sustainable mobility”, the promotion and improvement of the attractiveness of climate friendly means of mobility – including affordable and adequate public transportation, the reduction of private cars and the city of “short ways”, where access to various urban services is situated in immediate vicinity – contributes to counteracting climate change (Section 3, principle 6). This is also evidenced in relation to “architecture and heritage” (Section 2, principle 9) with the reference to inclusive cities where “the needs and expectations of various groups for a healthy, safe and stimulating living environment” (ebd.) are accounted for and a quality urban landscape is developed with accessible distances to local services.

Moreover, the need of adaptation is duly acknowledged in the Charter. In relation to food security, resilient, cost efficient urban agri-food systems are considered, with specific mention of their necessary adaptation to climate change. Additionally, in the Section “Security and Crime Prevention”, the principle “resilience” foresees the necessary provision of “effective and adequate responses to crises and emergencies as natural disasters (e.g. heats and droughts, earthquakes, floods etc.)” (Section 5, principle 3).

In sum, numerous dimensions of relevance in the fight against climate change are addressed in the European Urban Charter: local authorities are requested to compre-

hensively respond to the challenges of the climate crisis. The European Urban Charter III therewith contains a comprehensive catalogue of what could be done to deal with climate change; from participation in decision making to mitigation and adaptation policies. Therewith, the Charter is an important tool to guide climate relevant action of local authorities. Its importance is supported by the concise, Convention style way in which it is drafted: the division in actionable principles and a more extensive/narrative explanatory memorandum should facilitate operationalisation.

4.3 THE EUROPEAN URBAN CHARTER III'S APPROACHES TO CLIMATE CRISIS FROM THE PERSPECTIVE OF THE HRBA

The European Urban Charter's take on policies to counter the climate crisis seems most beneficial from a human rights perspective and, more specifically, in application of the HRBA. The relevance of human rights in the context of environmental protection and the climate crisis is indeed explicitly recognized by the CoE Congress in the Explanatory Memorandum to the Charter (CoE Congress Explanatory Memorandum 2023: para. 75). The Charter lives up to this objective, its approach to climate change closely follows the HRBA: the Charter operationalizes the HRBA principles of access to decision making; non-discrimination and equality; accountability and rule of law; transparency and access to information. It also introduces a more general empowerment and human rights perspective. This is achieved either directly, when addressing climate change; or indirectly, through more general measures which are nonetheless beneficial to the HRBA's lens.

More concretely, the different dimensions of the HRBA are reflected in the Charter as follows: First, participation and access to the decision-making processes is furthered through the necessary participation in environmental decision making and awareness raising as well as through the Charter's more general participatory/direct democracy toolset. This operationalizes the HRBA's idea of participation, namely to assist in the participatory formulation of the needed policy and legislative framework, and to ensure that participatory and democratic processes are institutionalized locally and nationally (including through capacity-building among communities and civil society to participate constructively in relevant forums). Participation in mitigation and adaptation measures to deal with climate change is furthered through the Charter accordingly. This gives legitimacy to the climate related approaches pursued and enhances their effectiveness.

Likewise, the HRBA's idea of non-discrimination and equality is duly accounted for in the Charter: eg through its emphasis that all sectors of the population, including

youth and older persons, duly participate. Also the involvement of resident foreigners' e.g. in environmental decision making, is explicitly called for (Section 3, principle 2). Moreover, the focus on equal access to social rights, for instance as regards healthcare or housing, with particular focus on social housing for disadvantaged groups, and the Charter's affirmation that social security systems should help the most vulnerable without discrimination, seem important in light of possible hardships created through the climate crisis or also through states' mitigation and adaptation measures which might impact negatively in particular upon the most marginalized (Section 2, principles 1, 2, 5). So, also in relation to non-discrimination and equality, the Charter's approaches reflect the inclusive ideal of the HRBA at local level.

Moreover, the HRBA's accountability and rule of law dimensions as well as the HRBA's call for transparency and access to information are considered in the Charter. This most broadly speaking in general terms of democracy, rule of law and good governance in the Charter's Sections 1 ("Democracy and Political Participation") and 4 ("Integrity and Prevention of Corruption"); but also more directly when state measures address climate change. The need for effective complaints mechanisms and remedies is for instance explicitly spelled out in the Charter, as part of principle 4 ("transparency and oversight") of Section 4. The Charter also furthers transparency and oversight by requesting local authorities to "adopt and implement open data standards", "publish key documents and information" and "support the monitoring and implementation of transparency measures" (Section 4, principle 4). So, the HRBA's idea that everyone should have access to the relevant information regarding decision-making processes is realised.

Overall, it seems safe to conclude that the European Urban Charter offers a comprehensive toolset and directs local authorities to pursue climate related approaches in accordance with the principles of the HRBA.

5. Appreciation

Local authorities and cities may play an important role in states' endeavour to live up to the challenges caused by the climate crisis. Therewith, the local level turns to be an important actor in the realisation of states' (human rights) obligations in relation to climate change. Local authorities may most effectively complement the national level in the design and implementation of climate change related policies in a human rights respectful way. This turns most evident by taking the example of the European Urban Charter III (2023) which guides the action of local authorities (including) in relation

to climate change, living up to the requirements of the HRBA. Accordingly, the European Urban Charter is a great example of how “human rights in face of the climate crisis” may be addressed at local level.

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