

Speech by **Zoé ELKÆR NICOT**, youth delegate, Denmark

*Check against delivery - Seul le prononcé fait foi*

## **Debate on A fundamental right to the environment: a matter for local and regional authorities**

### **Towards a green reading of the European Charter of Local Self-Government**

Dear colleagues,

We, the youth delegates, wish to thank the co-rapporteurs for their commitment to prepare this thorough report on how the European Charter of Local Self-Government can be used to establish environment and climate protection as a fundamental right.

Human rights are strongly linked with climate change because of its effect on not just the environment but our own well-being.

The effects of climate change continue to grow and worsen over time, creating ruin for current and future generations.

This is why the failure of governments to act on the climate crisis in the face of overwhelming scientific evidence may well be the biggest inter-generational human rights violation in history.

The escalation of climate change, pollution and loss of biodiversity are posing a serious risk to fundamental rights. In particular the right to life, health and family life in communities around the world.

The present report calls on the local and regional authorities to further address climate change and environment protection, while adopting a human-rights based approach. We welcome this and invite you to be even bolder.

But how does climate change threaten human rights?

First, climate change affects the right to life.

Climate change threatens the life and safety of billions of people on this planet. The most obvious example is through extreme weather-related events, such as storms, floods and wildfires.

Second, climate change affects the right to health. According to the IPCC, major health impacts of climate change are:

increased risk of diseases due to heat waves and fires;  
undernutrition as a result of diminished food production  
diseases from food and water, and vector-borne diseases.  
post-traumatic stress disorders as a result of natural disasters.

Third, climate change affects the right to housing.

Climate change-related extreme weather events such as floods, wildfires, droughts and rising sea levels are already destroying people's homes, leaving them displaced. The migrant crises to date pale in comparison to those we will have to deal with in the face of climate change.

Finally, climate change affects the rights to water and to sanitation.

Melting snow and ice, reduced rainfall, higher temperatures and rising sea levels are affecting the quality and quantity of water resources. Already 785 million people do not have access to a source of water or sanitation that is likely to be safe. Climate change will make this worse.

So: where do we go from here?

We need to establish a fundamental right to live in a clean environment and ensure adequate procedural rights for citizens.

We must also establish a general duty of governments to protect the environment as both a negative obligation of refraining from harmful practices, and a positive obligation to act to mitigate and prevent climate change. Finally, local and regional authorities must also have sufficient competences to act.

The good thing is that the right to a clean and safe environment is conquering more and more jurisdictions in Europe and the world.

The Court of Justice of the EU has recognised an important subjective and rights-based dimension in implementing EU law on the environment.

Various constitutions of countries also enshrine, to varying extent, the right to a healthy environment. Bolivia even goes as far as enshrining in their constitution all of nature an equal right to humans.

The European Convention of Human rights, and the protocols that followed, do not, however, enshrine such a fundamental right. Nor does the European Union, despite an impressive body of legislation of 300 directives and regulations about environmental protection.

Nor is there a global treaty recognising human rights in the context of climate change, or a human right to the environment.

Nevertheless, the case law of the European Court of Human Rights, has increasingly underlined that states have both negative and positive obligations to criminalise the most serious conducts affecting the environment.

This Court has ruled on more than 100 environment related cases, about pollution, access to information and natural disasters.

So - we have work to do.

And as local and regional authorities, you also have a responsibility - and room to act.

In the UK, [research](#) by the Climate Change Committee shows that one-third of all UK greenhouse gas emissions are dependent on sectors influenced by local government policies or partnerships.

Within your competencies at local and regional levels, you are in a unique - and privileged position.

You have a significant role to play because of your proximity to the everyday lives of your citizens. Due to the scale of policy changes needed, citizens need to feel ownership and be actively involved in decision-making.

And despite the Paris agreement and similar commitments, we are still faced with institutional passivity and a lack of adequate action on climate issues.

Climate change litigation is now commonly invoking fundamental rights, namely the right to life. These claims give courts a pivotal role.

Citizens and NGOs are advocating for recognition of specific climate change rights in favour of citizens and interest groups, including:

first, the right to participate in policy making,

the right to challenge decisions or lack thereof in court, and

the negative impact of climate change on other fundamental rights, e.g., the right to life.

In the famous Dutch Urgenda case, 1000 citizens claimed against the government that national climate policy was inadequate. The court agreed, recognising a duty of care owed by the government.

In 2021, Germany's constitutional court ruled that the government's climate protection measures are insufficient to protect future generations, after a complaint brought by environmentalist groups.

And there are many more cases. Before both national courts, at EU level via the European Court of Justice, and a number of cases are pending before the European Court of Human Rights.

As the present recommendations rightly outline, "environmental rights" are accepted in political and legal settings, but difficulties arise when developing this into a working legal instrument.

The European Convention of human rights started as a political instrument, which turned, with political will and great efforts, into a true, legal instrument. It is time to, again, find the political will to adapt to the realities of the climate crisis.

We support the call in these recommendations to engage local and regional authorities in environmental decision making.

While adopting individualised measures adapted to their localities, it is also crucial that local and regional authorities work with each other. Climate action needs to be holistic and cohesive to be most effective.

We call on the Congress to support the coordination actions by local and regional authorities in Europe. Because we need meaningful action on all levels.

Finally, I invite you to listen to the further recommendations by my fellow youth delegates during the debate on the topics of:

The role of economic structures in exploitation of the environment. (Bára from Iceland)

On conducting a report or activities on the influence of economic and corporate interests when deciding on projects with environmental impacts. (Philippine, France)

Meaningful public participation in environmental decision-making (Nina, Ireland)

Thank you for your attention.